

**ANNUAL REPORT OF THE
UNITED STATES COMMISSION
ON
INTERNATIONAL RELIGIOUS FREEDOM**

MAY 2005

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

United States Commission on International Religious Freedom

Commissioners

Preeta D. Bansal

Chair

Felice D. Gaer

Nina Shea

Vice Chairs

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Bishop Ricardo Ramirez

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Amb. John V. Hanford, III, *ex officio*

Joseph R. Crapa

Executive Director

United States Commission on International Religious Freedom

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Mark Hetfield, Immigration Counsel
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Jacqueline A. Mitchell, Executive Assistant
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Allison Salyer, Government Affairs Assistant
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Stephen R. Snow, Senior Policy Analyst

LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 2, 2005

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,

PREETA D. BANSAL
Chair

Enclosure

LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 2, 2005

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 2, 2005

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

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

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UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 2, 2005

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

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

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PREETA D. BANSAL
Chair

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ABOUT THE COMMISSION

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

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

This report covers the period May 2004 through April 2005. In May of 2004, Michael K. Young completed his term as the Chair of the Commission, and Felice D. Gaer and Nina Shea served as Vice Chairs. In June 2004, Preeta D. Bansal was elected Chair, and Felice D. Gaer and Nina Shea were re-elected to serve as Co-Vice Chairs. Each member of the Commission is currently serving a two-year term and can be reappointed. Terms are staggered, with some having begun on May 15, 2003 and others on May 15, 2004.

¹ Congressional Record, S12999, November 12, 1998.

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

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

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

Although the work of the Commission is conducted year round, the Commission compiles an annual report of its policy recommendations in May to the President, the Secretary of State, and Congress. This report covers the period from May 2004 – April 2005.

**2005 ANNUAL REPORT OF THE U.S. COMMISSION ON
INTERNATIONAL RELIGIOUS FREEDOM**

May 2005

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INTRODUCTION

“The right to freedom of religion undergirds the very origin and existence of the United States.” So affirms the 1998 International Religious Freedom Act, or IRFA, which also reminds us that “freedom of religious belief and practice is a universal human right and fundamental freedom articulated in numerous international documents, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.” Freedom of thought, conscience, and religion or belief is thus not only a foundation of our country, but a right and freedom available and due to all persons. It is a national security imperative in this post-9/11 world.

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

During the past year, the Commission has been especially focused on developing innovative ways of responding to particularly severe religious freedom violators. Until 2004, the State Department limited itself to designating as severe violators, referred to as “countries of particular concern,” or CPCs, only those countries already subject to existing Presidential actions. The U.S. government’s need to respond to the CPC designation with a direct action under IRFA was thereby diminished.

When Saudi Arabia, Vietnam, and Eritrea were designated as CPCs for the first time in September 2004, following the Commission’s continued recommendations, the Commission faced a new challenge in encouraging utilization, for the first time, of the full panoply of statutory mechanisms enacted by Congress in IRFA. The Commission has turned its attention to ways of addressing religious freedom violations in those countries by actively encouraging the U.S. government to initiate responsive actions under IRFA. These responses need not solely be punitive or negative, since IRFA also encourages the U.S. government to take positive steps to promote religious freedom. In the course of its activities, the Commission has emphasized that CPC designation is not an end in itself, but only the beginning of focused diplomatic activity to promote freedom of religion or belief.

This annual report of the Commission provides a comprehensive review of the Commission’s activities—its findings, recommendations, and achievements—during the past year to promote the universal right to freedom of thought, conscience, and religion or belief. This report describes conditions for religious freedom and inter-related human rights in the countries of concern to the Commission, highlights key findings, reports on the actions the Commission has taken to raise the public’s awareness of persistent religious freedom violations, refers to the Commission’s efforts to keep Congress informed of religious freedom conditions throughout the world, and presents the Commission’s U.S. policy recommendations to ensure that the promotion of freedom of religion or belief becomes a more integral part of U.S. foreign

policy. In the six years of its operation, many of the Commission's recommendations concerning countries that violate international norms of freedom of religion or belief have been implemented by the President, the State Department, and Congress, and have had a significant impact on the protection of human rights, including religious freedom, in those countries.

Religious Freedom: A National Security, as well as Human Rights, Imperative

Religious conviction motivates and inspires human behavior like few other forces. We must confront the fact that some people are not only willing to die for their convictions, but are willing to kill for them also—killing others who do not adhere to their own religious beliefs. Today's armed conflicts increasingly are internal ones, rather than wars between or among different states. As the U.S. National Security Strategy pointed out, "America is now threatened less by conquering states than by failing ones,"¹ and it is religious convictions, from diverse directions, that have played a key role in so many of the internal conflicts that reflect the instability inherent in these failed or failing states. Moreover, it is the ability of these religiously disaffected few to use highly powerful arms and utilize other modern technologies against their perceived enemies that have posed a new security threat, one that reaches beyond national borders.

Extremism and hatred from any source or any religious tradition is a problem that, in turn, may threaten the security of the United States or any other nation. It is only in protecting the universal human rights of each individual that all individuals and all communities will be secure.

When 15 Saudi nationals and four others, armed with jetliners filled with people and a religiously motivated ideology of terror, caused the events of September 11, 2001, the world was reminded again that promotion of freedom—especially religious freedom—is not simply a matter of altruism. It is the keystone of regional peace and American security. Indifference to tyranny abroad has allowed the growth of radical forces who, in the name of religion, now aim to destroy the West, as well as misinterpret the traditions of Islam. It is in our enlightened self-interest to pursue foreign policies that help minorities persecuted for their religious beliefs and help ensure that international rights to religious freedom be respected for every individual, Muslim and non-Muslim alike.

More than three years later, as the third anniversary of September 11 approached, the Commission investigating the September 11 attacks (the 9/11 Commission) concluded that the "United States finds itself caught up in a clash *within* a civilization.... Usama bin Ladin and other Islamist terrorist leaders draw on a long tradition of extreme intolerance within [a minority] stream of Islam," a stream "motivated by religion and [which] does not distinguish politics from religion, thus distorting both."² The 9/11 Commission concluded that the United States must engage in the struggle of ideas in the Muslim world by promoting voices of moderation within Islam "and prevail[] in the longer term over the ideology that gives rise to Islamist terrorism."³

¹ National Security Strategy of the United States of America, September 2002, p. 1.

² The 9-11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States, Official Government Edition, July 2004, p. 362.

³ *Ibid.*, p. 363 and 375.

As President Bush laid out in his State of the Union address this year, engaging in this struggle requires a political as well as military approach. Yet, the U.S. government's political strategies, particularly with respect to religious freedom, have been hesitant, and on occasion even self-defeating. The Commission has served to promote such a political strategy in several ways: (1) by encouraging governments throughout the world to adopt policies that promote the right of each individual to freedom of thought, conscience, and religion or belief, along with policies to prevent abuses and punish perpetrators of abuses, so that religious differences and potential fault lines within societies may be addressed in ways that increase freedom, prosperity, and stability; (2) by encouraging the adoption of new structural and constitutional arrangements that ensure religious freedom and related human rights so that debate and dissent from prevailing orthodoxies within majority traditions, and alternative voices from within those traditions, can be given the breathing room necessary to emerge; (3) by confronting the global propagation of government-funded ideologies that are rooted in religious hatred and extremism, especially in the case of the Saudi Arabian regime's propagation of Wahhabism, a highly intolerant form of Islam that directs Muslims actively to hate those who hold different views and to reject democracy as "un-Islamic"; and (4) by denouncing arbitrary and abusive repression of persons, organizations, or activities by governments on account of religion, on the basis that such repression can be counterproductive and can fuel religious extremism, hatred, and violence that spill outside national borders.

Promoting religious freedom and related human rights abroad is vital to U.S. foreign policy and to our strategic, as well as humanitarian, interests. When observed, freedom of religion or belief is one of the linchpins of stable, democratic, and productive societies in which the rule of law and human rights are accorded value. When denied, hatred and societal instability are sown for generations. This security imperative for human rights is echoed in the opening words of the Universal Declaration of Human Rights, crafted in the wake of the horrors of the Second World War: "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world."

The events of the past several years confirm that global powers ignore religion at their peril. Since passage of the Universal Declaration more than 50 years ago, our history has shown us that we cannot understand the global conflicts of the world without taking the role of religion seriously. Most of the conflicts of the world since World War II—the Middle East, Northern Africa, the southern Sahara, the Balkans, the Caucasus, Central Asia, and South Asia—have occurred in places where the world's great religions intersect. Some of these conflicts may not have been explicitly religious wars. Yet, religion matters in all of them, because it shapes worldviews and perceptions of people. It makes them live compassionately, at best, or encourages hatred and violence, at worst.

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

Focusing on Critical Foreign Policy Concerns of the Day

Iraq

The Commission continues to be especially active on Iraq, highlighting the importance of guaranteeing that the right of every individual to freedom of thought, conscience, and religion or belief is protected in the new permanent constitution. In 2004, the Commission worked successfully with senior Administration officials, Members of Congress, and others to ensure that explicit guarantees of this human right for every Iraqi were included in the country's interim constitution, the Transitional Administrative Law (TAL). Throughout the past year, the Commission met with senior Administration officials, including President George W. Bush, to urge the U.S. government to remain highly engaged in the process of restoring freedom and building democracy in Iraq, a key element of which is the development of a new permanent constitution that will guarantee every Iraqi's right to freedom of religion or belief and other human rights in accordance with Iraq's international commitments. In March 2005, Commission Chair Preeta D. Bansal traveled to Jordan to participate in a working session of Iraqi civil society leaders concerning the drafting of Iraq's permanent constitution, convened under the auspices of the American Bar Association's Iraq Legal Development Program.

The Commission also worked to develop and publish information that would be useful to policymakers, experts, and others involved in the constitutional process. In March 2005, the Commission released a survey entitled, *The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Predominantly Muslim Countries*, that examines the text of Muslim constitutions from 44 nations in Europe, Africa, the Middle East, and Asia. The study demonstrates that predominantly Muslim countries—including those where Islam is the state religion—encompass a variety of constitutional arrangements addressing the role of Islam, the scope of the right to freedom of thought, conscience, and religion or belief, and equality of human rights and fundamental freedoms, including for women. The study finds that more than half of the world's Muslim population (estimated at over 1.3 billion) lives in countries that are neither Islamic republics nor countries that have declared Islam to be the state religion. Moreover, countries in which Islam is the declared state religion may provide constitutional guarantees of the right to freedom of religion or belief, as well as related human rights, that compare favorably with international legal standards.

These findings from the Commission's constitutional study demonstrate that as Iraq begins work on drafting a permanent constitution to replace the TAL, Iraqis and legal experts aiding in the drafting process can look within the Muslim world for examples of constitutions that protect international standards of human rights, including religious freedom. In addition to these constitutional concerns, the Commission also issued statements in the past year expressing deep concern about the violent attacks in Iraq targeting religious places of worship, holy sites, and individual members of religious communities. In addition, it expressed concern that U.S. political reconstruction aid was not being passed through to the villages and areas inhabited by Christians, Yezidis, and Mandeans by Kurdish and Arab governates, forcing many of these non-Muslim peoples to leave Iraq. Details about this issue, the constitutional study, and the crucial

significance of individual rights in the protection of human freedom can be found in the chapters in this report on Iraq's Political Transition and on the Comparative Study of Constitutions.

Saudi Arabia

Over the past year, the Commission also has continued to focus attention on Saudi Arabia's repression of religious freedom at home and exportation of intolerance abroad. With regard to the situation inside Saudi Arabia, the Commission met with then-Secretary of State Colin L. Powell to urge that the U.S. Department of State designate Saudi Arabia a CPC for its systematic, ongoing, and egregious violations of religious freedom. Following the designation of Saudi Arabia as a CPC in September 2004 and in the spirit of the Commission's new focus on finding ways to contend with countries named CPCs, the Commission wrote to Secretary of State Condoleezza Rice in February 2005 to recommend specific actions that the U.S. government should take pursuant to the requirements of IRFA. In March 2005, 15 U.S. Senators sent a bipartisan letter to Secretary Rice in which they supported the Commission's recommendations relating to Saudi Arabia's CPC designation.

The Commission has strongly recommended that the U.S. government in its bilateral relationship with Saudi Arabia raise the Saudi government's involvement in the propagation globally of an ideology that promotes religious hatred and intolerance. The Commission welcomes public statements addressing the issue by State Department officials during the past year. In a report in May 2004, an independent task force on terrorist financing of the Council on Foreign Relations endorsed several specific Commission recommendations on Saudi Arabia, including that the U.S. government in its bilateral relations with the Saudi government should more frequently identify serious human rights violations and that Congress should initiate and make public a study on Saudi exportation of intolerance. Also in May 2004, the Commission, together with the Senate Governmental Affairs and the House Government Reform Committees, announced that the General Accounting Office (GAO) would undertake a comprehensive review of U.S. oversight of Saudi support for an ideology promoting violence and intolerance globally. In conducting the study, the GAO said it would seek information from relevant U.S. government agencies, including the Commission, and consult with outside experts on Saudi promotion of religious extremism.

North Korea

The North Korean government is one of the most repressive regimes in the world. In January 2004, the Commission held a hearing in Los Angeles, California, entitled "North Korea: Human Rights Ground Zero," focusing on the conditions of human rights, including religious freedom, in North Korea, the plight of North Korean refugees, and recommendations for U.S. policy. The Commission is currently conducting a study, in collaboration with David Hawk, interviewing North Korean refugees and escapees about the conditions of freedom of religion or belief in North Korea and efforts by the North Korean government to suppress or replace religious practice. The final report is expected in summer 2005. In March 2005, Commission Vice Chair Felice D. Gaer and Commissioner Michael Cromartie presented the preliminary findings from the study at a luncheon hosted in the Commission's honor by the U.S. Mission to the United Nations in Geneva, Switzerland. Commissioners also met with Acting High Commissioner for Refugees (UNHCR) Wendy Chamberlin and her senior staff, with whom they

discussed ways to provide protection for North Korean refugees in China. In addition, the Commission met with the Special Rapporteur for North Korea Vitit Muntabhorn, updating him on preliminary findings of the study.

Drawing Attention to Religious Freedom Violators

One of the Commission's chief statutory responsibilities is to make recommendations to the Secretary of State on countries whose governments have engaged in or tolerated systematic and egregious violations of the universal right to freedom of religion or belief. Under IRFA, those countries that meet the statutory criteria must be designated by the Secretary of State as CPCs. In May 2005, concurrent with the release of this report, the Commission wrote to Secretary of State Condoleezza Rice to recommend that 11 countries be designated as CPCs this year. It recommended that eight countries remain on the CPC list: Burma, China, the Democratic People's Republic of Korea (North Korea), Eritrea, Iran, Saudi Arabia, Sudan, and Vietnam. It also identified three countries not previously designated by the U.S. government: Pakistan, Turkmenistan, and Uzbekistan.

In addition to CPC recommendations, the Commission wrote that Belarus, Cuba, Egypt, Indonesia, and Nigeria would remain on the Commission's Watch List of countries where religious freedom conditions do not rise to the statutory level requiring CPC designation but which warrant close monitoring because of violations engaged in or tolerated by their governments, and that Bangladesh would be added to that list. In addition, in response to positive developments in the past year, the Commission no longer recommends that India be named a CPC and removed Laos and Georgia from its Watch List. More information about the three new CPC designations, as well as the Commission's 2005 CPC recommendations and Watch List countries, can be found in this report.

Raising Public Awareness

Over the past year, the Commission held public events highlighting critical religious freedom concerns. In April 2004, the Commission held a hearing at the City University of New York School of Law at Queens College on religious freedom conditions in Bangladesh. Congressman Joseph Crowley, representative of New York's seventh congressional district and member of the House Committee on International Relations, also participated in the hearing. In September 2004, the Commission convened an event with the Folger Shakespeare Library in Washington, at which Dr. Azar Nafisi, the author of the *New York Times* bestseller *Reading Lolita in Tehran: A Memoir in Books*, spoke about the need to encourage greater respect for freedom and the protection of human rights amid rising religious intolerance and repression in the world today. The event was held in conjunction with an exhibit at the Folger on religious tolerance and persecution in 16th- and 17th- century Europe entitled *Voices for Tolerance in an Age of Persecution*.

In May 2004, the Commission held two public briefings on Turkmenistan, one jointly with the Commission on Security and Cooperation in Europe (the Helsinki Commission) and the other with Radio Free Europe/Radio Liberty (RFE/RL). In July 2004 and January 2005, the Commission convened two roundtables on the troubling decline of religious freedom in Russia, hosting academics, human rights activists, and representatives of non-governmental

organizations (NGOs). In November 2004, the Commission organized a China Human Rights Forum on Capitol Hill with U.S. and foreign government officials, Hill staff, international and academic experts, NGO representatives, and human rights activists to assess bilateral human rights dialogues with China. More detail about these and other events is found in the sections on the individual countries covered by this report.

In June 2004, Commissioner Richard Land traveled to Houston, Texas, where he gave a keynote address entitled, "Global Security and U.S. National Interests: Why Religious Freedom Matters," at The James A. Baker III Institute for Public Policy at Rice University. Also in Houston, Commissioner Land held an interfaith roundtable hosted by the Houston chapters of the American Jewish Committee and the Anti-Defamation League. In College Station, Texas, Commissioner Land met with the Dean and faculty at The Bush School of Government and Public Service at Texas A&M University to discuss areas of mutual concern.

In November 2004, Commission Chair Bansal gave the keynote address at the Asia Society in New York, titled "Promoting Religious Freedom Abroad: The Scope of U.S. Foreign Policy." Her keynote was followed by a panel discussion among prominent experts in the human rights community.

Chair Bansal also addressed an interdepartmental working group on religion at the Harvard University Pluralism Project. She discussed the work of the Commission and how that work fits into U.S. foreign policy to advance international religious freedom. She subsequently gave a presentation on the Commission's work to the Memorial Church at Harvard University.

Commission members also pressed issues of concern to the public through numerous appearances on radio broadcast programs and interviews with the print media, including appearances on National Public Radio and USA Radio Networks, and editorial board meetings with the *Boston Globe* and *Los Angeles Times*. In August 2004, the Commission received the Judge George Alexander Teitz Award from the Touro Synagogue Foundation, a non-denominational, non-sectarian institution based in Rhode Island. The award is given annually to "an individual or program that best exemplifies the ideals of religious, ethnic, and racial tolerance and freedom, as set forth in President George Washington's Letter to the Hebrew Congregation in Newport, Rhode Island in 1790." The award, given in recognition of the Commission's work to promote religious freedom and to combat religious intolerance throughout the world, was presented to the Commission during a weekend celebration of the Annual Washington Letter Reading at the Touro Synagogue, at which United States Supreme Court Justice Ruth Bader Ginsburg was the keynote speaker.

Assessing Religious Freedom First Hand

As part of its annual deliberative process, the Commission assesses religious freedom conditions first hand. In July 2004, the Commission traveled to Egypt, and in October 2004, the Commission traveled to Uzbekistan, Azerbaijan, and Eritrea. In each country, Commission delegations met with a broad range of individuals including senior government officials, human rights organizations and other NGOs, religious leaders, scholars, educators, legal specialists, and others. The Commission consulted with these individuals on human rights concerns, including freedom of religion or belief, as protected in the Universal Declaration of Human Rights, the

International Covenant on Civil and Political Rights, and other instruments. In November 2004, the Commission met in New York with Asma Jahangir, the newly appointed UN Special Rapporteur for Freedom of Religion or Belief. In March 2005, the Commission participated through the U.S. delegation to the UN Commission on Human Rights in Geneva, where Commissioners met with the UN High Commissioner for Human Rights, the acting director of the UN High Commissioner on Refugees, and Ambassadors from 29 countries.

In addition, the Commission has participated through the U.S. delegations in various meetings of the Organization for Security and Cooperation in Europe, or OSCE, throughout the year. The Commission has recommended that the U.S. government work with the OSCE to ensure that separate attention is paid to the rise of anti-Semitism in the OSCE region and has collaborated with the U.S. delegation successfully to urge participating States to agree to convene the OSCE's first-ever special meeting on anti-Semitism, held in Berlin in April 2004. In July 2004, the Commission recommended that the OSCE create two high-level positions to be appointed by the Chairman-in-Office: a Special Representative on Discrimination and Xenophobia and a Special Representative on Anti-Semitism. In December 2004, this recommendation was acted upon when the OSCE's Chairman-in-Office appointed three Personal Representatives to promote greater tolerance and combat racism, xenophobia, and discrimination in the OSCE region.

Keeping Congress Informed

In Washington, Commissioners testified before Congress addressing a number of Commission concerns. In May 2004, Commissioner Richard D. Land testified at a Congressional Human Rights Caucus Members' briefing titled "Pakistan: A Human Rights Update." In October 2004, Commission Chair Preeta D. Bansal testified before the U.S. House of Representatives International Relations Committee on the State Department's 2004 *Annual Report on International Religious Freedom* and Secretary of State Powell's CPC designations. In November 2004, Commission Chair Bansal testified at a hearing held by the Congressional-Executive Commission on China that examined the Chinese government's continued violations of the right to freedom of religion or belief. The individual country chapters in this report contain more information about these events as well as other Commission activities.

In February 2005, the Commission released the findings of a *Report on Asylum Seekers in Expedited Removal* and recommendations for the Department of Homeland Security and Department of Justice. As part of the IRFA legislation, Congress authorized the Commission to appoint experts to conduct a study examining how certain aspects of Expedited Removal is implemented: whether the process is sufficiently protecting all legitimate asylum seekers, whether asylum seekers subject to Expedited Removal are being detained under inappropriate conditions, and whether asylum seekers are being returned to countries where they might face persecution. It was the first major study on this subject that obtained access to ports of entry, directly observed secondary inspection, and visited detention centers, thus answering the questions posed by Congress on the basis of extensive data-gathering and analysis. The study received front page coverage in *The New York Times*, and extensive coverage in major national newspapers. Details of the study may be found in the chapter entitled IRFA and the U.S. Refugee and Asylum Programs.

In addition to testifying before Congress, the Commission held congressional staff briefings, including bi-partisan, bi-cameral briefings on the *2004 Annual Report* and the *Report on Asylum Seekers in Expedited Removal*. The Commission also worked with a number of individual congressional offices to include its findings and policy recommendations in over two dozen bills and resolutions, ranging from the Global anti-Semitism Review Act of 2004 to the North Korean Human Rights Act of 2004. On several occasions, the Commission's findings and recommendations were also cited in congressional letters and statements.

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

FREEDOM AND IRAQ'S POLITICAL TRANSITION: THE PERMANENT CONSTITUTION

Introduction

In January 2005, Iraqi voters elected a transitional national assembly as a first independent step towards establishing democratic rule in their country. Achieving this goal will require Iraqi institutions and laws, including a new permanent constitution, that protect the fundamental rights and freedoms of every Iraqi. The current phase of Iraq's political transition will focus on the drafting and ratification of a permanent constitution that will effectively replace the Transitional Administrative Law (TAL), which has served as Iraq's interim constitution since March 2004. The new constitution will establish the guiding principles for Iraq's political, social, legal, and economic future. Incorporating recognized human rights guarantees, including the right of every person to freedom of thought, conscience, and religion or belief, into such a document represents a fundamental step in demonstrating Iraq's commitment to international standards, and a necessary prerequisite for the genuine advancement of freedom among the Iraqi people.

In the Commission's view, it is imperative that Iraq's transitional government be made aware of its international obligations and that relevant human rights standards be incorporated into the permanent constitution. Such action would not undermine Iraq's justifiable desire to ensure an independent constitution-drafting process, but rather infuse the process, as well as the parties involved, with a clear understanding of international obligations regarding the minimum human rights standards that must be afforded to all Iraqis equally and without discrimination of any kind.

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

Advancing the right to freedom of religion or belief in a manner that fully comports with international standards requires that protection from repression by the majority not be limited to members of religious minorities. Rather, religious freedom also entails protection for individual members of a majority religion from those who use prevailing religious orthodoxy as a weapon to stifle political dissent and democratic debate. In other words, the right to religious freedom includes the freedom of every Iraqi, including Muslims, not only to worship and to practice his or her faith, but also the right to debate and dissent from state-imposed orthodoxy on issues related to religion.

From the TAL to Elections

Developing a robust understanding of freedom of religion or belief is particularly important in Iraq, a country with diverse and complex religious and ethnic identities. During the months before the adoption of the TAL, the Commission persistently engaged senior Administration officials, Members of Congress, and others on the need for the interim constitution to ensure explicit guarantees of the right to freedom of religion or belief for each individual, fully consistent with international standards. Following weeks of intensive negotiations between the Coalition Provision Authority and the Iraqi Governing Council, the final TAL as adopted in March 2004 codified these principles, signaling an important step for the Iraqi people, and a clear break away from the egregious violations of religious freedom committed by Saddam Hussein's regime. While the TAL holds the potential to serve as a model for the human rights provisions in Iraq's permanent constitution, the Commission has expressed concern that language in the TAL requiring that legislation not be contrary to the "universally agreed upon tenets of Islam" may be used by judges to abridge the internationally recognized human rights of political and social reformers, including those voicing criticism of abusive government policies.

Although the TAL enshrines human rights, including the right to freedom of religion or belief, for every Iraqi, continuing developments on the ground underscore the urgent need to further safeguard these rights in the country's permanent constitution. Throughout the past year, a number of religiously motivated attacks specifically targeted Iraq's religious communities:

- Insurgents repeatedly bombed Shi'a mosques and targeted Sunni and Shi'a clerics for assassination. The largest such coordinated attack to date occurred in March 2004, resulting in the deaths of over 200 Shi'a pilgrims attending religious festivals in Karbala and Baghdad.
- Insurgents launched simultaneous bombing campaigns against churches belonging to the indigenous Christian minority community, and bombed or otherwise closed down Christian-owned businesses.

The escalation of religious terror has had a particularly devastating effect on Iraq's non-Muslim minorities, including the ChaldoAssyrians,¹ Mandaeans, and Yezidis. This has caused a push from some leaders of the ChaldoAssyrian community to establish a separate governorate in the Nineveh Province. In addition, the kidnapping epidemic in Iraq has disproportionately targeted Iraqi Christians. According to the Department of State, more than 30,000 Christian families fled Iraq during the year,² raising concern about the very survival of these ancient communities.

¹ The term "ChaldoAssyrian" is used in the TAL, and refers to the indigenous Assyrian, Chaldean, and Syriac people of Iraq.

² U.S. Department of State, *2004 Country Reports on Human Rights Practices* (<http://www.state.gov/g/drl/rls/hrrpt/2004/41722.htm>, accessed April 14, 2005).

In the Commission's view, this string of violent attacks represents a concerted effort to instigate an inter-religious conflict among Muslims and between the Muslim and Christian communities in Iraq. In an August 2004 letter to U.S. Ambassador to Iraq John D. Negroponte, the Commission—while noting that many leading Muslim clerics and political leaders, including Grand Ayatollah Ali al-Sistani, vociferously condemned the attacks against Iraq's Christian minority—urged the Ambassador to encourage leaders of the Iraqi Interim Government to take a clear and public stand in affirmation of the TAL's provisions on freedom of religion or belief. According to the Commission's letter, "The TAL provides a common touchstone for all Iraqis to uphold religious tolerance and coexistence; its public reaffirmation by the Interim Government would serve a stabilizing function and lend Iraqis committed to building a democratic society the confidence they need to bring this vision closer to reality."

In addition to the threat posed by the insurgency, Iraqis also are being forced to contend with the unlawful imposition of Islamic laws and principles by grassroots vigilante groups, as well as the operation of extra-judicial Islamic courts that seek to impose an extremist version of Islamic law on all Iraqis, regardless of their beliefs. According to the Department of State *2004 Country Report on Human Rights Practices*, "There were numerous incidents of violence against the Christian community...ranging from individual killings to intimidation and assaults on women for not wearing a headscarf (hijab)."³ Media sources have further reported several cases where personal choices are being imposed forcibly based on a particular interpretation of Islam. Some of these cases include university campuses imposing separate entrances, classrooms, and campuses for women; barbershops being forcibly shut down for offering to shave beards or provide modern haircuts; and teachers and schoolchildren being threatened with beheading if they observed the Interim Government's decision to extend the Friday weekend to include Saturday, a day associated by Islamic militants with the Jewish day of rest.

During this period, the Commission received reports that reconstruction funds from the United States earmarked for the governorate level were not reaching ChaldoAssyrian villages. Given the lack of input by ChaldoAssyrian civic administrators and other appropriate bodies into the use of reconstruction funds, Christian communities have been uniquely unable to rebuild basic infrastructure in their villages, including water and electrical systems, school facilities, and housing.

In the face of these alarming and unlawful activities, the Commission, in a December 2004 letter to President George W. Bush, pointed to the fact that "Without the right to religious freedom, guaranteed in law and observed in fact, Iraqi non-Muslim minorities will be persecuted and driven out, and Iraqi Muslims, particularly women and dissident reformers, will be stifled and suppressed." Additionally, the Commission expressed its concern that the continuing exodus of Iraq's indigenous Christian minority "would signal the demise of one of the world's historic religious communities and also would diminish the country's prospects for political and economic development," noting that the "ChaldoAssyrians are an educated and skilled community, who strongly support the formation in Iraq of a liberal democracy that protects the human rights of every individual." In conclusion, the Commission stated that continuing religiously-motivated assaults on all faiths constituted "an egregious denial of fundamental

³ Ibid.

human rights, and threatened the stability of a unified Iraqi state, as well as the ultimate success of U.S. policy objectives in the region.” In February 2005, the Commission met privately with President Bush to discuss firsthand its concerns and policy recommendations regarding the need to protect freedom of religion or belief for all Iraqis.

Efforts to Promote Freedom of Religion or Belief in Iraq’s Permanent Constitution

Developments in Iraq underscore the critical need to ensure that the right of every Iraqi to freedom of religion or belief, regardless of religious affiliation, is guaranteed in the country’s permanent constitution. Throughout the past year, the Commission has continued to engage Administration officials, non-governmental organizations, and legal experts to ensure that this priority is understood and advanced at all levels. It should be noted that this effort does not reflect a desire to impose American values on the Iraqi people, since this right is recognized and entrenched in international law and moreover, is similarly provided for in several other constitutions in the Muslim and Arab world.

Accordingly, at this critical juncture, the United States should not take a hands-off policy approach to Iraq’s permanent constitution. Rather, universal human rights standards should continually be invoked as a basis for dialogue and engagement with Iraqis, as a fundamental aspect of any constitution-related assistance programs, and finally, as a yardstick for measuring the success of Iraq’s constitutional process. Significantly, this message recently has been reflected in the statements of top U.S. officials. In March 2005, Secretary of State Condoleezza Rice publicly affirmed that “In places where religion has been used to separate people—places like Lebanon or places like Iraq—it is especially important that...the constitution recognize that the right to individual conscience is the key to democracy. Because people will never be truly free if this most personal of decisions is imposed upon them.”⁴

The need for effective guarantees in the permanent constitution of the right of every person to freedom of thought, conscience, and religion or belief is not merely a theoretical concern, but the *sine qua non* of genuine democracy and peace. These guarantees protect those who question prevailing orthodoxies and seek to debate key issues facing their societies, especially where law, politics, and religion intersect. These guarantees further protect those working through democratic means to promote respect for the human rights of their fellow citizens, and also help to inhibit those who would use religion as a weapon to obtain and hold power through undemocratic means, such as by stifling debate, impinging the efforts of political moderates and reformers, jailing opponents, and sowing fear.

Undoubtedly, the incorporation of individual human rights guarantees in Iraq’s permanent constitution, and especially the right to freedom of religion or belief, is critical. Such guarantees can serve to:

- Protect against the doctrine of intolerance espoused by leaders of the ongoing insurgency and by elements within Iraqi society.

⁴ Secretary of State Condoleezza Rice, “Remarks at Sophia University,” Tokyo, Japan, March 19, 2005.

- Promote stability among Iraq’s major ethnic and religious communities by ensuring that no single community’s interpretation of religion will be enforced on others, and that interference in religious affairs will not be used as a means of repression, decisively breaking with the past practice of Saddam Hussein’s regime.
- Promote stability within Iraq’s internal political and social structures by providing open space for discussion and dissent within and among members of Iraq’s religious communities. Upholding freedom of religion in line with international standards will enable every individual to determine independently his or her relationship with religion, not only concerning worship and practice, but also debate and dissent. This right would extend to members of Iraq’s religious minorities, such as the ChaldoAssyrians, as well as to other Iraqis, including individual Sunni and Shi’a Muslims, who espouse views that may differ from the mainstream.
- Promote moderation in Iraq’s legal regime. A constitution that enshrines freedom of religion or belief and associated human rights represents the foundation to a judicial system capable of counterbalancing potentially discriminatory legislation.
- Promote stability in the region by reducing tension among the ethnic and religious communities which span Iraq’s borders, and by establishing a model of governance that affirms the ability of various religious and ethnic communities to live side by side peacefully within a democratic framework that respects universal human rights. The success of such a model also represents a stated objective of U.S. foreign policy. As President Bush observed in his 2005 State of the Union address: “victory of freedom in Iraq will...inspire democratic reformers from Damascus to Tehran, [and] bring more hope and progress to a troubled region.”⁵

Commission Actions

In addition to meetings with the President and senior U.S. officials, the Commission has worked to develop and publish information useful to policymakers, experts, and others involved in Iraq’s constitutional process. In March 2005, the Commission released a comparative survey of the constitutions of predominantly Muslim countries, examining provisions relating to the role of Islam and guarantees of religious freedom and related human rights. This 100-page document, entitled *The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Predominantly Muslim Countries*, sets out the international human rights standards associated with freedom of thought, conscience, and religion or belief alongside the relevant constitutional provisions of 44 Muslim countries. The survey found that no single model exists in Muslim countries, which range from declared Islamic states to declared secular states. Moreover, several countries examined, including those where Islam is the declared religion of the state, have constitutional provisions that favorably reflect a state’s international human rights obligations.⁶

⁵ President George W. Bush, State of the Union, February 2, 2005.

⁶ The study, in its entirety, is available on the Commission’s web site.

To be certain, actual implementation of any constitutional provision is dependent on a number of diverse factors, including level of state control, system of government, independence of the judiciary, individual access to the courts, and enforcement of judicial remedies. Constitutional text alone may not necessarily reflect what is done in practice, especially with regard to human rights. That said, a constitution remains important as an aspirational document and a statement of national principles. It can also provide the foundation for political, social, and legal reconstruction. Even if not fully implemented, constitutional text remains fixed as fundamental law, and its guarantees and protections can be invoked by those seeking to protect human rights in the future.

The Commission's comparative constitution survey serves a dual purpose. In the first instance, it is a valuable tool for policymakers to understand the constitutional landscape of the Muslim world with regard to the role of Islam and guarantees for freedom of religion and belief and other associated rights, by providing models of constitutional text that reflect international standards. The survey also has begun to serve as the basis for dialogue with Iraqis engaged in the unfolding constitutional process. At a March 2005 working session on the constitutional process convened in Jordan under the auspices of the American Bar Association's Iraq Legal Development Program, Commission Chair Preeta D. Bansal briefed Iraqi civil society leaders on the survey's findings. The ensuing discussion demonstrated a range of opinions concerning issues related to freedom of religion, a willingness to explore questions in an open and frank manner, and significantly, a desire for more detailed comparative information. Accordingly, it is expected that the constitutional survey will be translated into Arabic. The Commission is also exploring additional opportunities to engage Iraqis, including members of the expected constitutional drafting committee, with relevant information on international standards related to freedom of religion or belief and the constitutional experiences of other Muslim countries.

Commission Recommendations

Concerning the Permanent Constitution

In light of the current situation in Iraq, the Commission recommends that the U.S. government:

- direct all U.S. efforts to encourage the inclusion of human rights guarantees in the permanent constitution that are consistent with the obligations set forth in international instruments to which Iraq is a party, including the Universal Declaration on Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR); Iraq's permanent constitution should include explicit guarantees that:

--"everyone has the right to freedom of thought, conscience, and religion," as affirmed in article 18 of the UDHR and specified in article 18 of the ICCPR;

--coercion in all matters related to religion shall be prohibited, and no Iraqi shall be detained or arrested because of his or her religious beliefs;

- prohibit discrimination and protect the fundamental rights and freedoms of every Iraqi, regardless of religion or belief, without which the human rights of individuals, whether women or disfavored or non-conformist Muslims, will be at risk;
- Iraq shall abide by the international human rights treaties, conventions, and instruments to which it is a party, such as the ICCPR and the UDHR;
- the principles of democracy, pluralism, social justice, rule of law, and Iraq's international obligations are fundamental sources of legislation;
- every woman and member of a religious minority shall have equal rights with every Iraqi citizen, shall have equal protection of the law, and shall be equal before the law; and
- no law shall be contrary to the rights expressed in the permanent constitution.

Guarantees of this kind form the basis of minimum human rights protections recognized under international law, and are found in the constitutions of other predominantly Muslim countries, as well as in Iraq's TAL.

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

- urge Iraq's transitional government and national assembly to include underrepresented religious minorities, i.e. Christians and Sunnis, in the constitutional drafting body;
- call on the United Nations and other allies to support actively and publicly the incorporation of individual human rights in line with international standards in Iraq's permanent constitution;
- appoint a high-level U.S. human rights envoy to Iraq, reporting directly to the U.S. ambassador, to encourage the incorporation of human rights principles in Iraq's permanent constitution, to serve as the point of contact for Iraqi human rights institutions and assist these institutions in consolidating their roles within the emerging political structure, to facilitate access to American expertise and other assistance supporting Iraq's effort to confront human rights challenges, and to advance human rights through U.S. reconstruction programs in Iraq; and
- fund workshops and training sessions on religion/state issues for Iraqi officials, policymakers, legal professionals, representatives of non-governmental organizations, religious leaders, and other members of key sectors of society who will have input on the permanent constitution.

Concerning Reconstruction Efforts

With regard to reconstruction efforts in Iraq, the Commission recommends that the U.S. government:

- promote and prioritize, in all reconstruction programs for Iraq and in contacts with Iraqis, coalition partners, and other potential donors including the United Nations, an Iraqi political system that respects freedom of religion and belief, endorses equality for women, and guarantees the universal human rights of all Iraqis, including members of religious minorities and individual women;
- ensure that U.S. funding and other forms of support are not going to Iraqi political parties and other organizations that advocate or condone policies at odds with recognized international human rights norms;
- publicly express at the highest level support for political parties and other Iraqi groups that demonstrate a genuine commitment to international human rights, including freedom of religion, and give clear directives to American officials and recipients of U.S. democracy-building grants to assign priority to projects that seek to encourage the inclusion of effective human rights guarantees for every Iraqi in the permanent constitution, in addition to projects that promote multi-religious and multi-ethnic efforts to meet human needs, religious tolerance and understanding, knowledge among Iraqis about international human rights standards, and discussion of values central to good governance and democracy;⁷
- declare a proportional allocation of funds for ChaldoAssyrian communities, ensure that the use of these funds are determined by independent ChaldoAssyrian national and town representatives, and establish direct lines of input by such independent ChaldoAssyrian structures into the allocation process of the Iraqi central government in Baghdad, separate from the Kurdish Regional Government;
- support efforts to establish official Iraqi institutions, including the national human rights commission provided for in the TAL, that meet international standards and have the resources and mandates necessary to monitor, investigate, and take action to remedy human rights abuses, and that encourage Iraq's judicial and human rights institutions to operate in accordance with international standards; and
- establish 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.

Concerning Ongoing Abuses of Freedom of Religion

With regard to ongoing religious freedom abuses, the Commission recommends that the U.S. government:

⁷ The State Department's current "Human Rights and Democratization Initiatives in Iraq" Request for Grant Proposals fails to prioritize proposals that promote the inclusion of international human rights standards or a bill of rights in the permanent constitution, or proposals that promote knowledge among Iraqis about international human rights standards.

- publicly condemn attacks having a religious character or motivation and encourage the transitional government to capture and prosecute responsible parties;
- speak out at the highest level against violence against women and unlawful efforts to impose extrajudicial religious and/or traditional law in violation of international human rights standards;
- in cooperation with Iraqi law enforcement, prioritize locating and shutting down extrajudicial courts unlawfully imposing an extremist version of Islamic law; and
- raise with the regional Kurdish authorities the issue of reports that ChaldoAssyrian property is being expropriated and seek assurances that there will be no official discrimination practiced against this or other minority communities.

COMPARATIVE STUDY OF CONSTITUTIONS OF MUSLIM COUNTRIES

Introduction

Several current developments in constitutional drafting are spurring renewed analysis of the existing constitutional landscape of the Muslim world. In 2004, Afghanistan adopted a new permanent constitution, and Iraq's Governing Council approved an interim constitutional document for Iraq (the Transitional Administrative Law or TAL). Iraq's newly elected transitional national assembly is expected to draft a permanent constitution by August 2005. In Sudan, a new interim constitution is anticipated as a product of the Comprehensive Peace Agreement between the government of the Sudan and the Sudan People's Liberation Movement.

Although the drafting and approval processes have differed markedly in these countries, international legal norms and international actors have played—and will continue to play—important roles. In each country, questions have been raised about the relationship between international legal/human rights norms and existing political arrangements—especially with respect to the universal right to freedom of thought, conscience, and religion or belief. The search for reliable answers to these questions has been hindered by the dearth of specific comparative information available regarding relevant constitutional provisions in predominantly Muslim countries,¹ and the absence of any comprehensive survey of texts to provide an overall picture of the constitutional arrangements in such countries. The Commission's survey of constitutional text of 44 Muslim countries, released in March 2005, represents a small but important first step in filling this urgent resource gap.

About The Study

The Commission's study analyzes the constitutional provisions currently in place concerning the relationship between religion and the state, freedom of religion or belief, and other related human rights in predominantly Muslim countries.

The Muslim world stretches from Europe to Africa, through the Middle East and into Asia. Indeed, its geographical diversity mirrors a central finding of the study, that predominantly Muslim countries encompass a variety of constitutional arrangements addressing the role of Islam and the scope of the right to freedom of thought, conscience, and religion or belief and other human rights.

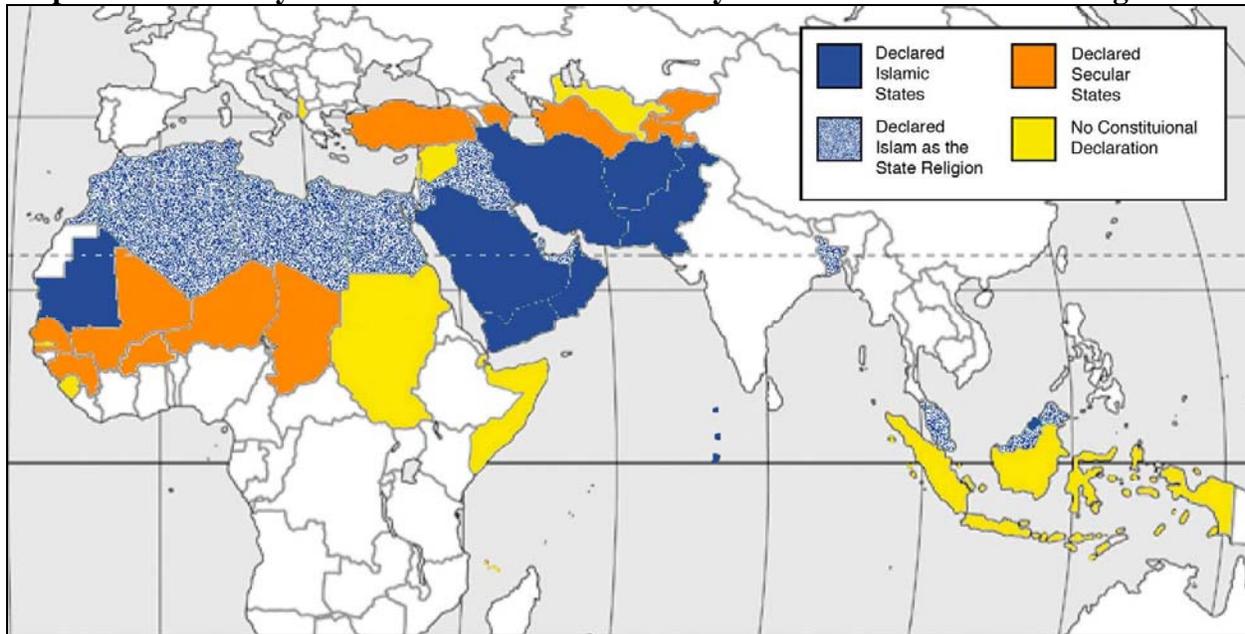
In other words, although the countries reviewed in this study share the common denominator of having a majority Muslim population, the documents surveyed here establish a broad assortment of constitutional views—ranging from Islamic republics with Islam as the official state religion, to secular states with strict separation of religion and state. Moreover, diversity on the role of Islam and the extent of guarantees for universal human rights are also found in the constitutions of those states where Islam is proclaimed the religion of the state.

¹ The study defines predominantly Muslim countries as those where more than half of the population is Muslim.

Table: Predominantly Muslim Countries Classified by Constitutional Role for Religion

Declared Islamic States	Declared Islam as the State Religion	No Constitutional Declaration	Declared Secular States
<ol style="list-style-type: none"> 1. Afghanistan 2. Bahrain 3. Brunei 4. Iran 5. Maldives 6. Mauritania 7. Oman 8. Pakistan 9. Saudi Arabia 10. Yemen 	<p>Ten Islamic states and:</p> <ol style="list-style-type: none"> 11. Algeria 12. Bangladesh 13. Egypt 14. Iraq (TAL) 15. Jordan 16. Kuwait 17. Libya 18. Malaysia 19. Morocco 20. Qatar 21. Tunisia 22. U.A.E. 	<ol style="list-style-type: none"> 1. Albania 2. Lebanon 3. Syria 4. Indonesia 5. Comoros 6. Djibouti 7. Gambia 8. Sierra Leone 9. Somalia* 10. Sudan** 11. Uzbekistan 	<ol style="list-style-type: none"> 1. Burkina Faso 2. Chad 3. Guinea 4. Mali 5. Niger 6. Senegal 7. Azerbaijan 8. Kyrgyzstan 9. Tajikistan 10. Turkey 11. Turkmenistan
<p>Estimated Muslim Population: 285.5 million or approximately 28 percent of Muslims living in predominantly Muslim countries.</p>	<p>Estimated Muslim Population (including declared Islamic states): 602.5 million or approximately 58 percent of Muslims living in predominantly Muslim countries.</p>	<p>Estimated Muslim Population: 287.5 million or approximately 28.5 percent of Muslims living in predominantly Muslim countries.</p>	<p>Estimated Muslim Population: 140 million or approximately 13.5 percent of Muslims living in predominantly Muslim countries.</p>

Map: Predominantly Muslim Countries Classified by Constitutional Role for Religion



* At the time of writing, Somalia has no recognized constitution.

** At the time of writing, parties to Sudan's long-running civil war are contemplating the drafting of a new interim constitution.

In addition to the diversity of constitutional structures, several important realities come to light through this comparative review:

- More than half of the world’s Muslim population (estimated at over 1.3 billion) lives in countries that are neither Islamic republics nor that have declared Islam to be the state religion. Thus, the majority of the world’s Muslim population currently lives in countries that either proclaim the state to be secular or that make no pronouncements concerning Islam to be the official state religion.
- Countries in which Islam is the declared state religion may provide constitutional guarantees of the right to freedom of religion or belief that compare favorably with international legal standards.
- Similarly, countries with Islam as the declared state religion may maintain constitutional provisions protecting the related rights to freedom of expression, association, and assembly—or the rights of equality and nondiscrimination with regard to, *inter alia*, religion and gender—which compare favorably with international standards.
- A number of constitutions of predominantly Muslim countries incorporate or otherwise reference international human rights instruments and legal norms.

This wide diversity in the constitutional provisions of predominantly Muslim countries, and especially in those countries declaring themselves to be Islamic states or declaring Islam to be the state religion, is not necessarily well understood. For example, the Commission has observed the perception that a provision found in Afghanistan’s new constitution—that “no law can be contrary to the sacred religion of Islam”—represents the norm in the constitutions of predominantly Muslim countries.² As this study shows, that perception is incorrect.

Human Rights as International and Universal Legal Norms

Yet, such perceptions and assumptions are not new. Since the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, critics have questioned the particular religious roots of human rights, and have explored claims of the universality of human rights in the face of contradictory religious attitudes and practices. However, the need for protection of certain individual rights deemed inherent and universal—and not contingent upon particular cultures or political arrangements—became a matter of global concern after the horrors of World War II. The world then came together under the auspices of the United Nations to enshrine the natural rights and freedoms available to all persons—including the right of religious freedom—as universal human rights.

The UDHR recognizes in its first sentence the “inherent dignity and the equal and inalienable rights of all members of the human family” as the “foundation of freedom, justice and peace in the world.” Article 18 of the Declaration addresses the relationship between religion and human rights, forbidding distinctions of any kind, including on the basis of religion, with regard to the enjoyment of those rights and freedoms. It states, “Everyone has the right to

² The study demonstrates that out of 44 predominantly Muslim countries, only 15 constitutions provide for Islamic law, principles, or jurisprudence as a source of, or limitation on, general legislation.

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.”

The crucial role played by the delegate from Egypt, Dr. Mahmoud Azmi, during the drafting and passage of the Declaration serves as an illustration of the aspired universality of this document.³ Dr. Azmi was an active defender of human rights for all individuals, including for women and minorities. He fervently advocated the passage of the Declaration and pointed to the long, multi-civilizational and multi-religious history of his own country to demonstrate that a commitment to human rights is not a western but a universal human concept.

In the end, out of 58 states then in existence, no country voted against the Universal Declaration.⁴ The Declaration thus represented a consensus at that moment in history on the subject of fundamental human rights, including the freedom of religion or belief. From the early years of the United Nations, Christians, Jews, Muslims, Hindus, Sikhs, Buddhists and other religious individuals and groups have worked together to advance human rights. These religious groups have emphasized the religious bases for human rights within their own traditions.

Now, more than 50 years later, as Iraq and Afghanistan have embarked on their own constitutional processes, and Sudan may soon follow, questions about the compatibility of international human rights norms within Islamic societies are being raised anew. In particular, three contentious issues concerning religion permeated the drafting and approval of Afghanistan’s constitution and Iraq’s TAL: the appropriate constitutional role for Islam; the scope of guarantees for fundamental human rights, including the right to freedom of thought, conscience, and religion or belief; and the equality of rights and freedoms, especially for women. As Iraq’s newly elected transitional national assembly begins the process of drafting a permanent constitution, it is likely that matters concerning religion and human rights will resurface as key, potentially divisive, issues.

Minimum International Standards for Constitutional Provisions on Freedom of Religion and the Role of the U.S. Commission on International Religious Freedom

The minimum international standards required for an effective constitutional guarantee of the right of freedom of religion or belief may be extracted from the UDHR and the International Covenant on Civil and Political Rights (ICCPR). These minimum standards include:

- Universal applicability to everyone as individuals, regardless of religion or belief;
- The freedom to manifest a religion or belief, either individually or in community with others, in public or private;
- Freedom to manifest all aspects of a religion or belief, including worship, teaching, practice, and observance;

³ Boutros Boutros Ghali, “Egypt’s Path to Rights,” *The Washington Post*, April 4, 2004.

⁴ Eight states abstained from the UN General Assembly vote on the UN Declaration of Human Rights: Byelorussia, Czechoslovakia, Poland, Saudi Arabia, South Africa, the former Soviet Union, Ukraine, and Yugoslavia.

- No coercion that would impair the freedom to have or to adopt a religion or belief of one's choice;⁵ and
- Limitations on the right to freedom of thought, conscience, and religion or belief only in certain circumstances as provided for under international law.

Freedom of religion or belief protects the rights not only of members of religious minorities within a society, but also protects the rights of individuals within a majority faith to debate and dissent from state-imposed orthodoxies. Promoting religious freedom and related human rights abroad therefore is vital to the world's strategic, as well as humanitarian, interests. When respected, freedom of religion or belief is one of the cornerstones of stable, democratic, productive societies in which the rule of law and human rights are observed and accorded value. When denied, generations of intolerance, authoritarianism, and resulting societal instability may be sown.

The Commission has made specific recommendations on constitutional human rights guarantees in Afghanistan and Iraq in light of the unique role of the U.S. government in these situations. These recommendations are based on the standards set forth in international human rights instruments including the UDHR and the ICCPR, to which both Afghanistan and Iraq are party.

During their constitutional drafting sessions, Afghan and Iraqi participants, as well as international actors, sought models of constitutional text that reflect international human rights standards. While many such models exist globally, the Commission found that there was a dearth of collected materials on constitutional arrangements in predominantly Muslim countries, including countries where Islam is the state religion, which may afford more readily applicable—and potentially positive—examples.

The comparative analysis of constitutional text prepared by the Commission's legal policy staff is intended as a departure point, and an invitation for further examination of the interpretation and application of these texts—especially with regard to their practical impact on society, and on the protection of internationally recognized human rights. The Commission hopes that others may take up this task to further advance human rights, including the right to freedom of thought, conscience, and religion or belief, around the globe.

The comparative constitution study, in its entirety, is available on the Commission's web site.

⁵ Aspects of a constitution that could constitute coercion include: (a) no provision for equality; (b) no provision prohibiting discrimination on the basis of religion; or (c) separate political rights for citizens of different religions.

Table: Comparison of Constitutional Provisions on Freedom of Religion to International Standards

Generally Compare Favorably	Establish Specific Safeguards Against Religious Coercion	No Provisions or Provision only for the Right to Worship	Provisions that Do Not Define Rights on an Individual Basis or Limit Rights to One or More Enumerated Groups	Provisions that Permit Limitations Not Enumerated Under International Standards
<p>Middle East & North Africa Iraq (TAL)</p> <p>South Asia Bangladesh Pakistan</p> <p>East Asia Indonesia Malaysia</p> <p>Africa Chad Djibouti Gambia Guinea Mali Niger Senegal Sierra Leone Sudan</p> <p>Eastern Europe & Eurasia Albania Azerbaijan Kyrgyzstan Tajikistan Turkey Turkmenistan Uzbekistan</p>	<p>Middle East & North Africa Iraq (TAL)</p> <p>South Asia Bangladesh Pakistan</p> <p>East Asia Malaysia</p> <p>Africa Sierra Leone Sudan</p> <p>Eastern Europe & Eurasia Albania Azerbaijan Turkey Uzbekistan</p>	<p>Middle East & North Africa Algeria * Bahrain Egypt Iran Jordan Kuwait * Lebanon Libya Morocco Oman Qatar Saudi Arabia * Syria Tunisia * U.A.E. * Yemen *</p> <p>South Asia Afghanistan</p> <p>East Asia Brunei Maldives *</p> <p>Africa Comoros * Mauritania * Somalia **</p> <p>Eastern Europe & Eurasia n/a</p>	<p>Middle East & North Africa Bahrain Egypt Iran Jordan Lebanon Libya Oman Syria U.A.E.</p> <p>South Asia Afghanistan</p> <p>East Asia Maldives</p> <p>Africa Burkina Faso</p> <p>Eastern Europe & Eurasia n/a</p>	<p>Middle East & North Africa Bahrain Iran Jordan Kuwait Libya Oman U.A.E.</p> <p>South Asia Afghanistan</p> <p>East Asia Brunei Maldives</p> <p>Africa Djibouti Gambia Niger Sierra Leone</p> <p>Eastern Europe & Eurasia Turkey</p>

* Countries with no constitutional provisions concerning freedom of religion specifically.

** At the time of writing, Somalia has no recognized constitution.

COUNTRIES OF PARTICULAR CONCERN AND THE COMMISSION WATCH LIST

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

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

Under IRFA, the President is required to single out and explicitly name those countries that are the most egregious violators of religious freedom, and the Act contains a formal mechanism for doing so. Section 402(b)(1) of IRFA specifically directs the President at least annually to designate each country in which the government has engaged in or tolerated "particularly severe violations of religious freedom" as "a country of particular concern" or CPC. Particularly severe violations of religious freedom are defined as those that are "systematic, ongoing, and egregious."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

Countries of Particular Concern: Commission Recommendations

One of the Commission's chief responsibilities under IRFA is to draw 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.

In compliance with IRFA, the Commission has assessed the facts and circumstances, including those in the State Department's 2004 *Annual Report on International Religious Freedom*, regarding violations of religious freedom around the world. As a result of this review process, and in furtherance of the Commission's statutory responsibility, the Commission wrote to Secretary of State Condoleezza Rice in April 2005 recommending that she designate as CPCs

¹ IRFA § 402 (b)(1)(A).

² IRFA § 3(13).

the following 11 countries: **Burma, Democratic People’s Republic of Korea (North Korea), Eritrea, Iran, Pakistan, People’s Republic of China, Saudi Arabia, Sudan, Turkmenistan, Uzbekistan, and Vietnam.**

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

During last year’s CPC process, then-Secretary of State Colin L. Powell in September 2004 re-designated Burma, China, Iran, North Korea, and Sudan as CPCs. The Commission concluded this year that there have been no changes with regard to freedom of religion or belief to warrant the removal of these five countries from the list of CPC designations.

- The military junta that governs **Burma** uses a pervasive internal security apparatus to monitor the activities of all religious organizations. The government imposes restrictions on many religious practices, controls and censors all religious publications, and, in some areas of the country, forcefully promotes the majority religion over other religions. Members of minority religious groups, especially Muslims and Christians, are subjected to serious abuses of religious freedom and other human rights; in some areas, children are taken from parents and forcibly converted to Buddhism. Military commanders have conscripted religious minority members by force as porters, killing some who have refused.

- In **China**, the government continues to be responsible for pervasive and severe violations of religious freedom and related human rights. Every religious community in China is subject to restrictions, discrimination, and state control. The most serious religious freedom abuses are experienced by Tibetan Buddhists, Uighur Muslims, Roman Catholics, house church and unregistered Protestants, and spiritual groups such as the Falun Gong, abuses involving imprisonment, torture, and other forms of ill treatment. Though the Chinese government issued a new Ordinance on Religion in March 2005, its provisions in fact restrict rather than protect religious freedom, offering Party leaders more extensive control over all religious groups and their activities.
- The government of **Iran** engages in systematic, ongoing, and egregious violations of religious freedom, including prolonged detention, torture, and execution of persons based primarily or entirely upon the religion of the accused. Over the past year, the Iranian government's poor religious freedom record has deteriorated, particularly for Muslims who oppose the regime's interpretation of Islam, Baha'is, and Christians, all of whom have faced intensified harassment, detention, arrests, and imprisonment. Just last month, a Christian man faced a second trial before an Islamic court on charges of apostasy, which carries a death sentence in Iran. For the first time in many years, the Iranian government has confiscated or destroyed Baha'i community property, including holy sites.
- There are no personal freedoms of any kind in **North Korea** and no protection for human rights. In pursuit of absolute control of all facets of politics and society, the government under dictator Kim Jong Il has created an environment of fear in which dissent of any kind is not tolerated. Freedom of religion or belief is essentially non-existent, as the government severely represses public and private religious activities and has a policy of actively discriminating against religious believers. In addition, North Korean refugees report that any unauthorized religious activity inside North Korea is met with arrest, imprisonment, torture, and sometimes execution by order of the government. The massive human rights abuses of the government constitute an enduring security threat on the Korean peninsula.
- The government of **Sudan** commits egregious and systematic violations of freedom of religion or belief against Christians, Muslims who do not follow the government's extremist interpretation of Islam, and followers of traditional African religions, and has been recommended for CPC designation since the Commission's founding. As a result of the government's policies of Islamization and Arabization, two million people, mostly non-Muslim Africans in southern and central Sudan, died in the now-concluded North-South civil war, a conflict in which the Commission identified religious persecution by the government to be a major factor. Many of the Commission's recommendations on U.S. policy toward Sudan were taken up by the Bush Administration, including the Administration's decision to give peace in Sudan a higher priority on the U.S. foreign policy agenda. With the signing of comprehensive North-South peace accords during the past year, the conditions for religious freedom in certain parts of the country have changed significantly from previous years. The Commission's ongoing concerns are the egregious violations being committed by the Sudanese government in the North, and also in the western region of Darfur, where the government has exploited ethnic and religious differences in committing abuses against African Muslim civilians that the State Department has found to be genocide.

Saudi Arabia, Vietnam, and Eritrea

In September 2004, Secretary Powell for the first time designated as CPCs **Saudi Arabia, Vietnam, and Eritrea**. The Department of State's designation of these three new CPC countries followed the Commission's own recommendations. As with the other five re-designated countries, the Commission determined this year that each of these three newly listed countries continues to warrant CPC designation. In the case of all three countries, it is important that the U.S. government not erroneously construe certain actions on their part, such as releasing a few prisoners while arresting others, issuing ambiguous decrees that are applied restrictively, and making as yet unfulfilled promises to the U.S. government, as genuine progress.

For example, despite the State Department's contention in the *2004 Annual Report on International Religious Freedom* that there were slight improvements in Saudi government efforts to foster religious tolerance in Saudi society, the report again concluded that freedom of religion "does not exist" in **Saudi Arabia**. The Commission concurs, and finds that the government of Saudi Arabia not only persists in banning all forms of public religious expression other than that of the government's own interpretation of one school of Sunni Islam, but 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. The government of **Vietnam** continues to harass, detain, imprison, and discriminate against leaders and practitioners of all religious communities. There is particular concern about ongoing pressure on the United Buddhist Church of Vietnam and on Montagnard and Hmong Christians, involving harassment, fines, and physical abuse to gain renunciations of faith. The government of **Eritrea** continues to ban the activities of all unregistered religious groups and has closed their places of worship. It has arrested participants at prayer meetings and other gatherings, and detained members of unregistered churches and other religious activists for long periods and without charge.

Recommendations for Additional CPC Designations

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

- In **Pakistan**, the government does not provide an adequate response to vigilante violence frequently perpetrated by Sunni Muslim militants against Shi'as, Ahmadis, Hindus, and Christians. Discriminatory legislation effectively bans many of the activities of the Ahmadi community. Blasphemy allegations, routinely false, result in the lengthy detention, imprisonment of, and sometimes violence against, Ahmadis and Christians as well as Muslims, some of whom have been sentenced to death. Belated efforts to curb extremism through reform of Pakistan's thousands of Islamic religious schools appear to have had little effect thus far, and many of these schools continue to provide ideological training and motivation to those who take part in violence targeting religious minorities in Pakistan and abroad.

- President Saparmurat Niyazov’s monopoly of power and absolute control over Turkmen society render any independent religious activity impossible in **Turkmenistan**, where the president is also imposing an increasingly oppressive personality cult that impinges on all aspects of public life in the country. It is regrettable that a few insignificant developments that in no way change the fundamental absence of religious freedom in Turkmenistan repeatedly enable that country to evade the CPC designation it so unequivocally deserves. The decree on registration cited in the State Department’s 2004 religious freedom report as evidence of “improvement” in fact resulted in the registration of four small groups and even they report continued difficulties. It is thus not clear what practical benefits registration provides.
- In addition to a restrictive law on religion that severely limits the ability of religious communities to function in **Uzbekistan**, the Uzbek government continues to exercise a high degree of control over the manner in which the Islamic faith is practiced. Uzbek authorities also continue to crack down harshly on Muslim individuals, groups, and mosques that do not conform to government-prescribed practices or that the government claims are associated with extremist political programs. This has resulted in the imprisonment of thousands of persons in recent years, many of whom are denied the right to due process, and there are credible reports that many of those arrested continue to be tortured or beaten in detention. Though security threats do exist in Uzbekistan, including from members of *Hizb ut-Tahrir* and other groups that claim a religious linkage, these threats do not excuse or justify the scope and harshness of the government’s ill treatment of religious believers. The Commission’s CPC recommendation for Uzbekistan should in no way be construed as a defense of *Hizb ut-Tahrir*, an extremist and highly intolerant organization that promotes hatred against moderate Muslims, the West, Jews, and others.

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. The designation of CPCs brings into the spotlight those countries where the most egregious violations take place and the exercise of a person’s right to freedom of religion or belief is systematically repressed. The designation also guides important decisions in U.S. relations with these countries.

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. IRFA makes explicit that the policy of the United States must be to take active steps with regard to those countries deemed to be particularly severe violators of religious freedom. 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,”

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

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 in the future 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.

Since the passage of IRFA, the Secretary of State has 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. Regrettably, the only official action taken by the U.S. government with respect to those CPCs has been to invoke those already existing sanctions, rather than to take additional measures pursuant to IRFA. In previous years, as permitted by Section 402 (c)(5) of IRFA, the Secretary has determined that the following pre-existing sanctions satisfied the IRFA requirements:

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

⁴ IRFA § 402(c)(5).

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.

In addition, since the passage of IRFA, the State Department has not made public any actions it has taken under IRFA with respect to CPCs, despite provisions in the statute that require public dissemination of that information.⁵ The Commission is also concerned that the State Department has not submitted to the Congress the required evaluation of the effectiveness of prior actions against CPCs.⁶

The New CPC Designations: the Need to Take Action

The recent designation of Saudi Arabia, Vietnam, and Eritrea as CPCs, none of which is subject to pre-existing sanctions, provides the U.S. government with an opportunity to respond decisively to severe religious freedom violators. According to the statutory requirements of IRFA, for these three countries the U.S. government must: (1) request consultations with the government on the violations that gave rise to the designation, and consult with humanitarian and other U.S. organizations on the potential impact of actions that could be taken; (2) either (a) conclude a binding agreement to cease the particularly severe violations, or (b) take an action from one of several options specified in the statute (or a “commensurate” action); and (3) report to Congress on the action taken.

⁵ See IRFA §§102(b)(1)(F)(i) (requiring the executive summary of the State Department’s annual report to include a description of actions taken to promote religious freedom and to oppose violations thereof), and §408 (generally requiring publication in the Federal Register of a description of the actions taken as a result of designation as a CPC).

⁶ See IRFA §§402(c)(4) and 404(a)(1)(B) (requiring the President to submit a report to Congress containing, among other information, an evaluation of the impact of the actions taken as a result of designation as a CPC).

In February 2005, in accordance with its statutory obligations, the Commission wrote to Secretary Rice and recommended the following actions by the U.S. government in response to the designations of Saudi Arabia, Vietnam, and Eritrea as CPCs. In doing so, the Commission emphasized that the recommended actions were only initial steps that should be taken, in concert with diplomatic efforts at all levels, to urge the governments of these countries to abide by their international human rights commitments and cease severe violations of freedom of religion or belief. The Commission also recognized that IRFA authorizes more stringent actions that could be taken should severe violations continue.

With regard to the three new CPC designations, the Commission recommended that the U.S. government should:

Saudi Arabia

- 1) identify those Saudi agencies and officials thereof who are responsible for particularly severe violations of religious freedom and vigorously enforce section 604 of IRFA with respect to Saudi Arabia, rendering inadmissible for entry into the United States any Saudi government official who was responsible for or directly carried out such violations;
- 2) issue a proclamation, under the President's authority pursuant to section 212(f) of the Immigration and Nationality Act (8 USC 1182(f)), to bar those Saudi government officials from entering the United States who have been responsible for propagating globally an ideology that explicitly promotes hate, intolerance, and human rights violations;
- 3) issue a demarche urging the government of Saudi Arabia to cease funding or other support for written materials or other activities that explicitly promote hate, intolerance, and human rights violations, including the distribution of such materials in the United States and elsewhere outside of Saudi Arabia; and
- 4) order the heads of appropriate U.S. agencies, pursuant to section 405(a)(13) of IRFA, not to issue any specific licenses and not to grant any other specific authority for the export of any item on the U.S. Commerce Control List of dual-use items [Export Administration Regulations under part 774 of title 15] to any agency or instrumentality of the government of Saudi Arabia that is responsible for committing particularly severe violations of religious freedom. In FY 2004, the Commerce Department approved approximately \$67 million worth of such articles for Saudi Arabia, including, for example, thumbcuffs, leg irons, shackles, and other items that could be used to perpetrate human rights violations.

Vietnam

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

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

Eritrea

- 1) engage in vigorous advocacy on 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 in Eritrea, including in multilateral fora such as the United Nations Commission on Human Rights; and
- 2) conduct a review of U.S. 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.

Although the IRFA legislation allows the President to waive the taking of any action in response to the CPC designations, the Commission firmly expressed to Secretary Rice that to do so would effectively render meaningless the IRFA process and undermine our nation's commitment to the promotion of freedom of religion or belief throughout the world. To maintain the integrity of the process and the principle, a stronger response, as outlined in IRFA, is essential.

The Delay in Responding

As of the time this report went to print, the deadline had passed for the United States to take action on the CPC designation of Saudi Arabia, Vietnam, and Eritrea. IRFA requires that the President not only name those countries that are the most egregious violators of religious freedom, as occurred last September, but also take specific policy actions within 180 days. When that deadline was reached on March 15, 2005, the State Department announced that it had asked Congress for "a little extra time," noting that there had been "real engagement" with Saudi Arabia. However, the Commission had seen no evidence of genuine progress with regard to freedom of religion or belief in any of these countries. By taking timely action on Saudi Arabia, Vietnam, and Eritrea, the U.S. government had an opportunity, in one small but critical way, to make President Bush's words in his second inaugural address about promoting peace through spreading freedom a reality. The persistent delays in the process have served only to signal that the U.S. government does not take seriously its stated—and mandated—commitment to promote religious freedom and other human rights throughout the world.

Commission Watch List

In addition to its CPC recommendations, the Commission has established a Watch List of countries where religious freedom 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. **Belarus, Cuba, Egypt, Indonesia, and Nigeria** remain on the Commission's Watch List, and **Bangladesh** has been added this year. The Commission is concerned about the serious abuses in these countries, and

by the fact that the governments of these countries 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.

Government authorities in **Belarus** persist in enforcing the harsh 2002 law on religion, resulting in calculated serious regulatory obstacles and bureaucratic and legal restrictions on the activities of many religious communities. Religious belief and practice continue to be tightly controlled in **Cuba**, where 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. The Commission traveled to **Egypt** last year and found that serious problems of discrimination, intolerance, and other human rights violations against members of religious minorities, including non-conforming Muslims, remain widespread. In **Indonesia**, though the situation has improved since 2002, the Commission continues to be concerned about ongoing sectarian violence and the Indonesian government's inability or unwillingness to hold those responsible to account. The response of the government of **Nigeria** to persistent religious freedom concerns continues to be inadequate, particularly with regard to an ongoing series of violent communal conflicts along religious lines, the controversy over the expansion of sharia (Islamic law) in the criminal codes of several northern Nigerian states, and discrimination against minority communities of Christians and Muslims. Finally, in **Bangladesh**, the Commission is concerned that democratic institutions and constitutional guarantees of freedom of religion are threatened by religious extremism and by the country's chronic political strife. Islamic militants have been implicated in violent attacks on politicians, members of religious minorities, particularly Ahmadis, Hindus, and Christians, authors who promote different interpretations of Islam, and non-governmental institutions. The perpetrators of these crimes have largely gone unpunished.

Changes in Recommended Status

Significant developments affecting freedom of religion or belief have taken place in **India** in the past year, and the Commission no longer recommends that it be designated a CPC. The May 2004 parliamentary elections resulted in a defeat for the ruling Bharatiya Janata Party, or BJP, a political party associated with a group of Hindu extremist nationalist organizations that had been implicated in growing violence against religious minorities in the country and the killing of as many as 2,000 Muslims in the state of Gujarat in 2002. India's Supreme Court has taken significant steps designed to bring to justice those responsible for the violence in Gujarat. The new government has pledged to reject any kind of religious intolerance and return the country to its pluralistic traditions; proposed a law to halt and criminalize inter-religious violence; and taken immediate steps to remove the religiously intolerant portions of school textbooks issued by the BJP government. Despite these improvements, concerns about religious freedom in India remain, particularly indications that attacks on Christian churches and individuals persist, without adequate prosecution. The Commission will continue to monitor the situation in India to determine if the new government carries out its efforts to counteract the lately prevailing climate of hostility against religious minorities.

In light of recent developments, the Commission is also removing **Laos** and **Georgia** from its Watch List. The government of **Laos**, responding to the concerns of the international community as well as of the Commission, has taken a number of steps in the past 18 months to

address religious freedom abuses, including the re-opening of most of its closed churches, a public denunciation of official campaigns of forced renunciation of faith, and the release of almost all religious prisoners. In **Georgia**, the number of reported incidents of violence against minority religious communities has markedly decreased since the fall of the Shevardnadze government in late 2003. In addition, the sentencing in January 2005 of two of the leaders of this vigilante violence indicates that the current government has begun to hold the perpetrators to account. Nonetheless, concerns about religious freedom in both of these countries persist. Previous restrictions on religious practice put in place by the Lao government could easily reemerge, and the Georgian government's determination to pursue the perpetrators of vigilante violence could fade. The Commission will thus maintain its scrutiny of the situation in both these countries to determine whether developments continue to move in a positive direction or if a return to the Watch List is warranted.

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.

COUNTRY REPORTS: AFRICA

Eritrea

The government of Eritrea engages in particularly severe violations of freedom of religion or belief. It has banned public religious activities by all religious groups that are not officially recognized, closed their places of worship, inordinately delayed action on registration applications by religious groups, arrested participants at prayer meetings and other gatherings, detained members of unregistered churches and other religious activists indefinitely and without charge, mistreated or even tortured some religious detainees, and severely punished armed forces members and national service inductees for possession of religious literature, including Bibles. In February 2004, the Commission recommended that the State Department designate Eritrea a “country of particular concern,” or CPC. The State Department acted on that recommendation, designating Eritrea a CPC in September 2004. The Commission continues to recommend that Eritrea be named a CPC.

The Eritrean government officially recognizes the Orthodox Church of Eritrea, Sunni Islam, the Roman Catholic Church, and the Lutheran-affiliated Evangelical Church of Eritrea. Although there is no state religion, the government has close ties to the Orthodox Church and is suspicious of newer groups—in particular, Protestant Evangelical, Pentecostal, and other Christian denominations not traditional to Eritrea.

Jehovah’s Witnesses were the first religious group to experience the Eritrean government’s harsh policies. Negative official and popular views about Jehovah’s Witnesses developed as a result of their refusal to take part in the 1993 independence referendum or to serve obligatory tours of military service, for which the Eritrean government has provided no alternate service. Jehovah’s Witnesses experience official harassment, including prolonged detention for refusing military service. The President has ordered that Jehovah’s Witnesses be dismissed from government jobs, as well as denied a range of important government services, including business licenses, national identity cards, marriage licenses, passports, and exit permits. Some Jehovah’s Witnesses who have refused to serve in the military have been imprisoned without trial for a decade; others cannot graduate from secondary school, as the curriculum includes a mandatory military training component.

Relations among the four government-recognized religious communities are generally good. In recent years, however, Protestant Evangelical, charismatic, and Pentecostal churches have faced societal and government pressure. The Orthodox Church has publicly expressed concern about the growth of denominations it views as heretical, and the loss, particularly of its younger members, to them. The government has restricted foreign faith-based humanitarian organizations, apparently fearing the destabilizing effect of proselytism by outside groups, both Christian and Muslim. Government spokespersons have cited Pentecostals, along with extremist Islamist groups, as threats to national security. There are reports that Islamic militants, allegedly backed by Sudan, have indeed engaged in terrorism in a campaign to establish an Islamic state in Eritrea. None of the suspect Christian groups is known to have engaged in or to have advocated violence.

In 2002, the government imposed a registration requirement on religious groups. Each group applying for approval was required to provide detailed financial and membership information, as well as background on its presence in Eritrea. Exempted from the new requirements for registration were the four “sanctioned” faiths. By stipulating that there could be no public religious activities pending registration, the decree closed places of worship and prohibited public religious activities, including worship services, of all other religious communities in Eritrea. To date, no other religious groups have gained government registration, even though some groups submitted applications over two years ago, with the result that all except the four government-sanctioned religious groups operate without a legal basis. Jehovah’s Witnesses were not among the groups offered the opportunity to register.

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 prayer meetings and other gatherings, and detained those arrested without charge for indefinite periods of time. Hundreds of members of unregistered churches 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. In recent months, following Eritrea’s designation as a CPC, the government’s religious crack-down has intensified with a series of arrests and detentions of clergy and hundreds of others. Among those arrested were individuals whom Commission staff met during a visit in October 2004. There are credible reports that the security forces have used coercion on detainees to secure repudiation of their faith. Mistreatment of some religious detainees has reportedly included beatings and torture. Almost all allegations of religious freedom violations by international human rights or advocacy groups are routinely denied or ignored by the Eritrean authorities, who have not permitted investigations by these organizations.

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

During the past year, the Commission met on a number of occasions with State Department personnel, Eritrean diplomats, and religious community representatives regarding religious freedom in Eritrea. In October 2004, concerned about mounting reports of religious freedom abuses, the Commission sent a staff delegation to Eritrea. During a six-day visit, the delegation discussed the religious freedom situation in formal meetings 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 the International Religious Freedom Act of 1998, in response to that designation.

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

- engage in vigorous advocacy on 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 Commission on Human Rights; and
- conduct a review of 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.

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:
 - implementation of the Constitution's existing guarantees of freedom of thought, conscience, and religion, including the freedom to practice any religion and to manifest such practice;
 - institution of a registration process for religious groups that is transparent, non-discriminatory, not overly burdensome, and otherwise in accordance with international standards;
 - prompt registration of those religious groups that comply with the requirements issued in 2002; religious groups should not be required to provide identifying information on individual members;
 - official, public action by Eritrean authorities to permit religious groups to resume their public religious activities pending registration, including reopening of places of worship closed by the ban in 2002;
 - issuance of a public order to the security forces reminding them that religious practice is not to be interfered with except in those circumstances permitted by international law;
 - release of detainees held solely on account of their peaceful religious activities; and
 - increased engagement by the Eritrean authorities with the international community regarding respect for freedom of religion or belief, including by making an official invitation for visits by the UN Special Rapporteur on Freedom of Religion or Belief and by the UN Working Group on Arbitrary Detention.
- encourage unofficial dialogue with Eritreans on religious freedom issues, specifically by:

- the promotion of a visit to Eritrea by U.S. leaders concerned with freedom of thought, conscience, and religion or belief in order to meet with Eritrean authorities and other opinion-makers and to facilitate dialogue among all Eritrea's religious communities;
 - the expanded use of educational and cultural exchanges, such as the Fulbright Program, the International Visitor Program, and lectures by visiting American scholars and experts, in order to introduce more Eritreans to the workings and benefits of societies in which religious freedom and other human rights are respected; and
 - support for a conference that would bring together international experts, government officials, and representatives of international organizations, religious communities, and civil society to discuss international human rights standards and best practices related to a) the registration of religious organizations and b) conscientious objection to military service;
- seek the cooperation of other countries in promoting greater understanding by Eritreans of international standards regarding freedom of religion or belief;
 - support, and offer to provide funding for, the creation of an independent human rights commission in Eritrea, in line with the Paris Principles¹ for such organizations, including independence, adequate funding, a representative character, and a broad mandate that includes freedom of thought, conscience, and religion or belief; and
 - 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.

Nigeria

The response of the government of Nigeria to persistent religious freedom concerns in that country continues to be inadequate. These concerns include an ongoing series of violent communal conflicts along religious lines; the controversy over the expansion of sharia (Islamic law) into the criminal codes of several northern Nigerian states; and discrimination against minority communities of Christians and Muslims. In addition, there are increasing reports of foreign sources of funding and support for Islamic extremist activities in northern Nigeria, activities that threaten to fracture already fragile relations between the two main religious groups. Nigeria remains on the Commission's Watch List and the Commission continues to monitor the actions of the Nigerian government to determine if the situation rises to a level warranting designation as a “country of particular concern,” or CPC. In August 2004, the Commission

¹ Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights, found in the Annex to *Fact Sheet No. 19, National Institutions for the Promotion and Protection of Human Rights*, Office of the High Commissioner for Human Rights (<http://www.unhchr.ch/html/menu6/2/fs19.htm>, accessed January 31, 2005).

released a Policy Focus on Nigeria, containing recommendations for the President, Secretary of State, and Congress.

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

Since President Olusegun Obasanjo came to power through popular elections in 1999, more than 10,000 Nigerians have been killed in sectarian and communal attacks and reprisals between Muslims and Christians. The most serious of these clashes have occurred in Kaduna state (February and May 2000); Jos, Plateau state (September 2001); Kaduna state (November 2002); and most recently in Kano state and Yelwa, Plateau state (February-May 2004). Ethnic and religious violence continued in 2004 and into the early part of 2005.

In the past year, hundreds of people have been killed, and dozens of churches and mosques destroyed, in communal violence in several towns and villages in the Middle Belt region and northern Nigeria. In February and March 2004 in particular, violence and reprisal attacks between Christians and Muslims in Plateau state in the Middle Belt resulted in the deaths of several hundred people. The violence reached its peak in May when a mainly Christian militia from a nearby town in Plateau state killed more than 500 predominantly Muslim Hausa/Fulani residents in Yelwa village. A week later in Kano state, Muslims staged a peaceful rally protesting the violence against Muslims in Plateau state. When unemployed Muslim youth began vandalizing businesses belonging to Christians, mob violence erupted in which more than 300 Muslims and Christians were killed. That same month, after the violence subsided, President Obasanjo suspended the governor of Plateau state for six months and declared a state of emergency. In November, the state of emergency was lifted and relative calm has followed.

President Obasanjo has been criticized both inside and outside Nigeria for not responding more decisively to religious violence and the communal tensions brought about by the sharia controversy. He has primarily played a mediating role, stressing political negotiations rather than ordering the government to intervene to stop or prevent further violence. Moreover, many Christians and Muslims have been identified as perpetrators of violence over the years, but very few, if any, have been prosecuted or brought to justice. However, in May 2004, President Obasanjo for the first time responded directly to sectarian killings by declaring a state of emergency in Plateau state after violence erupted there.

Since October 1999, 12 northern Nigerian states have extended or announced plans to expand the application of sharia in the state's criminal law. Although the particulars vary from state to state, each has adopted, or reportedly plans to adopt, a sharia-based penal code and provisions to extend the jurisdiction of sharia courts beyond personal status matters to include

sharia crimes and punishments for Muslims only. Punishments include amputation, flogging, or death by stoning, oftentimes after trials that fall short of basic international legal standards. Defendants have limited rights of appeal and sometimes no legal representation. Women have faced particular discrimination under sharia, especially in adultery cases where pregnancy alone has been used as adequate evidence of guilt, and allegations of rape and sexual violence are rarely investigated by judges. Some states have instituted or tolerated, as a result of these imposed codes, discriminatory practices disadvantaging women in education, health care, and public transportation.

There have been several cases in which sharia courts have handed down sentences of death by stoning to Muslims for various offenses. In 2003, some high profile cases involving sentences of death by stoning 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. There have been sentences involving amputation and flogging carried out in recent years, although no amputations have taken place in the past year. 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, inhuman, or degrading treatment under the Nigerian Constitution. The UN Committee Against Torture, as well as the UN Special Rapporteur on Torture, have stated that stoning and amputation do constitute inhuman or degrading treatment under international human rights standards and treaties.

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

Over the past few years, there have been an increasing number of small, vocal Muslim groups in northern Nigerian that advocate strict application of sharia, and which, some argue, are helping create a haven for radical Islamic militants from outside Nigeria. Though not organized as a nationwide movement, some of these groups advocate a more forcible Islamization of all of Nigerian society, regardless of religious affiliation. In late 2003 and early 2004, a wave of extremist activities, including attacks on police stations and churches, resulted in at least 18 deaths in Yobe state in northeastern Nigeria. A group of about 200 young militants killed two policemen and seized guns and ammunition. Police responded by killing dozens of militants. A UN press report stated that a Sudanese man was arrested for spearheading the insurrection and that the Islamic foundation he headed, which builds new mosques in Nigeria, was funded by Saudi nationals. The man who heads the militant group reportedly fled to Saudi Arabia. Similar

militant activity, resulting in more than a dozen deaths and kidnappings of Christians, continued in September and November 2004 in Borno and Jigawa states.

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

The Commission has traveled twice to Nigeria, most recently in August 2003. In addition, throughout the past year, Commission staff conducted personal interviews with members of non-governmental organizations representing various religious communities in Nigeria, as well as human rights organizations, academics, and other Nigeria experts.

In May 2004, the Commission released a public statement strongly condemning the sectarian violence occurring in Plateau and Kano states, which had claimed hundreds of lives. The Commission urged the U.S. government to press President Obasanjo to expand efforts by the Nigerian government to address sectarian violence in order to prevent further killings and to advance protections of the constitutionally guaranteed human rights of all Nigerian citizens, including religious freedom. The Commission also urged the U.S. government to encourage the Nigerian government to examine the impact of sharia in exacerbating the sectarian violence.

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 March 2005, a Commission representative testified at a Staff Briefing of the Congressional Human Rights Caucus on "Nigeria: Crises of Religion and Resource Control."

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

- urge the Nigerian government to address the sharia controversy, oppose religious extremism, and hold accountable perpetrators of religious violence by:
 - ensuring that sharia criminal codes do not apply to non-Muslims or to individual Muslims who do not wish to go before sharia courts, and preventing law enforcement activities in northern states by any quasi-official or private corps of sharia enforcers;
 - ensuring that sharia codes, where applied, do not result in violations of international human rights standards with regard to freedom of religion or belief, due process of law, equal treatment before the law, freedom of expression, and discriminatory practices against women;

- identifying, publicizing, and countering foreign sources of religious extremism as part of its counter-terrorism efforts; to assist in this effort, the U.S. government should include Nigeria in its Pan-Sahel initiative, a U.S. military training partnership with four Saharan African nations fostering anti-terrorist and anti-extremist cooperation among countries of North and West Africa;
- taking effective steps to prevent and contain acts of sectarian and communal violence, prevent reprisal attacks, and bring those responsible for such violence to justice;
- ceasing immediately any official support for the so-called “religious police,” or *Hisbah*, and ensuring that state governments make greater efforts to halt the activities of these vigilante groups, including prosecuting those found to have taken the law into their own hands;
- expand U.S. presence and outreach efforts, primarily in northern Nigeria by:
 - opening a consulate or other official presence in Kano, or elsewhere in the north;
 - providing adequate Embassy and Consulate staff with appropriate local language skills, and require political and public affairs officers to regularly travel throughout Nigeria;
 - increasing the capacity of the Hausa Service of the Voice of America to report fair and balanced views on communal conflict and human rights;
 - expand in northern Nigeria the American Corners program; and
 - sponsor several exchange programs each year on the topics of freedom of religion or belief, religious tolerance, and Islamic law and human rights, targeting religious leaders, human rights advocates, government officials, and northern Nigerians;
- expand U.S. support for communal conflict prevention and mitigation, through U.S. foreign assistance programs or otherwise, by identifying and supporting:
 - Nigerian non-governmental organizations working on communal conflict prevention and mitigation, emphasizing capacity-building at the local level;
 - human rights defenders, including legal aid groups that defend the constitutional and internationally-recognized rights of individuals, especially women, impacted by sharia-based criminal codes;
 - human rights defenders responding to credible allegations of religious discrimination in any part of Nigeria;
 - funds for the expansion of training for the Nigerian federal police in human rights protection;

- programs and institutions, particularly where communal violence has occurred, that promote objective, unbiased, and non-inflammatory reporting, consistent with the right to freedom of expression; and
- the expansion of Nigeria's Inter-Religious Council, formed to promote dialogue between Christians and Muslims, and replicate the Council at the state and local levels.

Sudan

The government of Sudan commits egregious and systematic violations of freedom of religion or belief in the Northern part of the country, in the Western region of Darfur, and in other 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.

The signing of comprehensive North-South peace accords provides new opportunities for promoting human rights, including freedom of religion or belief, in Sudan. The U.S. government must act decisively to advance respect for human rights throughout Sudan, as respect for human rights is crucial to securing lasting peace.

In the past, the Commission has identified Sudan as the world's most violent abuser of the right to freedom of religion and belief and has drawn attention to the Sudanese government's genocidal atrocities against civilian populations. As a result of the government's policies of Islamization and Arabization, two million people, mostly non-Muslims in southern and central Sudan, died in the now-concluded North-South civil war. With the signing of comprehensive North-South peace accords during the past year, the conditions for religious freedom in certain parts of the country have changed significantly from previous years. However, the Commission continues to be seriously concerned 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 continue to be occurring. In addition, despite the signing of the North-South peace accords, continued attention and monitoring by the United States and the international community are necessary to ensure that the terms of the accords are implemented.

Following prolonged negotiations, the government of Sudan and the Sudan People's Liberation Movement/Army formally ended 23 years of conflict with the signing of comprehensive peace accords on January 9, 2005. The peace accords affirmed a series of prior agreements, including the Machakos Protocol of July 2002, which established a number of principles regarding freedom of religion or belief, and the Protocol on Power-Sharing of May 2004, which addresses a number of human rights and fundamental freedoms. The Protocol on Power-Sharing states explicitly that "The Republic of Sudan, including all levels of Government throughout the country, shall comply fully with its obligations under the international human

rights treaties to which it is or becomes a party.” The rights specified in the Machakos and Power-Sharing Protocols are supposed to be reflected in a new permanent national constitution. Under the terms of the peace accord, at the end of a six-year interim period, a popular referendum will be held on whether the South will remain within Sudan or become independent. Until the permanent national constitution is adopted, Sudan will be under an interim constitution, a draft of which is expected shortly.

Peace efforts have brought improvement in human rights conditions in the South and in the Nuba Mountains. In the Western region of Darfur, however, since 2003, government forces and “Janjaweed” (government-backed militia from Arab tribes) 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. The government has exploited ethnic and religious differences in the Darfur conflict, consistent with its continuing coercive policies of Arabization and Islamization. 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.

Following a visit to Sudan in June 2004, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions reported that “it is beyond doubt that the Government of Sudan is responsible for extrajudicial and summary executions of large numbers of people over the last several months in the Darfur region” and “the current humanitarian disaster unfolding in Darfur, for which the Government is largely responsible, has put millions of civilians at risk, and it is very likely that many will die in the months to come as a result of starvation and disease.” The report of the UN International Commission of Inquiry on Darfur, issued in January 2005, “established that the Government of Sudan and the Janjaweed are responsible for serious violations of international human rights and humanitarian law amounting to crimes under international law.” To date, efforts by the United Nations and the African Union to protect Darfur’s civilian population have been wholly inadequate; the general protection of civilians is not a part of the mandate of the African Union forces in Darfur. 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 peace accords. Close U.S. monitoring of compliance, and sanctions for non-compliance, will be necessary to ensure a just and lasting peace.

Actions 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, Secretary of State Powell announced that the State Department “had concluded that genocide has been committed in Darfur and that the government of Sudan and the Janjaweed bear responsibility—and genocide may still be continuing.” In 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 and called on the United Nations to undertake a full investigation.

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 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.

In the areas under its control, the government of Sudan continues severely and systematically to violate the religious freedom of Christians and followers of traditional African religions, as well as of Muslims who are associated with opposition groups or who dissent from the government's interpretation of Islam. The government's policies of Islamization and Arabization result in severe violations and discrimination against non-Muslims and non-Arabic speakers. In government-controlled areas, Muslims are reported to receive preferential access to limited government services and preferential treatment in court cases involving Muslim against non-Muslim. Public religious expression and persuasion of non-Muslims by Muslims is allowed, but that of Muslims by non-Muslims is forbidden. Conversion from Islam is a crime punishable by death. In practice, suspected converts are reportedly subjected to intense scrutiny, intimidation, and torture by government security personnel who act with impunity. Corporal punishments adopted from sharia, Islamic law, are sometimes imposed on non-Muslims and on Muslims who did not traditionally follow such practices. Government approval is required for the construction and use of places of worship. Although permits are routinely granted to build mosques, permission to build churches is routinely denied. For over 30 years, the government has denied permission to construct Roman Catholic churches in areas under its control.

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 to Islam. Reports continue of coerced conversion in government-controlled camps for internally displaced persons, as well as among prison inmates, Popular Defense Force trainees, and children in camps for vagrant minors. The government has also allegedly tolerated the use of humanitarian assistance to induce conversion to Islam. In government-controlled areas, children who have been abandoned or whose parentage is unknown are considered by the government to be Muslims and may not be adopted by non-Muslims.

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

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. The Commission's consistent advocacy of strong U.S. pressure on the Khartoum regime, including economic sanctions, was also reflected in the Comprehensive Peace in Sudan Act of 2004, signed by President Bush on December 23, 2004.

In addition to recommending that Sudan be designated a CPC, the Commission recommends that the U.S. government should remain engaged at the highest levels in bringing about a just and lasting peace for all of Sudan through:

Efforts to build on the peace accords and to protect civilian populations, including by

- closely monitoring compliance with and implementation of the peace accords and continuing to urge compliance by the government of Sudan with Security Council Resolutions addressing the conflict in Darfur;
- supporting a stronger United Nations and African Union presence in Sudan sufficient to protect civilian populations and monitor compliance with the peace accords and Security Council resolutions, including by
 - urging the expansion of the African Union's mandate in Darfur to explicitly include active protection of civilians and preventative protection;
 - providing resources such as improved communications equipment, reliable vehicles and helicopters, and logistics assistance to enable African Union troops to move quickly to places where abuses are occurring;
 - bringing in advisors on civilian protection issues in armed conflict to train and work with African Union 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 capability to warn camps and villages of approaching forces;
 - supporting the assignment of designated protection teams to camps for internally displaced persons;
 - supporting the active enforcement of the aerial "no fly" zone already specified in Security Council Resolution 1591 of March 29, 2005, which calls for the immediate cessation of "offensive military flights in and over the Darfur region;"
 - taking measures to prevent—and providing aid to those victimized by—widespread sexual violence and rape in Darfur, including by training advisors for the African Union mission and encouraging the African Union 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 Office of the UN High Commissioner for Human Rights and in the number of African Union troops deployed in Darfur;

- holding the government of Sudan, the Sudan People's Liberation Movement/Army (SPLM/A), and officials at all levels of administration accountable for violations of the peace accords, including by mandating UN and African Union monitors to take the names and other information about attacking forces and report them to central command for consideration regarding possible future prosecutions;
- prevailing upon the government of Sudan to provide needed humanitarian access to international relief organizations;
- continuing 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;
- dispersing funds quickly for humanitarian purposes, to build civil society, and to promote economic development in southern Sudan;
- urging 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; and
- continuing to keep in place existing sanctions on Sudan pending the cessation of particularly severe violations of the right to freedom of religion or belief and the resolution of the situation in Darfur.

Efforts to promote respect for international human rights, including by

- ensuring that universal human rights, including freedom of religion or belief, are guaranteed in Sudan's new constitution and subsequently implemented in all parts of Sudan;
- urging the government of Sudan to (a) allow all religious groups to conduct their activities freely; (b) ensure that all religious groups are free to build, repair, and operate houses of worship and social service ministries without delay or harassment; and (c) repeal any laws that punish changing one's faith or encouraging another to do so;
- urging the government of Sudan to ensure that (1) Islamic law, sharia, (a) is not applied to non-Muslims or to individual Muslims who do not wish to be subject to sharia; (b) does not result, in practice, in violations of international human rights standards with regard to freedom of religion or belief, due process of law, or freedom of expression; and (c) does not violate the right of women to equal treatment before the law, and that (2) all individuals are

protected against coercion by quasi-official or private groups purporting to enforce sharia or Islamic social norms;

- insisting that national institutions such as the military, law enforcement, and the highest level of the judiciary be representative of and equally protective of all Sudanese regardless of religious affiliation;
- supporting the Human Rights Commission mandated by the peace accords and urging that it meet international standards for such organizations in terms of a broad mandate, independence, adequate funding, a representative character, and fair application of human rights protections for all;
- building upon the work of the International Eminent Persons Group to end enslavement that followed abduction by government-sponsored militias and to ensure the voluntary repatriation and family reunification of all victims;
- working to increase reporting on human rights abuses in Sudan, including through the media, and to promote grassroots reconciliation among Sudanese;
- providing adequate staffing in the U.S. Embassy in Khartoum and in any new constituent posts, such as may be established in the South, for monitoring and reporting issues relating to religious freedom and other universal human rights and for the promotion of these rights; and
- appointing a high-ranking official to the U.S. Embassy in Khartoum to advance human rights, including freedom of religion or belief.

COUNTRY REPORTS: EAST ASIA

Burma

Serious human rights abuses perpetuated by Burma's military regime continue to be widespread, including systematic and egregious violations of religious freedom. According to the State Department's 2004 *Country Reports on Human Rights Practices*, the Burmese government's extremely poor human rights record deteriorated even further in the past year. 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), uses a pervasive internal security apparatus to monitor the activities of all religious organizations. The government imposes restrictions on certain religious practices, controls and censors all religious publications, and, in some areas of the country, forcefully promotes conversion to Buddhism from other religions.

The SPDC is locked in a decades-long conflict with the pro-democracy opposition in the cities and armed ethnic minorities in the countryside. There have been some attempts to reach peace accords with armed militias in the last year. However, the military junta remains suspicious of all organized, independent religious activity, in part because some clergy and religious followers of Buddhism and other minority religions are politically active in opposition to the regime. This includes members of ethnic minorities, for whom religion is often a defining feature.

Members of minority religious groups, especially Muslims and Christians, face serious abuses of religious freedom and other human rights by the military. In some localities, military commanders have forcibly conscripted members of religious minorities as porters, killing some who have refused. Christians and Muslims have been forced to engage in the destruction of churches and graveyards for the purpose of clearing sites for military camps. They reportedly have also been forced to "donate" labor to build and maintain Buddhist pagodas and monasteries.

The Burmese military has instigated violence by the Buddhist majority against Muslims. Tensions between the Buddhist and Muslim communities resulted in outbreaks of violence over the past several years. During one such outbreak in Irrawaddy Division in 2003, Buddhists attacked shops, restaurants, and homes owned by Muslims. Police and soldiers reportedly stood by and did not halt the violence against Muslims until the latter began to fight back. Muslim groups claimed that seven people were killed and two mosques were destroyed in violence near Mandalay in that same year.

Among the Chin and Naga ethnic minorities, there are credible reports that government and military authorities actively sought ways to convert Christians to Buddhism. The State Department's 2004 *Annual Report on International Religious Freedom* reports that under the guise of offering free education, local officials have separated children from their parents, with the children instructed to convert to Buddhism without their parents' knowledge or consent. In Chin state, there are reports that government authorities offered financial and career incentives to

ethnic Burman Buddhist soldiers to marry Chin Christian women. Among Naga Christians, refugees leaving Burma report that members of the army, together with Buddhist monks, closed churches in local villages and attempted to force adherents to convert to Buddhism.

Christian and Muslim groups continue regularly to experience difficulties in obtaining permission to build new churches and mosques, as well as to hold public ceremonies and festivals and import religious literature. Authorities have reportedly denied permission for the construction of new churches since 1997 in certain parts of Chin state. Similar restrictions are reportedly imposed in the capital of Kachin state and among Protestants in Karen state. In Rangoon during 2001-2002, authorities closed more than 80 Protestant house churches because they did not have proper authorizations to hold religious meetings. Few of these churches have since been reopened, and, according to the Department of State, other closures continued in the last year. Similarly, Muslims reported difficulties in constructing new mosques or re-building those previously destroyed. In 2002, authorities in Rakhine state destroyed 13 mosques until international pressure forced them to stop further demolitions. 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.

The government of Burma seriously discriminates against members of minority religious groups in education, publishing, building permits, 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.

In most cases the government has denied citizenship to Rohingya Muslims in Arakan State on the grounds that their ancestors allegedly did not reside in the country prior to British colonial rule. Due to this denial of legal status, the Rohingya face strict restrictions on their freedom of movement, and in some areas are not permitted to own property or reside in certain townships. Government provisions reserving access to secondary education only to citizens of Burma deny Rohingya Muslims access to state-run schools beyond the primary level and prohibit them from obtaining most positions in the civil service.

The SPDC shows public preference for Theravada Buddhism; however, even the majority Buddhist religion is not immune from government repression. According to the State Department's 2004 human rights report, members of the Buddhist "sangha" are subject to a strict code of conduct that is reportedly enforced by criminal penalties. Since 1990, all Buddhist monks have been required to affiliate with one of nine state-recognized monastic orders, all of which remain under the authority of the State Monk Coordination Committee. Military commanders retain jurisdiction to try Buddhist monks in military court for "activities inconsistent with and detrimental to Buddhism." In February 2004, the government handed down jail terms ranging from seven to 16 years for 26 monks who were defrocked and arrested in December 2003 for refusing to accept government donations of robes and other items.

The government also prohibits all monks from being members of a political party. Since the 1990s, Buddhist monks have been active in the pro-democracy movement. The government imprisoned more than 100 Buddhist monks for advocating democracy and encouraging dialogue between the government and pro-democracy forces. Many members of the Buddhist clergy

remain imprisoned; though a precise number is unavailable, credible sources report that this number has risen since May 2003, when the Burmese government, after organizing an attack on her motorcade, placed democracy activist and opposition leader Aung San Suu Kyi under “protective custody.”

In March 2005, Senator Gordon Smith introduced S. Res. 91, a resolution to urge the European Union (EU) to maintain its arms embargo on China. The resolution cited Commission findings on the role of the Burmese military in perpetuating religious and ethnic conflict in that country, in which China has played a role as a key supplier of weapons materials. The resolution also recommended greater cooperation between the EU and the United States to bring “a permanent and verifiable end to the ongoing proliferation by state and non-state owned entities and individuals of the People’s Republic of China of munitions materials, and military equipment and trade in such items involving countries, such as Burma and Sudan, whose armies have played a role in the perpetration of violations of human rights and of humanitarian law against members of ethnic and religious minorities.”

In 2004, Commission staff met with exiled Burmese ethnic and religious leaders, including Buddhists, Christians, and Muslims, and with members of congressional and international delegations that visited Burma.

China

The Chinese government continues to engage in systematic and egregious violations of religious freedom. The State Department has stated publicly that conditions for human rights, including religious freedom, deteriorated in 2004. Chinese government officials control, monitor, and restrain the activities of all religious communities – including Uighur Muslims, Tibetan Buddhists, various spiritual movements such as the Falun Gong, “underground” Catholics, and “house church” Protestants – maintaining final authority over leadership decisions and doctrinal positions. Prominent religious leaders and laypersons alike continue to be confined, tortured, imprisoned and subjected to other forms of ill treatment on account of their religion or belief. Since 1999, the Commission has recommended that China be designated as a “country of particular concern,” or CPC. The State Department has followed the Commission’s recommendations and named China a CPC.

In November 2004, the Chinese government announced a new set of regulations on religious affairs. Though Chinese leaders have heralded the regulations as “a significant step forward in the protection of religious freedom,” the bulk of the regulations codify provisions once scattered throughout several sets of laws, ordinances, and regulations. The regulations do include several new provisions, however, including conditions under which religious organizations can provide social services in local communities, accept donations from overseas religious groups, and host inter-provincial religious meetings. The regulations also do not specify that official recognition is limited to the five “official religions” (Protestantism, Catholicism, Islam, Buddhism, and Taoism) as was the case under previous policy.

Legal and human rights experts agree that the new regulations were not issued to protect the rights and security of religious believers, but to regularize management practices, thus

offering Party leaders more extensive control over all religious activity and groups. Moreover, the regulations threaten criminal punishments and civil fines for groups engaging in religious activities without having registered with the official “patriotic” religious organizations.

In May 2004, a joint document issued by the Department of Propaganda offered instructions on “integrating Marxist atheism propaganda and education” into the national education system, civil society and economic sectors, the media, and academia. Observers have suggested that this document, along with several directives to discourage “superstitious activity,” represent a pointed effort on the part of the Chinese government to stem the burgeoning spread of religious belief among the Chinese people.

In the largely Uighur Muslim Xinjiang Autonomous Region, freedom of religion or belief is severely curtailed by the government, which conflates peaceful Uighur political opposition with violent separatist activities, extremism, and/or terrorism. In response to heavy pressure from the U.S. and European Union governments, Chinese authorities released Uighur businesswoman Rebiya Kadeer in March 2005, on the eve of a visit from U.S. Secretary of State Condoleezza Rice to Beijing. Kadeer was arrested in 1999 for trying to deliver a letter to a visiting Congressional staff delegation. The letter was critical of the Chinese government’s policies in Xinjiang, including its suppression of Islam.

Since September 11, 2001, the government has used concerns about international terrorism as a pretext for the ongoing crackdown on Muslim religious leaders and activities. Uighur Muslim clerics and students have been detained for “illegal” religious activities, “illegal religious centers” have been closed, and minors have been banned from attending mosque. Growing numbers of religious leaders have received death sentences and prolonged prison terms on charges of “separatism” and “endangering social order.” All imams in Xinjiang are required to undergo yearly political training seminars, and local security forces maintain a dossier on each to make sure they meet political requirements.

An April 2005 report from Human Rights Watch notes that Xinjiang has experienced at least nine separate campaigns to root out “illegal religious activities,” including last year’s “strike hard campaign against separatism, religious extremism and terrorism.” Such themes were echoed in a March 2005 speech from Politburo Member Luo Gan in a call “to be vigilant against separatist...activities [and] immediately strike at any attempts discovered.” The Human Rights Watch report documents that provincial level directives prohibit participation of minors in religious activity or education. Also, daily prayers, wearing of head coverings, distribution of religious materials, and the observance of Ramadan are cited as “disruptive” activities for Party Members. Teachers, professors, university students, and other government employees are prohibited from engaging in these activities.

The Chinese government retains tight control over religious activity and places of worship in Tibet. The religious activities of monks and nuns are tightly controlled, monasteries are administrated by government-approved management committees, and the Communist Party interferes in the selection and training of reincarnate lamas. The Chinese government admits that more than 100 Tibetan Buddhist monks and nuns are being held in prison. Tibetan human rights groups agree with this figure and claim that the prisoners are subject to torture and other ill-treatment. There have been several high-profile amnesties of Tibetan Buddhists, however, in the

past several years. In February 2004, authorities released Phuntsog Nyidrol, a nun who had been held in Drapchi Prison since 1989. However, human rights organizations report that Phuntsog Nyidrol remains under strict surveillance and the Chinese authorities have imposed restrictions on her freedom of movement and association. Nevertheless, neither recent prisoner releases nor renewed contact between China and the Dalai Lama's representatives have brought any significant changes to the government's overall policy of strict control over religion in Tibet.

The Chinese government continues to deny repeated international requests for access to the 16-year old boy whom the Dalai Lama designated as the 11th Panchen Lama. Government officials have stated that he is being "held for his own safety," while also claiming that another boy, of their choosing, is the "true" Panchen Lama. In October 2004, Radio Free Asia reported that police in Qinghai shot and killed a Tibetan monk following a dispute over compensation for medical injuries suffered while in custody. In January 2003, Tenzin Delek Rinpoche was arrested for a 2002 bombing incident and later sentenced to death. U.S. officials were promised that the evidence used to convict Tenzin Delek would be reviewed by the Supreme People's Court. After two years, the case has never been reviewed, though Tenzin Delek's death sentence was commuted to life imprisonment in January 2005. In October 2003, another monk, Nyima Dragpa, died, reportedly as a result of repeated torture while serving a nine-year sentence for advocating Tibetan independence.

Beginning with the banning of Falun Gong in 1999, the Chinese government has continued to carry out a campaign against what it calls "evil cults" and "heretical sects." Thousands of Falun Gong practitioners have been sent to labor camps without trial or sent to mental health institutions for re-education due to their affiliation with an "evil cult." Falun Gong practitioners claim that between 1,000 to 2,000 practitioners have been killed as a result of police brutality. Given the lack of judicial transparency, the number and treatment of Falun Gong practitioners in confinement is difficult to confirm. Nevertheless, there is substantial evidence from foreign diplomats, international human rights groups, and human rights activists in Hong Kong that the crackdowns on the Falun Gong are widespread and violent. In addition, the Chinese government has reportedly continued to pressure foreign businesses in China to sign statements denouncing the Falun Gong and to discriminate against its followers in hiring. Local officials in foreign countries have also stated that they were warned by Chinese diplomatic personnel about the loss of potential business contacts if they continued to advocate on behalf of Falun Gong.

The campaign against "evil cults" has, in recent years, expanded beyond the Falun Gong and similar groups to religious communities that are not part of the officially-sanctioned religious organizations. This campaign has targeted leaders and members of newer as well as long-established Protestant and Catholic groups that, for various reasons, have refused to register with the government. Religious leaders have been imprisoned and followers detained and fined for "cultist activity." For example, Pastor Gong Shengliang of the unregistered South China Church—sentenced to death for founding an "evil cult" and on questionable charges of sexual violence—remains in prison, where he continues to be denied proper medical care. Many of his congregants and family remain in jail facing serious charges and are allegedly subject to torture and other ill treatment in prison.

The government also continues its repression of the unregistered Roman Catholic Church in China, which maintains its allegiance to the Vatican. There are at least 20 Catholic bishops or priests under arrest, imprisoned or detained, including Bishop Su Zhimin, who has been in prison, in detention, under house arrest, or under strict surveillance since the 1970s. Clergy in Hebei, Fujian, and Heilongjiang provinces were harassed, detained, and arrested during the past year. In October 2003, Hebei provincial officials reportedly arrested 12 Catholic priests and seminarians attending a religious retreat. In August 2004, Bishop Gao Kexian died of unknown causes in a prison where he had been since 1997. In September 2004, the Vatican issued a statement condemning the arrest of eight priests and two seminarians during a religious gathering in Hebei. In April 2005, one week after the death of Pope John Paul II, authorities in Hebei arrested a bishop and two priests, reportedly for their continued refusal to register with the Patriotic Catholic Church.

Conditions for unregistered Protestant groups have deteriorated in the last year. According to the State Department, in some regions of China, members of Protestant house church groups that refuse to register, on either theological or political grounds, are subject to intimidation, extortion, harassment, detention, and the closing of their churches. Over a period of six months during 2004, the Chinese government carried out large-scale raids on several meetings of house church pastors in various parts of the country. More than 100 pastors were arrested, briefly detained, and then released, in Heilongjiang in April, in Hubei in June, in Xinjiang in July, and in Henan Province in August. At least 18 pastors remain in custody from the series of mass arrests. In September 2003, house church historian Zhang Yinan was arrested along with approximately 100 others in Nanyang, Henan Province, and was subsequently sentenced to two years of “re-education” through labor. In November 2004, the United Nations Working Group on Arbitrary Detention reviewed Zhang’s case and found that his detention was indeed arbitrary. In August 2004, house church activists Liu Fenggang, Xu Yonghai, and Zhang Shengqi were sentenced to prison terms ranging from one to three years for sending materials on persecution of Christians in China to organizations in the United States. In June 2004, a Chinese newspaper reported that a woman in Guizhou died in police custody and that her body showed signs of torture. The paper stated that she was detained for distributing Bibles.

In March 2005, the State Department announced that it would not introduce a resolution at the UN Commission on Human Rights (UNCHR), citing “significant steps” taken by the Chinese government to address “structural issues concerning human rights.” Among the steps mentioned by the State Department was a public announcement by the Chinese government that “religious education of minors is consistent with Chinese law and policy” and new regulations that exempt small family or home worship activities from governmental registration. These are concerns that this Commission has repeatedly raised in the past; yet, it is too soon to determine whether there will be any substantive impact from these steps. The Commission will continue to monitor the actions of the Chinese government and report on whether the cited “significant steps” lead to any measurable progress in the protection of the freedom of thought, conscience, and religion or belief.

In addition to the steps mentioned above, the State Department also cited as evidence of progress invitations from the Chinese government to the UN Special Rapporteurs on Torture and on Freedom of Religion or Belief, the U.S. Commission on International Religious Freedom, and the High Commissioner for Human Rights to visit China in 2005. Similar promises were

mentioned the last time the United States decided to forgo a resolution on China at the 2003 session of the UNCHR. Later that year, however, promised visits by this Commission and various UN thematic mechanisms were cancelled or postponed by the Chinese government.

The Commission received an invitation to visit China in 2005. Previous Commission attempts to visit China were postponed at the last minute due to unacceptable conditions placed on the trips by the Chinese government. In August 2003, the Chinese government insisted that the Commission remove Hong Kong from its itinerary. In December 2003, the Chinese government agreed to allow the Commission a stopover in Hong Kong, but insisted it hold no meetings. These conditions were unacceptable, as they violated the “one country, two system” concept that ensures Hong Kong’s autonomy under Chinese sovereignty. In January 2004, a Commission delegation traveled to Hong Kong and, with the permission of the Hong Kong government, held meetings with religious leaders, China experts, human rights advocates, and members of the Legislative Council. The conditions of Hong Kong’s autonomy are of critical concern in order for Hong Kong to preserve the ability to pursue human rights policies and practices that are independent from Beijing.

In November 2004, the Commission convened a forum focusing on the future of the bilateral human rights dialogues between China and other nations. Several speakers who attended the forum had participated in bilateral human rights dialogues between China and the United States, Canada, Switzerland, and Denmark. Participants discussed ways to make the dialogues more effective by ensuring that the dialogue process and the effort to promote religious freedom and other human rights become more fully integrated into the U.S.-Chinese relationship. Also in November, Commission Chair Preeta D. Bansal testified at a hearing before the Congressional Executive Commission on China entitled “Religious Freedom in China.”

In the past year, the Commission and its staff have met with Chinese human rights and religious leaders representing Buddhists, Muslims, Protestants, Catholics, and various spiritual movements, including Falun Gong.

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

- urge the Chinese government to a) end its current crackdown on religious and spiritual groups throughout China, including harassment, surveillance, arrest, and detention of persons on account of their manifestation of religion or belief; the detention, torture, and ill-treatment of persons in prisons, labor camps, psychiatric facilities, and other places of confinement; and the coercion of individuals to renounce or condemn any religion or belief; b) respect fully the universality of the right to freedom of religion or belief and other human rights; and c) ratify the International Covenant on Civil and Political Rights;
- raise Chinese human rights abuses in multilateral fora, including, as appropriate, through seeking resolutions at the UN Commission on Human Rights or other international and multi-national fora, and ensure that when the United States pursues such measures, preparations should be pursued at appropriately high levels;

- organize annual or regular meetings of the 15 nations with technical assistance and human rights programs in China in order to coordinate programs already in place, share “best practices,” and improve existing and new assistance programs;
- provide new incentives, including breaks on Export-Import Loans and OPIC insurance rates, to U.S. companies whose conduct and business practices promote and protect international standards of human rights, including the promotion of the freedom of religion or belief;
- endeavor to establish an official U.S. government presence, such as a consulate, in Lhasa, Tibet and Urumqi, Xinjiang, in order to monitor religious freedom and other human rights;
- continue to expand public diplomacy efforts in China by:
 - raising the profile of the conditions of Uighur Muslims by addressing religious freedom and human rights concerns in bilateral talks, increasing the number of educational opportunities in the United States available to Uighurs, establishing technical assistance programs to create legal clinics serving Uighurs, and increasing radio broadcasts in the Uighur language;
 - supporting exchanges between a diverse segment of Chinese government officials and academic experts and U.S. scholars, experts, representatives of religious communities and non-governmental organizations regarding the relationship between religion and the state, the role of religion in society, international standards relating to the right to freedom of religion or belief, and the importance and benefits of upholding human rights, including religious freedom; and
- continue to promote Hong Kong’s high degree of autonomy under Chinese sovereignty, including upholding the freedom of thought, conscience, and religion or belief, by:
 - opposing the introduction of any “national security” provision to Hong Kong’s Basic Law that would suppress internationally recognized human rights, including the right to freedom of religion or belief and freedom of expression; and
 - urging the Chinese government to uphold the “one country, two systems” concept by allowing the Hong Kong people and their elected government officials to have the decisive voice in the determination of the pace and scope of advances toward direct elections.

In addition, the Commission has recommended that the Congress should:

- require the State Department to submit an annual report to the appropriate Congressional committees detailing issues discussed at the previous year’s U.S. human rights dialogue with China and describing the progress made by the government of China toward a series of “benchmarks” specified by the Congress; and
- authorize additional funds for the State Department’s Human Rights and Democracy Program to initiate new human rights and rule of law programs on freedom of religion or

belief, targeting both religious and ethnic minorities. Funding should be commensurate to ongoing rule of law programs funded by the State Department for Chinese workers, women, and public interest law training.

Indonesia

The Commission is concerned about ongoing sectarian violence in Indonesia, and the Indonesian government's inability or unwillingness to hold those responsible to account. Since 2002, the size, scope, and intensity of religiously-related violence has decreased. There are expectations that Indonesia's recent democratic elections and the growing number of organizations devoted to religious reconciliation will further reduce sectarian conflict. Nevertheless, violence between Muslims and Christians has continued in Central Sulawesi, the Maluku, Papua, and parts of Java. In some of these regions, militant and terrorist groups operate freely and with impunity. Greater protections for the human rights of all Indonesians, including the right to freedom of religion or belief, will strengthen that country's commitment to pluralism and its transition to democracy, interests shared by both the United States and Indonesia. The Commission continues to place Indonesia on its Watch List.

Over the past six years, Christian-Muslim violence in the Maluku and Sulawesi has resulted in thousands of deaths and hundreds of thousands of internally displaced persons. While many factors added fuel to these conflicts, the killings, destruction of places of worship, and forced conversions were spurred by religious motivations and religious actors. Peace agreements, known as the Malino Peace Accords, were signed in late 2001 and early 2002, formally ending the conflicts in these regions.

Despite the signing of these peace agreements, violence has continued. In the past year, sectarian conflict claimed at least 46 lives in Central Sulawesi and at least 47 in the Maluku, an increase over the previous year. In Sulawesi in particular, new violence between religious groups is especially troubling. Attacks on Christian villages staged on the second anniversary of the October 2002 Bali bombing resulted in the loss of 13 lives; in that instance, police responded quickly to the attacks and killed six of the perpetrators. Despite the swift response by security forces in this case, reports suggest that Sulawesi may be a staging ground for additional terrorist violence by extremist organizations. Leaflets have appeared in the capital of Poso calling for "jihad." Indonesian human rights activists link these calls to the increased number of bombings and shootings of religious leaders in the past year.

During the last year, attacks on places of worship increased slightly. At least ten churches and one mosque were attacked in various regions including Central Sulawesi, Maluku, the West Java districts of Purwodadi, Margahayu, Tangerang, Bogor, and Banten, the Jakarta suburbs of Ciputat and Pamulang, and the Central Java city of Yogyakarta. Indonesia's "Regulation on Building Houses of Worship (Joint-Ministerial Decree No. 1/1969)" requires community approval for the expansion of existing or the building of new religious venues. In areas where Christians or Muslims are in the minority, new building permits are often difficult to obtain and militants have burned or destroyed places of worship for which permits had been sought.

After the Malino Accords were signed, the Indonesian government pressured a number of Islamic militant groups responsible for the worst violence, including the Islamic Defenders' Front and Laskar Jihad, to cease their activities and disband. The dissolution of Laskar Jihad in particular was prompt and extensive. However, former members have reportedly joined other, more militant organizations such as Laskar Jundullah and Mujahidin Kompak. These groups openly operate training camps in Sulawesi and are reported to be behind much of the recent sectarian violence in that province.

The Indonesian government has made little progress in holding accountable those responsible for past sectarian violence in Central Sulawesi and the Malukus. In one of the few actions taken to date, officials recently issued indictments for two deaths that occurred during 2001 in Ambon, the capital of South Maluku. Moreover, concerns about judicial independence continue to fuel grievances that exacerbate religious tensions. Jaffar Thalib, the leader of Laskar Jihad, the group responsible for killing thousands of people in the Malukus, was acquitted after standing trial on charges of instigating violence and weapons possession. Yet, Sulawesi Christian leader Rinaldy Damanik was sentenced to three years in prison on similar charges, even after the trial court itself acknowledged that there was little evidence to support the allegations against him. After two years in prison, Damanik was released in November 2004, one year ahead of his scheduled release. The disparate treatment of Damanik and Thalib suggest that serious inadequacies remain in the Indonesian judicial system.

Government progress to examine and report on the causes of sectarian violence has also been slow. As part of the Malino Peace Accords, a panel of experts was required to prepare a report on the causes of the 2000-2001 violence in Central Sulawesi and the Malukus. The report was completed in 2003, but to date has not been publicly released. The report reportedly is critical of the role played by the Indonesian armed forces (Tentara Nasional Indonesia, TNI) in fueling sectarian conflict, including allegedly aiding radical militia groups, such as Laskar Jihad.

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

The State Department's 2004 human rights report notes that the TNI has begun prosecuting junior officers and enlisted men for human rights violations. However, senior officers are rarely held accountable for abuses against civilians, including extra-judicial executions, forced disappearances, beatings, arbitrary arrests and detentions, and drastic limits on freedom of movement and association. For example, senior officers escaped with small

sentences, most of which were overturned on appeal, for atrocities committed in 1999 what is now independent East Timor.

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

The Indonesian government has taken some important steps to root out domestic terrorist groups, particularly after the terrorist bombings in Bali in October 2002 and Jakarta in August 2003. The government arrested and sentenced Abu Bakr Ba'asyir, the alleged leader of Jemaah Islamiah (JI), and 23 of his former followers for their role in planning and carrying out the Bali bombings and for links with terrorist groups in the Philippines. Despite the limited sentence given to Ba'asyir, his two trials are seen as milestones in Indonesia's efforts to address Islamic extremism. The government announced in March 2005 that it will ban JI. However, some senior government officials continue to deny that JI even exists in Indonesia.

A vocal and influential minority of Indonesians continue to call for implementation of Islamic law, or sharia, in Indonesia. An August 2002 proposal to implement sharia at the national level was withdrawn from consideration by the National Assembly when it became clear that the motion would not have sufficient support to pass. Efforts to revive the legislation continue and could reemerge during the current National Assembly session, though the effort is unlikely to gain further support, as most parliamentarians and the country's two largest Muslim organizations remain opposed to the proposal.

In June 2003, the National Assembly passed an education bill, which, if enforced, would require both public and private schools to provide religious instruction to their students. Because few non-Muslim students attend Indonesia's Islamic schools, the impact of the law would fall most heavily on private Christian schools, where Muslims comprise a significant percentage of the student body. To comply with the law, those schools would have to hire instructors and institute religious instruction, as well as create spaces for worship, for students of other religions. Catholic and Protestant organizations, church groups, and parochial schools view the law as inappropriate state interference in private religious affairs. Many moderate Muslim political parties, organizations, and intellectuals opposed the legislation for similar reasons. The law does have considerable popular support, however. At this time, the government has not yet implemented the controversial provisions of the law described above.

Some notable advances in inter-religious tolerance and cooperation occurred during the past year. Indonesian government officials continued to work with local Muslim and Christian community leaders to diffuse tensions in conflict areas, and a growing number of inter-religious non-governmental organizations initiated discussions on pluralism, democracy, religious tolerance, and human rights.

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

In the past year, Commission staff met with Indonesian political leaders, human rights activists, and religious leaders. The religious leaders included representatives of Muslim, Christian, and Hindu communities from the regions of Aceh, Papua, Sulawesi, Java, Bali, and the Maluku.

Korea, Democratic Republic of

By all accounts, there are virtually no personal freedoms in North Korea and no protection for universal human rights. In pursuit of absolute control of all facets of politics and society, the government under dictator Kim Jong Il has created an environment of fear in which dissent of any kind is not tolerated. Freedom of thought, conscience, and religion or belief remains essentially non-existent, as the government severely represses public and private religious activities and has a policy of actively discriminating against religious believers. There are a growing number of reports from North Korean refugees that any unauthorized religious activity inside North Korea is met with arrest, imprisonment, torture, and sometimes execution by North Korean officials. There is no evidence that religious freedom conditions have improved in the past year. The Commission continues to recommend that North Korea be designated a “country of particular concern,” or CPC, which the State Department has done since 2001.

The humanitarian disaster caused by years of famine and food shortages in North Korea, coupled with the government’s systematic and severe violations of the human rights and fundamental freedoms of its people, constitute a threat to regional stability and a continuing source of friction with neighboring countries. The United States has taken the lead in establishing a multi-national forum, known as the Six-Party Talks, to address security issues on the Korean peninsula, including North Korea’s reported development of nuclear weapons. At this point, the Six-Party talks have not addressed human rights issues, on the grounds that human rights and humanitarian issues cannot be combined with negotiations on security matters. Yet the same mistrust and megalomania that drive Kim Jong Il to develop nuclear weapons also drive his regime to perpetrate egregious human rights abuses, suggesting that complete security on the Korean peninsula cannot be assured until human rights and security issues are dealt with collectively.

In recent years, the government has formed several “religious” organizations to implement its policy of severely restricting religious activities in the country. For example, the Korean Buddhist Federation prohibits Buddhist monks from worshiping at North Korean temples. Similarly, the Korean Christian Federation restricts Christian activities. Three churches, two Protestant and one Catholic, were opened in Pyongyang in 1988, though it is believed that these churches operate primarily as showcases for foreign visitors. The absence of a priest at the Roman Catholic Church means that mass cannot be celebrated and most

sacraments cannot be performed. According to South Korean pastors operating exchanges with the Korean Christian Federation, although some fraction of North Koreans who attend services at the Catholic and Protestant churches in Pyongyang may be genuine believers, the majority reportedly attend services to monitor and report to the government on church activities. In January 2004, a former official of the North Korean National Security Agency testified before the Commission that these churches are controlled and operated directly by that agency. A Russian Orthodox Church has been under construction since 2003 but remains unfinished, though two North Korean men have been sent to Moscow to train as Orthodox priests. There are also reportedly three Buddhist temples and a Chondogyoist shrine in Pyongyang. Government officials have claimed that Buddhist temples are cultural relics that need to be preserved. Although Kim Il Sung University boasts a department of religion, graduates and faculty of the department are reportedly involved in training security forces to identify new Christian practitioners.

While the North Korean government reports that some 500 house churches operate with government approval outside of Pyongyang for religious believers in rural areas, independent observers have questioned the existence of such facilities or gatherings. These observers cite consistent denials of repeated requests to visit them. The Commission has received information that there are underground Christians who meet in small groups and operate in complete secrecy inside North Korea. Researchers in South Korea have also reported on the existence of underground Christians, although there are no reliable estimates of the numbers of believers in these groups or the areas of the country in which they might operate.

Persons found carrying Bibles in public, distributing religious literature, or engaging in unauthorized religious activities such as public religious expression and persuasion are arrested and imprisoned. There continue to be reports of torture and execution of religious believers, including a January 2005 report of the execution of six religious leaders. Although the practice of imprisoning religious believers is apparently widespread, the State Department has been unable to document fully the number of religious detainees or prisoners. In the past year, refugees and refugee assistance organizations have reported a growing number of Christians in the prison system due to increased contact between refugees and South Korean and Chinese religious groups in the border regions. According to press reports, an estimated 6,000 Christians are incarcerated in "Prison No. 15," located in the northern part of the country. According to testimony heard at the Commission's January 2002 hearing on North Korea, 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, these prisoners 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.

The North Korean government forcefully propagates an ideology, known as "Juche," based on the personality cult of the regime's current leader, Kim Jong Il, and his late father, Kim Il Sung. Korean law reportedly mandates that pictures of the "Great Leader" (Kim Il Sung) and the "Dear Leader" (Kim Jong Il) hang on the wall of every house, school room, and work place. There are credible reports that each village contains a "Kim Il Sung Research Center." Citizens are reportedly required to attend weekly meetings where they watch inspirational films on the Dear Leader's life and hold public confessions about political and moral failings.

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

As a result of the prolonged famine and the highly oppressive nature of the regime, up to 300,000 refugees have fled North Korea across the border to China in the past five to eight years. After the easing of the worst of the famine conditions, an estimated 50,000 to 100,000 refugees remain in China. According to an agreement with North Korea, the Chinese government considers all such refugees to be economic migrants who are subject to forcible repatriation. North Korean authorities consider a decision to leave the country tantamount to treason and all returnees are subject to arrest, imprisonment, and often torture. There are growing numbers of reports from North Korean escapees that all North Koreans repatriated from China are interrogated to determine if they have converted to Christianity or had contact with South Korean Christians. If they answer affirmatively to these questions they are subject to long prison terms with hard labor.

In September 2004, the Commission began work on a study of conditions of freedom of thought, conscience, and religion or belief in North Korea. The study focuses on all religious communities in the country, relying primarily on interviews with former North Koreans who have escaped their country and are now residing in South Korea. In October 2004, the Commission and the study's lead researcher met with Vitit Muntarbhorn, UN Special Rapporteur on Human Rights in North Korea, to discuss the study and other aspects of the Commission's work on North Korea. In March 2005, Commissioners accompanied the lead researcher to Geneva to present preliminary findings to delegations at the 61st Session of the UN Commission on Human Rights. Commission representatives in Geneva also met with the acting UN High Commissioner for Refugees to discuss the situation of North Korean refugees in China and further updated the Special Rapporteur on preliminary findings of the study.

In April 2004, the Commission met with North Korean defectors in Washington as a part of North Korea Freedom Day activities. 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 expansion of programs to advance democracy and human rights in North Korea and increased funding for programs to promote access to information inside North Korea. The law also expresses the sense of the Congress that the human rights of North Koreans should remain a key element in future negotiations between the United States, North Korea and other concerned parties in Northeast Asia; that UN human rights mechanisms, including Special Rapporteurs, should be permitted to gather information and report on conditions in North Korea; and that the United States should explore the possibility of a regional dialogue with North Korea that is modeled on the Helsinki process, engaging all countries in the region in a common commitment to respect human rights. All of these provisions follow Commission recommendations.

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

- 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 in Sec. 106 of the North Korean Human Rights Act;
 - 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;
- as soon as possible, appoint a Special Envoy on Human Rights in North Korea, as mandated in the North Korea Human Rights Act of 2004, and give the Special Envoy 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) establishing a mechanism to confer at least temporary asylum on those seeking such protection; (2) providing the United Nations High Commissioner for Refugees (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 regional allies, place a higher priority on working to provide safe and secure migration channels for North Korean asylum seekers;
- promote further cooperation between the Department of State, the Department of Homeland Security, and regional allies, including South Korea, to resolve quickly the remaining technical or legal issues surrounding the resettlement of North Koreans in the United States and other countries;
- urge the Chinese government to allow international humanitarian organizations greater access to North Koreans in China, to address growing social problems such as child and sexual trafficking, forced labor, and other crimes associated with the vulnerability of North Korean migrants in China;
- 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 mechanisms, as appropriate, 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, by
 - co-sponsoring and working for passage of a resolution on North Korea at the UN Commission on Human Rights; and
 - co-sponsoring and working for passage of a resolution that places human rights abuses in the context of regional and nuclear security at the First Committee of the United Nations, if North Korea continues to refuse cooperation with international monitors and declines UN technical assistance programs;
- expand radio, television, Internet, and print information alternatives for North Korea, including expanding broadcasts on Radio Free Asia and Voice of America and producing video and other digital programming to accommodate growing DVD circulation and satellite dish technology in North Korea.

In addition, Congress should: (a) continue to appropriate funds authorized in the North Korea Human Rights Act for public diplomacy, refugee assistance, and democratization programs; (b) establish a congressional caucus to focus specifically on human rights and refugees and to explore new ideas for establishing an “Helsinki Option” for security talks on the Korean Peninsula; and (c) if Congressional delegations visit North Korea, seek access for international monitors to North Korean prisons as promised by Vice-Premier Gew Yan-un to a visiting Senate Foreign Relations Committee delegation in 2004.

Laos

In response to the concerns of this Commission and the international community, violations of freedom of religion or belief have decreased in Laos over the past two years. Forced renunciations of faith have been condemned by the ruling party, the government has reopened most of the churches and other religious buildings closed in recent years, and all but two of the known religious prisoners in Laos have been released. In addition, the government currently interprets and enforces its religion law in a way that has facilitated religious activities and inter-religious cooperation. Though concerns remain, the recent improvement in conditions for freedom of religion or belief has led the Commission to remove Laos from its Watch List.

The Commission continues to be concerned about Laos’ overall human rights record, which the State Department describes as “poor.” Laos is a one-party, authoritarian state. In view of its continued poor human rights practices, there remains a possibility that past religious freedom abuses will reemerge. The Commission will therefore maintain its scrutiny of the actions of the Lao government with regard to religious freedom to determine whether developments continue to move in a positive direction or if a return to the Watch List is warranted.

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

In most parts of the country, adherents from all religious communities are allowed to practice their religion with few restrictions. There continue to be reports, however, that provincial and local officials harass individuals, confiscate property, and, on occasion, detain persons for participating in religious activities. These problems are concentrated in parts of Savannakhet and Attapeu provinces, and often involve ethnic and religious minorities. In the last year, at least 30 Christians in Savannakhet and Attapeu provinces were detained. Most were released in a matter of days. In response to U.S. and international pressure, all but two religious prisoners were released by October 2004. There have been no new detentions since May 2004. Catholics, Baha'is, and Protestants in particular continue to report discrimination in the rural provinces.

Between 1999 and 2002, the State Department reported that campaigns of coerced renunciation of faith occurred in nearly every Lao province. These reports have diminished significantly in the past several years. Moreover, there have been no recent reports of incidents where security forces required the ritualistic drinking of animal blood mixed with alcohol which was the primary method used in past renunciation campaigns. However, there were a few occasions in the past year in which security forces in Attapeu Province's Sanamsai district used threats of arrest, expulsion, and property confiscation to coerce ethnic Protestants in the district to give up their faith. One member of a Protestant congregation was expelled from the district. Following growing international attention however, official harassment of Christians in Attapeu province diminished markedly.

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

One ongoing concern is the potential for abuses through the implementation of Decree 92, the Lao government's 2002 decree on religious activities. During its visit to Laos in February 2002, the Commission was assured that passage of the decree would improve religious

freedom in Laos by legalizing religious activities, protecting the religious practices of ethnic minorities, and providing guidelines to local and provincial officials to ensure that abuses by those officials would cease. Nevertheless, the decree provides government officials with a potential legal basis for control of, and interference in, religious activities. Many religious activities can be conducted only with government approval, and the decree contains a prohibition on activities that create “social division,” or “chaos,” reiterating parts of the Lao’s criminal code, including Article 66, used in the past by government officials to arrest and detain ethnic minority Christians. Thus, Decree 92 and several provisions of the criminal code can be used to restrict and suppress religious activities, rather than protect and promote the freedom of religion and belief. However, there are credible reports that the LFNC is using Decree 92 to facilitate religious practice and to promote cooperation among religious communities. The Commission will continue to monitor how the decree is implemented and whether the central government has made progress in controlling the alleged abusive acts of local officials.

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

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

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

- make clear to the government of Laos that continued improvements in the protection of freedom of thought, conscience, and religion or belief is essential to further improvements and in expansion of U.S.-Laos relations, and urge Lao officials to:
 - ratify the International Covenant on Civil and Political Rights and invite the UN Special Rapporteur on Freedom of Religion or Belief and other relevant UN mechanisms to visit the country;
 - halt any harassment and detention of persons on account of their religion by local government officials and hold any such officials responsible for violations of the religious freedom of Lao citizens, particularly in such provinces as Savannakhet, Attapeu, Luang Prabang, and Saisomboune Special Zone;
 - criminalize forced renunciations of faith by passing a law in the National Assembly providing for specific penalties for those who carry out such practices;
 - repeal or amend Article 66 of the Lao Criminal Code so that it cannot be used to arrest or detain individuals for engaging in religious activities that are protected by the Lao Constitution and under international law;

- amend those elements of Decree 92 on religious activities that are inconsistent with international human rights law;
- respect and fully implement the freedom of individuals and organizations to engage in social, humanitarian, and charitable activities, free from undue government interference; and
- provide access to all parts of Laos by foreign diplomats, humanitarian organizations, and international human rights and religious organizations, in particular, to Savannakhet, Attapeu, and Saisomboune Special Zone;
- establish measurable goals and benchmarks, in addition to those listed above, for further human rights progress in Laos as a guide for diplomatic engagement between Laos and the United States or for initiating a formal human rights dialogue with the government of Laos, addressing such human rights issues as ethnic and religious discrimination, torture and other forms of ill-treatment in prisons, unlawful arrest and detention, the absence of due process, and practical steps to ensure the right to freedom of expression, association, and assembly;
- expand Lao language broadcasts on Voice of America (VOA) and Radio Free Asia (RFA) while ensuring that the content of the Lao language broadcasts on VOA and RFA adequately includes information about the importance of human rights, including religious freedom, within Laos; and
- initiate and expand technical assistance and human rights programs that support the goals of protecting and promoting religious freedom, including:
 - rule of law programs that provide assistance in amending, drafting, and implementing laws and regulations;
 - human rights and religious freedom training programs for specific sectors of Lao society, including government officials, religious leaders, academics, police, and representatives of international non-governmental organizations;
 - educational initiatives to combat intolerance of religious and ethnic minorities and to promote human rights education; and
 - the expansion of the number and funding of educational, academic, government, and private exchange programs with Laos that will bring a wide cross-section of Lao society to the United States.

Vietnam

The government of Vietnam continues to commit systematic and egregious violations of religious freedom by harassing, detaining, imprisoning, and discriminating against leaders and practitioners from all of Vietnam's religious communities. Religious freedom conditions in

Vietnam remain poor, and the overall human rights situation has deteriorated in the past two years. The government has targeted popular religious leaders, intellectuals, free speech and democracy advocates, and members of ethnic and religious minority groups, who are accused of encouraging “peaceful evolution,” a term used to describe anyone suspected of quietly eroding the Communist Party’s legitimacy. Since 2002, the Commission has recommended that Vietnam be designated a “country of particular concern” or CPC. In September 2004, the State Department followed the Commission’s recommendation and designated Vietnam a CPC.

In response to this designation, the government of Vietnam released from prison several prominent democracy, free speech, and religious freedom advocates, including Father Thadeus Nguyen Van Ly, Dr. Nguyen Dan Que, Nguyen Dinh Huy, and Thich Thien Minh. While the Commission particularly welcomed the release of Fr. Ly, who was imprisoned after submitting written testimony to a Commission hearing in 2001, there are reports that security forces continue to accompany him at all times. Two others released with Fr. Ly, Dr. Nguyen Dan Que and Thich Thien Mien, are reportedly also under constant police surveillance.

The Vietnamese government also responded to the CPC designation by issuing two legal documents to clarify and implement Vietnam’s 2004 Ordinance on Religious Beliefs and Religious Organizations. In February 2005, Prime Minister Phan Van Khai issued “Instructions on Protestantism,” which purports to allow Protestant “house churches” in the Central Highlands and northwest provinces to operate legally, if they renounce connections to groups that Hanoi has accused of organizing anti-government protests. The new instructions also prohibit forced renunciation of faith efforts by government officials, but do not specify criminal penalties for those who carry out these practices.

In March 2005, the Prime Minister issued Decree 22, establishing specific requirements and deadlines for government approval of all religious groups, venues, seminaries, conferences, donations, festivals, ceremonies, and the selection and training of religious leaders. Although the regulations affirm the rights of Vietnamese citizens to freedom of religion and belief, there are also prohibitions on any religious activities that “undermine peace, independence and national unity; incite violence or wage war; disseminate information against prevailing State law and policies; sow division among the people, ethnic groups, and religions; cause public disorder; do harm to other people’s lives, health, dignity, honor, and property; hinder people from exercising their public obligations; spread superstitious practices and commit acts to breach the law.” These limitations go far beyond those permitted under international human rights law; they are broad, vague, and have been used in the past by the Vietnamese authorities to justify the imprisonment of religious leaders and other serious human rights abuses. The primary benefit of the new decree appears to be streamlining the process of registration and obtaining permits; deadlines for an official response are outlined in the decree and, in some cases, religious groups can expect a written explanation on why their application was denied.

It remains to be seen how these new instructions and regulations are interpreted and enforced by security forces and local officials. The new laws codify existing rules and practices, yet, with the exception of the prohibition on forced renunciation of faith, they contain few protections against continued violations of religious freedom. They do not constitute sufficient progress to warrant either waiving action under the CPC designation, as required by the International Religious Freedom Act of 1998, or removing the CPC designation.

Over the past 15 years, the government of Vietnam has slowly carved out a noticeable “zone of toleration” for authorized religious practice. At the same time, it has actively repressed, and targeted as subversive, unauthorized religious activity, particularly among ethnic minority Christians in the Central Highlands and northwest provinces, “house-church” Protestants, leaders of the United Buddhist Church of Vietnam, and followers of religious minority groups such as the Hoa Hao and Cao Dai. This repression continued in the last year.

Religious leaders from the banned United Buddhist Church of Vietnam (UBCV) continue to face harassment and most are imprisoned or under house arrest. UBCV founders, the Most Venerable Thich Huyen Quang and the Very Venerable Thich Quang Do, remain under house arrest in Qui Nhon and Ho Chi Minh City respectively. They face charges of possessing “state secrets,” which carry with them a possible death sentence. There is urgent concern for Thich Huyen Quang’s failing health and access to medical care while under detention. Pressure on the UBCV leadership continues, despite Prime Minister Pham Van Khai’s March 2002 promise that arrests and harassment would end.

The crackdown in the Central Highlands continues following last year’s Easter weekend (April 12-13, 2004) demonstrations. At that time, ethnic Montagnards were attacked by police, military, and other civilians during what were described as largely peaceful protests concerning land rights and religious freedom. Reports from Human Rights Watch and Amnesty International state that at least 10 demonstrators were killed and dozens wounded. In addition, an undetermined number of Montagnards sought asylum in Cambodia. Vietnamese security forces are currently stationed in Montagnard villages, tracking down those who participated in the demonstrations and pursuing asylum seekers into Cambodia. The UN High Commissioner for Refugees has been granted limited access to Montagnard asylum seekers on the border by the Cambodian government. At least 700 Montagnards are now being processed for resettlement or repatriation in Phenom Penh. But restrictions remain on travel to the affected border regions and there is no protection granted to Montagnards who are repatriated to Vietnam. Credible reports are emerging from Gai Lai province that recently repatriated Montagnards were detained and beaten and are now held under house arrest.

Given the lack of judicial transparency, accurate figures on the number of religious prisoners in Vietnam are difficult to obtain. According to the State Department, close to 120 Montagnard Christians remain in prison either for religious activities or participation in public demonstrations for land rights and greater religious freedom. At least 10 Hmong Christians are in prison in the northwest provinces of Lai Chau and Ha Giang. Six Mennonite leaders, including the outspoken activist and human rights lawyer Rev. Nguyen Hong Quang, were sentenced in July 2004 for up to three years in prison after a brief scuffle with security forces who had been harassing church members. On April 12, 2005 an appeals court upheld the sentences of Pastor Quang and Evangelist Pham Ngoc Thach; three of those arrested with Pastor Quang were released after serving their sentences. Le Thi Hong Lien remains in prison despite reportedly suffering from physical and emotional problems. At least three Catholic priests from the Congregation of Mother Co-Redemptrix remain in prison for distributing religious books without permission. They were charged with security-related offenses and sentenced to 20 years. One of the three, Fr. Pham Minh Tri, has reportedly developed severe dementia while in prison,

but has not been granted humanitarian parole. The State Department reports that at least one member of the Hoa Hao sect of Buddhism is in prison, though Hoa Hao groups in the United States claim the number to be much higher.

There continue to be troubling reports that Vietnamese security forces use harassment, detention, church closings, beatings, and fines to force ethnic Hmong and Montagnard Christians to abandon their faith in both the Central Highlands and northwest provinces. In pursuit of this goal, the church and offices of Rev. Nguyen Cong Chinh, superintendent of the Mennonite churches in the Central Highland city of Kontum, were destroyed twice in the last year.

Communist party and government officials interfere in the internal affairs of all organized religious communities, registered or unregistered. The government continues to impose limits on the number of candidates allowed to study for the Roman Catholic priesthood and requires prospective seminarians to obtain government permission before attending. Though relations with the Vatican are improving, the government continues to control the appointment and promotion of Catholic clergy and plays an active role in the selection of bishops, effectively vetoing those papal appointments of which it disapproves. Church property seized in 1975 also remains in government hands. Leaders of the Hoa Hao and the Cao Dai religious communities are subject to surveillance, harassment, and discrimination. Though both organizations were granted official status, their governing management boards are dominated by individuals appointed by the Vietnamese government. Board positions are denied to long-standing and recognized Hoa Hao and Cao Dai leaders.

In November 2004, the government of Vietnam issued a long-awaited Ordinance on Religion. Although the Ordinance affirms the right to freedom of religion or belief in the first clause, the remaining provisions extend government control by requiring religious groups to seek permission for virtually every religious activity. The Ordinance also continues to ban religious practice outside the officially recognized religious organizations, as well as any religious activity that threatens the vaguely defined notions of national security, national unity, and public order. The Ordinance does standardize religious management practices that had been subject to local variations. Nevertheless, while it purports to protect the rights and security of religious believers in Vietnam, the Ordinance also offers government officials more extensive control over all religious activity.

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 Administration, Members of Congress, the Acting UN High Commissioner for Refugees (UNHCR), and congressional staff about current U.S. policy and the Commission's policy recommendations.

In February 2004, then-Commission Chair Michael K. Young testified before the Senate Foreign Relations Committee's hearing "Trade and Human Rights: The Future of U.S.-Vietnamese Relations." He discussed Vietnam's record on religious freedom, as well as the Commission's recommendations for U.S. policy. In October 2003, Commission Vice Chair Nina Shea testified at a joint Congressional Caucus on Vietnam and Congressional Human Rights Caucus hearing on Vietnam entitled, "Vietnam: A People Silenced."

The Commission issued press statements after the release of Fr. Nguyen Van Ly and the Prime Minister's "Instructions on Protestantism." The Commission also sent a letter to Secretary of State Condoleezza Rice recommending policy options for Vietnam as a consequence of that country being named a CPC.

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

- identify those Vietnamese agencies and officials who are responsible for particularly severe violations of religious freedom and vigorously enforce section 604 of IRFA with respect to Vietnam, rendering inadmissible for entry into the United States any Vietnamese government official who was responsible for or directly carried out such violations; and
- re-prioritize human rights programming and technical assistance in Vietnam by dedicating no less than \$1 million for FY 2005 and FY 2006, if discretionary funds are allocated to Vietnam above its annual earmark, to new or existing programs that will directly promote freedom of religion and belief and related human rights in Vietnam.

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

- make clear to the government of Vietnam that ending violations of religious freedom is essential to the continued expansion of U.S.-Vietnam relations, urging the Vietnamese government to:
 - establish a non-discriminatory legal framework for religious groups to engage in peaceful religious activities protected by international law without requiring groups to affiliate with officially registered religious organizations; for example:
 - allow the United Buddhist Church of Vietnam to register and operate independently of the official Buddhist organization, the Vietnam Buddhist Sangha;
 - allow leaders chosen by all Hoa Hao adherents to participate in the Executive Board of the Hoa Hao Administrative Council or allow a separate Hoa Hao organization to organize and register as the Hoa Hao Central Buddhist Church with the same privileges as the Administrative Council;
 - allow Presbyterian, Assembly of God, Baptist and any other Protestant denominations that do not wish to join either the Southern Evangelical Church or the Northern Evangelical Church of Vietnam, to register independently; and
 - allow Cao Dai leaders opposed to the Cao Dai Management Council to form and register a separate Cao Dai organization with management over its own affairs;

- establish a legal framework that allows for religious groups to engage in humanitarian, medical, educational, and charitable work;
- amend the 2004 Ordinance On Religious Beliefs and Religious Organizations and Decree 22, and other domestic legislation that may restrict the exercise of religious freedom, so that they conform to international standards for protecting the freedom of thought, conscience, and religion or belief;
- enforce the provisions in the Prime Minister's "Instructions on Protestantism" that outlaw forced renunciations of faith and establish in the Vietnamese Criminal Code specific penalties for anyone who carries out such practices;
- repeal Decree 31/CP of the Vietnamese Criminal Code which empowers local Security Police to detain citizens for up to two years without trial, as this decree is routinely invoked to detain religious followers and members of non-recognized religious denominations;
- set up a national commission of religious groups, government officials, and independent, non-governmental observers to find equitable solutions on returning confiscated properties to religious groups;
- release or commute the sentences of all those imprisoned or detained on account of their peaceful manifestation of religion or belief; including, among others, UBCV Patriarch Thich Huyen Quang, Thich Quang Do and six UBCV leaders detained in the 2003 crackdown, members of ethnic minorities in the Central Highlands and northwest provinces, and the six Mennonites arrested in July 2004, using the list compiled by the State Department pursuant to Section 108 of IRFA;
- re-open all of the churches, meeting points, and home worship sites closed during 2001 in the Central Highlands and northwest provinces;
- investigate and publicly report on the beating deaths of Hmong Protestant leaders Mua Bua Senh and Vang Seo Giao, and prosecute anyone found responsible for these deaths;
- halt the practice of diplomatic pressure, offering of bounties, or cross-border police incursions into Cambodia for the purpose of forcibly repatriating Montagnards; and,
- allow representatives of the UN High Commission for Refugees (UNHCR), or some other appropriate international organization, unhindered access to the Central Highlands in order to monitor voluntarily 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 to members of all religious communities in Vietnam, particularly those in the Central Highlands and the northwestern provinces; and

- expand existing programs and initiate new programs of public diplomacy for Vietnam, including,
 - expanding funding for additional Voice of America (VOA) and Radio Free Asia (RFA) programming for Vietnam and to overcome the jamming of VOA and RFA broadcasts;
 - targeting some of the Fulbright Program grants to individuals and scholars whose work promotes understanding of religious freedom and related human rights;
 - requiring the Vietnam Educational Foundation, which offers scholarships to Vietnamese high school age students to attend college in the United States, to give preferences to youth from ethnic minority groups areas (Montagnard and Hmong), from minority religious communities (Cao Dai, Hoa Hao, Catholic, Protestant, Cham Islamic, and Kmer Buddhist), or former novice monks associated with the United Buddhist Church of Vietnam;
 - providing grants to educational NGOs to bring Vietnamese high school students to the United States for one year of study;
 - creating new exchange programs between the Vietnamese National Assembly and its staff and the U.S. Congress;
- continue to expand its economic development, democracy, education, good governance, and rule of law programs in Vietnam by:
 - working with interested nations and international donors to create a development fund for ethnic and religious minorities that targets business creation, micro-enterprise development loans, and grants to improve agricultural, educational, health, and technical training, a fund that would prioritize areas with both rural poverty and significant human rights problems;
 - 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 money for the State Department's Human Rights and Democracy Fund for new technical assistance and religious freedom programming. Funding should be commensurate to new and ongoing programs for Vietnamese workers, women, and rule of law training.

COUNTRY REPORTS: EUROPE AND EURASIA

The OSCE: Advancing Religious Freedom and Combating Anti-Semitism

The International Religious Freedom Act of 1998 (IRFA) explicitly mentions U.S. participation in multilateral organizations as a method to advance respect for the right to freedom of religion or belief, which is enshrined in numerous international human rights declarations and conventions. The 55 participating States of the Organization for Security and Cooperation in Europe (OSCE), i.e., all of Europe and the former Soviet republics along with the United States and Canada, have agreed to extensive and forward-looking standards in protecting freedom of religion or belief and combating discrimination, xenophobia, intolerance, and anti-Semitism. These issues comprise part of what is called in the OSCE the “Human Dimension.”

Responding to a rise in incidents of racism, xenophobia, and discrimination, as well as intolerance towards Jews, Christians, Muslims, and members of other minority religions in the OSCE region, the Commission recommended in July 2004 that the OSCE create two high-level positions to be appointed by the Chairman-in-Office (CiO): a Special Representative on Discrimination and Xenophobia and a Special Representative on Anti-Semitism. In December 2004, this recommendation was acted upon; the OSCE’s CiO appointed three Representatives to promote greater tolerance and combat racism, xenophobia, and discrimination in the OSCE region. These appointments, confirmed by the OSCE Permanent Council in December 2004, will extend through 2005 under the current Chairmanship. The mandates of these new Representatives include promoting better co-ordination of participating States' efforts to implement decisions taken at the OSCE Ministerial and Permanent Councils in the field of tolerance and non-discrimination, and co-operating on these tasks with the CiO and the Office of Democratic Institutions and Human Rights (ODIHR). Each Representative will focus on a particular problem area: combating racism, xenophobia and discrimination, including intolerance and discrimination against Christians and members of other religions; combating anti-Semitism; and combating intolerance and discrimination against Muslims.

In December 2004, the OSCE organized a new Tolerance Unit within the ODIHR to monitor, and encourage compliance with, OSCE commitments to combat xenophobia, anti-Semitism, and Islamophobia and to promote freedom of religion. The United States has been particularly active in advocating the creation of the unit and funding its activities. Among other actions, the ODIHR Tolerance Unit will coordinate with other relevant international organizations, set up a database of information, and work on specific projects, such as hate crimes legislation and Holocaust education in specific countries.

Also in the past year, the OSCE Panel of Experts on Freedom of Religion or Belief was re-organized and expanded to a total of almost 60 members from the OSCE region, including a new Advisory Council of fifteen members. At its February 2005 meeting, the Advisory Council approved a new structure of activities: country-specific engagement and dialogue, such as the review of relevant legislation; comparative policy papers, which may be published as ODIHR documents; and education and training activities on tolerance, international standards on freedom of religion or belief, inter-faith dialogue, and conflict prevention or resolution.

Since it was established in 1975, the OSCE has been a highly successful multilateral venue for the promotion of human rights concerns, including the freedom of thought, conscience, and religion or belief, which is singled out for special mention in the Helsinki Final Act. After the fall of the Soviet Union, the organization has increased in importance as a forum in which the countries of the former Soviet Union are held accountable for their human rights practices. Moreover, since its inception, the OSCE has traditionally included non-governmental organizations (NGOs) as valuable contributors in its unique process of consensual diplomacy.

In the past year, however, the 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 less emphasis to human rights concerns, including religious freedom, and more weight to security matters. 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.

Russia, in particular, has protested frequently in recent years that the OSCE focuses too much of its criticisms on the countries of the former USSR, while downplaying human rights problems in the west. Yet, on the invitation of the United States, the OSCE deployed an Election Observation Mission for the U.S. November 2004 presidential elections. Nevertheless, Russia withheld its consensus for the OSCE's 2005 budget, thereby preventing its implementation and putting in jeopardy many of the organization's human rights activities. Reportedly, negotiations on the resolution of the 2005 OSCE budget crisis were underway in April 2005, along with possible major organizational reforms. The OSCE's human rights activities are particularly crucial at a time when the government of Russia—and those of many other countries of the former USSR—are demonstrating an increasing lack of commitment to their human rights obligations, including in efforts to combat racism, xenophobia, and various other forms of intolerance and discrimination.

Advancing Freedom of Religion or Belief

For several years, the Commission has participated in U.S. delegations to OSCE meetings and made recommendations relating to the work of the OSCE on protecting freedom of religion or belief and on combating anti-Semitism in the OSCE region. In advance of the OSCE Conference on Tolerance and the Fight against Racism, Xenophobia, and Discrimination in September 2004, the Commission issued a statement with recommendations to the U.S. government, as part of its engagement with the OSCE and its participating States, asking the U.S. delegation to the OSCE to urge the participating States to:

- take specific steps to 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;
- take concrete action to 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;

- condemn in a public fashion, while vigorously protecting freedom of expression, attacks targeting Muslims and pursue and prosecute the perpetrators of such attacks;
- 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;
- 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.

In 2003 and 2004, the Commission participated with the U.S. delegation to several special OSCE meetings, contributing to official statements and recommendations on freedom of religion or belief and tolerance. The Commission sought to ensure that the U.S. statements named particular countries where the government had engaged in or tolerated serious violations of religious freedom. It also sought to highlight problems in several OSCE countries where (a) laws unduly restrict official registration or recognition, which is in some cases necessary in order to engage lawfully in organized religious activities, or (b) governments have established specific initiatives targeting so-called "sects" or "cults."

In September 2004, at the OSCE Conference on Tolerance and the Fight against Racism, Xenophobia, and Discrimination, Commissioner Felice D. Gaer made a presentation stressing the importance of freedom of religion and belief in the OSCE region. At the October 2004 OSCE Human Dimension Implementation Meeting (HDIM), the Commission publicized information on the status of freedom or belief in various countries of the OSCE region, including Azerbaijan, Belarus, Georgia, Russia, Turkmenistan, and Uzbekistan. The Commission's concerns about religious freedom were included in the concluding intervention by the U.S. delegation to the

HDIM meeting. At the HDIM, the Commission also met with delegations from Belgium and Russia, as well as with numerous NGOs from the OSCE region, including France, Russia, Belarus, the Netherlands, and Uzbekistan.

Combating Anti-Semitism in the OSCE Region

As numerous studies attest, anti-Jewish sentiment is surfacing again in a number of OSCE participating states; failure to hold the perpetrators of anti-Semitic attacks to account is frequently the official response. Many, albeit not all, of the recent anti-Semitic incidents in Western Europe reportedly have been committed by disaffected, marginalized young members of North African Muslim immigrant communities. France and other Western European countries are becoming more and more nations of immigrants. Another source of the violence and anti-Semitic rhetoric in Europe is the so-called “skinhead” gangs. These gangs target Jews and members of other ethnic and religious minorities, including Muslim immigrants, with bombings and other violence and seek to inflame public opinion against them. Anti-Semitism by extremist nationalist groups in Eastern Europe and Russia is documented, but officials rarely investigate and prosecute acts of violence. Anti-Zionism and vilification of Israel can also mask anti-Semitism.

To compound the problem, anti-Semitic and extremist rhetoric emanating from some intellectual circles that goes uncontested by political and societal leaders has promoted an environment of intolerance toward Jews and members of other ethnic and religious minorities. The problem is widespread. When burnings, beatings, and other acts of violence are directed at a particular group because of who they are and what they believe, such violent acts should not be viewed merely as police problems, but as human rights violations. The U.S. government should be unequivocal in its position that anti-Semitism and other acts of violence directed against ethnic and religious minorities are human rights matters and should be addressed as such.

The Commission was one of the first official bodies to draw specific attention to, and speak out against, the rise in anti-Semitic violence taking place in Europe. The Commission has addressed anti-Semitism and related issues in the course of its work on several countries, both inside and outside of the OSCE region, including Belarus, Belgium, Egypt, Iran, France, Russia, Saudi Arabia, Uzbekistan, and Pakistan. The U.S. Congress introduced and unanimously passed resolutions in both the Senate and House concerning 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 to ensure that separate attention is paid to the rise of anti-Semitism in the region and collaborated with the U.S. delegation successfully to urge participating States to agree to convene the OSCE’s first-ever special meeting on anti-Semitism, held in Berlin in April 2004. The Commission participated in the preparations for that meeting, including a consultation by the U.S. government with the German government, and participated with the official U.S. delegation to the meeting. Addressing those preparatory meetings, Commissioner Gaer stressed that acts of anti-Semitism must be seen not as hooliganism, but as a form of human rights abuse that states should vigorously combat by implementing their international human rights commitments.

At the Berlin meeting itself, Commissioner Gaer discussed anti-Semitism in the OSCE region and met with a wide variety of delegations and NGOs from among the OSCE participating States. Also at that meeting, Commission staff met with representatives of the German, British, and Russian delegations, as well as with NGOs from Azerbaijan, the Netherlands, France, and Russia. The resulting OSCE “Berlin Declaration” on anti-Semitism has served as a precedent for the United Nations in organizing its own public event on combating anti-Semitism. In July 2004, the Commission recommended that the U.S. government should advocate an active role for NGOs in monitoring religious intolerance. During the Berlin conference on anti-Semitism, the Commission called the attention of the U.S. delegation to the key role played by NGOs in monitoring anti-Semitism, intolerance, and discrimination, and this language was included in the delegation’s concluding speech.

With regard to the institution of the Organization for Security and Cooperation in Europe (OSCE), the Commission recommends that the U.S. government should:

- express continued strong support for the OSCE in the face of attacks led by the Russian government on the OSCE, particularly on its human rights activities carried out by the Office of Democratic Institutions and Human Rights (ODIHR); and
- authorize and appropriate additional funds to existing U.S. contributions to the OSCE for the purpose of expanding programs that advance freedom of religion or belief and combat xenophobia and discrimination against Muslims, Christians, and members of other religions, and against anti-Semitism.

Calling the recognition by the OSCE of a resurgence of anti-Semitism throughout the region a good first step, the Commission has recommended that the U.S. government:

- take concrete action within the OSCE to ensure that all participating states are living up to their commitments to combat discrimination and intolerance, in particular to combat anti-Semitism, as detailed in the 1990 Copenhagen Document, action which should include adopting laws to protect against incitement to violence based on discrimination, including anti-Semitism, and providing the individual with effective remedies to initiate complaints against acts of discrimination;
- undertake a public review of compliance by participating States within the OSCE on a regular basis of their commitments to combat discrimination, xenophobia, and anti-Semitism; and
- provide the ODIHR the necessary mandate and adequate resources to hire experienced staff at the working level to monitor compliance with OSCE obligations on freedom of religion or belief and to combat discrimination, xenophobia, and anti-Semitism.

Belarus

The government of Belarus continues seriously to violate the right to freedom of thought, conscience, and religion or belief and related human rights. Belarusian authorities persist in

enforcing the harsh 2002 law on religion, resulting in severe regulatory obstacles and bureaucratic and legal restrictions on the activities of many religious communities. Officials continue to harass, fine, or detain adherents of various denominations, including the Greek Catholic Church and the Belarusian Orthodox Autocephalous Church, as well as religious communities relatively new to the country, such as Evangelical Protestants and the Hare Krishnas. The government also refuses to acknowledge ongoing anti-Semitism and does not prosecute those responsible for vandalism and other criminal activities directed against Jews or the Jewish community. There have also been instances of violence directed against members of other religious minorities, such as the country's small Hindu minority. The Commission continues to place Belarus on its Watch List, and will maintain its scrutiny to determine whether the government's record rises to a level warranting designation as a "country of particular concern," or CPC.

Belarus has a highly authoritarian government that does not respect the human rights of its citizens. Almost all political power is concentrated in the hands of President Aleksandr Lukashenko and a small circle of advisors. The Lukashenko regime has been widely accused of serious human rights abuses, including involvement in the "disappearances" of several opposition figures, as well as the imprisonment of journalists and strict controls on the media. According to the State Department's 2004 *Country Reports on Human Rights Practices*, the Belarusian government continued to restrict the freedoms of religion, speech, press, assembly and association. Commencing in late 2003, the Belarusian authorities stepped up their campaign against all independent actors in their country, including independent media outlets, trade unions and non-governmental organizations.

Since coming to power in 1994, Lukashenko has constructed a set of regulatory and bureaucratic obstacles that make legitimate religious activities impossible for members of many religious communities. Some minority religious groups have been attacked in the state-run media, and their members have experienced violent attacks against their persons and property. Police have dispersed worship services and some religious leaders continue to face arrest, heavy fines, and other forms of harassment. In October 2002, Lukashenko signed new legislation on religion that led to further restrictions on religious freedom in Belarus. Although the law purports to codify protections for religious freedom, in fact, it provides government officials in the nation-wide Committee of Religious and Nationality Affairs of the Council of Ministers (CRNA) with further tools to repress and control religious activities without providing any clear mechanisms to check abuses by these officials.

Considered by many observers to be the most repressive religion law in Europe, the 2002 Belarus law essentially prohibits all unregistered religious activity by organized groups; religious communities with fewer than 20 members; foreign citizens from leading religious activities; and religious activity in private homes, with the exception of small, occasional prayer meetings. The law set up a three-tiered system of registration, and particularly restricts the activities of groups on the lowest tier. The law also requires all religious organizations to apply for re-registration within two years. The registration criteria laid out in the law are vague, thus facilitating continued abuse by government officials. According to the law, religious publishing and education are restricted to religious groups that have 10 or more registered communities, including at least one that was in existence in 1982. This requirement of at least 20 years existence in Belarus is especially onerous, since the cutoff date of 1982 falls during the Soviet

period of religious repression when few religious groups were able to operate openly. Moreover, all religious literature is now subject to compulsory government censorship, and most communities are denied the right to establish institutions to train clergy.

The 2002 religion law mandated that all religious communities in Belarus re-register with the CRNA by November 2004. Although the majority of previously registered groups have been able to re-register, over 100 have been unsuccessful or pointedly denied registration. The CRNA claims that many of the remaining 105 unregistered communities had been dissolved. However, several groups, including the Hare Krishna community, are appealing their registration denials. Due to the refusal to register the Hindu Light of Kaylasa community, its leaders have sought asylum abroad and that group no longer functions inside Belarus. Since the new law bans registered religious communities from using residences as their legal addresses without specific authorization from the government, many other groups, such as some Greek Catholic and Pentecostal communities that meet in private homes because they cannot rent or buy meeting space, now face the additional risk of being unable to re-register.

The religion law makes clear that without registration, a group's activities are technically illegal. As a result, a number of church leaders and other individuals have been subject to fines and other prosecution. In 2005, an unregistered Hare Krishna community was given an official warning for holding an unauthorized religious meeting. Two official warnings can lead to court proceedings to liquidate a religious organization. In late December 2004, the pastor of the charismatic New Life Church in Minsk was given a fine equal to 150 times the minimum monthly wage for organizing religious worship without state permission. Under the 2002 religion law, a second such fine provides the legal basis to ban the congregation. In March 2005, the pastor faced criminal charges for repeatedly organizing illegal worship, and a court levied a second fine against him. According to the religion law, therefore, the authorities can now close down his church.

In addition to the registration issue, various other laws, regulations, and directives restrict the activities of registered religious communities. For example, groups are not allowed to function outside their geographic area of registration. Furthermore, if, as in the case of the Greek Catholic Church, even a registered religious community does not qualify as a "central association," it cannot own media outlets or invite people from outside Belarus to work with the community.

Attacks on Jews or Jewish property continue to be reported in Belarus, with little attempt made by the authorities to hold perpetrators to account. Memorials, cemeteries, and other property are regularly subject to violence, and, although President Lukashenko sometimes condemns the attacks, only rarely are cases against the perpetrators raised or pursued. According to one Belarusian Jewish leader, official inaction results in impunity for attackers. In January 2005, a leading Jewish activist was arrested in central Minsk when he protested the on-going destruction of Jewish sites in Belarus. Anti-Semitic literature is sold in government buildings, in stores, and at events directly and indirectly connected with the Belarusian Orthodox Church. In addition, because the 2002 religion law states that religious organizations do not have priority in reclaiming property if a former worship building is now used for culture or sport, only nine of 92 historic synagogues in Belarus have been returned to the Jewish community since 1991.

Since 1994, President Lukashenko has openly favored the Belarusian Orthodox Church (BOC, an Exarchate of the Moscow-based Russian Orthodox Church), resulting in a privileged position for the BOC in relation to other religious communities. This relationship was codified in June 2003, when the Belarus government and the BOC signed a concordat setting out the Church's influence in government affairs and other facets of public life. Relations between the BOC and the Belarus government have created particular problems for many Protestant groups, which have sometimes been denied registration or permission to rent or build a place of worship by regional authorities who have been influenced by local Orthodox leaders. Several "independent" Orthodox churches that do not accept the authority of the Orthodox Patriarch in Moscow have been denied registration, before and after the new law was passed. These churches include the Autocephalous Orthodox Church and the True Orthodox Church, a branch of the Orthodox Church that rejected the compromise with the Soviet government made by the Russian Orthodox Church in the 1920s. In March 2004, the Belarusian government granted the BOC the exclusive right to use the word "Orthodox" in its title, although there are other Orthodox communities in Belarus.

The Commission has traveled to Belarus and met with officials for the State Committee on Religious and Nationalities Affairs as well as with representatives of various religious and human rights groups. In 2004, Commission staff met with independent human rights activists from Belarus, including the author of the "White Book," an extensive report on religious persecution in that country. The Commission released a report on Belarus in May 2003 that presented findings and recommendations for U.S. policy. In 2004, the Commission participated in meetings of the Organization for Security and Cooperation in Europe, presenting information on freedom of religion in Belarus. 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 Belarus.

The Commission pressed for passage of the Belarus Democracy Act, which was passed by Congress in October 2004.

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

- use every measure of public and private diplomacy to advance the protection of human rights, including religious freedom, in Belarus, including enhanced monitoring and public reporting, especially in light of the Organization for Security and Cooperation in Europe's weakened monitoring mandate inside Belarus;
- urge the Belarus government to take immediate steps to end repression, including:
 - repealing the highly repressive religion law;
 - ending the practice of denying registration to religious groups and then erecting obstacles to religious practice because of that unregistered status;
 - providing the right to conduct religious education and distribute religious material;

- halting government attacks on the persons and property of minority religious groups;
 - ensuring a greater effort on the part of government officials to find and hold to account perpetrators of attacks on the persons and property of members of religious minorities; and
 - providing free access by domestic and international human rights groups and others to sites of religious violence or destruction of places of worship;
- ensure that the activities to promote democracy authorized by the Belarus Democracy Act include the right to freedom of religion or belief and religious tolerance;
 - urge the Belarus government to issue invitations to the UN Special Rapporteur on the Situation of Human Rights in Belarus; the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression; the Special Representative of the Secretary-General on the Situation of Human Rights Defenders; the Special Rapporteur on Freedom of Religion or Belief, as well as the Working Group on Enforced and Involuntary Disappearances;
 - urge the Belarus government to ensure that no religious community is given a status that may result in or be used to justify the impairment of the rights of members of other religious groups;
 - urge the Belarus government to publicly condemn, investigate and prosecute criminal acts against Jews and the Jewish community, as well as members of other ethnic and religious communities, and
 - 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.”

Georgia

Georgia’s former government under President Eduard Shevardnadze exhibited a slow and inadequate response to three years of vigilante violence against members of some of the country’s religious minorities. However, under the new government of President Mikheil Saakashvili, the number of reported incidents of violence against minority religious communities markedly decreased in 2004. Moreover, in January 2005, two of the leaders of this vigilante violence were sentenced to prison for their involvement in the attacks. Georgian officials have also permitted the Jehovah’s Witnesses Watchtower Bible Society to operate legally in the country for the first time. Though other religious freedom issues remain unresolved in Georgia, such as that only the Georgian Orthodox Church (GOC) has formal legal status, significant improvement in religious freedom conditions in the past year has led the Commission to remove Georgia from its Watch List.

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 mainly non-traditional religious minorities, who in past years were subjected to societal violence.

The precipitous drop in the number of violent attacks on religious minorities and the sentencing of the ringleaders of the violence represent improvements for religious freedom in Georgia. Under the Shevardnadze government, minority religious groups in Georgia, including Baptists, Catholics, Hare Krishnas, Jehovah's Witnesses, and Orthodox churches that do not accept the primacy of the GOC Patriarchate, were subjected to more than 100 violent vigilante attacks. Jehovah's Witnesses, as well as members of independent Orthodox churches, were particularly targeted. Local police were implicated in these attacks, as they often refused to intervene to protect the victims. What began in 1999 as a series of isolated attacks in the capital of Tbilisi escalated by 2002 into a nation-wide scourge of widely publicized mob assaults against members of religious minorities.

The main instigators of these attacks were defrocked GOC priest Basil Mkalavishvili and director of the Orthodox "Jvari" Union Paata Bluashvili, the latter of whom was reportedly supported by some in the GOC hierarchy. After years of government delays and inaction, in November 2003, only days after the Shevardnadze government fell, a court in Rustavi sentenced Bluashvili and four associates to suspended prison terms, ranging from two to four years, for their role in spearheading the violence in two attacks against Jehovah's Witnesses.

The other leader of mob violence against religious minorities, Basil Mkalavishvili, a priest who is currently under the jurisdiction of Greek Old Calendarist Bishop Metropolitan Cyprian of Oropos and Fili, has also been convicted on criminal charges, though only after somewhat drawn-out legal proceedings. Over 100 police stormed Mkalavishvili's church in Tbilisi in March 2004, and he was taken into three-month pre-trial detention in conformity with a June 2003 court order; a later closed court hearing ruled that seven of his followers also be held for three months of pre-trial detention. In response to a public outcry over the way these arrests were conducted, President Saakashvili denied that his government was undermining Orthodoxy and justified Mkalavishvili's detention as a way to "defend" the GOC from "extremist religious groups [which] threaten the Orthodox church." Also in March 2004, the Georgian Orthodox Patriarchate issued a statement that the GOC had in fact defrocked Mkalavishvili in 1996. Mkalavishvili and an associate were sentenced in January 2005; Mkalavishvili received a five-year term and his associate a four-year term. Their lawyers reportedly plan to appeal the sentences.

Despite improvements, some religious freedom concerns remain. Although the primary leaders of the violent attacks against members of religious minorities have been convicted, many of the people accused of participating in this violence—including local police officials—have not been held to account by the Georgian authorities, reportedly due to fears of offending the GOC hierarchy. Moreover, Orthodox communities other than the GOC and some other minority Christian denominations encounter difficulties from local officials and the GOC in building places of worship or displaying their literature in bookstores.

The current absence of a mechanism for religious groups to obtain legal status means that only one religious community in the country, the GOC, enjoys such status as a result of its 2002 concordat with the Georgian government. In September 2003, the Roman Catholic Church failed to gain legal status in Georgia when the Georgian government suddenly cancelled plans to sign an agreement with the Vatican. The leaders of many other religious minority groups also seek recognized legal status, a prerequisite for the community collectively to own property or organize most religious activities. However, the absence of formal legal status generally has not prevented most religious communities from functioning through affiliated nongovernmental organizations (NGOs) that are registered with the government as NGOs or as individual members of the community. As of this writing, President Saakashvili is considering a law to grant legal status to religious communities via the civil code.

Other concerns involve the role of the GOC, to which 65 percent of the country's population claim adherence. Article 9 of the Constitution recognizes the "special importance of the GOC in Georgian history." In October 2002, the Georgian government signed an agreement, or concordat, with the GOC, granting the Church some approval authority over state school textbooks, the construction of religious buildings, and the publication of religious literature by other religious groups. In recent years, Assyrian Chaldean Catholics, Lutherans, Muslims, Old Believers, Jehovah's Witnesses, and Roman Catholics have stated that the GOC Patriarchate has often acted to prevent them from acquiring, building, or reclaiming places of worship. The Patriarchate has also reportedly denied permission for Pentecostals, the Salvation Army, and the True Orthodox Church to print some religious literature in Georgia, although Assyrian Chaldean Catholics, Baptists, Roman Catholics, and Yezidis (an ancient religion with a majority of ethnic Kurdish adherents) have not reported difficulties in this regard.

Despite general tolerance toward minority religious communities seen as traditional to Georgia, opinion polls and the Georgian media reflect significant societal intolerance towards Protestants and other religions relatively new to Georgia, seen as a threat to the GOC and national cultural values. Public opinion polls continue to show that a majority of Georgians view minority or new religious groups as detrimental and that violence against and the prohibition of such groups would be acceptable, according to the State Department's 2004 human rights report. Some GOC representatives have argued that foreign Christian missionaries should confine their activities to the country's non-Christian areas. The Georgian media has also reflected intolerant views towards religious minorities.

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

- encourage the Georgian government to continue to investigate and prosecute those individuals, including local officials, who are alleged to have been complicit or engaged in violence against members of religious minority communities;
- encourage the Georgian government to establish a mechanism to enable religious communities to gain legal personality under Georgian law, consistent with international human rights standards; and

- direct funding to initiate programs in Georgia for journalists, religious leaders, and members of non-governmental organizations to promote religious tolerance and provide education on international standards on freedom of religion or belief.

The Russian Federation

Since its inception, the Commission has monitored and reported on the status of freedom of religion or belief in the Russian Federation. During these years, Russia has been of consistent concern to the Commission not so much because of the severity of the country's religious freedom violations, but rather due to its fragile human rights situation, including that of religious freedom. Of primary concern are the trends which have emerged in the past few years which raise serious questions about Russia's commitment to democratic reform and the protection of religious freedom. This is also critical because Russia continues to be a model, especially for other former Soviet states and other nations struggling to establish democratic systems after a history of despotism.

The Commission expressed strong concern in its May 2003 report that the Russian government was retreating from democratic reform, endangering the significant human rights gains, including freedom of religion or belief, in the dozen years since the collapse of the Soviet Union. Current curtailments in media freedom and in the role of political parties, as well as legal restrictions on freedom of assembly, popular referenda and the end to popular election of regional governors, all reveal that progress towards democracy is being halted, if not reversed. Most, if not all, of the concerns about freedom of religion or belief raised by the Commission appear to be directly related to the growing influence of authoritarian, and perhaps even chauvinistic, strains in the Russian government. The country's progress, based on the rule of law, the protection of human rights, and democratic freedoms, is now in peril.

Clearly, the practice of religion in Russia is far freer now than during the Soviet period, when militant atheism was the preferred state policy. Yet, despite that improvement, problems remain. A 1997 law on religious organizations contains provisions that have prevented some religious groups from registering and thus practicing freely. Many regional governments have passed ordinances that result in discrimination against minority religious groups, and acts of violence against members of religious and other minorities are widespread. The government has granted preferential treatment to the Russian Orthodox Church, calling into question whether religious freedom will be guaranteed for all. Until the late 1990's, however, the Russian government responded to some of these concerns, and Russian courts provided some protection against violations.

Developments in the past few years, however, raise very serious doubts about Russia's commitment to the protection of religious freedom. Russian authorities have denied registration to certain religious communities, based on the allegedly insufficient time they have existed, despite a February 2002 Russian Constitutional Court decision that found that an active religious organization registered before the 1997 law could not be deprived of its legal status for failing to re-register. The March 2004 Moscow court decision banning the Jehovah's Witnesses in that city, upheld on appeal, marked the first time a national religious organization in Russia has had a local branch banned under the 1997 law. The protracted trial took place even though 135,000

Jehovah's Witnesses practice their faith in registered communities in many other parts of Russia. The trial has led to increased difficulties for Jehovah's Witnesses in renting facilities to hold worship services in other parts of Russia. The Salvation Army has not been re-registered, despite a Constitutional Court ruling that overturned the government's decision not to register the organization in Moscow.

Official efforts to portray "foreign sects," mostly Evangelical Protestants, as alien to Russian culture and society continue. Members of unregistered Baptist and Pentecostal communities faced particular hardships in 2004. On the eve of hosting a major national conference, a Baptist church in Tula was burned. In the Buryatia republic, authorities removed children from Pentecostal families and placed them in orphanages. In the Udmurtia republic, police raided a registered Pentecostal church in Izhevsk in April 2005, and threatened four women with rape.

This official campaign appears to be part of an increased effort by the Russian authorities to promote the status of Russia's so-called "traditional" religions: Russian Orthodoxy, Islam, Judaism, and Buddhism. A "Law on Traditional Religions," first proposed in February 2002 and whose status remains unclear, would formalize benefits already granted *de facto*, in varying degrees, to organizations from these four religions. In March 2004, the Russian press reported that Russian President Vladimir Putin, while acknowledging the legal separation of church and state, said that he supports a legal initiative to "support the spiritual leaders of the traditional confessions," including on property issues.

The Russian Orthodox Church (ROC) has played a special role in Russian history and culture. However, there is continued concern that the ROC enjoys a favored status among many Russian government officials, a situation that sometimes results in restrictions on other religious communities. Particularly on the local level, evidence suggests that the Orthodox Church has a very close relationship with officials and other state bodies. There continue to be frequent reports that minority religious communities must secure permission from the local Orthodox Church before being allowed to build a place of worship. Adherents of minority faiths, including Muslims, Roman Catholics, Mormons, Old Believers, Protestants, and Hare Krishnas, report that government officials sometimes create other barriers to their activities, often at the behest of representatives of the Russian Orthodox Church.

Due to their perceived links to the decade-long conflict in Chechnya, Muslims throughout Russia are increasingly subject to widespread discrimination, media attacks and occasional acts of violence. Meeting in secret session in February 2004, the Russian Supreme Court banned 15 Muslim groups because of their alleged ties to international terrorism. The Court's factual findings on which the court made its decision have not been made public. Yet, police, prosecutors, and courts reportedly have used those secret findings to arrest and imprison individuals from among Russia's estimated 20 million Muslims. Individuals of nationalities traditionally associated with Islam have also been subjected to numerous attacks in Russia and rarely is anyone held to account. Cemeteries and mosques have been vandalized, including five Muslim cemeteries in Moscow in 2004. There are reports that Russian authorities have also taken steps—including arrests, allegedly on the basis of fabricated evidence—against Muslims, Muslim human rights activists and Muslim groups that are independent of the country's official

Muslim organizational structures. In response, Muslim individuals and communities increasingly are engaging in public protests.

Many in Russia's Jewish community say that conditions for the country's Jews are better than before 1991 because, unlike in the Soviet period, the state no longer has an official policy of sponsoring anti-Semitism. Despite this, anti-Semitic acts, including vandalism and physical attacks, are on the rise, particularly in the cities of Moscow, Volgograd, Voronezh, Petrozavodsk, St. Petersburg, Penza, and the Kaliningrad region,. According to one report, the number of anti-Semitic articles in the Russian media in the first few months of 2005 equaled the number for all of 2004. Moreover, at the same time that President Putin told an international audience at the Auschwitz commemoration ceremonies in late January 2005, that "no one has the right to be indifferent to anti-Semitism, nationalism, and racial and religious intolerance," 20 members of the Russian State Duma (Parliament) called on the Procurator General to ban all Jewish organizations in Russia for alleged incitement of religious and ethnic hatred. Though the letter was later officially withdrawn, none of the signers have expressed regret for the views it expressed. In April 2005, another letter, expressing similarly virulent anti-Semitic views, was signed by 5,000 people, including many well-known Russian public figures and church officials. Both letters were publicly condemned by the Russian Foreign Ministry. Jews have been assaulted in Moscow, Ulyanovsk, and Voronezh; official investigations of these incidents have been inconclusive. Last year, synagogues and Jewish cemeteries and memorials were vandalized in St. Petersburg, Petrozavodsk, Pyatigorsk, Kaluga, Makhachkala, and Derbent. There have been few prosecutions in response to these incidents.

Russian authorities continue to deny visas or residence permits for Catholic, Protestant, and Muslim clergy and other religious workers or to grant short-term visas, although, according to the 2004 State Department human rights report, a new government publication on the rights of foreign religious workers helped resolve a number of these problems. Yet, in April 2005, the head of the Evangelical-Lutheran Church of European Russia was denied re-entry to Russia and his one-year residence permit was annulled. Responding to many requests from the Buddhist community in Russia, the Dalai Lama finally received a visa and was allowed to visit Kalmykia for several days in late November 2004, though strict limits were imposed on his itinerary and activities.

Members of minority religions continue to face prejudice, societal discrimination and occasional physical attacks. The perpetrators of this vandalism and violence are rarely held to account. Incidents of religiously, racially, or ethnically motivated attacks have markedly increased in recent years, though the exact motivation for such attacks is difficult to determine. The total number of extremist youth groups, conventionally known as "skinheads," according to some estimates, is 50,000 in 85 cities, particularly in several major cities in European Russia. Skinhead groups frequently express anti-Muslim and anti-Semitic views as well as hostility towards "foreigners" and "foreign" religions.

In April 2004, Commissioner Felice D. Gaer took part in the Berlin Conference on Anti-Semitism of the Organization for Security and Cooperation in Europe (OSCE), where she discussed anti-Semitism in the OSCE region, including in Russia. In September 2004, at the Brussels OSCE Conference on Tolerance and the Fight against Racism, Xenophobia, and

Discrimination, Commissioner Gaer made a presentation on religious freedom conditions in Russia and other countries in the OSCE region. During the October 2004 OSCE Human Dimension Meeting, the Commission staff presented information on the status of freedom of religion or belief in numerous countries from the OSCE region, including in Russia.

In July 2004, the Commission hosted a briefing in Washington DC on religious freedom conditions in Russia, featuring a video-taped interview with Aleksandr Chuev, a Russian Duma deputy, who has said that the Duma should adopt an amendment to punish those who insult “traditional” religious beliefs. In August 2004, the Commission released a press statement noting concern about the increasing influence of authoritarian and chauvinistic strains within the Russian government that appear to be directly related to growing religious freedom problems. In February 2005, the Commission held a joint briefing with the Kennan Institute for Advanced Russian Studies on “Russia: Religious Communities, Extremist Movements and the State,” chaired by Commissioner Gaer, at which findings were presented by experts on the current status of Muslim, Christian and Jewish communities, as well as on increased acts of ethnic and religious extremism. Also in February, the Commission issued a press statement calling on President Bush to raise with President Putin the state of freedom of religion or belief in Russia at their then-upcoming meeting. In April 2005, the Commission hosted a briefing with Oleg Mironov, the former Human Rights Ombudsman of the Russian Federation, and Mufti Ismagil Shangareev, director of the Islamic Human Rights Defense Center in Russia.

The Commission has advocated continued inclusion of the “Smith Amendment” in the Foreign Operations Appropriations bill, which conditions foreign assistance to the Russian government if the President certifies that the Russian government has not implemented any statute, executive order, or regulation that discriminates against religious groups or religious communities, in violation of accepted international agreements on human rights and religious freedoms to which the Russian Federation is a party. Congress included this provision in the Consolidated Appropriations Act of 2005.

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

- make clear its concern to the Russian government that efforts to combat terrorism should not be used as an unrestrained justification to restrict the rights, including religious freedom, of members of Russia’s religious minorities;
- urge the Russian government to ensure that any special role for the Orthodox Church or any other religious community does not result in violations of the rights of, or discrimination against, members of other religious groups;
- make clear its concern to the Russian government that hostile rhetoric against Muslims and the Islamic faith is fueling an atmosphere in which perpetrators believe they can attack Muslim or Muslim-appearing persons with impunity;
- urge the Russian government to take all appropriate steps to prevent and punish acts of anti-Semitism, including condemnation of anti-Semitic acts, the investigation and prosecution of the perpetrators of violent incidents of anti-Semitism, and, while vigorously protecting

freedom of expression, counteracting anti-Semitic rhetoric and other organized anti-Semitic activities;

- continue to press the Russian government to ensure that a previously reported government policy of grouping of Catholics, Protestants, and others together with Islamic extremists—collectively labeled as threats to Russia’s national security—is not adopted as Russian government policy;
- continue to urge the Russian government to cease interference in the internal affairs of religious communities, such as denials of visas and work permits to religious workers and attempted interference in the elections in religious bodies;
- urge the government of Russia to monitor the actions of regional and local officials who interfere with the right to freedom of religion or belief, take steps to bring local laws and regulations on religious activities into conformity with the Russian Constitution and international human rights standards, and bring those who commit crimes to justice;
- ensure that the humanitarian and human rights crisis in Chechnya remains a key issue in its bilateral relations with Russia and urge the Russian government to end, and prosecute acts of, torture, arbitrary detention, rape, and other abuses by members of the military in Chechnya; to accept a site visit to Chechnya from the UN Special Rapporteurs on Torture, Extrajudicial Executions, and Violence Against Women; and to provide full cooperation to the UN High Commissioner for Human Rights in connection with her upcoming visit to Chechnya;
- raise religious freedom and other human rights violations in multilateral fora, including the OSCE and the UN, and continue, on a bilateral basis, to encourage the government of Russia to agree to the request of the UN Special Rapporteur on Freedom of Religion or Belief to visit Russia and to provide full cooperation to the UN Special Rapporteur on Contemporary Forms of Racial Discrimination and Related Intolerance in connection with his planned visit to Russia in June 2005;
- use every possible means to engage and support the genuine democrats in the Russian government at the federal and local levels, and ensure that U.S. aid programs are not being used to support the activities in Russia of authoritarian-minded officials; and
- advance human rights, including religious freedom, in Russia by continuing to provide assistance, as appropriate, to non-governmental organizations, public interest groups, journalists, and academic institutions, and by expanding programs aimed at encouraging religious tolerance and supporting international standards on freedom of religion and other human rights.

Turkmenistan

Turkmenistan is among the most repressive states in the world today and engages in systematic and egregious violations of freedom of thought, conscience, and religion or belief. Since 1985, the country has been ruled by President Saparmurat Niyazov, who, after

Turkmenistan gained independence in 1991, has assumed total control of the country. His all-pervasive authoritarian rule and escalating “personality cult” effectively prevent any opposition or independent religious activity within the country. The overall human rights situation in Turkmenistan deteriorated significantly after November 2002, when, in response to a reported assassination attempt, Niyazov began arresting hundreds of relatives or associates of dissidents. Many have been sentenced to as many as 25 years in prison and others have been sent to psychiatric hospitals. Although religious freedom is severely proscribed in Turkmenistan and there is scant evidence that the situation for religious freedom has improved in the past year, the Secretary of State has not named Turkmenistan a CPC. The Commission continues to recommend that the Secretary of State designate Turkmenistan as a “country of particular concern,” or CPC.

President Niyazov has promoted a state-controlled version of Islam as a key part of Turkmen identity. Since independence in 1991, religious groups must register with the government in order to engage in religious activities. The 1997 version of the religion law effectively banned all religious groups except the state-controlled Sunni Muslim Board and the Russian Orthodox Church, though religious instruction even for these two communities is severely limited. Niyazov has allowed only one madrassa, or Islamic school, to remain open. In late March 2004, he proclaimed that no new mosques should be built and at least seven mosques are reported to have been destroyed in 2004. Imams have been instructed by the government to repeat an oath of loyalty to the “fatherland” and to the President after each daily prayer.

The status of religious freedom declined further after the passage of a new law on religion in November 2003. This law further codified the Turkmen government’s already highly repressive policies that effectively ban most religious activity in Turkmenistan and established criminal penalties for those found guilty of participating in “illegal religious activity.” The law also requires religious groups to coordinate with the Turkmen government any contacts with co-religionists abroad. In response to international pressure, Niyazov issued a decree in March 2004 that religious communities may register “in the prescribed manner” and will no longer have to meet the requirement of 500 members to do so. The March decree only amended those portions of the law relating to the numerical requirements for registration and not the penalties for violating it.

In May 2004, President Niyazov issued two decrees revoking criminal penalties and financial and reporting requirements from the law on religious organizations. As a result, the majority Sunni Muslims and the Russian Orthodox Church, along with four small groups (Adventists, Baptists, Baha’is and the Hare Krishnas) were registered, but their situation has scarcely improved in practice. In April 2005, the Turkmen authorities indicated that they were willing to register five more small religious communities. Turkmen officials have noted, however, that this apparent easing of registration requirements does not mean that religious communities will be able to meet in private homes to conduct services, or that there is an easing of the requirement that religious groups must request permission from the Turkmen government before holding worship services of any kind. It is thus not clear what practical benefits registration provides.

President Niyazov has bolstered his personality cult with the publication of a three-volume work, *Rukhnama*, containing his “spiritual thoughts,” which is required reading in all

schools. *Rukhnama* quotations have been carved alongside citations from the Koran in the country's largest mosque and copies of *Rukhnama* are now reportedly mandatory in mosques and churches throughout the country and must be given equal prominence with the Koran and the Bible. Opposition on religious grounds to this requirement is considered a grave affront to Niyazov's power. Indeed, in March 2004, the country's former chief mufti, Nazrullah ibn Ibadullah, who had opposed the requirement to elevate the *Rukhnama*, was sentenced in a closed trial to 22 years in prison, reportedly on charges of treason for his stand on the *Rukhnama* and his purported involvement in the alleged November 2002 assassination attempt against Niyazov, though Ibadullah had publicly condemned it. The former chief mufti remains in prison and reportedly has been maltreated by prison guards.

Even before the adoption of the new law on religion, the 1997 version of the religion law made it all but impossible for religious minorities to register and function legally. Turkmen security forces routinely interrogate and intimidate believers, especially those attempting to fulfill the registration requirement. Members of unregistered religious communities—including Jehovah's Witnesses, Pentecostals, and Shi'a and other Muslims operating independently of the Sunni Muslim Board—continue to be arrested, detained, imprisoned, and reportedly tortured, deported, harassed, and fined. In addition, they have had their congregations dispersed, services disrupted, religious literature confiscated, and places of worship destroyed. Members of some religious minority groups in Turkmenistan have reportedly been forced to renounce their faith publicly, swearing an oath on a copy of *Rukhnama*. Security officials regularly break up religious meetings in private homes, search homes without warrants, confiscate religious literature, and detain and threaten congregants with criminal prosecution and deportation. Family members of detained religious leaders have been subjected to harassment and internal exile. The import of religious materials is virtually impossible. Although several Jehovah's Witnesses who had refused to serve in the military were released in 2004, several others were later jailed and then released by presidential decree in April 2005. One of the Jehovah's Witnesses, released from imprisonment in 2004, reportedly had been subjected to torture. Even the registered Russian Orthodox community has been affected by the repressive policies of Niyazov, who issued a decree banning residents of Turkmenistan from receiving Russian publications by mail, a ban that included the Journal of the Moscow Patriarchate.

In 2004, the Commission raised concerns about the lack of religious freedom in Turkmenistan at several meetings of the Organization for Security and Cooperation in Europe. The Commission also met with Tracey Jacobson, U.S. Ambassador to Turkmenistan, to discuss bilateral relations, the status of human rights, including religious freedom, and possible 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 2003 and 2004. In March 2005, the Commission met with delegation heads from the United States and European Union (EU) countries at the 61st session of the UNCHR session and presented information about violations of religious freedom in Turkmenistan, questioning the decision of the United States and the EU not to introduce a resolution on Turkmenistan at the 2005 UNCHR.

In May 2004, the Commission organized two public briefings on "Religious Freedom in Turkmenistan: the U.S. Response to One of the World's Worst Religious Freedom Violators," one held with the Commission on Security and Cooperation in Europe and the other

with Radio Free Europe/Radio Liberty. Also in May, the Commission released a public statement in response to the Turkmen Ministry of Justice's declaration that unregistered religious activity continues to be illegal, noting that "CPC designation would likely lead to significant improvements for the religious communities in Turkmenistan who have been ignored by the outside world for too long."

In addition to recommending that Turkmenistan be designated a CPC, the Commission has further recommended that the U.S. government should:

- suspend all non-humanitarian assistance to the government of Turkmenistan, with the exception of programs that serve specifically identifiable U.S. national security interests in connection with the current campaign against terrorism. This recommendation does not apply to U.S. assistance to appropriate non-governmental organizations, private persons, or cultural or educational exchanges;
- scrutinize all aspects of any remaining assistance programs in Turkmenistan to ensure that these programs do not facilitate Turkmen government policies or practices that result in religious freedom violations. The United States should also examine its programs in Turkmenistan to determine if opportunities exist within those programs to promote the development of genuine respect for human rights, including religious freedom, in that country;
- support efforts to facilitate Turkmenistan's sale of natural gas on world markets, including support for the Trans-Caspian Gas Pipeline, only if the Turkmen government takes definitive steps to improve substantially conditions for religious freedom in Turkmenistan;
- identify specific steps that the government of Turkmenistan could take in order to have its currently suspended assistance reinstated and to avoid triggering further restrictions on assistance programs, steps which should include, but not be limited to (1) the lifting of oppressive legal requirements on religious groups and allowing all such groups to organize and operate freely; (2) the end to harassment and deportation of religious leaders; and (3) the halting of unjust arrest, detention, imprisonment, torture, and residential and workplace intimidation of religious leaders and their adherents, including releasing those currently in detention or imprisoned;
- press the government of Turkmenistan: (a) to release immediately and unconditionally any persons who have been detained solely because of their religious beliefs, practices, or choice of religious association; (b) to ensure that all people in Turkmenistan are able to exercise their right to religious freedom without threat of harassment, detention, imprisonment, or torture; and (c) to permit all religious groups to organize and worship freely;
- suspend state visits between the United States and Turkmenistan until such time as religious freedom conditions in the country have improved significantly; and
- encourage scrutiny of religious freedom violations in Turkmenistan in appropriate international fora such as the Organization on Security and Cooperation in Europe and other multilateral venues and also raise the issue of religious freedom violations in Turkmenistan at

those UN bodies that consider human rights questions, including the UN Commission on Human Rights (UNCHR) and, because the United States and the EU did not introduce a resolution on Turkmenistan at the UNCHR in 2005, at the UN General Assembly's Third Committee. The United States should advocate for creation of a UN Special Rapporteur to investigate and report publicly on the human rights situation in Turkmenistan to the UNCHR and the General Assembly.

Uzbekistan

Since Uzbekistan gained independence in 1992, fundamental human rights, including freedom of religion or belief, have not been respected. In addition to a restrictive law on religion that severely limits the ability of religious communities to function in Uzbekistan, the Uzbek government continues to exercise a high degree of control over the manner in which the Islamic religion is practiced. Uzbek authorities also continue to crack down harshly on Muslim individuals, groups, and mosques that do not conform to government-prescribed practices or that the government claims are associated with extremist political programs. This has resulted in the imprisonment of thousands of persons in recent years, many of whom are denied the right to due process, and there are credible reports that many of those arrested continue to be tortured or beaten in detention. Though security threats do exist in Uzbekistan, including from members of *Hizb ut-Tahrir* and other groups that claim a religious linkage, these threats do not excuse or justify the scope and harshness of the government's ill treatment of religious believers. Because the government of Uzbekistan has engaged in particularly severe violations of religious freedom, the Commission recommends to the Secretary of State that Uzbekistan be designated a "country of particular concern," or CPC. The Commission's CPC recommendation for Uzbekistan should not in any way be construed as a defense of *Hizb ut-Tahrir*, an extremist and highly intolerant organization that promotes hatred against moderate Muslims, the West, Jews, and others.

The Uzbek government continues to exercise tight control over all religious practice in the country. Despite the constitutional guarantee of the separation of religion and state, the government under President Islam Karimov strictly regulates Islamic institutions and practice through the officially-sanctioned Muslim Spiritual Board. The Uzbek government has also closed approximately 3,000 of the country's 5,000 mosques that were open in 1998. In what many view as the country's most actively religious area, the Ferghana valley, some mosques are being used as warehouses or have been confiscated by the state for other purposes; in the Kashkadarya region, some mosques are allowed to open only for major religious holidays.

Over the past 10 years, 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. According to the State Department's 2004 human rights report, there are an estimated 5,500 such people currently imprisoned in Uzbekistan. In some cases, piety alone is reported to result in state suspicion and arrest. Human rights organizations report that many of those in detention were arrested on specious drug charges or for possession of literature of a banned religious organization. Once arrested, they frequently are denied access to a lawyer or are held incommunicado for weeks and sometimes even months. Many individuals detained for these reasons are treated especially severely in prison; those who pray or who observe Muslim religious festivals are by many

accounts subjected to further harassment, beatings, and possibly torture, in efforts to force them to renounce their religious or political views.

The use of torture is widespread and, despite promises from the government to halt it, has not diminished. The UN Special Rapporteur on Torture, in his February 2003 report on Uzbekistan, concluded, “torture or similar ill-treatment is systematic” in Uzbekistan and that the “pervasive and persistent nature of torture throughout the investigative process cannot be denied.” The report also pointed out that “the practice of maintaining families in a state of uncertainty with a view to punishing or intimidating them and others must be considered malicious and amounting to cruel and inhuman treatment.” Even after the publication of the Rapporteur’s report, reliance on the use of torture in detention has not decreased significantly. One human rights organization has documented 10 deaths from torture over a five-year period; two prisoners are known to have died in early 2005.

The government of Uzbekistan does face threats to its security from certain groups that claim religious links, including the Islamic Movement of Uzbekistan, which has used violence in the past but whose membership reportedly declined significantly as a result of U.S. military action in Afghanistan in late 2001. Uzbekistan continues to be subject to violent attacks, as occurred in several incidents in 2004, although the motivation of those responsible has not been fully established.

Hizb ut-Tahrir, banned in most Muslim countries, purports not to engage in violence but is intolerant of other religions and has sanctioned violence in some circumstances. The group calls for the establishment of a worldwide caliphate in place of 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 an effort to achieve them. In addition, the State Department reports that the literature of the *Hizb ut-Tahrir* includes “strong anti-Semitic and anti-Western rhetoric.” Alleged members of *Hizb ut-Tahrir* make up most of the thousands in prison; however, in the majority of cases, Uzbek authorities have presented no evidence that these persons have participated in any violent acts. Many of those arrested and imprisoned are not in fact affiliated with *Hizb ut-Tahrir* but are only accused of membership or association, sometimes due to possession of the group’s literature when they are arrested. Some reportedly had the group’s literature planted on them at the time of arrest.

The Law on Freedom of Conscience and Religious Organizations passed in May 1998 severely restricts the exercise of religious freedom. Through a series of regulations that are often subjectively applied, the law imposes onerous hurdles for the registration of religious groups; criminalizes unregistered religious activity; bans the production and distribution of unofficial religious publications; prohibits minors from participating in religious organizations; prohibits private teaching of religious principles; and forbids the wearing of religious clothing in public by anyone other than clerics. A total of 100 religious communities of all faiths are known to be currently seeking registration. Although the only religious community registered in 2004 was a Jewish group in Ferghana, a Jewish organization in Tashkent was denied registration last year. In denying the registration application, Uzbek officials reportedly told the group that a Jewish organization already exists in Tashkent and the Jewish community does not need another one.

As with Muslims, pastors or other members of Protestant churches have been arrested on spurious drug or other charges. Several Christian leaders have reportedly been detained in psychiatric hospitals, severely beaten, and/or sentenced to labor camps. In the past year, Christian groups continued to have their churches raided, services interrupted, Bibles confiscated, and the names of adherents recorded by Uzbek officials. There are frequent reports that, in such official actions, they are accused of being members of alleged extremist organizations. In this atmosphere, some Christian groups in various parts of Uzbekistan have been forced to operate underground; the situation of Protestants is particularly difficult in Karakalpakstan, an autonomous republic in the country's northwest, where it is almost impossible for churches to be registered.

In October 2004, the Commission traveled to Uzbekistan and met with senior officials of the Foreign, Internal Affairs, and Justice Ministries, the Presidential Administration, the Committee on Religious Affairs, and the Parliamentary Ombudsman's office. The delegation also met with Islamic, Jewish, and Christian communities and other religious groups, Uzbek human rights activists and lawyers, victims of repression and their families, Western non-governmental organizations that are active in Uzbekistan, and U.S. Embassy personnel. In March 2005, the Commission held a briefing with representatives of the Russian human rights group Memorial and the Uzbek Legal Aid Society on religious freedom in Uzbekistan; the panelists, along with Commission staff, were later interviewed by the Russian Service of the Voice of America.

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.

Throughout the past year, the Commission held numerous meetings with various delegations of Uzbek religious leaders, as well as with human rights groups and academics.

In addition to recommending that Uzbekistan be named a CPC, the Commission recommends that the U.S. government should:

- ensure that it speaks in a unified voice in its relations with the Uzbek government and 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;
- ensure that U.S. assistance to the Uzbek government, with the exception of assistance to improve humanitarian conditions and advance human rights, be made contingent upon establishing and implementing a specific timetable for the government to take concrete steps to improve conditions of freedom of religion or belief and observe international human rights standards, steps which should include:

--ending reliance on convictions based solely on confessions, a practice that often is linked to ill treatment of prisoners and implementing the recommendations of the UN

Committee Against Torture (June 2002) and the UN Special Rapporteur on Torture (February 2003);

- halting the detention and imprisonment of persons on account of their religious beliefs and practices;
- establishing a mechanism to review the cases of persons previously detained under suspicion of or charged with religious, political, or security offenses, including Criminal Code Articles 159 (criminalizing “anti-state activity”) and 216 (criminalizing membership in a “forbidden religious organization”); releasing those who have been imprisoned solely because of their religious beliefs or practices as well as any others who have been unjustly detained or sentenced; and making public a list of specific and detailed information about individuals who are currently detained under these articles or imprisoned following conviction;
- implementing the recommendations of the Organization on 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 found to be responsible for particularly severe violations of religious freedom as defined by IRFA;
- reinstate Uzbek-language radio broadcasts at the Voice of America (VOA), and use VOA and other 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;
- establish “American corner” reading rooms in various regions of Uzbekistan, including in the capital Tashkent, which should include materials on democracy, civic education, human rights, the role of religion in society and other relevant topics;
- 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;

- urge the Uzbek government to agree to visits 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 visits;
- 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;
- conduct continued 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;
- continue to develop assistance programs for Uzbekistan designed to encourage the creation of institutions of civil society that protect human rights and promote religious freedom, programs that could include training in human rights, the rule of law, and crime investigation for police and other law enforcement officials; since such programs have been attempted in the past with little effect, they should be carefully structured to accomplish, and carefully monitored and conditioned upon fulfillment of, these specific goals:
 - expanding legal assistance programs for Uzbek relatives of detainees, which have sometimes led to the release of arrestees;
 - 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 Uzbek authorities to move ahead with a planned series of national and local public roundtables between Uzbek officials and representatives of Uzbek civil society on freedom of religion;
- 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

--in case an Uzbek participant in an exchange program encounters difficulties with the Uzbek authorities upon return to Uzbekistan, ensure that the U.S. Embassy vigorously protest such action and if it continues, 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.

COUNTRY REPORTS: THE MIDDLE EAST

Egypt

Serious problems of discrimination, intolerance, and other human rights violations against members of religious minorities, including non-conforming Muslims, remain widespread in Egypt. In the last two years, the Egyptian government has adopted some measures to acknowledge the religious pluralism of Egypt's society, including the addition of materials in its public school curriculum on Coptic Christian contributions to Egypt's history; the issuance of a presidential decree designating Coptic Christmas as an official national holiday; the formation of a National Council for Human Rights; and increased efforts in promoting interfaith activity. Yet, the government has not taken adequate steps to halt repression of and discrimination against religious believers, including the indigenous Coptic Orthodox Christians, or, in many cases, to punish those responsible for violence or other severe violations of religious freedom. Nor has the government taken steps to combat widespread and virulent anti-Semitism in the 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.

There is a growing sense among human rights organizations 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. Some believe that the government is not acting to its fullest ability to counteract this problem, especially in the area of public education and the media, where the extremist influence is growing.

There is continued prosecution in State Security Courts and imprisonment for those accused of "unorthodox" Islamic religious beliefs or practices that insult the three "heavenly religions": Judaism, Christianity, and Islam. Article 98(f) of the Penal Code, which prohibits citizens from "ridiculing or insulting heavenly religions or inciting sectarian strife," continues to be applied to prosecute alleged acts by purportedly "unorthodox" Muslims. These include Muslims groups, such as the Koranites, who are accused of practicing beliefs deemed to deviate from Islamic law. In May 2002, a group of 21 persons were referred to trial in a State (Emergency) Security Court, accused of "insulting religion due to unorthodox Islamic beliefs and practices." Several of those charged were convicted and sentenced to prison terms. Amnesty International reports that in February 2003, State Security Courts sentenced six people to six months imprisonment for "contempt of religion" in connection with holding private religious gatherings and advocating modifications to basic Islamic rules. In December 2003,

state security services arrested and imprisoned 20 Shia Muslims without charge and subsequently interrogated them concerning their religious beliefs; they were reportedly physically abused. According to the State Department, 19 of the Shia were released by August 2004, though one remains in detention. In December 2004, 13 “unorthodox” Muslims were referred to trial by a State Emergency Court on charges of “insulting heavenly religions”; their status is currently unknown.

Members of Egypt’s non-Muslim religious minorities, particularly Christians, Jews, and Baha’is, report discrimination, interference, harassment, and surveillance by the Egyptian state security services. Although neither the Constitution nor the Penal Code prohibits proselytizing or conversion, the State Department has observed that the Egyptian government uses the Penal Code to discourage proselytizing by non-Muslims. Article 98 (f) of the Code is used frequently to prosecute alleged acts of proselytism by non-Muslims.

Coptic Orthodox and other Christian denominations face ongoing problems with societal intolerance and violence by Muslim extremists, and the government has not adequately addressed those problems. Egyptian authorities have been accused of being lax in protecting the lives and property of Christians, though some Christian groups have reported fewer attacks by extremists in the last year. Egyptian government officials have confirmed that in June 2004, the Court of Cassation upheld the acquittal of 94 of 96 suspects who were charged with various offenses in connection with the killing of 21 Christians in Al-Kosheh in late 1999 and early 2000. The decision has left public prosecutors and Christian advocates with no further legal options within the Egyptian legal system. Some Egyptian human rights advocates believe that the only recourse is to urge Egyptian authorities to investigate claims of police negligence and inadequate prosecution of those involved in the violence.

In addition to violence, Christians face official and societal discrimination. Although Egyptian government officials claim that there is no law or policy that prevents Christians from holding senior positions, the Coptic Orthodox Christian community faces *de facto* discrimination in appointments to high-level government posts. For all Christian groups, government permission must still be sought to build or repair a church, and the approval process for church construction is time consuming and inflexible. Although President Mubarak reportedly approves applications for new construction and that, under new regulations, provincial governors now have the authority to approve applications for church repair, hundreds of applications are languishing in the system. Even some permits that have been approved cannot be acted upon because of interference by the state security services, at both the local and national levels.

Known converts from Islam to Christianity generally receive attention from the state security services, and converts have been arrested for attempting to change their religious affiliation on identity documents. Most conversions are reportedly done quietly and privately. Egyptian government officials have stated that no law prevents conversion, but some individuals have been arrested for falsifying documents. In some instances, converts, who fear government harassment if they officially register their change in religion from Islam to Christianity, have reportedly altered their own identification cards and other official documents to reflect their new religious affiliation. A recent court decision in 2004 affirmed that the state could not prevent a woman from changing the religion on her identity card from Muslim to Christian. According to

the State Department, it is not clear if this decision will set a precedent for future cases involving conversion of individuals from Islam to Christianity.

Baha'is also face repression and violations of their rights. All Baha'i institutions and community activities have been banned since 1960 by a presidential decree. As a result, Baha'is are unable to meet and engage in communal religious activities. Over the years, Baha'is have been arrested and imprisoned because of their religious beliefs, often on charges of insulting Islam. Almost all Baha'i community members are known to the state security services, and many are regularly subject to surveillance and other forms of harassment. Al-Azhar's Islamic Research Center has issued *fatwas* (religious edicts) in recent years urging the continued ban on the Baha'i community and condemning Baha'is as apostates. There has reportedly also been increased intolerance of Baha'is in both the independent and government-controlled media in recent years. The Egyptian government's requirement that religious affiliation be included on national identity cards particularly affects the Baha'i community. Because "Muslim, Jew, or Christian" are the only allowable choices, Baha'is are effectively prevented from obtaining the cards, which are necessary to engage in many basic transactions such as opening a bank account, buying a car, or obtaining a driver's license. Moreover, the Egyptian government has recently made it illegal to be in public without an identity card. Because the Baha'i faith is banned, the community also has difficulty obtaining or renewing passports, birth certificates, and death certificates. Egyptian government officials have stated that the rights of Baha'is are not protected under the Constitution, since, in accordance with Islamic principles, protection applies only to adherents of the three "heavenly religions": Islam, Christianity, and Judaism.

Material vilifying Jews—with historical and new anti-Semitic stereotypes—appears regularly in the state-controlled and semi-official media. This material includes Holocaust denial, anti-Semitic cartoons, and television programming, such as a 24-part series based on the notorious anti-Semitic "Protocols of the Elders of Zion." Egyptian authorities have not taken adequate steps to combat anti-Semitism in the media. Human rights groups also cite persistent, virulent anti-Semitism in the education system, which is increasingly under the influence of Islamic extremists, a development that the Egyptian government has not adequately addressed. The small Jewish community maintains and owns its property and performs required maintenance through private donations without excessive interference from local authorities. However, state security services continue to regulate and approve those permitted to make repairs, which, in some cases, has created problems and delays.

The Muslim Brotherhood and other Islamist groups, who believe in or seek to establish an Islamic state in Egypt based on their interpretation of Islamic law, are considered illegal organizations by the Egyptian government under a law prohibiting political parties based on religion. The Muslim Brotherhood and some of these other 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 groups continue to advocate violence. Egyptian security forces continue to arrest hundreds of Islamists every year, and some are subject to torture and/or prolonged detention without charge. According to human rights groups, there are currently 12,000-15,000 members of the Muslim Brotherhood and other Islamist groups in administrative detention whose cases are not being addressed. Groups that closely monitor the detention of

such individuals claim that the vast majority of these prisoners are in prison as a result of their political beliefs or activities, and not on the basis of religion.

In July 2004, a Commission delegation traveled to Egypt. While there, the delegation met with senior government officials, religious leaders, human rights groups, scholars, educators, legal specialists, and others active in civil society. Throughout the past year, the Commission and its staff met with members of non-governmental organizations representing various religious communities in Egypt, as well as civil society and human rights groups, and other Egypt experts.

With regard to Egypt, the Commission recommends that the U.S. government should urge the Egyptian government to:

- shift *de facto* responsibility for religious affairs from the state security services, with the exception of cases involving violence, and establish a body or position (e.g., an ombudsman) in the office of the President to oversee religious affairs in Egypt;
- repeal the state of emergency, in existence since 1981, in order to allow for the full consolidation of the rule of law in Egypt;
- repeal the nineteenth-century, Ottoman-era Hamayouni Decree, which requires non-Muslims to obtain a presidential decree to build a new place of worship, and ensure that all places of worship are subject to the same transparent, non-discriminatory, and efficient criteria and procedures for construction and maintenance;
- allow full access to the constitutional and international guarantees of the rule of law and due process for those individuals charged with violating Section 98 (f) of the Penal Code, which “prohibits citizens from ridiculing or insulting heavenly religions or inciting sectarian strife,” instead of having those cases heard by the State Security Courts;
- exclude from all educational textbooks any language or images that promote enmity, intolerance, hatred, or violence toward any group of persons based on faith, gender, ethnicity, or nationality, and include in school curricula, in school textbooks, and in teacher training the concepts of tolerance and respect for human rights, including religious freedom, ensuring that textbooks meet the standards for education set out in the Universal Declaration of Human Rights;
- cease all messages of hatred and intolerance, particularly toward Jews and Baha’is, in the government-controlled media and take active measures to promote understanding and respect for members of these and other minority religious communities;
- take all appropriate steps to prevent and punish acts of anti-Semitism, including condemnation of anti-Semitic acts, and, while vigorously protecting freedom of expression, counteract anti-Semitic rhetoric and other organized anti-Semitic activities;
- ensure that every Egyptian is protected against discrimination in social, labor, and other rights by modifying the national identity card either (a) to omit mention of religious affiliation from identity documents, or (b) to make optional any mention of religious

affiliation on identity documents, since currently, individuals must identify themselves as adherents of one of the three recognized faiths: Islam, Christianity, or Judaism;

- urge the Egyptian government more actively to investigate societal violence against any individuals or groups on the basis of their religion, particularly the targeting of Coptic Orthodox Christians, to bring those responsible for such violence to justice, and to ensure compensation for those targeted;
- investigate claims of police negligence and inadequate prosecution of those involved in the Al-Kosheh case;
- request the National Council for Human Rights to investigate allegations of discrimination against Coptic Orthodox Christians as a human rights issue and to publish their findings and recommendations;
- repeal a 1960 presidential decree banning the Baha'i community from practicing their faith; and
- implement the 2002 recommendations of the UN Committee Against Torture.

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

- negotiate an agreement with the Egyptian government to establish a timetable and specific steps to be taken to make progress on political and legal reforms, including the steps described in the recommendations above; if deadlines are met in a timely manner, the U.S. government should consider, within the boundaries of its overall aid to Egypt, providing economic assistance to areas where significant progress has been made, but if deadlines are not met, the U.S. government should re-consider the dimension and direction of its economic assistance;
- offer direct support for human rights and other civil society non-governmental organizations (NGOs) without prior approval by the Egyptian government;
- urge the Egyptian government to ensure that NGOs engaged in human rights work can pursue their activities without undue government interference, and monitor and report to what extent this is accomplished;
- expand support of initiatives to advance human rights, promote religious tolerance, and foster civic education among all Egyptians, including support for:
 - civic education and public awareness programs that reflect the multi-confessional nature of Egyptian society and the diversity of Egypt's religious past;
 - efforts by Egyptian and international NGOs to review Egyptian educational curricula and textbooks for messages of hatred, intolerance, and the advocacy of violence, and to monitor equal access to education by girls and boys regardless of religion or belief; and

- preservation of Egyptian Jewish properties and antiquities in a publicly accessible site, such as in a museum, so that all Egyptians can better understand past and present Jewish contributions to their history and culture; and
- as mandated by section 104 of IRFA, train Foreign Service Officers at Embassy Cairo about universal human rights, especially the right to freedom of religion or belief, the history, experiences, and contributions of different religions to Egyptian history, and ways to identify and respond to discriminatory and other abridgements of the rights of persons belonging to these communities.

In the context of the annual congressional appropriation for U.S. assistance to Egypt, Congress should require the State Department to report to it annually on the extent to which the government of Egypt has made progress on the issues described in this chapter, as well as on the progress of the U.S. government on offering funding directly to Egyptian NGOs without prior Egyptian government approval.

Iran

The government of Iran engages in systematic, ongoing, and egregious violations of religious freedom, including prolonged detention, torture, and executions based primarily or entirely upon the religion of the accused. Over the past year, the Iranian government's poor religious freedom record deteriorated, particularly for Baha'is, Evangelical Christians, and Muslim dissidents, all of whom have faced intensified harassment, detention, arrests, and imprisonment. Since the 1979 Iranian revolution, significant numbers from all religious minority communities have fled Iran for fear of persecution. Since 1999, the State Department has designated Iran as a "country of particular concern," or CPC. The Commission continues to recommend that Iran remain a CPC.

The Constitution of the Islamic Republic of Iran proclaims Islam, particularly the doctrine of the Twelver (Shia) Jaafari School, to be the official religion of the country. It stipulates that all laws and regulations, including the Constitution itself, be based on Islamic criteria. The Head of State, Ayatollah Ali Khamenei, is the Supreme Leader of the Islamic Revolution and has direct control over the armed forces, the internal security forces, and the judiciary. The Council of Guardians, half of whose members are appointed by the Supreme Leader, reviews all legislation passed by the *Majlis* (parliament) for adherence to Islamic and constitutional principles. The Constitution grants the Council of Guardians the power to screen and disqualify candidates for elective offices based on an ill-defined set of requirements, including candidates' ideological and religious beliefs. In February 2004, elections were held for the 290-seat Parliament in Iran. In a move to diminish pro-reformist re-election chances, the Guardian Council disqualified approximately one-third of the 8,200 submissions for candidacy, including those of more than 80 reformists holding *Majlis* seats, effectively limiting the democratic alternatives available to Iranian voters.

In recent years, dozens of prominent Muslim activists and dissidents advocating political reform have been sentenced to lengthy prison terms by the Revolutionary Court, ostensibly on

charges of seeking to overthrow the Islamic system in Iran; others have been arrested and detained for alleged blasphemy and criticizing the nature of the Islamic regime. Reformists and journalists are regularly tried under current press laws and the Penal Code on charges of “insulting Islam,” criticizing the Islamic Republic, and publishing materials that deviate from Islamic standards. 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.” In a positive development, Hashem Aghajari, a prominent Iranian academic who was sentenced to death for blasphemy in November 2002, was released in July 2004 after a retrial and a reduction of his sentence.

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.

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. Sunni and Sufi Muslims also report widespread official discrimination, and Sunnis report the absence of a mosque in Tehran. Even Shia clerics are affected by government repression. A number of senior Shia 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, unfair trials, torture, and other forms of ill treatment. Grand Ayatollah Hossein Ali Montazeri, the most senior dissident Shia cleric, was sentenced to house arrest in 1997 and banned from teaching Islam or criticizing Iran’s Supreme Leader. His house arrest and ban was lifted in 2003.

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). However, 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.

The primacy of Islam and Islamic laws and institutions also adversely affects the rights and status of non-Muslims. While all religious minorities reportedly suffer, severe violations are directed principally towards the 300,000 to 350,000 followers of the Baha’i faith in Iran. Baha’is are often viewed as “heretics” by Iranian authorities, and may face repression on the grounds of apostasy. Since 1979, Iranian government authorities have killed more than 200 Baha’i leaders in Iran, and more than 10,000 have been dismissed from government and university jobs. Baha’is may not establish houses of worship, schools, or any independent religious associations in Iran. In addition, Baha’is are denied government jobs and pensions as well as the right to

inherit property, and their marriages and divorces are not recognized. Baha'i cemeteries, holy places, and community properties are often seized and some have been destroyed. Members of the Baha'i faith are not allowed to attend university. According to the State Department, restrictions on the Baha'i community steadily intensified after the UN Commission on Human Rights ended formal monitoring of the human rights situation in Iran in the spring of 2002.

Though a few Baha'i prisoners have been released in recent years, Baha'is in Iran continue to face harsh treatment. Over the past year, Baha'i property has been confiscated or destroyed and several Baha'is have been harassed, interrogated, detained, imprisoned, or physically attacked. In February 2004, Iranian authorities destroyed a tomb at a Baha'i holy site, and in June, the authorities razed the historic house of the father of the founder of the Baha'i faith, marking the first time in 25 years that Baha'i holy sites had been destroyed. In December 2004, seven Baha'is were detained, interrogated, and subsequently released in the city of Yazd; others were reportedly physically beaten by authorities. In January 2005, the personal property of several Baha'is in Yazd was confiscated and destroyed and in February 2005, a Baha'i cemetery in Yazd was razed. In early March 2005, five Baha'is were arrested without charge in Tehran by Iranian officials. Two have been released but three remain in custody. In April, six more members of the Baha'i community were arrested and are reportedly still in detention. One Baha'i who was arrested in 1995 and charged with apostasy is still serving a life sentence.

Over the past 15 years, numerous Evangelical Christians reportedly have been killed at the hands of government authorities and more than a dozen are reported missing or "disappeared." According to a 2001 report of the UN Special Representative on Iran, some are said to have been convicted of apostasy. Evangelical Christians in Iran continue to be subject to harassment, close surveillance, and imprisonment; many are reported to have fled the country. In the summer of 2004, several Christians in the Mazandaran province in northern Iran were arrested for several days and subsequently released. In September, Iranian authorities raided an Evangelical church detaining more than 80 congregants—some were held for days without charge—and imprisoning its pastor, a former military colonel, Hamid Pourmand. Sentenced to three years in prison by a military court in February 2005, Pourmand now faces a second trial before an Islamic court on charges of apostasy, an offense which carries the death penalty.

Iran's anti-Israel policy continues to create an atmosphere of fear and intimidation among Iran's Jews, and members of the Jewish community have been singled out on the basis of "ties to Israel," whether real or perceived. Official government discrimination against Jews is reportedly pervasive. According to the State Department, despite minimal restriction on Jewish religious practice, in recent years, education of Jewish children has become increasingly difficult and distribution of Hebrew religious texts is strongly discouraged. Furthermore, several independent reports indicate that anti-Semitism in Iran's government-controlled media has increased significantly over the past year. In 2004, several state-controlled and privately-owned newspapers celebrated the 100th anniversary of the publication of the notorious anti-Semitic publication "The Protocols of the Elders of Zion," which fabricates a worldwide Jewish conspiracy.

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. In January 2004, the Commission held a meeting with a diverse group of

individuals from the Iranian American community in Los Angeles to discuss religious freedom and human rights conditions in Iran and implications for U.S. policy.

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

- at the highest levels, vigorously speak out publicly about the deteriorating conditions for freedom of thought, conscience, and religion or belief in Iran, including drawing attention to specific cases where severe violations have occurred;
- increase funding for Voice of America and Radio Farda programming on the situation of human rights—including the freedom of thought, conscience, and religion or belief—in Iran;
- advocate for creation of a UN Special Rapporteur to investigate and report publicly on the human rights situation, including freedom of religion or belief, in Iran at the UN Commission on Human Rights (UNCHR) and the UN General Assembly’s Third Committee;
- call on the UNCHR 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);
- encourage the UNCHR to continue to use its procedures to maintain oversight of conditions for freedom of religion or belief in Iran, including continued visits and reporting by relevant UNCHR rapporteurs and working groups; and
- strongly urge the European Union, through its human rights dialogue with Iran initiated in 2002, to press the Iranian government actively to address and rectify its severe human rights violations, including violations of freedom of religion or belief.

Saudi Arabia

The government of Saudi Arabia engages in systematic, ongoing and egregious violations of the right to freedom of religion or belief. Despite the State Department’s contention in its 2004 Annual Report on International Religious Freedom that there were slight improvements in Saudi government efforts to foster religious tolerance in Saudi society, the report again concluded that freedom of religion “does not exist” in Saudi Arabia. Since its inception, the Commission has recommended that Saudi Arabia be designated a “country of particular concern,” or CPC. In September 2004, the State Department for the first time followed the Commission’s recommendation and designated Saudi Arabia a CPC.

The Saudi government continues to engage in an array of severe violations of human rights as part of its official repression of freedom of thought, conscience, and religion or belief. These violations include: torture and cruel and degrading treatment or punishment imposed by

judicial and administrative authorities; prolonged detention without charges and often incommunicado; and blatant denials of the right to liberty and security of the person, including coercive measures aimed at women and the broad jurisdiction of the *mutawaa* (religious police), whose powers are vaguely defined and exercised in ways that violate the religious freedom of others.

The government of Saudi Arabia continues to enforce vigorously its ban on all forms of public religious expression other than the government's interpretation and presentation of the Hanbali school of Sunni Islam. This policy violates the rights of the large communities of non-Muslims and Muslims from a variety of doctrinal schools of Islam who reside in Saudi Arabia, including Shi'as, who make up 8-10 percent of the population. The government tightly controls even the restricted religious activity it permits—through controls 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 that do not conform to official positions. In recent years, prominent Shi'a clerics and religious scholars have been arrested and detained without charge for their religious views; several remain in prison and reportedly have been beaten or otherwise ill-treated. Several imams, both Sunni and Shi'a, who have spoken in opposition to government policies or against the official government interpretation of Islam, have been harassed, arrested, and detained. Spurious charges of “sorcery” and “witchcraft” continue to be used by the Saudi authorities against non-conforming Muslims. Several individuals remain in prison on these charges. In the past, Saudi authorities have arrested and detained Ismaili clerics for allegedly practicing sorcery.

Restrictions on public religious practice, for both Saudis and non-Saudis, are enforced in large part by the *mutawaa*, public enforcers of religious behavior. The *mutawaa* conduct raids on worship services, including in private homes. They have also harassed, detained, whipped, beaten, and meted out extrajudicial punishments to individuals deemed to have strayed from “appropriate” dress and/or behavior, including any outward displays of religiosity, such as wearing Muslim religious symbols not sanctioned by the government. In November 2004, a press report identified a former member of the *mutawaa* as the leader of an attack on the U.S. consulate in Jeddah that resulted in the deaths of five people. In recent years, the Saudi government has stated publicly that it has fired and/or disciplined members of the *mutawaa* for abuses of power, although reports of abuse persist.

Although the government has publicly taken the position—reiterated again in 2004—that it permits non-Muslims to worship in private, the guidelines as to what constitutes “private” worship are vague. Surveillance by the *mutawaa* and Saudi security services of private non-Muslim religious activity continues unabated. Many persons worshipping privately continue to be harassed, arrested, imprisoned, tortured, often deported, and generally forced to go to great lengths to conceal private religious activity from the authorities. Even diplomatic personnel from Western countries report difficulties in their religious practices. Foreign guest workers without diplomatic standing, and with little or no access to private religious services conducted at diplomatic facilities, face even greater difficulties. Moreover, the Saudi government does not allow clergy to enter the country for the purpose of performing private religious services for foreigners legally residing in Saudi Arabia.

There is a continuing pattern of punishment and abuse of non-Muslim foreigners for private religious practice in Saudi Arabia. In April 2003, two Christian foreign workers, Eritrean and Ethiopian expatriates, were arrested for worshipping privately. In June 2003, the Ethiopian was deported, followed by the Eritrean in July. In September 2003, the *mutawaa* arrested 16 foreign workers for practicing Sufism; their status remains unknown. In October 2003, two Egyptian Christians were arrested and jailed on religious grounds and released three weeks later. In December 2003, a foreign worker was arrested and charged with apostasy; in early March 2004, a press report indicated that the charge had been reduced from apostasy, which is punishable by death, to blasphemy and that he had been sentenced to two years in jail and 600 lashes. In February 2004, a resident Christian was deported after providing an Arabic Bible to a Saudi citizen. In March 2004, an Indian Christian foreign worker was reportedly arrested and tortured for “preaching Christianity,” among other charges. He was deported in November 2004. In March 2005, a press report stated that a Hindu temple constructed near Riyadh was destroyed by the *mutawaa*, and that three foreign guest workers worshipping at the site were subsequently deported. In April 2005, approximately 40 Pakistani Christians were detained, some for several hours and others for two days, and subsequently released by the *mutawaa* for holding a religious worship service in a private home in Riyadh.

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 a woman’s right to choose employment by prohibiting them from studying for certain professions such as engineering, journalism, and architecture. In addition, the Saudi justice system does not grant women the same legal status as men.

Despite claims by the Saudi government that it has made limited revisions to the intolerant and inflammatory content in the state curriculum and textbooks, several groups continue to report highly intolerant and discriminatory language, particularly against Jews, Christians, and Shi’a Muslims. Moreover, in the past year, there were frequent reports of violently anti-Semitic and anti-Christian sentiments expressed in the media and in sermons delivered by clerics who are under the authority of the Ministry of Islamic Affairs. In some cases, the State Department reported, clerics prayed for the death of Jews and Christians. In May 2004, following a terrorist attack in Yanbu, western Saudi Arabia, Crown Prince Abdullah publicly stated that he was “95 percent sure” that supporters of Zionism were behind the attack.

In 2004, the Saudi government approved the formation of a National Human Rights Association, the country’s first purportedly independent human rights body, chaired by a member of the Consultative Council, a 150 member advisory body appointed by Saudi King Fahd. It is not yet possible to determine if this body will prove to be a positive mechanism for addressing human rights concerns; the only issue the Association has publicly addressed thus far is the country’s poor prison conditions.

In addition to the Saudi government's violations of religious freedom within its own borders, evidence has mounted that funding originating in Saudi Arabia that has been used to finance globally religious schools and other activities that support religious intolerance, and, in some cases, violence toward non-Muslims and disfavored Muslims. The Saudi government itself has been implicated in promoting and exporting views associated with certain Islamic militant and extremist organizations in several parts of the world, and a number of reports have identified members of extremist and militant groups that have been trained as clerics in Saudi Arabia. These reports point to a role for the Saudi government in propagating worldwide an ideology that is incompatible with internationally recognized guarantees of the right to freedom of religion or belief.

The Saudi government funds mosques, university chairs, Islamic study centers, and religious schools known as madrassas all over the world. During Afghanistan's war against the former Soviet Union, Saudi-funded madrassas were established in Pakistan that were concerned less with scholarship than implementing an extremist agenda. These madrassas provided ideological training for some of those who went to fight in Kashmir, Chechnya, and Afghanistan—and many of these schools still do. The peaceful propagation of religious beliefs, including Islam, is a human right. However, there is legitimate concern when a government may be propagating an ideology that promotes hatred and violence against both Muslims and non-Muslims.

The line separating the form of Islam allegedly preached by some Saudi clerics from the violence incited and perpetrated by radicals is a thin one, and warrants further investigation by the U.S. government. In the past year, both the Dutch Interior Ministry and a German state government entity publicly have issued reports presenting evidence that Saudi-funded activities in their countries have promoted radicalization of the Muslim communities and hatred against non-Muslims.¹

The Commission has urged the U.S. government to address publicly concerns arising from the propagation of religious hatred and intolerance from Saudi Arabia. The Commission has published reports and held public hearings over the past several years regarding this issue, and issued a number of recommendations for U.S. policy. The Commission is pleased to note public statements made in the last year by the Ambassador-at-Large for International Religious Freedom, John V. Hanford III, and the Acting Assistant Secretary of State for Democracy, Human Rights, and Labor, Michael Kozak, raising concerns about the role of the Saudi government in the promotion of religious intolerance and extremism.

¹ In January 2005, the Dutch Ministry of Interior and Kingdom Relations released an English translation of a 2004 report entitled, "Saudi Influences in the Netherlands: Links Between the Salafist Mission, Radicalization Processes and Islamic Terrorism," (<http://www.minbzk.nl/contents/pages/10887/saudiinfluencesinthenetherlands.pdf>, accessed April 14, 2005). In June 2004, the German North Rhine-Westphalia's State Institute for Schools issued a study of more than 40 books used by the Saudi government-funded King Fahd Academy in Bonn (<http://www.dw-world.de/dw/article/0,,1245760,00.html>, accessed April 14, 2005).

In the spring of 2004, the U.S. Government Accountability Office (GAO) was asked by the Governmental Affairs Committees of the Senate and the House to undertake a comprehensive review of U.S. oversight of Saudi support for an ideology promoting violence and religious intolerance globally. In conducting the study, the GAO was asked to seek information from relevant U.S. government agencies and consult with outside experts, including the Commission, on Saudi promotion of religious extremism. The study was inspired by the Commission's 2003 recommendation that Congress initiate a review of Saudi global exportation of religious hatred and intolerance.

In June 2004, an independent task force on terrorist financing of the Council on Foreign Relations released a report endorsing the Commission's recommendations for a study on Saudi exportation of intolerance and calling on the U.S. government publicly to acknowledge that serious human rights violations in Saudi Arabia are significant issues in the bilateral relationship.

In advance of his July 2004 visit to Saudi Arabia, the Commission urged Secretary of State Powell to call on the government of Saudi Arabia to cease its exportation and support globally of a religious ideology that explicitly promotes hatred and intolerance. The Commission also urged Secretary Powell to press for immediate improvements in respect for religious freedom.

In August 2004, the Commission welcomed the introduction by Senators Charles Schumer and Susan Collins of a resolution (S.Con.Res. 131) calling on Secretary of State Powell to designate Saudi Arabia a "country of particular concern." The resolution also called on the government of Saudi Arabia to cease its exportation of religious intolerance and other abuses of internationally recognized human rights. A number of the resolution's provisions reflected Commission recommendations.

In December 2004, the Commission met with a delegation of academic and religious scholars from Saudi Arabia through a visit sponsored by the U.S. Institute of Peace's Religion and Peacemaking Initiative.

In March 2005, a bi-partisan group of 15 members of Congress wrote a letter to Secretary of State Condoleezza Rice urging implementation of the Commission's recommendations in response to the State Department's designation of Saudi Arabia as a CPC. The letter also urged the Secretary to condemn Saudi government support of materials that promote hatred and intolerance and to urge the Saudi government to curtail any further distribution of such materials.

As a consequence of the designation of Saudi Arabia as a CPC, the Commission recommends that the U.S. government should:

- identify those Saudi agencies and officials thereof who are responsible for particularly severe violations of religious freedom and vigorously enforce section 604 of IRFA with respect to Saudi Arabia, rendering inadmissible for entry into the United States any Saudi government official who was responsible for or directly carried out such violations;
- issue a proclamation, under the President's authority pursuant to section 212(f) of the Immigration and Nationality Act (8 USC 1182(f)), to bar those Saudi government officials

from entering the United States who have been responsible for propagating globally an ideology that explicitly promotes hate, intolerance, and human rights violations;

- issue a demarche urging the government of Saudi Arabia to cease funding or other support for written materials or other activities that explicitly promote hate, intolerance, and human rights violations, including the distribution of such materials in the United States and elsewhere outside of Saudi Arabia; and
- order the heads of appropriate U.S. agencies, pursuant to section 405(a)(13) of IRFA, not to issue any specific licenses and not to grant any other specific authority for the export of any item on the U.S. Commerce Control List of dual-use items [Export Administration Regulations under part 774 of title 15] to any agency or instrumentality of the government of Saudi Arabia that is responsible for committing particularly severe violations of religious freedom. In FY 2004, the Commerce Department approved approximately \$67 million worth of articles for Saudi Arabia, including, for example, such items as handcuffs, leg irons, shackles, and other items that could be used to perpetrate human rights violations.

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

- press for immediate improvements in respect for religious freedom, including: (1) establishing genuine safeguards for the freedom to worship privately, (2) entrusting law enforcement to professionals in law enforcement agencies subject to judicial review and dissolving the *mutawaa*, (3) permitting non-Wahhabi places of worship in certain areas and allowing clergy to enter the country, (4) reviewing cases and releasing those who have been detained or imprisoned on account of their religious belief or practices, (5) permitting independent non-governmental organizations to advance human rights, (6) ending state prosecution of individuals charged with apostasy, blasphemy, sorcery, and criticism of the government, (7) ceasing messages of hatred, intolerance, or incitement to violence against non-Wahhabi Muslims and members of non-Muslim religious groups in the educational curricula and textbooks, as well as in government-controlled mosques and media, (8) inviting the UN Special Rapporteur on Freedom of Religion or Belief to conduct a fact-finding mission, and (9) ratifying international human rights instruments, including the International Covenant on Civil and Political Rights, and cooperating with UN human rights mechanisms; and
- use its leverage to encourage implementation of numerous Saudi government statements to ensure that the Saudi government carries out political, educational, and judicial reforms in the Kingdom by: (1) raising concerns about human rights, including religious freedom, both publicly and privately in the U.S. anti-terrorism dialogue with the Saudi government, (2) institutionalizing a high-level ongoing dialogue on the Saudi reform agenda, and (3) expanding human rights assistance, public diplomacy and other programs and initiatives—such as the Middle East Partnership Initiative—to include components specifically for Saudi Arabia.

With regard to the exportation of religious intolerance from Saudi Arabia, the Commission has recommended that the U.S. government should:

- continue efforts, along with those of the Congress, to determine whether and how—and the extent to which—the Saudi government, individual members of the royal family, or Saudi-funded individuals or institutions are directly or indirectly propagating globally, including in the United States, a religious ideology that explicitly promotes hate, intolerance, human rights violations, and, in some cases, violence, toward members of other religious groups, both Muslim and non-Muslim;
- request the Saudi government to provide an accounting of what kinds of Saudi support have been and continue to be provided to which religious schools, mosques, centers of learning, and other religious organizations globally, including in the United States;
- urge the Saudi government to stop funding religious activities abroad until the Saudis know the content of the teachings and are satisfied that they do not promote hatred, intolerance, or other human rights violations;
- urge the Saudi government to monitor, regulate, and report publicly about the activities of Saudi charitable organizations based outside Saudi Arabia in countries throughout the world; and
- urge the Saudi government to: a) cease granting diplomatic status to Islamic clerics and educators teaching outside Saudi Arabia; and b) close down any Islamic affairs sections in Saudi embassies throughout the world that have been responsible for propagating intolerance.

The Commission urges the U.S. Congress to hold biannual hearings at which the State Department reports on what issues have been raised with the Saudi government regarding violations of religious freedom and what actions have been taken by the United States in light of the Saudi government's response.

COUNTRY REPORTS: SOUTH ASIA

Afghanistan

The Commission continues to monitor the situation in Afghanistan, where the United States has played, and continues to play, a crucial role. Conditions for freedom of religion or belief improved markedly after the fall of the Taliban regime and the establishment in 2002 of the transitional government headed by President Hamid Karzai, who was popularly elected president under Afghanistan's new Constitution in October 2004. Despite the improved situation, however, concerns about religious freedom remain. The new Constitution, while positive in some aspects, does not contain clear protections for the right to freedom of religion or belief for individual Afghan citizens, particularly those in the majority Muslim community. There is also continued concern about the role and power of the country's Supreme Court, which is currently headed by a man who has shown little regard for international human rights standards, indicating that religious extremism remains a threat.

In contrast to the Taliban era, the right to religious freedom is now largely respected in the areas under government control. Although some discrimination continues, the active persecution of Afghanistan's Shi'a minority (approximately 15 percent of the population) that was perpetrated by the Taliban has ended, and Shi'as are once again able to perform their traditional processions and to participate in public life. In January 2005, President Karzai appointed a Shi'a scholar to the country's Supreme Court, the first Shi'a scholar ever to be appointed to that body. The situation of Afghanistan's religious minorities, which include small communities of Hindus and Sikhs, has also improved significantly since the fall of the Taliban. Although there are no churches, expatriate Christians are reportedly able to meet for informal worship services in Kabul and one or two other major centers.

Due to continued security problems, however, 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 remains both precarious and problematic in some parts of the country. Taliban remnants remain active in various regions and continue to pose a threat to the stability of the government. Many of the human rights abuses practiced by the Taliban reportedly persist today under the rule of the regional warlords, who continue to operate in regions that are effectively outside of central government control. These abuses include political killings, torture, coercion to enforce social and religious conformity, and abuses against women and girls, sometimes with the active support of the local courts and police. These substantial security threats present a persistent danger to the establishment of democracy and the rule of law throughout 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 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. This omission is compounded by a repugnancy clause that states that "no law can be contrary to the beliefs and provisions 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 against unjust accusations of religious “crimes” such as apostasy and blasphemy. There are also fewer protections for Afghans to debate the role and content of religion in law and society, to advocate the rights of women and members of religious minorities, and to question interpretations of Islamic precepts without fear of retribution. There is concern that these constitutional deficiencies could permit a harsh, unfair, or even abusive interpretation of religious orthodoxy to be officially imposed, violating numerous human rights of the individual by stifling dissent within the Islamic tradition.

These concerns are not merely theoretical, as the task of interpreting many of these provisions has been left to the Supreme Court, currently headed by Chief Justice Fazl Hadi Shinwari, who has shown little tolerance for those who disagree with his hard-line interpretation of Islam. In August 2003, Chief Justice Shinwari told a visiting Commission delegation that he rejects three crucial freedoms—those of expression, religion, and equal rights for men and women—all of which are protected under the Universal Declaration of Human Rights. As a consequence of his actions, a sitting Minister in the interim Afghan government was forced to resign after she was charged with blasphemy for questioning the role of Islamic law in Afghanistan, journalists have been jailed on charges of offending Islam, and during the October 2004 presidential elections, a presidential candidate was threatened with disqualification for purported “anti-Islamic remarks” on women’s rights and family law. These incidents suggest that despite the gains since 2002 and the adoption of a new constitution, religious freedom and other human rights, along with democracy itself, remain under threat from extremism.

These constitutional pitfalls have been extended to other legislation also. For example, in 2002, Afghanistan adopted a new press law that contains a sanction against publication of “matters contrary to the principles of Islam or offensive to other religions and sects.” According to the State Department’s 2004 *Annual Report on International Religious Freedom*, 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 the Chief Justice Shinwari in November 2004 successfully appealed to the Afghan government to have cable television taken off the air because of its “immoral” programs that insult religion. Earlier in the year, the Chief Justice had also protested the presence of female singers on radio and television and attempted to have the practice halted, though in this effort he was ultimately not successful.

During the period that the Constitution was being drafted, the Commission met with numerous high-ranking U.S. government officials to articulate the importance of institutionalizing human rights guarantees in the document that adequately protect the rights of each individual. The Commission also briefed Members of Congress and relevant committee staff on its policy findings and recommendations. In January 2003, the Commission held an international forum, “*Reconstructing Afghanistan: Freedom in Crisis?*” in cooperation with George Washington University Law School, which brought together key Afghan leaders, U.S. policymakers, and other experts to discuss ways of integrating adequate human rights protections

into current judicial and legal reform processes. The Commission also raised the issue of religious freedom in numerous public statements, as well as in two separate opinion-editorial articles, in *The Washington Post* and *The New York Times*, authored by Commissioners Michael K. Young, Felice D. Gaer, and Preeta D. Bansal. In late 2003, the Commission was cited on this issue in over a dozen editorials in major newspapers worldwide.

In August 2003, a Commission delegation visited Afghanistan for an intensive series of discussions with senior officials of the Transitional Administration, U.S. officials, representatives of non-governmental organizations and of Afghan civil society, former President Burhanuddin Rabbani, religious leaders, and members of the diplomatic community, including the United Nations Assistance Mission in Afghanistan (UNAMA). In September 2004, the Commission issued a press release denouncing the Supreme Court Chief Justice's attempt to stifle freedom and electoral democracy by calling for the disqualification of a candidate who made comments of which Chief Justice Shinwari did not approve.

The U.S. government should provide the leadership, sound policy, and resources needed to secure freedom for all in Afghanistan, which is still at a juncture from which it can either move forward to secure greater protections for the rights of its people or revert to Taliban-like practices. It should also step up its leadership and engagement in Afghanistan to preserve and consolidate the Afghan people's gains in the protection of human rights, since no other nation or international institution can substitute for the United States in this daunting task, and failure will leave Afghanistan not only less free but also more unstable, thereby contributing to regional insecurity and potentially serving again as a future haven for global terrorism that threatens U.S. interests.

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

- vigorously support respect for the right of every individual to freedom of thought, conscience, 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 minorities;
- act to bolster the position of those reformers who respect, and advocate respect for, human rights, since those persons in Afghan society who would promote respect for internationally recognized human rights are currently on the defensive, even threatened, and these people need U.S. support to counter the influence of those with an Islamic extremist agenda;
- ensure that its programs, administered by the U.S. Agency for International Development, to help develop primary and secondary education, including through the printing of textbooks, and to provide civic education, incorporate, as part of the content, education on international

standards with regard to human rights, including freedom of religion or belief, and religious tolerance;

- strongly support 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;
- assist legal experts to visit Afghanistan, engage their Afghan counterparts, and provide information to the Afghan public on the universality of human rights and the compatibility of Islam and universal human rights, including freedom of religion and belief, and expand existing programs to bring Afghans to this country to see how Islam and other faiths may be practiced in a free society; and
- 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.

Bangladesh

In Bangladesh, growing religious militancy and chronic political violence threaten to undermine the institutions that protect religious freedom and silence the country's voices of religious tolerance and moderation. Islamic militants have been implicated in attacks on politicians, authors who oppose extremist interpretations of Islam, members of religious minorities, and non-governmental organizations (NGOs). Left unchecked, the trend toward intolerance and violent vigilantism, particularly toward Ahmadis, Hindus, and Christians, could have an increasingly negative impact on the religious freedom of all Bangladeshis. In response to these growing concerns, the Commission has decided to place Bangladesh on its Watch List.

Although Bangladesh was established as a secular state following independence from Pakistan in 1971, Islam was made the state religion in 1988 under a military regime. The Constitution retains strongly worded guarantees of freedom of religious belief and practice, as well as equal treatment by the government for citizens regardless of religious affiliation. Further, although Bangladesh's Constitution states that "absolute trust and faith in Allah" is to "be the basis for all actions" by the government, this provision is not judicially enforceable. Bangladesh has a representative government, regular changes of power through free elections, a judiciary that sometimes issues rulings against those in authority, a lively press often critical of government policies, and a functioning civil society with active human rights groups and other NGOs.

Despite these democratic practices, rising militancy is threatening the right to freedom of thought, conscience, and religion or belief for all in Bangladesh. Following the Soviet withdrawal from Afghanistan in 1989, at least some of the Bangladeshis serving with the Mujahideen there brought home a jihadist ideology of violent struggle against perceived opponents of Islam. This ideology in turn gave rise to domestic radical groups such as

Harakatul-Jihad-Islami/Bangladesh (“Movement of Islamic Holy War”). Aided by the expansion of Islamic schools (*madrasas*), charities, and other social welfare institutions, some receiving foreign funding, Islamic militants have continued to gain influence. Explicitly Islamic parties were not included in Bangladeshi governments until the current government was elected in October 2001.

Bangladesh’s high levels of political violence and instability have also provided opportunities for religious and other extremists to expand their influence. Due to a weak legal system and corrupt law enforcement, gangs employed by politicians engage in criminal activities with relative impunity. Armed groups of Islamic vigilantes and leftist guerrillas terrorize remote rural areas. Politically-motivated bombings, assassinations, and other terrorist acts, often ascribed to Islamic militants, have exacerbated partisan tensions and increased the vulnerability of minority communities. In February 2005, the government announced that police investigations had implicated two Islamic militant groups in a series of bomb attacks on non-governmental organizations and other civil society targets. Following domestic and international criticism, the government banned the two groups, announced the arrest of one militant leader, and publicly ordered the police to intensify efforts to apprehend another.

The current government, led by the Bangladesh Nationalist Party (BNP), was elected in October 2001 with the support of two small Islamic parties. Following the October 2001 elections, there were numerous reports of killings, sexual assaults, illegal land-seizures, arson, extortion, and intimidation of religious minority group members. Hindus in particular were the targets of these attacks. Minority group representatives and human rights groups ascribed these attacks to religious extremists or to partisans of the BNP and its Islamic allies. Forced by a court order to investigate election violence against minorities, the government downplayed the issue, asserting that victims were only incidentally members of minority groups or that reported incidents were false or exaggerated. The lack of accountability for reported crimes against minority group members during the last election raises serious concerns about an atmosphere of impunity for such crimes, as well as the possibility of a renewal of violence against Hindus and members of other religious minorities in the next general election.

Although reports of anti-minority violence have dropped off sharply since the 2001 election, Hindus, Christians, and representatives of other minorities continue to express concerns regarding the safety of their coreligionists, citing the growth in Islamic radicalism and occasional instances of violence, including fatalities, in which the victims’ religious affiliation appears to have been a factor. Minority group representatives claim that religion plays a role in property and land disputes, alleging discrimination in the resolution of the past expropriations of Hindu property and pointing to the continuing displacement of non-Muslim tribal populations by Bengali Muslims in the Chittagong Hill Tracts and other traditionally tribal areas. Despite constitutional protections, in practice, non-Muslims face societal discrimination and are disadvantaged in access to government jobs and public services.

Islamic extremists in Bangladesh have engaged in a public campaign against the small Ahmadi community, estimated at 100,000 out of a population of 140 million. The campaign has the avowed aim of pressuring the government to declare Ahmadis to be “non-Muslims,” as has been done in Pakistan. Ahmadis or “Qadiyanis,” most of whom live in Pakistan and India, are

viewed as heretical by some Muslims. Although the government of Bangladesh has thus far refused to follow Pakistan's lead on this issue, in January 2004, it bent to militant pressure and banned the publication and distribution of Ahmadi religious literature. Since then, police have seized Ahmadi publications on some occasions. In December 2004, Bangladesh's High Court stayed the government's order of January 2004 banning Ahmadi publications; further legal action is pending.

The anti-Ahmadi agitation has been accompanied by incidents of mob violence, including attempts to occupy Ahmadi places of worship. In Rangpur in northern Bangladesh in April 2004, several Ahmadi homes were destroyed and Ahmadi converts held against their will and pressured to recant. Police protection of Bangladesh's Ahmadi citizens has often been inadequate, and, in some cases, police have reportedly assisted the extremists. In March 2005, in the town of Bogra in northern Bangladesh, police, under pressure from an anti-Ahmadi mob, were photographed affixing to an Ahmadi place of worship a sign reportedly reading "A place of worship of the Qadiyanis...no Muslim should be deceived into considering it a mosque."

Authors, journalists, and academics expressing opinions deemed by some segments of the population to be offensive to Islam are subject to violent, sometimes fatal, attacks. In February 2004, militants stabbed Dr. Humayun Azad, a prominent scholar whose writings support women's rights and criticize Islamic extremism. Dr. Azad subsequently died from his wounds.

Islamic extremists oppose NGOs that promote improvements in protections for the rights of women. Such organizations were targeted in the bombings that led to the ban, cited above, on two militant groups. Some Muslim clerics, especially in rural areas, have sanctioned vigilante punishments against women for alleged moral transgressions. Rape is reportedly a common form of anti-minority violence. The government often fails to punish the perpetrators of these acts against women, as the law enforcement and the judicial systems, especially at the local level, are vulnerable to corruption, intimidation, and political interference.

During the year, Commission staff met on a number of occasions with human rights monitors, representatives of religious communities, Bangladeshi diplomats, and others to discuss religious freedom in Bangladesh. In April 2004, the Commission, together with Congressman Joseph Crowley, a member of the House Committee on International Relations, held a public hearing at the City University of New York (CUNY) School of Law at Queens College in Flushing, New York, on "Bangladesh: Protecting the Human Rights of Thought, Conscience, and Religion." The purpose of the hearing was to examine religious freedom conditions for members of the majority Muslim community as well as for members of religious minority communities in Bangladesh, and the implications of those trends for U.S. policy. The Commission notes with concern reported efforts by Bangladeshi security officials and others to intimidate hearing witnesses.

India

Significant developments affecting freedom of religion or belief have taken place in India in the past year. Parliamentary elections in May 2004 resulted in a defeat for the ruling Bharatiya Janata Party, or BJP, which was replaced by a coalition government headed by the

Congress Party. Under the previous BJP leadership, the Commission found the Indian government's response to increasing violence against religious minorities in the state of Gujarat and elsewhere to be inadequate. In addition, several senior BJP government leaders had publicly allied themselves with, or refused to disassociate themselves from, extremist Hindu organizations that were implicated in that religious violence. In response, in 2002-2003, the Commission recommended that India be designated a "country of particular concern," or CPC. Following the May 2004 parliamentary elections, however, the new prime minister, Manmohan Singh, promptly stated that the Congress-led government would reject any kind of religious intolerance and vowed to return the country to its pluralistic traditions. As a result of the dramatic changes taking place in India since the 2004 elections, the Commission no longer recommends that India be designated a CPC.

Unlike many of the other countries that draw Commission attention, India has a democratically elected government, is governed essentially 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 under the BJP government to a religiously plural society.

Despite these democratic traditions, religious minorities in India have been the victims of violent attacks, including killings, in what is called "communal violence." In the late 1990s, there was a marked increase in violent attacks against members of religious minorities, particularly Muslims and Christians, throughout India, including killings, torture, rape, and destruction of property. Those responsible for communal violence were rarely held responsible for their actions. This violence against religious minorities coincided with the rise in political influence of groups associated with the Sangh Parivar, a collection of Hindu extremist nationalist organizations that view non-Hindus as foreign to India and aggressively press for national governmental policies to promote "Hindutva," or the "Hinduization" of culture. The ascent to power in 1998 of the Sangh Parivar's political wing, the BJP, helped to foster a climate in which violence against religious minorities was not systematically punished. Although it was not directly responsible for instigating the violence against religious minorities, it was clear that the BJP-led government 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.

Of particular concern to the Commission were the February 2002 events in the state of Gujarat, when, after a fire on a train resulted in the death of 58 Hindus, hundreds of Muslims were killed across Gujarat by Hindu mobs. In addition, hundreds of mosques and Muslim-owned businesses and other kinds of infrastructure were looted or destroyed. More than 100,000 people fled their homes and, in the end, as many as 2,000 Muslims were killed. India's National Human Rights Commission, an official body, found evidence of premeditation in the killings by members of Hindu extremist groups; 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 Modi's 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. India's highest court also ordered a transfer of that trial to neighboring Maharashtra state and directed both state governments to provide protection to witnesses and victims, appoint a new public prosecutor, and institute new police investigations into the case. 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.

In addition to the steps taken by the Supreme Court, the defeat of the BJP in the May 2004 parliamentary elections and the actions taken by the new government have resulted in a marked improvement in conditions for freedom of religion or belief in India. In contrast to the "culture of impunity" in place under the previous BJP-led government, in July 2004, Prime Minister Manmohan Singh was quoted in the Indian press as saying that "under my government the violence against Christians of recent years will be a thing of the past." Prime Minister Singh reportedly stated that among the priorities of his government would be "promoting social harmony and rejecting every kind of fundamentalism." The new government also pledged to take immediate steps to reverse the "communalization" of education that had occurred under the BJP government; one of the Congress-led government's first actions was to appoint a committee of historians to remove the "distortions and communally-biased portions" of the textbooks introduced in 2002 promoting the Sangh Parivar's Hindutva views. Another positive step was the rapid repeal of the Prevention of Terrorism Act, which many had charged was unfairly targeting Muslims. In addition, several reports have indicated that the central government in 2005 will be proposing a law to halt and criminalize inter-religious violence, a bill that will reportedly include compensation for victims and swifter investigations to identify perpetrators of attacks on places of worship and individuals on account of their religion.

Despite the improved situation, concerns about religious freedom in India remain. Attacks on Christian churches and individuals, largely perpetrated by members of Hindu extremist groups, continue to occur, and perpetrators are rarely held to account by the state legal apparatus. In December 2004, two church leaders were attacked in the state of Rajasthan, allegedly by members of a Sangh Parivar-affiliated organization; in January 2005, militants reportedly set fire to a newly opened Catholic school in the northeastern state of Assam; and in March 2005, also in Rajasthan, a Christian worship service was interrupted by Hindu extremists and eight church workers were beaten. In some instances, police provided protection from the attackers; in other cases, the police reportedly failed to intervene. Members of the Jehovah's Witnesses also continue to be assaulted. In addition, several Indian states, including Orissa, Gujarat, Madhya Pradesh, and Chhattisgarh (formerly part of Madhya Pradesh), still have laws against "forced" or "induced" religious conversions, which require government officials to assess

the legality of conversions and provide for fines and imprisonment for anyone who uses force, fraud, or “inducement” to convert another. However, reports of persons having been arrested under these laws are extremely rare. 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.

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

- urge the Indian government to continue its policies aimed at returning the country to its tradition of religious tolerance, including by:
 - continuing to pursue the perpetrators of the massacres in Gujarat and hold them to account;
 - taking steps to prevent and punish communal violence, including through legislative measures such as the proposed law to criminalize inter-religious violence; and
 - continuing the effort to remove religiously intolerant language from school textbooks;
- persistently press the Indian government to pursue perpetrators of violent acts that target members of minority religious groups, acts that, though decreased in number, still continue; and
- take into account, in the course of working toward improvements in U.S.-Indian economic and trade relations, the efforts of the Indian government to protect religious freedom, prevent and punish violence against religious minorities, and promote the rule of law.

Pakistan

The response of the government of Pakistan to persistent sectarian and religiously motivated violence in Pakistan continues to be inadequate. In addition, official government policies, such as the anti-Ahmadi and blasphemy laws, frequently result in imprisonment and other violations of freedom of religion or belief. 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 has fostered an atmosphere of religious intolerance and eroded the

social and legal status of members of religious minorities. Government officials provide fewer protections from societal violence to non-Muslims than to members of the majority Sunni Muslim community. Perpetrators of attacks on minorities are seldom brought to justice. Belated efforts to curb extremism through reform of Pakistan's thousands of Islamic religious schools continue to have little effect. Many of these schools provide ongoing ideological training and motivation to those who take part in violence targeting religious minorities in Pakistan and abroad. President Pervez Musharraf did ban a number of militant groups several years ago, but most of those have since reemerged, under new names, and have continued to function.

Sectarian and religiously-motivated violence, much of it committed against Shi'a Muslims by Sunni militants, is chronic in Pakistan. Ahmadis, Christians, and Hindus have also been targeted by Sunni extremist groups. In January 2005, a leading Shi'a cleric was seriously wounded by gunmen, sparking sectarian violence that killed 15. In March 2005 in Baluchistan province, the scene of recent tribal violence, a bomb killed 24 worshippers at the tomb of a Shi'a saint. Sunni Muslims are also victims of Shi'a militant groups. In the last two years, there has been an upsurge in anti-Christian violence, including fatal attacks on churches and other Christian institutions. In January 2004, a church compound that includes a Christian school for girls was bombed. On Easter 2005, gunmen attacked Christian worshippers as they emerged from services in a village church near Lahore, killing one man and injuring seven others. In April 2005, a Christian pastor and his driver were found dead in Peshawar; both had been shot, and the pastor had reportedly been mutilated. Police protection from these attacks appears ineffective, and rarely has anyone been successfully prosecuted for these crimes. Although arrests have been made, the case of the brutal murder of American journalist Daniel Pearl in early 2002, whose Jewish background was highlighted in a video of his decapitation by his Islamic extremist killers, is not yet fully resolved.

Ahmadis, who number three-four million in Pakistan, are prevented by law from engaging in the full practice of their faith. The Constitution of Pakistan declares members of the Ahmadi religious community to be "non-Muslims," despite their insistence to the contrary. Barred by law from "posing" as Muslims, Ahmadis may not call their places of worship "mosques," worship in non-Ahmadi mosques or public prayer rooms which are otherwise open to all Muslims, perform the Muslim call to prayer, use the traditional Islamic greeting in public, publicly quote from the Koran, or display the basic affirmation of the Muslim faith. It is also illegal for Ahmadis to preach in public, to seek converts, or to produce, publish, and disseminate their religious materials. Ahmadis have been arrested and imprisoned for terms of up to three years for all of the above acts, and they are reportedly subject to ill treatment from prison authorities and fellow prisoners. Because they are required to register to vote as non-Muslims, a policy that was reaffirmed by Pakistani government officials in February 2004, Ahmadis who refuse to disavow their claim to being Muslims are effectively disenfranchised. The one potentially positive development, the December 2004 abolition of the religion column in Pakistani passports, thereby, among other advances, enabling Ahmadis to participate in the hajj, was derailed the following March, when members of a government ministerial committee decided to restore the column. The decision reportedly came after religious parties demonstrated against the change. There continues to be no indication that the current government intends to institute any reforms to the anti-Ahmadi laws.

Prescribed penalties for blasphemy include death for whoever “defiles the sacred name of the Holy Prophet Muhammad” and life imprisonment for whoever “willfully defiles, damages, or desecrates a copy of the holy Koran.” Blasphemy allegations, which are often false, result in the lengthy detention of, and sometimes violence against, Ahmadis, Christians, Hindus, and members of other religious minorities, as well as Muslims on account of their religious beliefs. The negative impact of the blasphemy laws is further compounded by the lack of due process involved in these proceedings. In addition, during blasphemy trials, Islamic militants often pack the courtroom and make public threats about the consequences of an acquittal. Such threats have proven credible, since they have sometimes been followed by violence. Although no one has yet been executed by the state under the blasphemy laws, some persons have been sentenced to death. Several accused under the blasphemy laws have been attacked, even killed, by vigilantes, including while in police custody; those who escape official punishment or vigilante attack are sometimes forced to flee the country. Others have died in police custody under allegedly suspicious circumstances. In December 2004, an Ahmadi was given a life sentence and a heavy fine for purported blasphemous statements. In January 2005, a Christian was acquitted of blasphemy charges; however, he remains in hiding due to death threats from extremists. Following an abortive attempt in 2000 at introducing procedural reforms, the Musharraf government has made no further effort to reform, much less repeal, the blasphemy laws. Although they were amended in October 2004 with the aim of reducing the more maliciously applied charges, the procedural changes called for will not likely have a significant affect on the way the blasphemy laws are exploited in Pakistan.

Pakistan’s Hudood Ordinances, Islamic decrees introduced in 1979 and enforced alongside the country’s secular legal system, provide for harsh punishments, such as amputation and death by stoning, for violations of Islamic law. The UN Committee Against Torture, as well as the UN Special Rapporteur on Torture, have stated that stoning and amputation do constitute inhuman or degrading treatment under international human rights standards and treaties. Although these extreme corporal punishments have not been carried out in practice due to high evidentiary standards, lesser punishments such as jail terms or fines have been imposed. Rape victims run a high risk of being charged with adultery, for which death by stoning remains a possible sentence. In October 2003, the National Commission on the Status of Women in Pakistan issued a report on the Hudood Ordinances that stated that as many as 88 percent of women prisoners, many of them rape victims, are serving time in prison for violating these decrees, which make extramarital sex a crime and adultery a criminal offense. The Hudood laws apply to Muslims and non-Muslims alike.

The Commission’s May 2001 report on Pakistan played a key role in highlighting to U.S. and Pakistan government officials the un-democratic nature of the Pakistani separate electorate system for religious minorities. In January 2002, the Pakistan government abolished the system of separate electorates.

In May 2004, Commissioner Richard D. Land testified on behalf of the Commission at a Congressional Human Rights Caucus briefing titled “Pakistan: A Human Rights Update.” Commissioner Land discussed Pakistan’s record on religious freedom and the Commission’s recommendation to Secretary of State Colin L. Powell that Pakistan be designated a “country of particular concern.”

Throughout 2004, the Commission continued to meet with representatives of the various religious groups in Pakistan, including Muslims, Ahmadis, and Christians, as well as with human rights organizations, academics, and other experts. Also in 2004, Commissioners received briefings from noted Pakistan experts on domestic developments in, and U.S. policy toward, Pakistan.

In addition to recommending that Pakistan be designated a CPC, the Commission has recommended that the U.S. government should:

- take the position that the existence and enforcement of laws targeting Ahmadis which effectively criminalize the public practice of their faith violate the 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 implement procedural changes to the blasphemy laws that will reduce and ultimately eliminate their abuse;
- urge the government of Pakistan to take effective steps to prevent sectarian violence and punish its perpetrators, including disarming militant groups and any religious schools that provide weapons training; and
- support, in conjunction with other donors: (a) improvements in the public education system; (b) judicial reform and law enforcement training; (c) legal advocacy to protect the right to freedom of religion; and (d) educational programs in religious tolerance.

COUNTRY REPORTS: WESTERN HEMISPHERE

Cuba

Religious belief and practice continue to be tightly controlled in Cuba. Religious freedom conditions have been affected in part by the ongoing government crackdown on democracy and free speech activists, resulting in a generally deteriorating situation for human rights. The Commission continues to place Cuba on its Watch List, and will monitor conditions of freedom of religion or belief in Cuba to determine if they rise to a level warranting designation as a “country of particular concern,” or CPC.

Cuba remains a hard-line Communist state, with a human rights record that, after deteriorating significantly in 2003, continued to be poor in 2004. 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 independent journalists, leaders of independent labor unions and opposition parties, and other democracy activists, including those supporting the Varela Project and the Christian Liberation Movement. Seventy-five human rights activists were arrested and sentenced in 2003. In the past year, the crackdowns have continued, with the imprisonment of an additional 22 human rights activists.

Since Castro came to power, the communist government has sought to suppress religious belief and practice because it was “counterrevolutionary.” In 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. 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 Castro visited Havana’s Jewish Community Center for its Hanukkah 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 democratic activists, who viewed these steps as a softening of past government policies.

Yet, despite optimism that religious freedom would improve, violations have continued, as has the government’s strong degree of control and generally hostile attitude toward religion. Although the Cuban government seeks to project the image that the right to religious freedom is respected, in fact, government authorities continue to view the influence of religion as a threat to the ideology of Castro’s revolution. In early 2001, the Communist Party in Havana prepared a report that criticized inroads made by churches, particularly the Roman Catholic Church, into Cuban society, and asserted that the social work of the churches violated the law. Communist Party officials reportedly apologized to the Catholic Church hierarchy after the report was leaked. Nevertheless, Havana’s Catholic Cardinal gave an interview in 2003 in which he asserted that “restrictions on religious freedom are returning” in Cuba, and that they represent a

“return to the ideology of repression.” After visiting Cuba in Spring 2004, a British religious advocacy organization reported a marked shift in government propaganda towards a communist orthodoxy, including an assault on religious freedom and related human rights.

The 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. Currently, there are approximately 50 state-recognized religious groups, primarily Christian denominations, half of which are members of the government-recognized Cuban Council of Churches. Reportedly, the government in recent years has not granted recognition to any denominations that are relatively new to the country, although it has tolerated the presence of some new groups, such as the Baha'is and the Church of Jesus Christ of Latter-day Saints, though they are not technically registered. In the last year, the Jehovah Witnesses report that they were allowed to open a central office in Havana, proselytize door-to-door, and publish their literature. According to the State Department's 2004 human rights report, the Cuban government is most tolerant of religious groups that maintain “close relations” with the state or those who are “generally supportive of government policies.”

In recent years, the Cuban government has rarely permitted the construction of new places of worship. Thus, those religious groups that are not recognized, or those without adequate space, are forced to meet in private homes or other similar accommodations, commonly known as “house churches.” Permission for such meetings may be granted from the state if the church is from one of the recognized or official faith groups, but permission is frequently denied to those the government deems to be “an independent religious movement” (i.e. not recognized or hostile to government policies). Members of house churches outside the recognized religious communities feel the brunt of this regulation; because they are not registered, their meetings are in violation of the law. If a complaint is made against a house church meeting, it can be broken up and the attendees imprisoned. In the past year, several Protestant groups reported evictions from houses used for these purposes. The Cuban government did permit the opening of a Russian Orthodox and a Greek Orthodox Church in 2004, which the official media declared to be evidence of the Cuban government's religious tolerance.

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 house church pastors are routinely questioned and detained for several days by police and security forces. The State Department also reports that Cuban Interior Ministry officials engage in efforts to control and monitor 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 is widespread. In many churches, officials reportedly monitor sermons and sit behind the wives of political prisoners in order to intimidate them. The Conference of Catholic Bishops reports that monitoring of church services and harassment of parishioners has increased in the last year.

Other means by which the government restricts religion 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 the Bible to persons in prison. Additionally, there is a requirement that religious groups receive permission from local Communist Party officials before being allowed to hold processions or events outside of religious buildings. Refusal of such permission is often based on the decision of individual government officials rather than the law. In the past year, La Pastora Catholic Church in Santa Clara was prohibited from distributing medicine and soap because these activities were not authorized and resulted in “illegal public gatherings.” A procession to mark the feast day of the patron saint of Managua was denied in 2003 because the Catholic priest, a Spanish citizen, was deemed “politically unreliable.” Cuban officials revoked his visa authorization, and he was forced to leave the country. In 2004, however, the town of Managua was permitted to hold its procession. Cuban authorities continue to deny or revoke visa authorization for religious workers whose activities are deemed too visible or whose opinions are viewed as contrary to government policy.

In the past year, Commission staff has met with Cuban human rights activists, regional experts, and religious leaders.

IRFA AND THE U.S. REFUGEE AND ASYLUM PROGRAMS

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

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. They established in law, as a fundamental right and as a pillar of our Nation, the right to freedom of religion. 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.

REFUGEE, ASYLUM, AND IMMIGRATION ISSUES

Consistent with the language in the preamble of the legislation, the 1998 International Religious Freedom Act (IRFA) included a number of provisions related to asylum seekers and refugees, with particular attention to those fleeing religious persecution. In its 2004 Annual Report, the U.S. Commission on International Religious Freedom reaffirmed its call to strengthen the institutional linkages between efforts to promote religious freedom and to provide access to the U.S. Refugee and Asylum programs. Specifically, the Commission recommended: (1) a systematic effort to improve access to resettlement for those who have fled “countries of particular concern,” or CPCs, and other countries where there are severe violations of religious freedom; (2) better training of refugee and consular officers in refugee and asylum adjudications and human rights, particularly religious freedom, as required by sections 602 and 603 of IRFA; and (3) the implementation of certain operational requirements imposed on the Refugee and Asylum programs by IRFA.

While the Commission remains concerned that some of the refugee and asylum provisions of IRFA remain under-implemented, there have been notable improvements over the last year in the capacity of U.S. and other international refugee regimes to protect those who have fled religious persecution. These are discussed below.

Improving Access to Resettlement for Those Who Have Fled CPCs

Over the past year, two notable positive developments improved access to resettlement for those who have fled CPCs and other countries where there are severe violations of religious freedom. First, in October 2004, the North Korea Human Rights Act of 2004 (NKHRA) was signed into law by President Bush. In addition to a number of provisions designed to facilitate access to the U.S. and other refugee programs for North Korean refugees and asylum seekers, section 305(b) of the NKHRA requires 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.¹

¹ The North Korea Human Rights Act of 2004 (P.L. 108-333), SEC. 305 (b), *Annual Report*,

The Commission regrets, however, that only nationals fleeing religious persecution from one CPC—Iran—may currently apply for refugee status (under “Priority Two”) without a referral from the UN High Commissioner for Refugees (UNHCR). While nationals from Iran, Burma, and Sudan are also permitted to apply for refugee status under the Priority Three designation, they may do so only if they have a spouse, child, or, in some circumstances, parent in the United States who has already been granted asylum or refugee status.² The Commission looks forward to continuing to work with the U.S. Refugee Program, through regional working groups and other channels, to promote better access to resettlement for those who have fled CPCs and other places where religious beliefs, identity, or membership in a particular community result in persecution.

The second positive development concerns access to the Refugee Program by religious minorities from Iran. The Commission welcomes the fact that the Consolidated Appropriations Act of 2005 (P.L. 108-447) extended the application of the Specter Amendment to Iranian Religious Minorities through FY2005. The Specter Amendment was originally enacted in FY2004 shortly after Austria, which has long hosted U.S. refugee processing for Iranian religious minorities, stopped issuing visas to Iranian Christians seeking to apply to the U.S. Refugee Program, citing the high denial rate of this group by refugee adjudicators in the Department of Homeland Security (DHS). The amendment alleviated this situation by clarifying the adjudication standards for refugee applications from members of Iranian religious minorities. In October 2003, the Commission endorsed the application of the Specter Amendment when it

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.”

² The Department of Homeland Security (DHS) will not interview a refugee applicant unless he or she falls within one of the “processing priorities” designated by the Department of State. There are currently three processing priorities. Priority One (P-1) refers to refugees who are referred to DHS by a U.S. embassy or who meet UN High Commissioner for Refugees (UNHCR) resettlement criteria and are referred to the US Refugee Program by that agency. Priority Two (P-2) refers to refugee applicants who belong to a group designated by the Department of State to be of “special humanitarian concern” to the United States. Priority Three (P-3) refers to refugee applicants of designated nationalities with a close relative in the United States who has been found to be an asylee or refugee. For a complete overview of the U.S. Refugee Program, see *Proposed Refugee Admissions for Fiscal Year 2005—Report to the Congress Submitted on Behalf of the President of the United States* (<http://www.state.gov/documents/organization/36228.pdf>, accessed April 18, 2005).

was first under consideration by Congress. The Commission now recommends that Congress and the President continue to extend the Amendment until the government of Iran ceases to engage in systematic and egregious violations of religious freedom.

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

Sections 602 and 603 of IRFA mandate training requirements for asylum officers, immigration judges, refugee officers, immigration inspectors, and consular officers on religious persecution and other issues relating to the refugee and asylum programs. The DHS and Department of Justice (DOJ) have complied, to varying degrees, with these requirements. In particular, the DHS Asylum Division, which adjudicates asylum applications in the United States, has developed and implemented specific training programs on religious freedom issues. Commission staff participated in a DOJ video training session on violations of religious freedom abroad for all U.S. immigration judges in 2004. The DHS is now in the process of creating a professional corps of officers, called the Refugee Corps, specially trained in refugee law who will focus exclusively on refugee adjudications overseas. In the past, the U.S. Refugee Program relied primarily on immigration officers who performed refugee adjudications only as a collateral or temporary duty. The Refugee Corps will create an opportunity to ensure that, like asylum applications, refugee applications will now be adjudicated by specialists who receive the training required by IRFA.

There has been another positive development within the past twelve months which will likely facilitate better training and guidance for refugee and asylum adjudicators. Specifically, in April 2004, the UNHCR released the first international guidelines on the adjudication of religion-based refugee claims.³ These guidelines were originally conceived during an October 2002 roundtable in Baltimore, Maryland, in which Commissioner Felice D. Gaer and Commission staff participated as experts on freedom of religion or belief, together with other refugee and human rights experts. The Guidelines are intended to facilitate training of refugee adjudicators worldwide.

The Commission remains concerned, however, that refugee-related training of State Department consular officers continues to fall short of requirements set forth in section 602(b) of IRFA. While consular officers do not adjudicate refugee applications, they are authorized to refer individuals in need of protection to the U.S. Refugee Program.⁴ Such referrals rarely take place. A recent report by Professor David Martin at the University of Virginia, commissioned by the State Department's Bureau of Population, Refugees and Migration (PRM), recommended

³ UN High Commissioner for Refugees, *Guidelines on International Protection: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees* (HCR/GIP/04/06) (28 April 2004). (The Guidelines are available at <http://www.unhcr.ch>, accessed April 18, 2005).

⁴ This is an important function, as individuals fleeing persecution may not submit an application for refugee status unless they either: (1) receive such a referral from a U.S. embassy or the UNHCR; or (2) fall into one of the narrowly defined processing priorities of "humanitarian concern" under the U.S. Refugee Program.

that the State Department provide new Foreign Service Officers with more systematic instruction on refugee and humanitarian programs generally and on the specific opportunities and procedures for referrals.⁵ Further, in the Expedited Removal study which the Commission released on February 8, 2005 (see below), the Commission expressed concern over evidence indicating that it may be increasingly difficult for refugees and asylum seekers to obtain protection from 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 the impact which such training is having on referrals made by U.S. embassies to the Refugee Program.

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

Section 602 of IRFA details additional requirements for the U.S. Refugee Program. Among these requirements is the provision that the State Department establish uniform procedures for overseas processing entities (OPEs), which prepare, under contract with the State Department's PRM, the applications of individuals seeking refugee status, as well as for personnel responsible for preparing refugee case files for refugee adjudications.

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. However, 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 denied refugee applications.

In its May 2004 Annual Report, the Commission noted that PRM had expressed its intention to establish a working group on OPEs. Professor David Martin, in the paper commissioned by the Department of State, also recommended that such a group develop guidelines consistent with section 602 of IRFA.⁶ The Commission would like to reiterate its recommendation that PRM more fully implement the requirements set forth in this provision of IRFA.

Inadmissibility of Religious Freedom Violators

Although section 604 of IRFA established a ground of inadmissibility for certain religious freedom violators, this provision was limited to foreign government officials who committed particularly severe violations of religious freedom, as defined by IRFA, within the previous 24 months. In fact, from the enactment of IRFA in 1998 until March 2005, the provision had never been invoked for a single visa denial. The Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458), signed into law in December 2004, broadened this provision to cover any alien who, while serving as a foreign government official, was responsible for—or carried out—at any time, such violations. Subsequently, on March 17, 2005,

⁵ 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>, accessed April 18, 2005).

⁶ See Martin, p. 143.

the State Department revoked the visa of Indian national Narendra Modi, Chief Minister of the Indian state of Gujarat, who was traveling to the United States in an unofficial capacity. Modi had been criticized for failing to act in 2002 as Hindu mob violence raged in the province, killing as many as 2,000 Muslims in the wake of an incident in which Muslims set fire to a train, killing 58 Hindus. Moreover, India's National Human Rights Commission, an official body, as well as numerous domestic and international human rights investigators, found evidence of complicity in the attacks by officials of the Gujarat state government, headed then and now by Chief Minister Modi.

It is important to prevent religious freedom violators from entering the United States, just as it is to protect refugees who flee from them. Accordingly, the Commission is looking forward to the State Department and the DHS expanding its "lookout lists" to prevent violators of religious freedom from being admitted to the United States. To facilitate this process, the State Department should identify those government officials who are responsible for particularly severe violations of religious freedom in all countries where such violations occur, as required by IRFA section 402(b)(2).

THE COMMISSION'S STUDY ON ASYLUM SEEKERS IN EXPEDITED REMOVAL, AS AUTHORIZED BY SECTION 605 OF IRFA

In addition to several refugee and asylum provisions specifically related to individuals who fled religious persecution, IRFA also authorized the Commission to appoint experts to conduct a study to determine whether certain legislative changes, enacted in 1996, were impairing America's obligation—and founding tradition—to offer refuge to those suffering persecution. The Commission's study, entitled the *Report on Asylum Seekers in Expedited Removal*, was released in February 2005.

The Congress authorized the Commission to appoint experts to examine how the new immigration procedure, known as "Expedited Removal," was affecting asylum seekers, regardless of whether or not the claim was based on religion, race, nationality, membership in a particular social group, or political opinion.

What is Expedited Removal?

In 1996, President Bill Clinton signed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA), the most comprehensive immigration reform legislation in over 30 years. Among other reforms, the legislation established Expedited Removal, a process which was intended to strengthen the security of America's borders without closing them to those fleeing persecution.

Prior to IIRAIRA, immigration inspectors could not compel an improperly documented alien to depart the United States. The inspector had the discretion to offer the alien the opportunity to withdraw his application for admission, or to refer the alien to an immigration judge for a hearing. If the inspector did refer the alien to an immigration judge, the alien could be detained until the hearing, but in practice would generally be released due to bed-space shortages.

The IIRAIRA changed these procedures. It authorized immigration inspectors summarily to remove aliens who lacked appropriate travel documents, or who obtained their travel documents through fraud or misrepresentation. Concerned, however, that *bona fide* asylum seekers not be removed to countries where they may be persecuted, Congress also included provisions to prevent the Expedited Removal of refugees fleeing persecution.⁷ Specifically, an alien who indicates an intention to apply for asylum or a fear of return is entitled to a “credible fear interview” by an asylum officer. If the asylum officer determines that an alien has a “significant possibility” of establishing eligibility for asylum, he or she is entitled to ask the immigration judge for relief from removal.⁸ If credible fear is not found, the asylum officer orders the alien removed, although this decision is subject to review by an immigration judge.

Congress also required that aliens, including asylum seekers, subject to Expedited Removal be detained until actual removal, after which they may not return to the United States for five years. If an asylum officer determines that an alien has credible fear, however, the alien may be considered for release while awaiting an asylum hearing. While decisions of release (“parole”) are discretionary, agency memoranda instruct that “parole is a viable option and should be considered for aliens who meet the credible fear standard, can establish identity and community ties, and are not subject to any possible bars to asylum involving violence or misconduct.”⁹

In March 2003, the Immigration and Naturalization Service (INS), the lead agency on Expedited Removal, was abolished by the Homeland Security Act of 2002. The functions of the former INS were dispersed to various components within the newly created Department of Homeland Security (DHS). The immigration judges, however, remained in the Executive Office for Immigration Review (EOIR) within the Department of Justice (DOJ).¹⁰

⁷ Under the 1967 Protocol to the 1951 Convention Relating to the Status of Refugees, which the United States has ratified, as implemented by the Refugee Act of 1980 and other amendments to the Immigration and Nationality Act, the United States may not return any individual to a country where that individual may face persecution on the basis of race, religion, nationality, membership in a particular social group, or political opinion. In addition, the United States has ratified and implemented regulations to execute the Convention Against Torture (CAT), and may not remove anyone to a country where he or she is in danger of being tortured.

⁸ “Credible fear” is defined in section 235(b)(1)(B)(v) of the Immigration and Nationality Act, 8 U.S.C. 1225(b)(1)(B)(5) (2004).

⁹ INS Memorandum, *Expedited Removal: Additional Policy Guidance* (Dec. 30, 1997) from Michael A. Pearson, Executive Associate Commissioner for Field Operations, Office of Field Operations, to Regional Directors, District Directors, Asylum Office Directors, reproduced in 75 *Interpreter Releases* 270 (Feb. 23, 1998).

¹⁰ EOIR oversees the Immigration Judges who review negative credible fear determinations made by asylum officers and who hear asylum claims from aliens placed in Expedited Removal. It also houses the Immigration Judges’ appellate review unit, the Board of Immigration Appeals (BIA).

Expedited Removal is mandatory for aliens arriving at ports of entry. Congress, however, also authorized the Attorney General to exercise discretion in applying Expedited Removal in the interior of the United States to undocumented aliens apprehended within two years after entry. On November 13, 2002, Expedited Removal was expanded by the INS to apply to undocumented non-Cubans who entered the United States by sea within the prior two years.

On August 11, 2004, the DHS announced that, effective immediately, it was exercising its discretion to expand further Expedited Removal authority to the Border Patrol for undocumented aliens apprehended within 14 days after entry and within 100 miles of the border, initially in the Tucson and Laredo Border Patrol sectors, but subject to further expansion.¹¹

The Commission Report on Asylum Seekers in Expedited Removal

IRFA authorized the Commission to appoint experts to examine whether immigration officers, in exercising Expedited Removal authority over aliens who may be eligible for asylum, were:

- (1) improperly encouraging withdrawals of applications for admission;
- (2) incorrectly failing to refer such aliens for credible fear determinations;
- (3) incorrectly removing such aliens to countries where such aliens may face persecution; or
- (4) improperly detaining such aliens, or detaining them under inappropriate conditions.

Congress also authorized the Commission-appointed experts to have virtually unrestricted access to Expedited Removal proceedings.

At the same time, IRFA required the General Accounting Office (GAO, now known as the Government Accountability Office) to complete its own study on asylum seekers in Expedited Removal, which was released in September 2000. That study found that, despite some deficiencies in the process, INS was generally in compliance with its own Expedited Removal procedures. GAO, however, relied primarily on the review of INS records and statistical analyses, and whether INS was following its own procedures. GAO chose not to review critically legal determinations made by INS or the EOIR.

As authorized by section 605 of IRFA, the Commission appointed experts on refugee and asylum issues to undertake the study.¹² While not directly involved in the development of the

¹¹ Designating Aliens for Expedited Removal, 69 Fed. Reg. 48,877 (2004).

¹² The experts appointed by the Commission were: Mark Hetfield (Immigration Counsel on Commission staff and Director of the study); Professor Kate Jastram (University of California at Berkeley); Dr. Allen Keller (Director of the New York University-Bellevue Center for Survivors of Torture); and Charles H. Kuck (Weathersby, Howard and Kuck in Atlanta). Mr. Kuck replaced Robert C. Divine, who resigned from the study in order to accept an appointment as Chief Legal Advisor to U.S. Citizenship and Immigration Services (USCIS) in the Department of Homeland Security. The Commission also retained Professor Craig Haney (University of California at Santa Cruz) as the study's detention expert, as well as Dr. Fritz Scheuren of the

study methodology, the Commissioners formed an active subcommittee to liaise with the experts, and visit some of the ports of entry, Border Patrol stations, asylum offices, and detention centers with them.¹³

The Commission study began in Fall 2003, after the absorption of most Expedited Removal operations into the DHS. The Commission-appointed experts chose to focus on building on the file review and statistical analyses gathered by GAO. The Commission study, however, differed from the GAO effort in several respects. Specifically, the Commission-appointed experts chose to:

- observe inspections at seven major ports of entry (GAO did not collect data from observations of Expedited Removal proceedings);
- compare the detention standards to correctional standards, and ascertain whether correctional standards were “appropriate” for a non-criminal asylum seeker population (GAO instead accepted the INS detention standards, and measured INS compliance with some of those standards);
- review the use of documents created during the Expedited Removal process that were used as evidence during asylum hearings; and
- examine the impact of representation on asylum claimants subject to Expedited Removal.

Data collection for the study occurred from March through December 2004. Under the guidance of a chief methodologist and other experts in research methods, the experts:

- together with members of the Commissioners subcommittee, performed preliminary site visits to inspection and detention facilities in the following areas: Arizona; Atlanta; Chicago; Detroit; Houston; Laredo; Los Angeles; Miami; New York/Newark; Puerto Rico; San Ysidro; San Francisco; and Washington, D.C. During these visits, experts and Commissioners met with inspectors (Customs and Border Protection or CBP), detention officials (Immigration and Custom Enforcement or ICE), asylum officers (U.S. Citizenship and Immigration Services or USCIS); immigration judges (EOIR); asylum seekers who have experienced Expedited Removal proceedings; and non-governmental organizations (NGOs);

National Opinion Research Center (NORC, University of Chicago) and President of the American Statistical Association), as chief methodologist.

¹³ The Expedited Removal study subcommittee was chaired by Commissioner Preeta D. Bansal. Other members included Commissioners Michael Cromartie, Bishop Ricardo Ramirez, and Michael K. Young. Commissioner Felice D. Gaer, Vice-Chair of the Commission, also participated in the activities and deliberations of the subcommittee.

- observed and collected data from 404 secondary inspections and interviewed 194 aliens in Expedited Removal proceedings, with 155 of those aliens being both interviewed and observed;
- reviewed randomly selected subsamples of an additional 339 files from ports of entry, 32 files of aliens who dissolved their asylum claims, 163 records of proceeding from the Board of Immigration Appeals, and 321 Alien Files of Asylum Seekers who were referred for credible fear;
- surveyed all eight asylum offices and the 19 largest detention facilities;
- interviewed and collected data from 39 asylum seekers who were dissolving their asylum claims;
- reviewed 50 files provided by DHS of negative credible fear determinations; and
- compiled nation-wide statistics with the assistance of EOIR and DHS.

The Commission appointed experts received valuable feedback on earlier drafts from the GAO, as well as from the interested bureaus and offices within the DOJ and DHS. The Commission acknowledges and appreciates the cooperation demonstrated by all of these agencies in preparing this report.

In February 2005, the Commission experts finalized their reports and unanimously adopted a set of findings and recommendations, with which the Commission concurred.¹⁴ The Commission is convinced that, if carried out, these recommendations will allow Expedited Removal to protect U.S. borders while protecting *bona fide* asylum seekers. This is how Expedited Removal was intended to work, and how it often does work in practice.

The Commission regrets, however, that serious problems were also identified, which place some asylum seekers at risk of improper return (*refoulement*). The Commission also found that most asylum seekers in Expedited Removal are detained under conditions which may be suitable in the criminal justice system, but are entirely inappropriate for asylum seekers fleeing persecution. Nevertheless, the Commission and the experts concluded that these issues can be addressed without amending the Immigration and Nationality Act.

Finally, the study uncovered statistics which, the Commission believes, require further investigation and analysis. Since the events of September 11, while the number of aliens traveling to the United States has declined by 20 percent, the number of asylum seekers who arrive through Expedited Removal proceedings has plummeted by 50 percent.

¹⁴ Due to personal demands on her time, Commissioner Nina Shea did not review or participate in the study.

Under U.S. law, an alien has a legal right to apply for asylum once he or she arrives in the United States. No one, however, has a legal right to travel to the United States in order to apply for asylum. Indeed, increasing numbers of DHS employees stationed overseas are being enlisted to help foreign airline personnel identify improperly documented aliens to prevent them from boarding planes to the United States. Whatever the implications of these actions are for national security, they will likely have an adverse impact on the number of *bona fide* asylum seekers fleeing to the United States, as they are often unable to obtain legitimate travel documents from the state which persecutes them. Moreover, it has long been the case that U.S. consular officers have denied visas when they suspect the applicant intends to apply for asylum after landing in the United States.

Recognizing that asylum seekers who cannot get a visa to the United States may still have serious protection needs, the Department of State, in consultation with Congress, developed discretionary mechanisms to allow such individuals to be referred for resettlement. One such mechanism allows embassies and consular officers to refer individuals with protection needs to the U.S. Refugee Program. In order to promote better understanding and use of this protection mechanism, section 602 of IRFA requires the Secretary of State to “provide sessions on refugee law and adjudications and on religious persecution to each individual seeking a commission as a United States consular officer.” The Commission has raised concerns regarding the State Department’s failure to implement this requirement.¹⁵

Given the dramatic decline in the number of asylum seekers entering the United States, the Commission urges Congress to authorize a study on the reasons for the decline and the extent to which consular officers are being trained in, and utilizing, the refugee referral mechanism referred to in section 602 of IRFA.

Indeed, although the data collected in the Commission’s study answered the four questions about Expedited Removal posed to the experts by Congress, it also posed many more. The Commission expects that the hundreds of pages of data compiled by the experts will continue to be reviewed and analyzed by others to provide further guidance on how the Expedited Removal process can be improved.

The study, in its entirety, is available on the Commission’s web site.

Overview of Findings and Recommendations of the Commission Study

The study found mandatory procedures in place to ensure that asylum seekers are protected under Expedited Removal. Some procedures were applied with reasonable consistency, but compliance with others varied significantly, depending upon where the alien arrived and which immigration judges or inspectors addressed the alien’s claim. Most procedures lacked effective quality assurance measures to ensure that they were consistently followed. Consequently, the outcome of an asylum claim appears to depend not only on the strength of the claim, but also on which officials consider the claim, and whether or not the alien

¹⁵ U.S. Commission on International Religious Freedom, Annual Report 2004, p. 101.

has an attorney. Similarly, while DHS has developed criteria relating to the release of detained asylum seekers, the implementation of these criteria also varies widely from place to place.

There are a few areas, however, where the study identified problems other than inconsistent practices. For example, with regard to detention, the study found that asylum seekers are consistently detained in jails or jail-like facilities, which the experts found inappropriate for non-criminal asylum seekers. There were, however, a small number of exceptions to this rule, the most prominent being a DHS contract facility in Broward County, Florida, which is a secure, but appropriate and non-correctional, environment for non-criminal asylum seekers.

The study also found that asylum seekers without a lawyer had a much lower chance of being granted asylum (two percent) than those with an attorney (25 percent). This difference was consistent whether the alien resided—or was detained—in an area with a high rate of representation of asylum claimants, or a low rate of representation. The study does, however, identify a number of locations where public-private initiatives involving DHS, the EOIR, and NGOs, have put legal assistance within reach of some detained asylum seekers. These programs, however, are limited to only a few select locations.

With regard to credible fear determinations, the study found that asylum officers screened-in more than 90 percent of credible fear applicants, and made a negative credible fear finding in only one percent of cases. Quality assurance procedures, requiring much more extensive documentation and review of negative claims than of positive ones, may have created a built-in bias in the credible fear screening, undermining the objectivity of the process.

Each stage of the Expedited Removal process relies upon the information collected in previous stages:

- (1) The alien is referred by CBP for a credible fear interview, or removed; then
- (2) Referred by an asylum officer at USCIS for an asylum hearing, or ordered removed, subject to immigration judge review of the negative credible fear determination; then
- (3) Detained or paroled by ICE; and then
- (4) With the participation in the courtroom by an ICE trial attorney, granted or denied asylum, withholding, or Convention Against Torture (CAT) relief by the immigration judge (DOJ-EOIR).

The impediments to communication and information sharing within DHS, however, are serious. By the end of the process—the asylum hearing—unreliable and/or incomplete documentation from CBP and USCIS is susceptible to misinterpretation by the ICE trial attorney, misapplication by the immigration judge, and may ultimately result in the denial of the asylum seeker's claim. The study did not seek to determine whether asylum claims were incorrectly denied, but did determine that immigration judges, even within the same court, had significantly different rates of granting or denying asylum claims. Furthermore, in denying asylum applications on the basis of credibility, immigration judges frequently cited documents which the study found to be unreliable and incomplete records.

The study also noted that Expedited Removal has been expanded twice in recent years, without first addressing the flaws in the system that undermine the protections for asylum seekers.

In April 2005, a Commission delegation met with Secretary of Homeland Security Michael Chertoff to discuss the findings and recommendations of the study. The Commission urged the Secretary, as he moves forward with his reconsideration of the structure of the DHS, to take steps to ensure that the Secretary will no longer be responsible for coordinating refugee and asylum policy among the various bureaus, but that a high ranking official who reports to him or her will carry out this function. Without day-to-day oversight of asylum policy and its implementation department-wide, the flaws in the system identified in the Commission's study cannot be effectively addressed, leaving asylum seekers in Expedited Removal at risk of being returned to countries where they may face persecution.

Also in April, a delegation of Commissioners and study experts met with the leadership of EOIR, including Director Kevin Rooney, Chief Immigration Judge Michael Creppy, and Board of Immigration Appeals Chair Lori Scialabba, to thank EOIR for its cooperation in the study and to discuss findings and recommendations. EOIR assured the Commission that the study report has been posted on the EOIR Electronic Bulletin Board System for all judges to review, and that the Commission would be invited to participate in trainings for immigration judges on the study's findings.

In June 2005, the American Immigration Lawyers Association will be awarding the Commission and the Expedited Removal study team the Arthur C. Helton Memorial Human Rights Award in recognition of outstanding service in advancing the cause of human rights.

Findings

Question One

ARE IMMIGRATION OFFICERS, EXERCISING EXPEDITED REMOVAL AUTHORITY, IMPROPERLY ENCOURAGING ASYLUM SEEKERS TO WITHDRAW APPLICATIONS FOR ADMISSION?

Department of Homeland Security (DHS) regulations and Customs and Border Protection (CBP) procedures and training materials make it clear to CBP inspectors that the withdrawal of an application for admission is "strictly voluntary" and "must not be coerced in any way." While most officers observed complied with these procedures, in one port of entry the study observed a few instances in which immigration officers improperly encouraged asylum seekers to withdraw their applications for admission.

Question Two

ARE IMMIGRATION OFFICERS, EXERCISING EXPEDITED REMOVAL AUTHORITY, INCORRECTLY FAILING TO REFER ASYLUM SEEKERS FOR A CREDIBLE FEAR INTERVIEW?

DHS regulations state that an immigration inspector must refer an alien for a credible fear determination if that alien indicates “an intention to apply for asylum, a fear of torture, or a fear of return to his or her country.” In accordance with these regulations, nearly 85 percent (67/79) of arriving aliens observed by the study expressing a fear of return were referred for a credible fear interview. CBP Guidelines, however, provide the inspector with more discretion than the regulations, allowing the inspector to decline referral in cases where the fear claimed by the applicant is unrelated to the criteria for asylum. Indeed, in 15 percent (12/79) of observed cases when an arriving alien expressed a fear of return to the inspector, the alien was not referred. Moreover, among these twelve cases were several aliens who expressed fear of political, religious, or ethnic persecution, which are clearly related to the grounds for asylum. Of particular concern, in seven of these twelve cases, the inspector incorrectly indicated on the sworn statement for the file that the applicant claimed he or she had no fear of return.

DHS regulations require immigration inspectors to follow a standard script informing each alien that he or she may ask for protection if he or she has a fear of returning home. In approximately half of inspections observed, inspectors failed to inform the alien of the information in that part of the script. Aliens who did receive this information were seven times more likely to be referred for a credible fear determination than those who were not.

While DHS guidance requires that asylum seekers at land ports of entry be placed in Expedited Removal and referred for a credible fear interview, the study interviewed two groups of aliens, one from the Middle East, the other from East Africa, who requested the opportunity to apply for asylum but were refused and “pushed back” at primary inspection. The study became aware of these cases only because, in each case, the asylum seekers tried again on a different day and were referred into Expedited Removal as well as for a credible fear interview. CBP has stated that it is “very concerned and dismayed that this is happening contrary to policy, and is taking steps to address this.”¹⁶

Question Three

ARE IMMIGRATION OFFICERS, EXERCISING EXPEDITED REMOVAL AUTHORITY, INCORRECTLY REMOVING ASYLUM SEEKERS TO COUNTRIES WHERE THEY MAY FACE PERSECUTION?

The second study question concerned *bona fide* asylum seekers who are improperly denied a referral for a credible fear determination. The fact that such asylum seekers may be removed to a country where they may face persecution is addressed under question two. In this section, the focus is on asylum seekers who are removed after the credible fear interview. In addressing this question, it is also appropriate to examine asylum seekers ordered removed by

¹⁶ Letter from Michael J. Hrinyak, Acting Executive Director, Immigration Policy and Programs, Office of Field Operations, to Mark Hetfield, USCIRF (February 2, 2005). *See also* “Aliens Seeking Asylum at Land Border Ports of Entry,” Memorandum from Michael A. Pearson, Executive Associate Commissioner, Office of Field Operations, Immigration and Naturalization Service, to Regional Directors (February 6, 2002).

the immigration judge at the conclusion of their asylum hearing, focusing on the characteristics of the proceeding which are unique to cases that originate in Expedited Removal.

Asylum officers reach a negative credible fear determination in only one percent of cases referred. Moreover, a negative credible fear determination is subject to strict quality assurance procedures by U.S. Citizenship and Immigration Services (USCIS) headquarters, and may then be reviewed by an immigration judge, who vacates negative credible fear findings reached by asylum officers more than ten percent of the time.

Under the current system, immigration judges—not asylum officers—determine eligibility for asylum for aliens in Expedited Removal proceedings. The study found very significant variations in the asylum approval rates of individual judges. Furthermore, in nearly 40 percent of the immigration judge decisions examined where relief was denied, the judge cited that the applicant’s testimony was inconsistent with his or her initial asylum claim, as expressed to the immigration inspector or the asylum officer at the time of the credible fear interview. In nearly one-fourth of these cases, the judge found that the asylum-seeker’s testimony was not credible because the alien “added detail” to the prior statements. Such negative credibility findings fail to take into account that the records of these prior statements are, according to the findings of the study, often unreliable and incomplete. The study found that, in the majority of observed cases, the alien signed the sworn statement without reading it and without the CBP officer reading it back to him or her. The study also found that immigration judges granted relief to 25 percent of represented asylum applicants, but to only two percent of unrepresented asylum seekers.

After being denied asylum, an alien who continues to claim a fear of persecution or torture may appeal a negative immigration judge decision to the Board of Immigration Appeals (BIA). While the BIA sustained 23 percent of Expedited Removal asylum appeals in FY2001, only two to four percent of such appeals have been granted since 2002, when the court began allowing the issuance of “summary affirmances” rather than detailed decisions. Statistically, it is highly unlikely that any asylum seeker denied by an immigration judge will find protection by appealing to the BIA.

Question Four

ARE IMMIGRATION OFFICERS, EXERCISING AUTHORITY UNDER EXPEDITED REMOVAL, DETAINING ASYLUM SEEKERS IMPROPERLY OR UNDER INAPPROPRIATE CONDITIONS?

Asylum seekers subject to Expedited Removal must, by law, be detained until an asylum officer has determined that they have a credible fear of persecution or torture, unless release (parole) is necessary to meet a medical emergency need or legitimate law enforcement objective. The study found that most asylum seekers are detained in jails and in jail-like facilities, often with criminal inmates as well as aliens with criminal convictions. While DHS has established detention standards, these detention facilities closely resemble, and are based on, standards for correctional institutions.

In one particularly innovative Immigration and Customs Enforcement (ICE) contract facility, located in Broward County, Florida, asylum seekers are detained in a secure facility which does not closely resemble a jail. While Broward could be the model in the United States for the detention of asylum seekers, it is instead the exception among the network of 185 jails, prisons, and “processing facilities” utilized by DHS to detain asylum seekers in Expedited Removal.

DHS policy favors the release of asylum seekers who have established credible fear, identity, community ties, and no likelihood of posing a security risk. However, there was little documentation in the files to assess how these criteria were actually being applied by ICE.

Moreover, DHS statistics show that its release criteria are being applied with extreme inconsistency. Asylum seekers in New Orleans are released 0.5 percent of the time prior to an asylum decision in their case, four percent of the time in New Jersey, and eight percent of the time in New York. In Harlingen, however, the release rate is 98 percent, in San Antonio it is 98 percent, and in Chicago, 81 percent.

The Study’s Recommendations

Recommendation One. In order to more effectively protect both homeland security and *bona fide* asylum seekers, the Department of Homeland Security should create an office, headed by a high-level official, authorized to address cross cutting issues relating to asylum and expedited removal.

Recommendation Two. The burden on the detention system, the immigration courts, and on *bona fide* asylum seekers in Expedited Removal themselves should be eased by allowing asylum officers to grant asylum in approvable cases at the time of the credible fear interview, just as they are already trained and authorized to do for other asylum seekers. Aliens who establish credible fear but for whatever reason have not yet established an approvable asylum claim, should continue to be referred to an immigration judge.

Recommendation Three. DHS should establish detention standards and conditions appropriate for asylum seekers. The agency should also promulgate regulations to promote more consistent implementation of existing parole criteria, to ensure that asylum seekers with a credible fear of persecution—who establish identity and who pose neither a flight nor a security risk—are released from detention.

Recommendation Four. Expand existing private-public partnerships to facilitate legal assistance for asylum seekers subject to Expedited Removal, and improve administrative review and quality assurance procedures to improve consistency in asylum determinations by immigration judges.

Recommendation Five. The DHS should implement and monitor quality assurance procedures to ensure more reliable information for Homeland Security purposes, and to ensure that asylum seekers are not turned away in error. Specifically, DHS should:

- create a reliable inter-bureau system that tracks real-time data of aliens in Expedited Removal proceedings;
- reconcile conflicting field guidance to require that any expression of fear at the port of entry must result in either a referral for a credible fear determination or, in cases in which the inspector or Border Patrol agent believes the alien would “clearly not qualify” for asylum or Committee Against Torture relief, contact with an asylum officer to speak to the alien via a telephonic interpretation service to determine whether or not the alien needs to be referred;
- improve quality assurance by expanding and enhancing the videotape systems currently used at Houston and Atlanta to all major ports of entry and Border Patrol stations unintrusively to record all secondary interviews, and consider employing the use of undercover “testers” to verify that Expedited Removal procedures are being properly followed;
- include, on Sworn Statement Form I-867B, an explanation of the specific purpose for which the document is designed to serve, and its limitations; and
- enhance the efficiency of the Expedited Removal process by amending DHS quality assurance procedures for the credible fear interview to subject both negative and positive determinations to similar quality assurance procedures.

Concluding Recommendation

The Commission’s study on Expedited Removal has provided temporary transparency to Expedited Removal, a process which is opaque not only to the outside world, but even within the DHS. As a result of this transparency, serious—but not insurmountable—problems with Expedited Removal have been identified. The study’s recommendations concerning better data systems, quality assurance measures, access to representation, and a DHS Refugee Coordinator would all contribute to a more transparent and effective Expedited Removal process. The study also recommends that Congress require the Departments of Justice and Homeland Security to prepare and submit reports, within twelve months of the release of this study, describing agency actions to address the study’s findings and recommendations.

THE STATE DEPARTMENT'S ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM

In passing the International Religious Freedom Act (IRFA), Congress sought to ensure that advancing international religious freedom was an integral part of the U.S. government's foreign policy agenda. It is the State Department's *Annual Report on International Religious Freedom* (Annual Report) that provides Congress and the public an opportunity to assess not only the state of religious freedom around the world but also what the U.S. government is doing to advance this key U.S. foreign policy objective.

As the only U.S. government account devoted especially to religious freedom conditions worldwide, the Annual Report remains a crucial reporting tool. In addition to providing a detailed description of country conditions, IRFA requires that the Annual Report fully describe the active steps the U.S. government is taking or has taken to promote religious freedom and to respond to religious freedom violations in all countries where such violations occur.

The Annual Report continues to contain abundant information on religious freedom conditions throughout the world. However, the section describing U.S. actions with regard to individual countries remains uneven and, in some respects, inadequate. The Commission maintains that a better balance between these two aspects of the report should be applied, since underreporting on U.S. policies weakens the report's usefulness as a policy tool. Topics that should be found in this section include: the U.S. government's goals and objectives to promote respect for religious freedom in the country reported on, along with the relative priority of these objectives; U.S. policies that have been adopted and are being implemented to advance religious freedom there; U.S. concerns that have been raised with the foreign government in question, as well as the response of that foreign government; the results, or lack thereof, of specific actions taken by the U.S. government; and the nature of foreign aid, public diplomacy, and other programs sponsored by the U.S. government to promote religious freedom in that country.

Unfortunately, it is still not apparent from the lists of actions presented in the Annual Report that the State Department has conducted its activities with respect to religious freedom in a coordinated and deliberate fashion, or used all of the available policy tools to advance religious freedom in countries where violations occur. For example, IRFA provisions encouraging positive measures—and not just punitive ones—are still underutilized. Accordingly, the Commission recommends that the Annual Report include a detailed description of foreign aid, public diplomacy, educational and cultural exchanges, and other programs sponsored by the U.S. government that seek to promote respect for freedom of religion or belief and other related human rights, as well as religious tolerance. Some information of this type is scattered throughout the Annual Report, but the reports on several important countries that receive substantial funding allocations under the democracy and governance programs of the U.S. Agency for International Development contain very little of this type of information, giving the reader the impression that religious freedom concerns have not been integrated into the mission's program planning.

The 2004 Annual Report on International Religious Freedom

The 2004 Annual Report is, characteristically, a significant accomplishment that continues to demonstrate the substantial efforts of the Foreign Service Officers in our embassies around the world, as well as the Ambassador-at-Large for International Religious Freedom, John V. Hanford III, and his staff at the State Department's Office on International Religious Freedom. Many of the individual country reports in the 2004 Annual Report continue to be lengthy and revealing. However, the Commission remains concerned about a number of informational inaccuracies in several important country reports.

The country report on **Saudi Arabia** gives the impression that the religious freedom situation is improving there, despite the fact that the essential characteristic—the absence of religious freedom—remains unchanged. Although the country has for the first time been named by the Secretary of State as a “country of particular concern,” or CPC, the report on Saudi Arabia for the first time contains a section describing purported “Improvements and Positive Developments in Respect for Religious Freedom,” which too enthusiastically champions as positive a set of actions that did little to alter the actual situation. What is more, the report continues to omit any mention of reports of the Saudi export of an intolerant and hate-filled religious ideology to a number of countries throughout the world. The Commission welcomes the fact that senior officials in the State Department, including Ambassador Hanford, have publicly addressed the issue. In March 2005, Acting Assistant Secretary of State for Democracy, Human Rights, and Labor Michael G. Kozak testified before Congress that the Saudi government “failed to take responsibility for the propagation of religious intolerance and incitement to violence at home and abroad.” Clearly, this important issue should be addressed in the Annual Report.

The report on **Afghanistan** does not address what the Commission has termed the potentially “fatal flaw” in the country's new Constitution. Though mention is made that non-Muslims are free to exercise their faith, the report does not address the fact that Muslims are not granted the right to freedom of thought, conscience, and religion or belief. The report also fails to mention that even the limited group right extended to non-Muslims can be restricted by ordinary law, as are most of the other rights outlined in the Constitution. Furthermore, the Afghanistan report states that “The Constitution does not grant preferential status to the Hanafi school” of Islamic jurisprudence. This is simply incorrect. Article 130 in the Constitution says that if there is no other law on point, decisions of the courts “shall be within the limits of the Constitution in accord with Hanafi jurisprudence.” Similarly, the report states that “The new Constitution makes no reference to Shari'a law.” However, this sentence is somewhat misleading, as the article mentioned above provides a constitutional basis for sharia law to be applied in Afghanistan through the default position of Hanafi jurisprudence. Finally, the Afghanistan report does not explicitly address the profound threat to religious freedom that exists in the form of the new Constitution's “repugnancy clause” that states that “no law can be contrary to the beliefs and provisions of Islam,” and the fact that the Supreme Court is empowered to make this crucial determination. Given that the Supreme Court is currently headed by a judge who told a Commission delegation visiting Afghanistan in 2003 that he does not fully accept freedom of religion, these clauses in the Constitution represent potentially grave threats to religious freedom in Afghanistan.

The 2004 country report on **Sudan** drops the previous year's treatment of the issue of the abduction of women and children and the taking of slaves, a practice that was sometimes accompanied by forced conversion to Islam. It would have been useful for the report to have included an update on both of these issues, noting, for example, whether any progress had occurred, due to the lessening of the North-South armed conflict, on the return to their ancestral home-areas of persons who had been displaced or enslaved.

The country report on **Turkmenistan** concludes that "the status of government respect for religious freedom, from a legislative perspective and in practice, improved during the period covered by this report." While it is true that four, very small minority religious communities were registered (Seventh-Day Adventists, Baha'is, Baptists, and Hare Krishnas) under eased registration requirements, there are also reliable reports that even members of these newly registered religious communities have continued to suffer harassment at the hands of the police. It is therefore not clear that registration in fact provides any benefits. Six Jehovah's Witnesses imprisoned as conscientious objectors to military service were released, but two more were later jailed. In addition, the country's former chief mufti was given a 22-year term of imprisonment, after a closed trial, during this period of reporting. Given Turkmen President Saparmurat Niyazov's ever-growing repressive cult of personality and its imposition on the religious life of the country via enforced pressure to praise and promote his self-proclaimed spiritual writings, including in mosques and churches, the status of religious freedom in Turkmenistan has not genuinely improved.

The report on **China** was more forceful than last year's report on the matter of the violations of the religious freedom of Uighur Muslims in Xinjiang. In addition, the section on Tibet was more detailed than in previous years and in some areas contained stronger, more explicit language about developments in that region. For example, the report had better coverage of conditions for Tibetans in Sichuan and other regions outside of the Tibet Autonomous Region. However, the report makes no mention of new laws dealing with "illegal religious activity" adopted in several areas, including in the city of Qingdao and in counties in Hunan and Jiangsu. The adoption of these laws in the fall of last year was followed by a spate of church closings and destruction of church buildings in areas where these laws came into effect. The report also inaccurately describes Zhejiang as a province where unregistered religious activity faces less pressure than in other places. In fact, in 2003, approximately 10 underground churches in Zhejiang were destroyed. Some of this activity is noted at other places in the report, but the language makes it seem as if the situation in Zhejiang has largely improved, and that is not the case.

Although the China country report mentions the forced postponement of the Commission's visits to China (though the reason for the postponements was not given), it does not mention the postponement of a planned visit by the UN Special Rapporteur on Torture in June 2004, a visit that was postponed by Chinese officials who claimed they did not have time to prepare the locations, including labor camps, where visits were requested.

Finally, the report on **North Korea** now states more clearly that repression "has increased" in North Korea, that churches in Pyongyang are "controlled by the state," and that

refusal to conform to expected rituals and practices of the worship of Kim Jong Il “may result in severe punishment.” In other sections of the report, however, unnecessarily hesitant language is employed. Documentation from the reports of a number of non-governmental organizations and from numerous refugee testimonies provides ample evidence that North Korean refugees who admit contact with religious groups while in China are subject to immediate detention, torture, and sometimes execution. Yet, the State Department’s report continues to use tentative language, stating, for example, that “harsher” treatment “appears” to occur.

Religious Persecution and the U.S. Refugee Program: Appendix E

Congress intended the Annual Report to serve as an important resource for officials hearing the claims of those persons seeking asylum or refugee status in this country. The United States has a long tradition of welcoming those fleeing religious persecution. The flow of refugees and religious persecution are inextricably linked, and this is acknowledged throughout Title VI of IRFA.

Noting the Annual Report’s role as a resource for immigration adjudicators, the Commission has previously reported on its concern that Appendix E of the Annual Report, the “Overview of U.S. Refugee Policy,” contained misleading and incomplete information, particularly about East Asia. The Commission welcomes changes to the 2004 Annual Report that resulted in significant improvements in this section. However, the Commission remains concerned that, as in last year’s report, the 2004 Overview of U.S. Refugee Policy section contains little information on the serious problem of intra-religious persecution, but instead focuses almost exclusively on the persecution of religious minorities by a majority religious community. Moreover, there is no mention of significant refugee-source countries such as Eritrea and Afghanistan, where serious religious freedom problems persist; indeed, Eritrea was designated a CPC this year. Saudi Arabia, a newly-designated CPC, and Pakistan, which the Commission has recommended be designated a CPC, are cited in the refugee section for their mistreatment of religious minorities, but the section does not indicate how the U.S. Refugee Program has been responsive to this mistreatment.

The report’s refugee section describes in some detail how the U.S. Refugee Program is responding to the needs of religious minorities who have fled Iran. However, the document contains only generic descriptions of how the United States assists other refugee groups that are fleeing religious persecution. The Commission hopes that future reports will describe in greater detail how the Refugee Program is responding to the needs of specific groups of refugees who have fled severe violations of religious freedom.

Commission Recommendations

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

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

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

APPENDIX 1

BIOGRAPHIES OF MEMBERS OF THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Preeta D. Bansal, Chair

Preeta D. Bansal is the Chair of the Commission. She is Of Counsel at Skadden, Arps, Slate, Meagher & Flom in New York City. She is a constitutional lawyer whose career has spanned government service, private law practice, and academia. She served as the Solicitor General of the State of New York from 1999 through 2001, during the first three years of New York Attorney General Eliot Spitzer's administration. As Solicitor General, Ms. Bansal helped supervise a staff of 600 lawyers in the New York Department of Law and directly oversaw 45 lawyers in the Solicitor General's Office who handle appeals for the State of New York and its agencies in state and federal courts, wrote Attorney General opinions to state and municipal agencies on issues of state law, and provided advice and counsel to state agencies on constitutional and statutory matters. Ms. Bansal argued cases in the United States Supreme Court, the en banc Second Circuit Court of Appeals, and the New York Court of Appeals on behalf of New York state; implemented managerial and administrative reforms to enhance the credibility and quality of written and oral advocacy performed by the office; and helped to formulate and articulate a vision for a proactive enforcement role for state attorneys general nationwide in the wake of the Supreme Court's "new federalism" jurisprudence.

Ms. Bansal is a magna cum laude and Phi Beta Kappa graduate of Harvard-Radcliffe College, and a magna cum laude graduate of Harvard Law School, where she was Supervising Editor of *The Harvard Law Review*. She served as a law clerk to Justice John Paul Stevens of the United States Supreme Court (1990-1991) and to Chief Judge James L. Oakes of the United States Court of Appeals for the Second Circuit (1989-1990). Prior to her appointment as New York Solicitor General, Ms. Bansal practiced appellate, constitutional, and media law with private law firms in Washington, D.C. and New York City. She also served in the Clinton Administration (1993-1996) as Counselor in the U.S. Justice Department and as Special Counsel in the Office of the White House Counsel.

Ms. Bansal has been a regular speaker and lecturer on constitutional law, First Amendment, and intellectual property issues in the United States and abroad, and has authored and co-authored pieces published in *The Harvard Law Review*, *Yale Law Journal*, *The Fordham Intellectual Property, Media & Entertainment Law Journal*, and *The Villanova Law Review*, among other publications. She has been profiled in many national news and legal publications, including *The New York Times* and *The New York Law Journal*, in which she has been referred to as a "legal superstar" and "one of the most gifted lawyers of her generation, who combines a brilliant analytical mind with solid, mature judgment." She has taught constitutional law and served as a public policy fellow at Harvard University's John F. Kennedy School of Government.

Commissioner Bansal was appointed by former Senate Minority Leader Thomas Daschle (D-SD).

Felice D. Gaer, Vice Chair

Felice D. Gaer has served on the Commission since 2001. She is currently a Vice Chair of the Commission. She served as Chair from June 2002 to June 2003, and on the Commission's Executive Committee from September 2001 to June 2002.

Ms. Gaer is a human rights specialist, serving as Director of the Jacob Blaustein Institute for the Advancement of Human Rights of the American Jewish Committee. The Institute, founded in 1971, works creatively to enrich thinking, discourse, and action for the protection of international human rights for all.

She is Vice President of the Committee Against Torture, a United Nations human rights treaty body composed of 10 individuals elected as independent experts. The Committee reviews reports by governments on their compliance with the Convention Against Torture, a treaty ratified by over 130 countries, and considers individual communications about alleged violations of the Convention. Nominated by the United States, elected in 1999, and again in 2003, she is the first American to serve on the Committee.

Ms. Gaer was appointed as a public member of nine U.S. delegations to UN human rights negotiations between 1993 and 1999, including the UN Commission on Human Rights, the World Conference on Women, and the World Conference on Human Rights.

Felice Gaer was cited as "*the* American Jewish international human rights expert" in the November 2002 and November 2003 lists of the "Forward Fifty," in which *The Forward* newspaper's editorial board commended her for addressing major human rights issues "long before they bubble to the surface" and remarked that "during the last 20 years, no communal official has accumulated such a wealth of experience and contacts with activists, governments, and the United Nations in the field of human rights."

She is also a member of the steering committee of Human Rights Watch/Eurasia, Vice President of the International League for Human Rights, and a member of the Board of Directors of the Andrei Sakharov Foundation and the Eleanor Roosevelt Center at Valkill. She also serves as a member of the Human Rights Executive Directors Leadership Group. Ms. Gaer is a frequent author on international human rights topics, including reforming the United Nations, advancing the human rights of women, the role of non-governmental organizations, and related topics. In 1995, she was awarded the Alumnae Achievement Award from Wellesley College, from which she received an A.B. (with honors). She also received advanced degrees from Columbia University in political science (Masters of Philosophy; Master of Arts) and a Certificate from the Russian Institute.

Commissioner Gaer was appointed by House Minority Leader Nancy Pelosi (D-CA).

Nina Shea, Vice Chair

Since 1999, Nina Shea has served as a Commissioner on the U.S. Commission on International Religious Freedom and, in 2003 and 2004, she was elected a Vice Chair of the Commission.

Ms. Shea has been an international human rights lawyer for 25 years, and for 19 years she has focused specifically on the issue of religious freedom in American foreign policy as the director of the Center for Religious Freedom, a division of Freedom House, America's oldest human rights group.

She is a co-author of a newly-released book on governance by extreme sharia, *Radical Islam's Rules* (Rowman & Littlefield) and the author of a widely acclaimed book on anti-Christian persecution around the world entitled *In the Lion's Den* (Broadman & Holman Publishers). In 2005, she edited a path-breaking report on publications by the government of Saudi Arabia promoting an ideology of hate in America. Ms. Shea has been one of the activists at the forefront of a movement to make religious freedom abroad a U.S. foreign policy priority. It was a conference that Ms. Shea organized under Freedom House auspices in January 1996 that brought 100 top Christian leaders together for the first time to address the issue of worldwide anti-Christian persecution. This marked the beginning of an interfaith coalition she has played a key leadership role in that has turned into a nationwide movement to advance religious freedom worldwide. In a profile of her, *Newsweek* magazine credited her with "making Christian persecution Washington's hottest cause." The *Far Eastern Economic Review* cited Nina Shea as one of the "leading voices in the fight to put religious persecution at the center of U.S.-China relations."

Ms. Shea has organized and sponsored numerous fact-finding missions to Iraq, Sudan, Nigeria, China, Egypt and elsewhere and has testified before Congress on these and other governments. She has written and contributed to articles in *The New York Times*, *Wall Street Journal*, *Los Angeles Times*, *National Review*, *The Weekly Standard*, *The New Republic* and numerous other publications. She has been a guest on hundreds of talk shows on Christian radio and has appeared on Fox, CBS, ABC and PBS news programs, as well as numerous religious broadcasts.

In 2001, Ms. Shea was appointed by President Bush to serve on the U.S. delegation to the UN Commission on Human Rights in Geneva. During the Clinton Administration, she had also served on the Advisory Committee on Religious Freedom Abroad to the U.S. Secretary of State and for one year as a U.S. delegate to the UN Commission on Human Rights.

She graduated from Smith College and American University Law School and has an honorary degree from Alvernia Franciscan College in Reading, PA. She is a dame of the Knights of Malta. Commissioner Shea was appointed by Speaker of the House Dennis Hastert (R-IL).

Dr. Khaled M. Abou El Fadl

Dr. Khaled Abou El Fadl has been described as the most important and influential Islamic thinker in the modern age. He is currently a Full Professor of Law at the UCLA School of Law. He was also a Visiting Professor at Yale Law School, where he taught National Security law,

Islamic law and Immigration law. Dr. Abou El Fadl holds degrees from Yale University, University of Pennsylvania Law School, and Princeton University. An Islamic jurist and scholar, Sheikh Abou El Fadl received formal training in Islamic jurisprudence in Egypt and Kuwait. A world-renowned expert in Islamic law and an American lawyer, Dr. Abou El Fadl is a strong proponent of human rights and is on the Board of Directors of Human Rights Watch. He regularly serves as an expert in a wide variety of cases ranging from human rights and political asylum to international and commercial law.

Dr. Abou El Fadl is a prolific author and prominent public intellectual on Islamic law and Islam and is most noted for his scholarly approach to Islam from a moral point of view. He writes extensively on universal themes of morality and humanity, and the notion of beauty as a moral value. Dr. Abou El Fadl is a staunch advocate and defender of women's rights, and focuses much of his written attention on issues related to women. As the most critical and powerful voice against puritan and Wahhabi Islam today, he regularly appears on national and international television and radio, and is published and cited extensively in all media venues. His most recent works focus on issues of authority, terrorism, tolerance, Islam, and Islamic law. His newest book entitled, *The Great Theft: Wrestling Islam from the Extremists*, is due out in Fall 2005 from HarperSanFrancisco.

Other books by Dr. Abou El Fadl include: *Conference of the Books: The Search for Beauty in Islam* (University Press of America/Rowman and Littlefield, 2001); *And God Knows the Soldiers: The Authoritative and Authoritarian in Islamic Discourses* (UPA/Rowman and Littlefield, 2001); *Speaking in God's Name: Islamic law, Authority and Women* (Oneworld Press, Oxford, 2001); *Rebellion and Violence in Islamic Law* (Cambridge University Press, 2001); *The Place of Tolerance in Islam* (Beacon Press, 2002); and *Islam and the Challenge of Democracy* (Princeton University Press, 2004). Other forthcoming books include: *Reasoning with God: Rationality and Thought in Islam* (Oneworld Press, Oxford) and *Jihad in Islam* (Cambridge University Press).

Commissioner Abou El Fadl was appointed by President George W. Bush.

The Most Reverend Charles J. Chaput

The Most Reverend Charles J. Chaput, Archbishop of Denver, was born September 26, 1944, in Concordia, Kansas, the son of Joseph and Marian DeMarais Chaput. He attended Our Lady of Perpetual Help Grade School in Concordia and St. Francis Seminary High School in Victoria, Kansas. He joined the Order of Friars Minor Capuchin, St. Augustine Province, in 1965.

After earning a Bachelor of Arts in Philosophy from St. Fidelis College Seminary in Herman, Pennsylvania, in 1967, Archbishop Chaput completed Studies in Psychology at Catholic University in Washington, D.C., in 1969. He earned a Master of Arts in Religious Education from Capuchin College in Washington, D.C., in 1970 and was ordained to the priesthood on August 29, 1970.

Archbishop Chaput received a Master of Arts in Theology from the University of San Francisco in 1971. He served as an instructor in theology and spiritual director at St. Fidelis from 1971-

1974 and as executive secretary and director of communications for the Capuchin Province of St. Augustine in Pittsburgh from 1974-1977.

In 1977, Archbishop Chaput became pastor of Holy Cross Parish in Thornton, Colorado, and vicar provincial for the Capuchin Province of Mid-America. He was named secretary and treasurer for the province in 1980, and he became chief executive officer and provincial minister three years later.

Archbishop Chaput was ordained Bishop of Rapid City, South Dakota, on July 26, 1988. Pope John Paul II appointed him Archbishop of Denver on February 18, 1997.

Archbishop Chaput was appointed by President George W. Bush.

Michael Cromartie

Michael Cromartie is Vice President of the Ethics and Public Policy Center in Washington, D.C., where he directs the Evangelicals in Civic Life program and the Media and Religion program. He is also a Senior Advisor to The Pew Forum on Religion and Public Life in Washington. The Ethics and Public Policy Center was established in 1976 to clarify and reinforce the bond between the Judeo-Christian moral tradition and domestic and foreign policy issues.

Cromartie has contributed book reviews and articles to *First Things*, *Books and Culture*, *The Washington Times*, *The Reformed Journal*, *Insight*, *Christianity Today*, *Stewardship Journal*, and *World*. He is the editor of 12 books on religion and politics including, most recently, “*A Public Faith: Evangelicals and Civic Engagement*,” “*A Preserving Grace: Protestants, Catholics, and Natural Law*,” “*Caesar’s Coin Revisited: Christians and the Limits of Government*,” “*Creation at Risk: Religion, Science, and Environmentalism*,” “*The Nine Lives of Population Control*,” “*Disciples and Democracy: Religious Conservatives and the Future of American Politics*,” “*Might and Right After the Cold War*,” “*No Longer Exiles: The Religious Right in American Politics*,” “*Piety and Politics: Evangelicals and Fundamentalists Confront the World*,” “*Peace Betrayed: Essays on Pacifism and Politics*,” and “*Evangelicals and Foreign Policy*.”

He is the host of Radio America’s weekly show “Faith and Life,” an adjunct professor at Reformed Theological Seminary, an advisory editor at *Christianity Today*, on the Board of Directors of Mars Hill Audio, and was an advisor to the PBS documentary series “With God on Our Side: The Rise of the Christian Right in America.”

Frequently asked to explicate the dynamics between religious faith and political convictions, Cromartie has been interviewed on numerous radio and television programs, including National Public Radio, CNN, ABC News, The NewsHour with Jim Lehrer, MSNBC, PBS and quoted frequently in the *Washington Post*, *New York Times*, *The New Republic*, *Christianity Today*, *Time*, the *National Catholic Reporter* and *U.S. News and World Report*. He holds an M.A. in Justice from The American University and a B.A. from Covenant College in Georgia. He is married to Jennifer Seel Cromartie and they have three children, Ethan, Eric, and Heather.

Commissioner Cromartie was appointed by President George W. Bush.

Dr. Elizabeth H. Prodromou

Professor Prodromou is the Associate Director of the Institute on Culture, Religion and World Affairs and Assistant Professor of International Relations at Boston University. Prior to joining the faculty at Boston University, she taught at Princeton University in the Woodrow Wilson School for Public and International Affairs. A regional expert on Southeastern Europe and the Eastern Mediterranean, Prodromou's scholarship and policy work concentrate on religion and international relations, nationalism and conflict resolution, and non-traditional security threats.

Prodromou has published articles and chapters in books in several languages in numerous academic and policy journals in the United States and Europe, including in *Journal of Democracy*, *Journal of the American Academy of Religion*, *Orbis*, *International Review of Sociology of Religion*, *Survival*, *European Journal of Political Research*, and *Mediterranean Quarterly*. She is currently working on two books, both forthcoming in 2005, on *Orthodox Christianity, Civil Society and Democracy in Post-Community Russia* and *Orthodox Christianity in American Public Life: The Challenges and Opportunities of Religious Pluralism in the 21st Century*.

She has been a policy consultant to the State Department, the Defense Intelligence Council, the Central Intelligence Agency, and the Council on Foreign Relations. She has received numerous awards and grants, including research fellowships from Harvard University's Kennedy School of Government and Center for European Studies, New York University's Center for European Studies, and the University Committee on Research in Humanities and Social Sciences at Princeton University. She is active and has held elected positions in many professional organizations, and is listed in *Whose Who of American Women*, 21st Edition of *Outstanding Women of North America*. She helped found and sat as Executive Director at the Cambridge Foundation for Peace, a non-profit, public charity dedicated to sustainable peacebuilding in Southeastern Europe and the Eastern Mediterranean.

Prodromou holds a Ph.D. and an M.S. in political science from the Massachusetts Institute of Technology (MIT), as well as an M.A.L.D. from The Fletcher School of Law and Diplomacy and a B.A. in International Relations and History from Tufts University. She is married and has a daughter.

Commissioner Prodromou was appointed by House Minority Leader Nancy Pelosi (D-CA).

The Most Reverend Bishop Ricardo Ramírez, C.S.B.

The Most Reverend Ricardo Ramírez, C.S.B., is currently Bishop of Las Cruces, New Mexico. He was ordained to the priesthood in 1966. Bishop Ramírez was named Titular Bishop of Vatarba and Auxiliary Bishop of San Antonio in 1981. In 1982 he became the first Bishop of the Diocese of Las Cruces, New Mexico. He holds a B.A. from the University of St. Thomas, in Houston, Texas, an M.A. from the University of Detroit, Michigan, a Doctor of Laws *honoris causa* from Neumann College, Wichita, Kansas, a Doctor of Divinity *honoris causa* from the University of St. Michael's College, Toronto, Canada, and a Doctor of Humane Letters *honoris*

causa from Siena Heights University, Adrian, Michigan. Bishop Ramírez attended St. Basil's Seminary in Toronto, Canada, Seminario Conciliar in Mexico City, Mexico, and the East Asian Pastoral Institute in Manila, Philippines.

Bishop Ramírez currently serves as a Member of the New Mexico Advisory Committee to the U.S. Commission on Civil Rights; the Catholic Church Extension Society Board; Episcopal Advisor of the Institute for Hispanic Liturgy; Episcopal Moderator of the Asociación Nacional de Sacerdotes Hispanos (ANSH); Member of the U.S. Conference of Catholic Bishops' (USCCB) International Policy Committee; USCCB Committee for Migration and Refugee Services; USCCB Committee on the Liturgy; Member of the Committee on the Catholic Common Ground Initiative; and Consultant of the USCCB Committee on Hispanic Affairs. He has also served as a member of the U.S. State Department Advisory Committee on Religious Freedom Abroad; chairman of the USCCB's Catholic Campaign for Human Development; and chairman of the USCCB Committee for the Church in Latin America. He served as administrative secretary for the *Comisión para el Estudio de la Historia la Iglesia en Latinoamérica* (Commission for the Study of the History of the Church in Latin America). Bishop Ramírez was also elected as delegate for the United States at the 1997 Synod for America.

Bishop Ramirez was appointed by former Senate Minority Leader Thomas Daschle (D-SD).

Michael K. Young

Michael K. Young began his tenure as the 14th president of the University of Utah in August 2004. He served as the Commission's Chair twice, from September 2001 to June 2002 and from July 2003 to June 2004. He also served as its Vice Chair from June 1999 to June 2000, and from June 2002 to June 2003. Prior to his appointment at Utah, he was Dean and Lobingier Professor of Comparative Law and Jurisprudence at the George Washington University Law School (1998-2004). Prior to that, he was the Fuyo Professor of Japanese Law and Legal Institutions at the School of Law of Columbia University. At Columbia, he also served as Director of the Center for Japanese Legal Studies, the Center for Korean Legal Studies, and the Project on Religion, Human Rights and Religious Freedom. Young has been a Visiting Professor and Scholar at the Law Faculties of the University of Tokyo, Waseda University and Nihon University. He has also been a Japan Foundation Fellow.

During the Administration of President George H.W. Bush, he served as Ambassador for Trade and Environmental Affairs, Deputy Under Secretary for Economic and Agricultural Affairs, and Deputy Legal Advisor to the U.S. Department of State. In 1996, Young also served as Counsel to the Select Subcommittee on Transfers of Iranian Arms to Bosnian Muslims of the U.S. House of Representatives. He is also a member of the Committee on International Judicial Relations of the Judicial Conference of the United States, as well as a Fellow of the American Bar Foundation.

Young has published extensively, including articles and books on the Japanese legal system, dispute resolution, mergers and acquisitions, labor relations, the legal profession, comparative law, industrial policy, international trade law, the North American Free Trade Agreement

(NAFTA), the General Agreement on Tariffs and Trade (GATT), international environmental law, and international human rights and freedom of religion.

He is a graduate of the Brigham Young University (B.A., summa cum laude with highest honors, 1973) and Harvard Law School (J.D., magna cum laude, 1976), where he served as Note Editor of The Harvard Law Review. Before beginning his teaching career, Young served as Law Clerk to Supreme Court Justice William H. Rehnquist and to Justice Benjamin Kaplan of the Supreme Judicial Court of Massachusetts.

Commissioner Young was appointed by Senate Majority Leader William Frist (R-TN).

Ambassador John V. Hanford III, Non-Voting, *Ex Officio*

In May 2002, John V. Hanford III, was sworn in as the second U.S. Ambassador-at-Large for International Religious Freedom. This position, created by the International Religious Freedom Act of 1998 (IRFA), is charged with promoting religious freedom worldwide, promoting reconciliation in those areas where conflict has been implemented along religious lines, and making sure that this issue is woven into the fabric of U.S. foreign policy. Ambassador Hanford serves as an Ex-Officio member of the U.S. Commission on International Religious Freedom.

Ambassador Hanford, originally from Salisbury, North Carolina, attended the University of North Carolina at Chapel Hill on a John Motley Morehead Scholarship (BA in Economics) and holds a Master of Divinity degree from the Gordon-Conwell Theological Seminary in South Hamilton, Massachusetts.

For the past 15 years, Hanford has served as an expert on international religious freedom while working as a Congressional Fellow on the staff of Senator Richard Lugar (R-Indiana). During that time, he worked at the forefront of efforts to mobilize strong and compassionate intervention through U.S. governmental channels on behalf of persons persecuted for their religious beliefs. Ambassador Hanford and Senator Lugar have led numerous efforts in Congress to address some of the world's most severe problems of religious persecution. Their initiatives have rallied Senators, Members of Congress, Presidents, and Secretaries of State in successful interventions to halt execution orders, secure the cessation of torture or harassment on religious grounds, gain the release of religious prisoners, or oppose the policies of governments which repress religious freedom.

In 1998, Ambassador Hanford spearheaded a bipartisan congressional effort to develop a strong and responsible U.S. policy on international religious freedom. Ambassador Hanford organized and led the group of offices that co-authored the IRFA. He worked closely with the IRFA's chief sponsor, Senator Don Nickles, and his staff in guiding IRFA through the legislative process to a unanimous (98-0) Senate vote and a unanimous voice vote in the House of Representatives. IRFA ensures U.S. vigilance and an ongoing process of effective action in addressing religious persecution overseas. IRFA is regarded as one of Congress's most significant legislative achievements in human rights. Since the passage of IRFA, the U.S. government's attention to problems of religious persecution has increased significantly. On this and other projects,

Ambassador Hanford has worked closely with a broad spectrum of human rights and religious organizations at home and abroad.

Prior to his work in the Senate, Ambassador Hanford served in pastoral ministry on the staff of West Hopewell Presbyterian Church in Hopewell, Virginia. Hanford is married to Laura Bryant Hanford.

Joseph R. Crapa, Executive Director

Joseph R. Crapa, the Commission's Executive Director, joined the Commission in November 2002. Prior to coming to the Commission, Mr. Crapa served as Chief of Staff for Senator Charles E. Schumer, the senior Senator from New York. Before that, 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 for Rep. David Obey (D-WI) and also as counsel to the House Appropriations Committee.

Mr. Crapa graduated from Cathedral College Preparatory Seminary, received a B.A. from St. John's University, went on to earn his M.A. from Duke University, and his Ph.D. at the University of Arizona where he was a National Defense Teaching Fellow.

He has been an Adjunct Professor at Georgetown University teaching courses in the Government Department on Congressional policy making. Mr. Crapa is also a Senior Stennis Fellow of Congress.

APPENDIX 2

THE INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998¹

Selected Provisions

Section 3. DEFINITIONS (22 U.S.C. § 6402)

(11) PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The term “particularly severe violations of religious freedom” means systematic, ongoing, egregious violations of religious freedom, including violations such as—

- (A) torture or cruel, inhuman, or degrading treatment or punishment;
- (B) prolonged detention without charges;
- (C) causing the disappearance of persons by the abduction or clandestine detention of those persons; or
- (D) other flagrant denial of the right to life, liberty, or the security of persons.

(13) VIOLATIONS OF RELIGIOUS FREEDOM.—The term “violations of religious freedom” means violations of the internationally recognized right to freedom of religion and religious belief and practice, as set forth in the international instruments referred to in section 2(a)(2) and as described in section 2(a)(3), including violations such as—

- (A) arbitrary prohibitions on, restrictions of, or punishment for—
 - (i) assembling for peaceful religious activities such as worship, preaching, and prayer, including arbitrary registration requirements;
 - (ii) speaking freely about one's religious beliefs;
 - (iii) changing one's religious beliefs and affiliation;
 - (iv) possession and distribution of religious literature, including Bibles; or
 - (v) raising one's children in the religious teachings and practices of one's choice; or
- (B) any of the following acts if committed on account of an individual's religious belief or practice: detention, interrogation, imposition of an onerous financial penalty, forced labor, forced mass resettlement, imprisonment, forced religious conversion, beating, torture, mutilation, rape, enslavement, murder, and execution.

Section 402. PRESIDENTIAL ACTIONS IN RESPONSE TO PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM (22 U.S.C. § 6442)

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.

(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 President² 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

² The authority to make decisions and take actions under IRFA has been delegated by the President to the Secretary of State.

government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402, under—

(A) the Export Administration Act of 1979;

(B) the Arms Export Control Act;

(C) the Atomic Energy Act of 1954; or

(D) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services;

405(a)(14) Prohibiting any United States financial institution from making loans or providing credits totaling more than \$10,000,000 in any 12-month period to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402; and/or

405(a)(15) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from the foreign government, entities, or officials found or determined by the President to be responsible for violations under section 401 or 402.

[In lieu of carrying out action as described above, the President may conclude a binding agreement with the respective foreign government that obligates such government to cease, or take substantial steps to address and phase out, the act, policy, or practice constituting the violation of religious freedom. IRFA § 402(c)(2). Moreover, “[a]t the time the President determines a country to be a country of particular concern, if that country is already subject to multiple, broad-based sanctions imposed in significant part in response to human rights abuses, and such sanctions are ongoing, the President may determine that one or more of these sanctions also satisfies the requirements of this subsection.” IRFA § 402(c)(5).]

Section 407. PRESIDENTIAL WAIVER. (22 U.S.C. § 6447)

(a) In General.--Subject to subsection (b), the President may waive the application of any of the actions described in paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to a country, if the President determines and so reports to the appropriate congressional committees that--

(1) the respective foreign government has ceased the violations giving rise to the Presidential action;

(2) the exercise of such waiver authority would further the purposes of this Act; or

(3) the important national interest of the United States requires the exercise of such waiver authority.

(b) Congressional Notification.--Not later than the date of the exercise of a waiver under subsection (a), the President shall notify the appropriate congressional committees of the waiver or the intention to exercise the waiver, together with a detailed justification thereof.

APPENDIX 3

INTERNATIONAL HUMAN RIGHTS STANDARDS: SELECTED PROVISIONS ON FREEDOM OF THOUGHT, CONSCIENCE, AND RELIGION OR BELIEF

This document sets forth the relevant provisions of international instruments, as well as further information concerning international standards concerning the protection of freedom of thought, conscience, and religion or belief.

A. EVERYONE HAS THE RIGHT TO FREEDOM OF THOUGHT, CONSCIENCE, AND RELIGION

- **Universal Declaration of Human Rights 1948** (UDHR), Art. 18:
Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

- **International Covenant on Civil and Political Rights 1966** (ICCPR), Art. 18:
 1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
 2. No one shall be subject to coercion, which would impair his freedom to have or to adopt a religion or belief of his choice.
 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

- In general, according to the UN Human Rights Committee (HRC), The treaty body that reviews compliance with the ICCPR, Article 18 of the ICCPR protects: theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms "belief" and "religion" are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community.
—*Human Rights Committee (HRC) General Comment No. 22*

- **European Convention for the Protection of Human Rights and Fundamental Freedoms 1950** (ECHR), Art. 9:
Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
- **Helsinki Final Act 1975**, Principle VII:
The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.
- **UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief 1981** (UN 1981 Dec.), Art. 1:
(1) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or belief in worship, observance, practice and teaching. (2) No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice. (3) Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

Components of the right to freedom of thought, conscience, and religion or belief include:

1. Freedom to Change One's Religion or Belief

[UDHR, Art. 18, ECHR, Art. 9(1), OSCE Copenhagen Document, Art. 9(4)]

2. Freedom to Have or to Adopt a Religion or Belief of One's Choice

[ICCPR Art. 18(1)]

- Necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief;
- No limitations permitted on this freedom; and
- No individual shall be compelled to reveal his or her thoughts or adherence to a religion or belief.

—*HRC General Comment No. 22 (paras. 3, 5)*

3. Freedom From Coercion Which Would Impair an Individual's Freedom to Have or To Adopt a Religion or Belief of His or Her Choice

[ICCPR, Art. 18(2) and UN 1981 Dec. Art. 1(2)]

- No limitations are permitted on this freedom.
- The same protection is enjoyed by holders of all beliefs of a non-religious nature.

- Examples of impermissible coercion that would impair the right to have or adopt a religion or belief include:
 - (a) The use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to specific beliefs and congregations, to recant their religion or belief, or to convert; and
 - (b) Policies or practices having the same intention or effect, such as, for example, those restricting political rights protected under article 25 of the ICCPR or access to education, medical care or employment

–Human Rights Committee (HRC) General Comment No. 22 (para. 5)

4. Freedom to Manifest Religion or Belief in Worship, Observance, Practice, and Teaching
 [UDHR, Art. 18, ICCPR, Art. 18(1), UN 1981 Dec., Art. 1, OSCE Vienna Document, Art. 16(d)]

- This freedom may be exercised in public or in private, individually or in community with others.
- This freedom, at a minimum, encompasses the following freedoms:
 - (a) To worship or assemble in connection with a religion or belief, and to establish and maintain, including the building of places of worship, freely accessible places for these purposes;
 - (b) To establish and maintain appropriate charitable or humanitarian institutions, and seminaries or religious schools;
 - (c) To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief, including the use of ritual formulae and objects, the display of symbols, observance of dietary regulations, the wearing of distinctive clothing or head coverings, participation in rituals associated with certain stages of life, and the use of a particular language customarily spoken by a group;
 - (d) To write, issue and disseminate relevant publications in these areas;
 - (e) To teach a religion or belief in places suitable for these purposes;
 - (f) To solicit and receive voluntary financial and other contributions from individuals and institutions;
 - (g) To organize, train, appoint, elect, designate by succession, or replace appropriate leaders, priests and teachers called for by the requirements and standards of any religion or belief;
 - (h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief; and
 - (i) To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.¹

5. Permissible Limitations on the Freedom to Manifest Religion or Belief
 [ICCPR, Art. 18(3) and UN 1981 Dec., Art. 1(3)]

¹ See Para. 4, UN HRC General Comment No. 22; Art. 6, UN 1981 Dec.; Art. 16(h-j), Vienna Document.

Freedom to manifest religion or belief may be subject to only such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

- No derogation² may be made from freedom of thought, conscience and religion, even during “time of public emergency which threatens the life of the nation.” (*ICCPR, Art. 4(2) and UDHR, Arts. 29 & 30*)
 - Limitations must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in article 18.
 - Paragraph 3 of article 18 is to be strictly interpreted: limitations are not allowed on grounds not specified there, even if they would be allowed as limitations to other rights protected in the Covenant (for example, a limitation based on national security is impermissible).
 - Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated.
 - Limitations may not be imposed for discriminatory purposes or applied in a discriminatory manner.
 - Limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition or religion.
 - Persons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint.
- HRC General Comment No. 22 (para. 8)*
- Nothing in the UDHR shall be interpreted as implying for any State, group, or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth therein.

— *UDHR Art. 30*

B. PERSONS BELONGING TO RELIGIOUS MINORITIES SHALL NOT BE DENIED THE RIGHT, IN COMMUNITY WITH OTHER MEMBERS OF THEIR GROUP, TO PROFESS AND PRACTICE THEIR OWN RELIGION

[*ICCPR, Art. 27, OSCE Vienna Document Art. 19, OSCE Copenhagen Document, and UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, Arts. 1-2 and 4*]

- In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the

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.

other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language

—*ICCPR, Article 27*

- States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories, shall encourage conditions for the promotion of that identity, and shall adopt appropriate legislative and other measures to achieve those ends.

—*UN Declaration on the Rights of Minorities*

- The State “will protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory. They will respect the free exercise of rights by persons belonging to such minorities and ensure their full equality with others.”

—*OSCE Vienna Document*

C. EVERYONE HAS THE RIGHT TO EQUAL AND EFFECTIVE PROTECTION AGAINST DISCRIMINATION ON THE BASIS OF RELIGION OR BELIEF

[ICCPR, Arts. 2(1) and 26, OSCE Vienna Document, Art. 16(a), and OSCE Copenhagen Document, Art. 40(1-2)]

This right includes the following components:

1. States Undertake to Respect and to Ensure for All Individuals Within its Territory and Subject to its Jurisdiction the Rights Recognized in the ICCPR Without Distinction of Any Kind, Including Religion

[ICCPR Art. 2(1)]

2. All Persons Are Equal Before the Law and Are Entitled Without Any Discrimination to the Equal Protection of the Law.

[ICCPR, Art. 26]

3. The Law Shall Prohibit Any Discrimination and Guarantee to All Persons Equal and Effective Protection Against Discrimination on Any Ground, Including Religion.

[ICCPR, Art. 26]

- The application of the principle of non-discrimination contained in article 26 of the ICCPR is not limited to those rights which are provided for in the Covenant, and extends to prohibit discrimination in law or in fact in any field regulated and protected by public authorities;
- The term “discrimination” as used in the ICCPR should be understood to imply any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms;

- The enjoyment of rights and freedoms on an equal footing, however, does not mean identical treatment in every instance;
- The principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the ICCPR; and
- Not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the ICCPR.

—*HRC General Comment No. 18 (paras. 7, 8, 10, 12, 13)*

4. Protection Against Discrimination by Any State, Institution, Group of Persons or Person on the Grounds of Religion or Other Belief

[UN 1981 Dec., Arts. 2(1) and 4]

- States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.
- States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination.
- States shall take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

—UN 1981 Dec., Arts. 4(1) and 4(2)

- Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all nations, racial or religious groups

—*UDHR Art. 26(2)*

- State parties will “foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers.”

—*OSCE Vienna Document, principle 16b*

D. STATES SHALL PROHIBIT BY LAW ANY ADVOCACY OF NATIONAL, RACIAL OR RELIGIOUS HATRED THAT CONSTITUTES INCITEMENT TO DISCRIMINATION, HOSTILITY OR VIOLENCE

[ICCPR, Art. 20]

- No manifestation of religion or belief may amount to propaganda for war or advocacy of national, racial or religious hatred that constitutes incitement to discrimination; hostility or violence... [and] States parties are under the obligation to enact laws to prohibit such acts.

—*HRC General Comment No. 22 (para. 7)*

- State parties should take the measures necessary to fulfill the obligations contained in article 20 of the ICCPR, and should themselves refrain from any such propaganda or advocacy.

—*HRC General Comment No. 11 (para. 2)*

- Article 20 does not authorize or require legislation or other action by the United States that would restrict the right of free speech and association protected by the Constitution and laws of the United States.

—*United States reservation to ICCPR Art. 20*

- States will take effective measures, including the adoption of laws, to provide protection against any acts that constitute incitement to violence against persons or groups based on national, racial, ethnic or religious discrimination, hostility or hatred, including anti-Semitism.

—*OSCE Copenhagen Document*

- States commit themselves to take appropriate and proportionate measures to protect persons or groups who may be subject to threats or acts of discrimination, hostility or violence as a result of their racial, ethnic, cultural, linguistic or religious identity, and to protect their property;

—*OSCE Copenhagen Document*

E. THE RIGHTS OF PARENTS IN RELATION TO FREEDOM OF RELIGION OR BELIEF

[ICCPR Art. 18(4), OSCE Vienna Document Art. 16(f) and 16(g)]

- State Parties undertake to respect the liberty of parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

—*ICCPR Article 18(4)*

- The liberty of parents and guardians to ensure religious and moral education cannot be restricted.
- Public school instruction in subjects such as the general history of religions and ethics is permitted if it is given in a neutral and objective way.
- Public education that includes instruction in a particular religion or belief is inconsistent with ICCPR Art. 18 (4) unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.

—*HRC General Comment No. 22 (paras. 6 & 8)*

- Parents or legal guardians have the right to organize family life in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.
- Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.
- The child shall be protected from any form of discrimination on the ground of religion or belief.

- In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.
- Practices of a religion or belief in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account article 1(3) of the present Declaration.

—UN 1981 Dec., art. 5

F. FURTHER ELABORATION ON SELECTED TOPICS

1. Obligation to Ensure Rights/Provide Remedies for Violations

[ICCPR Arts. 2(2) and 2(3), UDHR Art. 8, UN 1981 Dec. Art. 7]

The ICCPR requires State parties to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the Covenant. This obligation includes ensuring:

- effective remedies for any person whose rights or freedoms are violated;
- that such remedies are determined by competent judicial, administrative or legislative authorities; and
- that such remedies are enforced when granted.

2. Relationship Between Religion and the State

- The fact that a religion is recognized as a state religion or established as official or traditional, or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the ICCPR, nor in any discrimination against adherents to other religions or non-believers.
- In particular, measures restricting eligibility for government service to members of the predominant religion, or giving economic privileges to them, or imposing special restrictions on the practice of other faiths are not in accordance with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under ICCPR article 26.
- If a set of beliefs is treated as official ideology in constitutions, statutes, proclamations of ruling parties, etc., or in actual practice, this shall not result in any impairment of the freedoms under article 18 or any other rights recognized under the ICCPR nor in any discrimination against persons who do not accept the official ideology or who oppose it.

—HRC General Comment No. 22 (para. 9)

- State parties are required to grant communities of believers, practicing or prepared to practice their faith within constitutional boundaries, “recognition of the status provided for them in their respective countries.”

—OSCE Vienna Document

3. Women’s Equal Right to Freedom of Religion or Belief

- The principle of non-discrimination is so basic that each State party is obligated to ensure the equal right of men and women to the enjoyment of the rights set forth in the ICCPR.

—HRC General Comment No. 18 (para. 2)

- Inequality in the enjoyment of rights by women throughout the world is deeply embedded in tradition, history and culture, including religious attitudes. The subordinate role of women in some countries is illustrated by the high incidence of prenatal sex selection and abortion of female fetuses. States parties should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women's right to equality before the law and to equal enjoyment of all ICCPR rights.
- State parties should report and provide data on a number of issues related to religion and women's rights, including:
 - pregnancy- and childbirth-related deaths of women, as well as gender-disaggregated data on infant mortality rates;
 - information on the extent of any practice of genital mutilation, and on measures to eliminate it;
 - measures to protect women from practices that violate their right to life, such as female infanticide, the burning of widows and dowry killings;
 - regulation of clothing to be worn by women in public; and
 - whether women may give evidence as witnesses on the same terms as men; whether measures are taken to ensure women equal access to legal aid, in particular in family matters; and whether certain categories of women are denied the enjoyment of the presumption of innocence.
- Freedoms protected by article 18 must not be subject to restrictions other than those authorized by the ICCPR and must not be constrained by, inter alia, rules requiring permission from third parties, or by interference from fathers, husbands, brothers or others. Article 18 may not be relied upon to justify discrimination against women by reference to freedom of thought, conscience and religion;
- The commission of so-called "honor crimes" which remain unpunished constitutes a serious violation of the ICCPR and laws which impose more severe penalties on women than on men for adultery or other offences also violate the requirement of equal treatment.

—HRC General Comment No. 28 (paras. 5, 10, 11, 13, 18, 21, 31)
- Certain religious practices have an adverse effect on women's rights. These practices include :
 - cultural stereotypes, including preference for male children, religious extremism, and regulation of women's clothing;
 - discrimination in medical well-being, including genital mutilation, traditional childbirth practices, and dietary restrictions;
 - discrimination resulting from the condition of women within the family, including practices related to marriage and divorce (e.g.: polygamy, family planning, division of responsibilities);
 - discrimination related to transmission of nationality;
 - discrimination related to inheritance and independent management of finances;
 - discrimination related to right to life, including infanticide, cruel treatment of widows, and honor crimes,
 - attacks on dignity, including sexual abuse;

- social ostracism, including denial of the right to education, and denial of access to professional fields such as politics and religion; and
- aggravated discrimination against women who also are members of a minority community.

To ensure that freedom of religion does not undermine the rights of women, it is essential that this freedom not be understood as a right of indifference with respect to the status of women.

—*UN Special Rapporteur on Freedom of Religion or Belief, Study on Freedom of Religion or Belief and the Status of Women with Regard to Religion and Traditions (Amor Report)*³

³ Commission staff translation.