



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

MAY 1, 2001

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LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 1, 2001

The PRESIDENT

The White House

DEAR MR. PRESIDENT: On behalf of the ten-member United States Commission on International Religious Freedom, I am transmitting to you the annual May 1 Report, prepared in compliance with section 205 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.

We would welcome the opportunity to discuss this Report, and the policy recommendations the Commission makes in it, with you.

Sincerely,

ELLIOTT ABRAMS
Chairman

Enclosure

LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 1, 2001

Hon. COLIN L. POWELL

Secretary of State

Department of State

DEAR MR. SECRETARY: On behalf of the ten-member United States Commission on International Religious Freedom, I am transmitting to you the annual May 1 Report, prepared in compliance with section 205 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.

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Sincerely,

ELLIOTT ABRAMS
Chairman

Enclosure

LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM
Washington, DC, May 1, 2001

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

DEAR MR. SPEAKER: On behalf of the ten-member United States Commission on International Religious Freedom, I am transmitting to you the annual May 1 Report, prepared in compliance with section 205 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.

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Sincerely,

ELLIOTT ABRAMS
Chairman

Enclosure

LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM
Washington, DC, May 1, 2001

Hon. STROM THURMOND
President Pro Tempore
U.S. Senate

DEAR MR. THURMOND: On behalf of the ten-member United States Commission on International Religious Freedom, I am transmitting to you the annual May 1 Report, prepared in compliance with section 205 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.

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Sincerely,

ELLIOTT ABRAMS
Chairman

Enclosure

TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	1
I. COMMISSION ACTIVITIES	1
II. PEOPLE’S REPUBLIC OF CHINA	2
III. INDIA.....	3
IV. INDONESIA	4
V. IRAN	6
VI. DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA	6
VII. NIGERIA.....	7
VIII. PAKISTAN.....	9
IX. RUSSIA.....	10
X. SUDAN.....	11
XI. VIETNAM	13
XII. U.S. CAPITAL MARKETS.....	15
XIII. U.S. FOREIGN ASSISTANCE	16
XIV. THE INTERNATIONAL RELIGIOUS FREEDOM ACT AND THE STATE DEPARTMENT’S <i>ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM – 2000</i>	16
I. THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM: ACTIVITIES FROM MAY 2, 2000 TO MAY 1, 2001	19
A. OVERVIEW	19
B. PEOPLE’S REPUBLIC OF CHINA	21
C. INDIA	21
D. INDONESIA	22
E. IRAN	22
F. DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA	23
G. NIGERIA	23
H. PAKISTAN.....	23
I. RUSSIA.....	24
J. SUDAN.....	24
K. VIETNAM.....	25
L. U.S. CAPITAL MARKETS.....	26
M. THE MIDDLE EAST.....	26
N. THE FREEDOMS TO CHANGE RELIGION AND ENGAGE IN PUBLIC RELIGIOUS EXPRESSION AND PERSUASION.....	27
O. OTHER ACTIVITIES	30
P. WEB SITE.....	31
Q. COOPERATION WITH OTHER AGENCIES	31
R. COMMISSIONERS’ TERMS EXPIRE.....	32
II. PEOPLE’S REPUBLIC OF CHINA.....	35
A. INTRODUCTION.....	35
B. RELIGIOUS FREEDOM.....	35
1. <i>Legal/Policy Developments</i>	35

2. <i>Unregistered Religious Organizations</i>	36
3. <i>Tibet</i>	38
4. <i>Uighur Muslims</i>	38
5. <i>Registered Religious Communities</i>	39
C. COMMISSION RECOMMENDATIONS	39
III. INDIA	49
A. INTRODUCTION	49
B. BACKGROUND	49
1. <i>Demographic Information</i>	49
2. <i>Religious Freedom</i>	50
3. <i>Hindu Nationalism and the BJP</i>	55
4. <i>Secessionist Movements and the Kashmir Conflict</i>	56
C. COMMISSION RECOMMENDATIONS	57
IV. INDONESIA.....	65
A. INTRODUCTION	65
B. BACKGROUND ON INDONESIA AND THE MOLUCCAS	66
1. <i>Indonesia: Background Information</i>	66
2. <i>The Moluccas</i>	67
C. COMMISSION RECOMMENDATIONS	71
V. IRAN.....	81
A. INTRODUCTION	81
B. BACKGROUND	81
C. COMMISSION RECOMMENDATIONS	83
VI. DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA.....	87
A. BACKGROUND	87
B. COMMISSION RECOMMENDATIONS	87
VII. NIGERIA	91
A. INTRODUCTION	91
B. BACKGROUND	92
1. <i>Demography</i>	92
2. <i>Religious Freedom</i>	92
C. COMMISSION RECOMMENDATIONS	95
VIII. PAKISTAN.....	101
A. INTRODUCTION	101
B. RELIGIOUS DEMOGRAPHY	101
C. AHMADIS.....	102
D. THE SEPARATE ELECTORATE SYSTEM FOR RELIGIOUS MINORITIES	103
E. ABUSES OF THE BLASPHEMY LAWS	104
F. RELIGIOUS VIOLENCE	105
G. COMMISSION RECOMMENDATIONS	106
IX. RUSSIA.....	113

A. INTRODUCTION.....	113
B. RELIGIOUS FREEDOM.....	113
C. COMMISSION RECOMMENDATIONS.....	117
X. SUDAN.....	123
A. INTRODUCTION.....	123
B. HUMAN RIGHTS AND RELIGIOUS FREEDOM ABUSES IN SUDAN.....	123
1. <i>Aerial Bombardments of Civilian and Humanitarian Targets</i>	124
2. <i>Interference with Humanitarian Assistance</i>	124
3. <i>Slavery and Abductions</i>	125
4. <i>Religious Freedom</i>	125
5. <i>Oil and Foreign Investment</i>	126
C. COMMISSION RECOMMENDATIONS.....	127
CONCURRENCE WITH QUALIFICATIONS TO RECOMMENDATIONS 3 AND 5.....	133
XI. VIETNAM.....	139
A. INTRODUCTION.....	139
B. RELIGIOUS DEMOGRAPHY.....	140
C. RELIGIOUS FREEDOM.....	140
1. <i>Legal Framework</i>	140
2. <i>State Control of Religious Activities</i>	141
D. THE BILATERAL TRADE AGREEMENT AND NORMAL TRADE RELATIONS STATUS.....	144
E. COMMISSION RECOMMENDATIONS.....	145
XII. U.S. CAPITAL MARKETS DISCLOSURE.....	155
A. BACKGROUND.....	155
1. <i>Countries of Particular Concern (CPCs)</i>	155
2. <i>Securities Transactions of Concern to the Commission</i>	156
3. <i>U.S. Economic Sanctions</i>	158
4. <i>SEC Disclosure Requirements</i>	159
B. COMMISSION RECOMMENDATIONS.....	161
XIII. U.S. FOREIGN ASSISTANCE.....	169
A. BACKGROUND.....	169
B. COMMISSION RECOMMENDATIONS.....	170
XIV. THE INTERNATIONAL RELIGIOUS FREEDOM ACT AND THE STATE DEPARTMENT'S ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM – 2000.....	171
A. INTRODUCTION.....	171
B. IMPORTANCE OF THE ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM.....	172
C. REPORTING ON THE FACTS AND CIRCUMSTANCES OF RELIGIOUS FREEDOM.....	172
D. SELECTING COUNTRIES OF PARTICULAR CONCERN.....	173
E. REPORTING ON U.S. ACTIONS TO PROMOTE RELIGIOUS FREEDOM.....	175
F. U.S. ACTIONS IN RESPONSE TO CPC DESIGNATION.....	175

G. OTHER U.S. ACTIONS TO PROMOTE RELIGIOUS FREEDOM.....	176
H. THE AMBASSADOR-AT-LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM.....	180
I. OTHER ISSUES.....	180
APPENDIX 1: BIOGRAPHIES OF MEMBERS	183
APPENDIX 2: THE INTERNATIONAL RELIGIOUS FREEDOM ACT.....	187

EXECUTIVE SUMMARY

I. Commission Activities

The Commission considerably broadened its activities in its second full year, monitoring religious-freedom violations worldwide and increasing the number of countries it would study in depth. In July, the Commission wrote to the Secretary of State to recommend that Laos, Democratic People's Republic of Korea, Saudi Arabia, and Turkmenistan be added to the list of "countries of particular concern" as provided for in the International Religious Freedom Act of 1998 (IRFA). It also recommended that Burma, China, Iran, Iraq, Sudan, the Milosevic regime in Serbia and the Taliban in Afghanistan remain on the list. In addition, it wrote that India, Pakistan, Uzbekistan, and Vietnam are serious violators of religious freedom deserving careful State Department monitoring; it also expressed concerns about sectarian violence in Indonesia and Nigeria.

Commissioners testified several times before congressional committees; met with high-ranking State Department officials; held hearings on India, Pakistan, Vietnam, and Indonesia; traveled to several countries; met with foreign diplomats and officials (with State Department concurrence); interviewed numerous representatives of victims of religious-liberty violations; and received background briefings from U.S. diplomats, intelligence officials, and academic experts on the countries it studied for this report. Commissioners wrote several letters during the report period to Presidents Clinton and Bush; the Departments of State and the Treasury; the U.S. Securities and Exchange Commission; the Agency for International Development; the National Endowment for Democracy; and others making policy recommendations or requesting information on issues related to religious freedom discussed in this report.

The Commission studied the freedoms to change religion and to engage in public religious expression and persuasion and found them often under restrictions that in some cases are egregious. In several countries the law prohibits a change in one's religion, and the violator is subject to criminal penalties, including death. The Commission explored several examples and degrees of restrictions on these freedoms and the difficult challenges they pose for U.S. policymakers. The Commission believes that these restrictions merit further investigation and careful consideration and will recommend to their successors that they continue substantial efforts to study and recommend policies to protect this important aspect of religious freedom.

The Commission reported last year that it had not gained full access to cables to and from embassies because of the State Department's assertion of a legal position with which the Commission does not agree. The Department has since constructed a cumbersome and lengthy process whereby Commission staff are able to review cables after they have been redacted. The Commission has tried this system in good faith and concludes that it does not meet the Commission's needs. It can no longer acquiesce to this situation and will propose a more-expeditious process to the State Department.

The Commissioners' terms expire on May 14, 2001. They thank those who appointed them for the privilege of serving on this first Commission on International Religious

Freedom and look forward to close cooperation with their successors.

II. People's Republic of China

In the last year, the government of the People's Republic of China (PRC or China) has expanded its crackdown on unregistered religious communities and tightened its control on official religious organizations. The government has intensified its campaign against the Falun Gong movement and its followers. It apparently has also been involved in the confiscation and destruction of up to 3,000 unregistered religious buildings and sites in southeastern China. Government control over the official Protestant and Catholic churches has increased. It continues to interfere in the training and selection of religious leaders and clergy. At the same time, the government continues to maintain tight control over Uighur Muslims and Tibetan Buddhists. Finally, cases of torture by government officials reportedly are on the rise.

Recommendations

1. In its bilateral relations with China, the U.S. government should persistently urge the Chinese government to take the following steps to protect religious freedom:

1.1. Establish the freedom to engage in religious activities (including the freedom for religious groups to govern themselves and select their leaders without interference, worship publicly, express and advocate religious beliefs, and distribute religious literature) outside state-controlled religious organizations and eliminate controls on the activities of officially registered organizations.

1.2. Permit unhindered access to religious persons (including those imprisoned, detained, or under house arrest and surveillance) by U.S. diplomatic personnel and government officials, the U.S. Commission on International Religious Freedom, and respected international human rights organizations. Release persons from imprisonment, detention, house arrest, or intimidating surveillance who are so restricted on account of their religious identities or activities.

1.3. Permit domestic Chinese religious organizations and individuals to interact with foreign organizations and individuals.

1.4. Cease discrimination against religious followers in access to government benefits, including education, employment, and health care.

1.5. Ratify the International Covenant on Civil and Political Rights.

2. The U.S. government should continue to work vigorously for the resumption of a high-level unconditional human rights dialogue with the PRC government when the Chinese government demonstrates its commitment to protecting religious freedom, for example, by addressing the items listed as

1.1 to 1.5 above.

3. Until religious freedom significantly improves in China, the U.S. government, led by the personal efforts of the President of the United States, should initiate a resolution to censure China at the annual meeting of the UN Commission on Human Rights (UNCHR) and should support a sustained campaign to convince other governments at the highest levels to support it.
4. Companies that are doing business in China should be required to disclose the nature and extent of that business in connection with their access to U.S. capital markets.
5. The U.S. government should raise the profile of conditions of Uighur Muslims by addressing religious freedom and human rights concerns in bilateral talks, by increasing the number of educational opportunities available to Uighurs, and by increasing radio broadcasts in the Uighur language.
6. The U.S. government should use its diplomatic influence with other governments to ensure that China is not selected as a site for the International Olympic Games until it has made significant and sustained improvements in religious freedom and human rights.
7. The State Department should identify specific individuals and entities involved in violations of religious freedom in China.

III. India

The U.S. Commission on International Religious Freedom has directed its attention to India in light of the disturbing increase in the past several years in severe violence against religious minorities in that country. The violence is especially troubling because it has coincided with the increase in political influence at the national and, in some places, the state level of the Sangh Parivar, a collection of exclusivist Hindu nationalist groups of which the current ruling party, the Bharatiya Janata Party, or BJP, is a part.

India is religiously a very diverse country that generally respects religious freedom. India has a democratically elected government and is governed by the rule of law. However, although the BJP-led government may not be directly responsible for instigating the violence against religious minorities, there is concern that the government is not doing all that it could to pursue the perpetrators of the attacks and to counteract the prevailing climate of hostility, in some quarters in India, against these minority groups. Moreover, the increase of violence against persons and institutions based entirely on religious affiliation is an alarming development in India.

Recommendations

1. The U.S. government should persistently press India to pursue perpetrators of violent acts that target members of religious groups.

2. The U.S. government should make clear its concern to the BJP-led government that virulent nationalist rhetoric is fueling an atmosphere in which perpetrators believe they can attack religious minorities with impunity. While fully protecting freedom of expression, firm words and actions from the government of India are required to counteract this belief.
3. The U.S. government should support the stated policy of the BJP to oppose any move toward the nationalization of any religious institutions in India. The U.S. government should also press the government of India to oppose any attempts to interfere with or prohibit ties between religious communities inside India and their co-religionists outside the country, and any government efforts to regulate religious choice or conversion.
4. As the U.S. government pursues greater engagement with India on a full range of issues, it should take advantage of new opportunities for government-to-government cooperation and communication on human rights, including religious freedom.
5. The U.S. should press India to allow official visits from government agencies concerned with human rights, including religious freedom.
6. The U.S. government should encourage and facilitate private-sector communication and exchanges between Indian and American religious groups and other non-governmental organizations interested in religious freedom. The U.S. government should also press India to allow visits from non-governmental human rights organizations and other groups concerned with religious freedom.
7. The U.S. government should allocate funds from its foreign assistance programs for the promotion of education on religious toleration and inclusiveness in India.
8. In the course of working toward improvements in U.S.-Indian economic and trade relations, the U.S. government should take into account the efforts of the Indian government to protect religious freedom, prevent and punish violence against religious minorities, and promote the rule of law. If progress is made, the U.S. should seek ways in which it can respond positively through enhanced economic ties.

IV. Indonesia

In recent years in Indonesia, numerous serious and tragic conflicts have emerged, including disputes in which religion or religious freedom is a factor. But only in the Moluccas did religion quickly become the defining factor behind the fighting that broke out in January 1999 between the Muslim and Christian communities there. Since the fighting in the Moluccas began, from 5,000 to 8,000 people, Christians and Muslims, have been killed. Houses of worship of both communities have been destroyed. More than 500,000 people, both Christians and Muslims, have been forced to flee in fear of their lives. As this has

transpired, there are numerous reports that elements from the Indonesian military and local police forces have done little to stop the fighting. Rather, it is alleged that they have contributed to – and perhaps even initiated – it. In addition, in the spring of 2000, thousands of fighters from an Indonesian Muslim group, called Laskar Jihad, arrived on the islands, raising the fighting there to new and more-deadly levels. The Indonesian government has also made little effort to halt the conflict; indeed, many observers contend it has not even given it serious attention.

Recommendations

1. The U.S. government should put sustained pressure on the Indonesian government and the Indonesian military to pay serious attention to the brutal conflict in the Moluccas and to make concerted efforts to pursue a reconciliation program that ensures security for both sides and that perpetrators most responsible for the killings are brought to justice.
2. The U.S. government should press the government of Indonesia to attend to the immediate removal of all outside militia forces on the Moluccas, Muslim or Christian. The U.S. government should also press Indonesia to see that these and other groups are disarmed. Moreover, rogue elements in the Indonesian security forces must be brought under control.
3. The U.S. government should support the reconciliation efforts of indigenous or international non-governmental organizations (NGOs) in the Moluccas, including by increasing its funding for such efforts through support for USAID's democracy and good-governance programs, interreligious programs in educational institutions, and other programs in Indonesia. This should include working with respected Indonesian human rights lawyers and academics to devise an emergency program for restoring the rule of law in Indonesia, including in the Moluccas. Within its assistance program to Indonesia, the U.S. government should also increase assistance geared specifically to both Christian and Muslim victims and refugees of the conflict. The U.S. government should also press the government of Indonesia to allow more access to the Moluccas for humanitarian relief organizations, as well as for official representatives or human rights monitors from such groups as the Association of Southeast Asian Nations (ASEAN).
4. The U.S. government should ensure that, if resumed, U.S.-Indonesian military ties be directed toward reform of the Indonesian military.
5. The U.S. government should earmark funds for the training of Indonesian police and prosecutors in human rights, rule of law, and crime investigation.
6. The U.S. government should help support the safeguarding of a free press in Ambon and other major areas in the Moluccas.

V. Iran

The conditions of religious freedom are very poor in Iran, particularly with respect to minority religious groups that are not officially recognized by the state and those perceived to be attempting to convert Muslims. The Constitution of the Islamic Republic of Iran provides that the official religion of Iran is Islam of the doctrine of the Twelver Jaafari School and stipulates that all laws and regulations, including the Constitution itself, must be based on Islamic criteria. Members of the Baha'i community suffer the worst forms of religious persecution at the hands of the state. The Iranian government does not recognize Baha'is as a religious minority; rather in its view, Baha'is constitute a political organization that was associated with the Shah's regime, is opposed to the Iranian Revolution, and engages in espionage activities on behalf of foreign countries, including Israel. Members of the officially-recognized non-Muslim minorities – Christians, Jews and Zoroastrians – are subject to legal and other forms of official discrimination. Iranian Sunni leaders have alleged widespread abuses and restrictions on their religious practice. A number of senior Shiite religious leaders who have opposed various religious and/or political tenets and practices of the Iranian government have also reportedly been targets of state repression.

Recommendations

1. The President or Secretary of State should reaffirm to the government of Iran that improvement in religious freedom and other human rights in that country is a prerequisite for the complete relaxation of sanctions by and the normalization of relations with the United States.
2. The U.S. government should consistently, continuously and vigorously press the government of Iran to improve conditions of religious freedom, and should urge its European and other allies to support advocacy for religious freedom in Iran. Voice of America Farsi-language broadcasting into Iran should include regular reporting on religious freedom in Iran and religious-freedom issues in general.
3. The U.S. administration should continue to sponsor annual resolutions of the United Nations Commission on Human Rights condemning Iran's egregious and systematic violations of religious freedom and should recruit the support of other Commission member countries, until such violations cease.
4. The United States should facilitate (through issuance of visas) and remove barriers (such as the U.S. Department of Justice policy of fingerprinting Iranians at ports of entry) to unofficial cultural exchange – e.g., academic, religious, athletic, and scientific – between the United States and Iran.

VI. Democratic People's Republic of Korea

In the Democratic People's Republic of Korea (North Korea or the DPRK), despite the difficulty of obtaining reliable information on conditions in the country, it is apparent that religious freedom is non-existent. As the State Department Annual Report on International

Religious Freedom - 2000 states: “Genuine religious freedom does not exist.” The government has imprisoned religious believers and apparently suppresses all organized religious activity except that which serves the interests of the state. Since July 1999, there have been reports of torture and execution of religious believers, including between 12 and 23 Christians on account of their religion.

Recommendations

1. In the course of further discussions with the North Korean government, the U.S. government should strongly urge the DPRK to reaffirm publicly its commitments under the International Covenant on Civil and Political Rights.
2. The U.S. government should press the DPRK to immediately establish conditions whereby the status of religious freedom can be assessed and progress be monitored.
3. The U.S. government should ensure that any permanent peace treaty between the parties to the Korean War include provisions on religious freedom and non-discrimination in the treatment of religious minorities.
4. The U.S. government should communicate to government of the DPRK that substantial improvements in religious freedom and other human rights in North Korea is a prerequisite for the normalization of relations with and the complete relaxation of sanctions by the United States.
5. The U.S. government should communicate to the DPRK government that when any U.S. diplomatic presence is opened in North Korea, diplomatic personnel should have reasonable access within the country to assess the state of religious freedom and to monitor developments, and that a religious-freedom dialogue should begin and take place at the highest policymaking levels.
6. U.S. government officials should raise the issue of religious freedom – and the point that improvement of religious freedom is a central component of the improvement of U.S.-DPRK relations – in all high-level diplomatic exchanges with the DPRK.
7. The U.S. government should urge the Republic of Korea and Japan, as part of trilateral coordination among the United States and those two countries, to press human rights and religious freedom in their talks with the DPRK as well.

VII. Nigeria

Religious life in Nigeria is public, vigorous, and diverse. Nevertheless, Nigeria continues to suffer outbursts of violent communal conflict along religious and ethnic lines, pervasive mistrust among religious and ethnic communities, and reportedly serious lapses in the protection of human rights generally. The threats to religious freedom, including reports

of religious discrimination, are serious and ongoing. Moreover, recent events portend a possible deterioration in the conditions of religious freedom. Serious outbreaks of Muslim-Christian violence – exacerbated by social, economic, and political conditions that foster religious and ethnic tensions – threaten to divide further the populace along religious lines and undermine the foundations of religious freedom in Nigeria.

The movement in several northern Nigerian states to expand the legal application of Shariah has sparked communal violence and is a source of continuing volatility and tension between Muslims and Christians at both the national and local levels. The manipulation of religious doctrines and religious sentiments for political ends by any party poses real dangers to religious freedom, as ethnic, tribal, or communal violence take on more explicitly religious overtones, and religious belief, identity, and practice become more of the target.

Recommendations

1. The U.S. government should make the promotion of religious freedom a high priority in its diplomatic discussions with the Nigerian government and urge President Olusegun Obasanjo to condemn – publicly, forcefully, and consistently – religious intolerance and discrimination, and to promote religious freedom and mutual understanding between Muslims and Christians.

2. The U.S. government should urge the Nigerian government to counter religiously-based discrimination by doing the following:

- 2.1. Investigate alleged discriminatory obstacles to establishing and repairing places of worship and work with state and local governments to remove such obstacles where they exist;

- 2.2. Where offered in public schools, provide religious instruction on a non-discriminatory basis and without compelling any student with a religious objection to attend; and

- 2.3. Ensure equal access to state-run radio and other government media resources to all religious groups without discrimination.

3. The U.S. government should urge the Nigerian government to monitor closely the implementation of Shariah-based criminal law in northern states: (a) to ensure that it does not apply to non-Muslims and respects the religious freedom rights of all citizens, and (b) to prevent law enforcement activities in northern states by any quasi-official or private corps of Shariah enforcers.

4. The U.S. government should urge the Nigerian government to take effective steps to prevent and contain acts of communal violence, prevent reprisal attacks, and bring those responsible for such violence to justice.

5. The U.S. government should, through its foreign assistance programs:

- 5.1. Support programs aimed at preventing communal conflict,

defusing inter-religious tensions, and promoting religious tolerance and respect for religious freedom and the rule of law; and

5.2. Support programs that foster objective, non-inflammatory, and non-biased reporting by the Nigerian media in a manner consistent with the right to free expression.

6. The U.S. government should make the promotion of religious freedom a high priority and should strengthen its information-gathering efforts throughout Nigeria, particularly in northern states and areas plagued by communal violence.

VIII. Pakistan

Although the government of Pakistan does not appear to be engaged in a systematic effort to persecute religious minorities, it is clearly not doing enough to adequately protect the religious freedom of all of its citizens. Members of the Ahmadi religious community are prevented by law from engaging in the full practice of their faith. Religious minority groups (including Christians, Ahmadis, and Hindus) complain that they are politically marginalized by a system of separate electorates, and that this system exacerbates other religious-freedom problems. The criminal laws against blasphemy are abused, resulting in detention of and sometimes violence against religious minorities as well as the targeting of numerous Muslims on account of their religious beliefs. Finally, there is a substantial amount of sectarian violence, largely targeting Shia Muslims, committed by organized groups of religious extremists.

Recommendations

1. The U.S. government should urge the Pakistani government to sign and ratify the International Covenant on Civil and Political Rights.
2. The U.S. government in its bilateral relations with the Pakistani government should take the position that the separate electorate system for religious minorities is inconsistent with democratic principles, the right to equal citizenship, and the protection of political rights without discrimination on the basis of religion as provided in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
3. The U.S. government in its bilateral relations with the Pakistani government should take the position that the existence and enforcement of laws targeting Ahmadis that effectively criminalize the public practice of their faith violates the right to freedom of religion guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The State Department should closely monitor the application and enforcement of laws targeting Ahmadis. The U.S. government should also urge the Pakistani government to effectively prevent discrimination against Ahmadis in government and military employment, and education.

4. The U.S. government should urge the Pakistani government to implement procedural changes to the blasphemy laws that will reduce and aim at ultimately eliminating their abuse. The State Department should monitor the application and enforcement of the blasphemy laws.
5. The U.S. government should urge the Pakistani government to take effective steps to prevent sectarian violence and punish its perpetrators, including disarming militant groups and any religious schools that provide weapons training. The U.S. government should also urge the Pakistani government to establish and support mechanisms of interfaith dialogue that encompass all religious communities in Pakistan, and facilitate widespread dissemination of the work and findings of this dialogue.
6. The U.S. government should urge the Pakistani government to complete the denationalization of Christian schools and colleges in Punjab province.
7. The U.S. government should, through its own foreign assistance and in conjunction with other donors, support the following in Pakistan:
 - 7.1. teacher training and other educational programs in religious tolerance;
 - 7.2. non-governmental organizations engaged in legal advocacy to protect the right to freedom of religion, in particular defense of persons charged under the blasphemy and anti-Ahmadi laws;
 - 7.3. judicial reform and law-enforcement training;
 - 7.4. improvements in the public education system in order to promote the availability and quality of education for all Pakistanis.

IX. Russia

The future of religious freedom in Russia remains uncertain at a critical moment in that nation's history. The Russian federal government has yet to articulate a policy regarding the situation created by its decision not to extend once again the deadline for registration under a 1997 law that required religious organizations to register in order to operate as legal entities. Thus, some 1,500 unregistered religious organizations are subject to "liquidation" by the state. In addition, the government of President Vladimir I. Putin has yet to establish an effective way to ensure that local and regional laws, policies, and practices do not abridge religious freedom.

The Putin government appears to be committed to the principle of religious freedom, and, like the government of Boris Yeltsin before it, has taken several steps to mitigate religious-freedom violations. Moreover, the Russian courts, led by the Russian Constitutional Court, have in some cases protected the right to religious freedom and provided remedies for the violation of that right, at times overturning local decisions and ameliorating some of the worst features of the 1997 law. Nevertheless, it is uncertain how

vigorous the Putin government will be in dealing with Russia's many religious-freedom problems.

Recommendations

1. The U.S. government should continue to closely and carefully monitor religious-freedom issues and raise them forcefully with the Russian government at the highest levels. The U.S. government should pay particular attention to the Russian government's handling of:

- 1.1. unregistered religious organizations;
- 1.2. discriminatory laws, policies, and practices at the local and provincial level;
- 1.3. anti-Semitic, anti-Muslim, and other extremist activities targeting religious minorities;
- 1.4. visa, residence, and citizenship decisions regarding foreign missionaries and other religious workers;
- 1.5. internal disputes of religious communities; and
- 1.6. demands for a closer cooperation between any arm of the state and the Russian Orthodox Church (ROC) that would result in preferential treatment for the ROC or official discrimination against other religious communities.

2. In light of the current conditions in Russia, the Commission believes that all of its recommendations from May 2000 would still contribute to the promotion of religious freedom there, and therefore reaffirms them. They include supporting programs by Russians aimed at preventing religious intolerance and discrimination and promoting exchanges between U.S. and Russian religious leaders, as well as judges, lawyers, and legal rights organizations. Moreover, the U.S. government should make the humanitarian and human rights crisis in Chechnya a high priority issue in its bilateral relations with Russia.

3. The Smith Amendment is an effective tool for promoting religious freedom in Russia. The Commission recommends that in weighing whether to make the certification required under that law, the President should use the factors listed in Recommendation 1, above.

X. Sudan

The situation in Sudan has grown worse since the release of the Commission's May 2000 report. The government of Sudan continues to commit egregious human rights abuses – including widespread bombing of civilian and humanitarian targets, abduction and

enslavement by government-sponsored militias, manipulation of humanitarian assistance as a weapon of war, and severe restrictions on religious freedom. The relationship between oil and the government's actions has become clearer. The Clinton administration did take some steps to address the situation, including successfully working to prevent Sudan from taking a seat at the UN Security Council and earmarking aid to communities in southern Sudan and to the political opposition (the National Democratic Alliance, or NDA). But the issue of Sudan for the most part remained on the back burner of U.S. policy, as the government's own interagency report acknowledged last year. Its actions fell well short of the comprehensive, sustained campaign that the Commission believes is commensurate with the Sudanese government's abuses. The Commission urges the Bush administration to mount such a campaign.

Recommendations

1. The U.S. government should appoint a nationally prominent individual – who enjoys the trust and confidence of President Bush and Secretary of State Colin L. Powell, and who has appropriate authority and access – whose sole responsibility is directed to bringing about a peaceful and just settlement of the war in Sudan and an end to the religious-freedom abuses and humanitarian atrocities committed by the Sudanese government. The United States should not appoint an ambassador to Sudan at this time.
2. The U.S. government should continue to increase the amount of its humanitarian assistance that passes outside of Operation Lifeline Sudan (OLS) and should press OLS to deliver aid wherever it is needed, especially the Nuba Mountains, with or without the approval of the Sudanese government.
3. The U.S. government should increase its assistance to southern Sudan and the NDA.
4. The U.S. government should launch a major diplomatic initiative aimed at enlisting international pressure to stop the Sudanese government's bombing of civilian and humanitarian targets; ground attacks on civilian villages, feeding centers, and hospitals; slave raids; and instigation of tribal warfare.
5. The U.S. government should strengthen economic sanctions against Sudan and should urge other countries to adopt similar policies. The U.S. should prohibit any foreign company from raising capital or listing its securities in U.S. markets as long as it is engaged in the development of oil and gas fields in Sudan. The U.S. government should not issue licenses permitting the import of gum arabic from Sudan to the United States.
6. Companies that are doing business in Sudan should be required to disclose the nature and extent of that business in connection with their access to U.S. capital markets.
7. The U.S. government should intensify its support for peace negotiations

and for the Declaration of Principles, and make a just and lasting peace a top priority of this administration's global agenda.

8. The U.S. government should work to increase human rights and media reporting on abuses in Sudan, including supporting, diplomatically and financially, the placement of human rights monitors in southern Sudan and in surrounding countries where refugee populations are present.

XI. Vietnam

Despite a marked increase in religious practice among the Vietnamese people in the last 10 years, the Vietnamese government continues to suppress organized religious activities forcefully and to monitor and control religious communities. The government prohibits religious activity by those not affiliated with one of the six officially recognized religious organizations. Individuals have been detained, fined, imprisoned, and kept under close surveillance by security forces for engaging in "illegal" religious activities. In addition, the government uses the recognition process to monitor and control officially sanctioned religious groups: restricting the procurement and distribution of religious literature, controlling religious training, and interfering with the selection of religious leaders.

Recommendations

1. The U.S. Congress should ratify the U.S.-Vietnam Bilateral Trade Agreement (BTA) only after it passes a sense of the Congress resolution calling for the Vietnamese government to make substantial improvements in the protection of religious freedom or after the Vietnamese government undertakes obligations to the United States to make such improvements. Substantial improvements should be measured by the following standards:

1.1. Release from imprisonment, detention, house arrest, or intimidating surveillance persons who are so restricted due to their religious identities or activities.

1.2. Permit unhindered access to religious leaders by U.S. diplomatic personnel and government officials, the U.S. Commission on International Religious Freedom, and respected international human rights organizations, including, if requested, a return visit by the UN Special Rapporteur on Religious Intolerance.

1.3. Establish the freedom to engage in religious activities (including the freedom for religious groups to govern themselves and select their leaders, worship publicly, express and advocate religious beliefs, and distribute religious literature) outside state-controlled religious organizations and eliminate controls on the activities of officially registered organizations. Allow indigenous religious communities to conduct educational, charitable, and humanitarian activities.

1.4. Permit religious groups to gather for annual observances of

primary religious holidays.

1.5. Return confiscated religious properties.

1.6. Permit domestic Vietnamese religious organizations and individuals to interact with foreign organizations and individuals.

2. If Congress ratifies the BTA and approves conditional Normal Trade Relations status for Vietnam, it should review Vietnam's progress on the protection of religious freedom as part of an annual review of that status.

3. The United States should withhold its support for International Monetary Fund (IMF) and World Bank loans to Vietnam (except those providing for basic human needs) until the government of Vietnam agrees to make substantial improvements in the protection of religious freedom, as measured by the standards itemized in 1.1 through 1.6 above.

4. The U.S. government should make the protection of religious freedom a high-priority issue in its bilateral relations with Vietnam, including in the annual human rights dialogue with the Vietnamese government and in future trade negotiations, advocating substantial improvement in the protection of religious freedom as measured by the standards itemized as 1.1 through 1.6 above. The U.S. Department of State should advise the office of the U.S. Trade Representative (USTR) on the state of religious freedom and other human rights in Vietnam, and should request that the USTR advance the U.S. government's interests in human rights in and through the negotiations and the provisions of any further trade agreement or companion agreement between the two countries.

5. The U.S. government should insist that the Vietnamese government permit domestic Vietnamese religious and other non-governmental organizations to distribute their own and donated aid.

6. The U.S. government should, through its foreign assistance and exchange programs, support individuals (and organizations, if they exist) in Vietnam that are advocating human rights (including religious freedom), the rule of law, and legal reform. It should also support exchanges between Vietnamese religious communities and U.S. religious and other non-governmental organizations concerned with religious freedom in Vietnam.

7. Until religious freedom significantly improves in Vietnam (as measured by the standards itemized as 1.1 through 1.6, above), the U.S. government should initiate or support a resolution to censure Vietnam at the annual meeting of the UN Commission on Human Rights and should engage in a sustained campaign to persuade other governments to support it.

8. The U.S. government should continue to support the Association for Southeast Asian Nations (ASEAN) Human Rights Working Group, and

should encourage the Vietnamese government to join the working group.

9. The United States should continue to support Radio Free Asia broadcasts into Vietnam as a vehicle for promoting religious freedom and human rights in that country.

XII. U.S. Capital Markets

The Commission is concerned that significant and material information about companies doing business in Countries of Particular Concern (CPCs) is being withheld from the U.S. investing public. Foreign companies appear to be able to raise capital in U.S. markets without disclosing their business interests in CPCs, the risks associated therewith, and whether or not the proceeds from the sale of securities will be used to support its business in the CPC (and perhaps to support a foreign government that has been found to engage in or tolerate egregious religious-freedom violations). The problem is especially acute in the case of foreign companies because, unlike U.S. companies, foreign companies are generally permitted under U.S. law to do business in CPCs that are subject to comprehensive U.S. economic sanctions. Moreover, these companies can, in a wide range of circumstances, raise capital in U.S. markets without violating those sanctions. Thus, the issue of adequate disclosure is particularly important. Most important, however, is that reasonably prudent investors in U.S. financial markets may and should deem the information described above as material to their investment decisions.

Recommendations

1. The United States should require any U.S. or foreign issuer of securities that is doing business in a country that has been designated as a CPC under the International Religious Freedom Act of 1998 to disclose in any registration statement filed with the Securities and Exchange Commission for any new offering of securities the following information as to each such country:

1.1. The nature and extent of the business that it and its affiliates are conducting in the particular CPC, (i) including any plans for expansion or diversification and any business relationships with agencies or instrumentalities of the government of the CPC and (ii) specifying the identity of such agencies or instrumentalities;

1.2. Whether it plans to use the proceeds of the sale of the securities in connection with its business in the CPC and, if so, how; and

1.3. All significant risk factors associated with doing business in the CPC, including, but not limited to: (i) the political, economic, and social conditions inside the CPC, including the policies and practices of the government of the CPC with respect to religious freedom; (ii) the extent to which the business of the issuer and its affiliates directly or indirectly supports or facilitates those policies and practices; and (iii) the potential for and likely impact of a campaign by U.S. persons

based on human rights concerns to prevent the purchase or retention of securities of the issuer, including a divestment campaign or shareholder lawsuit.

2. The United States should require any issuer that is doing business in a CPC to disclose the information specified in items 1.1 and 1.3 above in its filings with the SEC, including its annual proxy statement or annual report, in the case of a U.S. issuer, or its U.S. markets annual report, in the case of a foreign issuer.

3. The U.S. government, including Congress, should examine how the structuring of securities transactions or the manipulation of corporate relationships by non-U.S. issuers can be used to circumvent U.S. economic sanctions.

XIII. U.S. Foreign Assistance

In its first two years, the Commission has found significant religious-freedom violations in some countries that receive U.S. foreign assistance. Foreign aid can be an important tool to promote religious freedom either directly or indirectly. Foreign assistance can support programs directly concerned with promoting religious freedom, such as legal advocacy, technical assistance, or human rights education. It can also support religious freedom indirectly by supporting programs that promote, for example, democracy, civil society, rule of law, professional law enforcement, and judicial independence.

Recommendations

1. No U.S. foreign assistance should be provided to any U.S. or foreign person (governmental or non-governmental) who, in a foreign country and at any time during the preceding 24-month period, has (a) committed acts of violence targeting individuals on account of their religious belief or practice, or (b) served as an instrumentality of official government policies of invidious religious discrimination. Furthermore, no U.S. foreign assistance should be provided to any program that discriminates against recipients or beneficiaries on the basis of religion.

2. The State Department, in its annual International Religious Freedom Report (or in the classified addendum) should identify (a) agencies or instrumentalities of foreign governments engaged in violations of religious freedom, and (b) non-governmental entities engaged in violations of religious freedom and describe the nature and extent of those violations.

XIV. The International Religious Freedom Act and the State Department's *Annual Report on International Religious Freedom – 2000*

Most of the mechanisms established by IRFA are now in their second year of existence, and in September 2000, four significant events occurred with respect to IRFA and U.S. foreign policy related to international religious freedom. First, the State Department

issued its *Annual Report on International Religious Freedom 2000* (2000 Annual Report), finding that: “Much of the world's population lives in countries in which the right to religious freedom is restricted or prohibited.” Second, then-Secretary of State Madeleine K. Albright announced those countries designated as “countries of particular concern” (CPC) – the most egregious violators of religious freedom. Disappointingly, only those countries named as CPCs in 1999 were so designated in 2000, despite ample evidence that others had met the statutory threshold. Third, Secretary Albright announced the actions that she would take pursuant to IRFA to promote religious freedom in those countries designated as CPCs. Again disappointingly, no additional action was taken against any CPC. And fourth, Robert A. Seiple, the first Ambassador-at-Large for International Religious Freedom, stepped down from his office – leaving his post vacant through the date this report went to print.

The State Department has done a highly commendable job in its second annual report of telling the tragic story of religious persecution around the globe. This year=s report generally shows a more complete understanding of religious-freedom issues and extensive fact-finding and verification. It reflects hard work on the ground.

In other respects as well, this year=s report is an improvement over last year, and the Commission is pleased that some of the recommendations made in its first annual report appear to have been adopted by the Department. The Commission=s review of the Department=s instruction cable sent to the embassies earlier this year also shows that the Department incorporated many of the Commission=s suggestions in what information it solicited from embassy officials.

However, problems remain. In some of the reports, the main thrust of what is happening and why is lost in detail and through omissions of important context. Another notable problem is that this year=s report includes a section in the executive summary entitled “Improvements in International Religious Freedom,” the contents of which is also reported in the individual country chapters. The Commission believes that the reporting of such “improvements” must be carefully handled in order to avoid misrepresentation of the conditions of religious freedom.

This report is the yardstick with which to measure the U.S. government=s progress in meeting the goals of the statute. The Commission urges all those interested in promoting religious freedom to review carefully what the 2000 Annual Report says U.S. policy is toward violators of religious freedom and what the United States is doing to promote religious freedom. Unfortunately, the report shows that in several key countries – those in which significant religious-freedom violations occur – U.S. policies and actions do not reflect the gravity of the situation.

The Commission is very disappointed that the Secretary did not name Laos, the Democratic People=s Republic of Korea, Saudi Arabia, and Turkmenistan as CPCs. On July 28, 2000, the Commission wrote to the Secretary concluding that the governments of each of these four countries have engaged in particularly severe violations of religious freedom and thus meet the statutory threshold for designation as CPCs. The Commission=s conclusion was based on the information that was available to it at that time. The information contained in the 2000 Annual Report only confirms that these countries should be designated as CPCs.

The Commission regrets the departure in September of Ambassador-at-Large for International Religious Freedom Robert A. Seiple. The Ambassador-at-Large for International Religious Freedom is a very important part of U.S. policy initiatives to promote religious freedom abroad – the 2000 Annual Report calls his office “the fulcrum of the effort to promote religious freedom.” A prolonged vacancy in this crucial position threatens U.S. progress in promoting religious freedom. The Commission has urged President Bush to move quickly to fill this vacancy.

The Commission reported last year that it had not gained full access to cables to and from embassies because of the Department’s assertion of a legal position (executive privilege as to deliberative process within the administration) with which the Commission does not agree. The Department has since constructed a time-consuming, cumbersome, and lengthy process whereby Commission staff are able to review some cables after they have been redacted. This process means the Commission cannot see cables until months after they are sent, making it difficult for the Commission to formulate timely policy recommendations in fast-moving situations overseas. The Commission has tried this system in good faith and concludes that it does not meet the Commission’s needs. It can no longer acquiesce to this situation and will propose a more-expeditious process to the State Department.

International religious freedom has become an important foreign-policy issue. The growing interest in the United States in the conditions of religious freedom around the globe and in the promotion of religious freedom through U.S. foreign policy is exemplified not only by the passage of IRFA but also by increasing public awareness of religious-freedom violations in countries such as China and Sudan. Secretary of State Powell has publicly stated that, in his view, the State Department has not been given adequate resources to perform its functions. The Commission believes that this is particularly true in the religious-freedom area. We further believe that in order to meet its obligations under IRFA and to ensure that the promotion of religious freedom remains a foreign-policy priority, adequate staff must be devoted to these tasks. The Commission urges the State Department to review its staffing of religious-freedom issues in U.S. embassies and in its regional and functional bureaus, particularly in the Office of International Religious Freedom, and provide an increase in staffing adequate to perform the important task of promoting international religious freedom.

I. THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM: ACTIVITIES FROM MAY 2, 2000 TO MAY 1, 2001

A. Overview

The first Annual Report of the United States Commission on International Religious Freedom on May 1, 2000 – provided for in the International Religious Freedom Act of 1998 (IRFA) – prompted a great deal of interest and activity.

Commissioners testified about the report in May 2000 before the Senate Foreign Relations Committee and the House International Relations Committee. In addition, the Commission met with senior State Department officials and consulted with other government agencies, notably the Treasury Department and the U.S. Securities and Exchange Commission (SEC), regarding the report's recommendations.

In June the Commission announced a broadening of its activities to include more countries and issues for its second Annual Report on May 1, 2001. Among the goals set by the Commissioners were:

- to monitor religious-freedom violations worldwide;
- to evaluate U.S. foreign-policy responses and make recommendations as to how U.S. policy can be more effective in combating religious persecution;
- to expand the number of countries it would study in depth and make policy recommendations for each;
- to press for implementation of the May 2000 Annual Report's recommendations regarding China, Sudan, and Russia, while continuing to follow developments in those countries;
- to deliver further recommendations on the extent to which capital-market sanctions and other diplomatic leverage should be used as a diplomatic tool to promote religious freedom in other countries; and
- to recommend to the Secretary of State additional countries that should be placed on the list of "countries of particular concern" (CPCs) called for in IRFA.

During the period of this report (May 2, 2000 to May 1, 2001), Commissioners and staff met with representatives of religious communities, human rights groups, and other non-governmental organizations regarding the conditions of religious freedom in more than 20 countries. The Commission held public hearings on religious freedom and U.S. policy in India, Indonesia, Pakistan, and Vietnam. Commissioners testified before Congress on religious freedom in China and Sudan, and on the Department of State's *Annual Report on International Religious Freedom 2000*. Commissioners and/or staff traveled to Egypt, Germany, Israel and the Occupied Territories, Nigeria, Pakistan, and Saudi Arabia. Commissioners and staff also received background briefings from U.S. diplomats,

intelligence officials, and academic experts on the countries it studied for this report. Finally, the Commission sent several letters to the President and Secretary of State with recommendations to raise religious-freedom issues during their official visits with specific foreign leaders.

The Commission held a series of meetings throughout the year with Thomas Pickering, then-Undersecretary of State for Political Affairs; Frank Loy, then-Undersecretary of State for Global Affairs; the Assistant Secretaries of State or their deputies for Africa, East Asia, South Asia, and Democracy, Human Rights, and Labor; the Ambassador-at-Large for the Newly Independent States; and the director of the Foreign Service Institute. The Department agreed to the Commission's request to hold semiannual meetings at the Undersecretary level, with additional consultations as necessary.

Commissioners wrote to the Secretary of State in July to recommend that the Democratic People's Republic of Korea (North Korea), Laos, Saudi Arabia, and Turkmenistan be added to the list of CPCs because of their egregious violations of religious freedom. The Commission also recommended that Burma, China, Iran, Iraq, Sudan, the Milosevic regime in Serbia, and the Taliban in Afghanistan, all named as CPCs or egregious religious-freedom violators by the State Department in October 1999, remain on the list.¹ In addition, the Commission wrote that India, Pakistan, Uzbekistan, and Vietnam are serious violators of religious freedom and deserve careful State Department monitoring; it also expressed concern about sectarian violence in both Indonesia and Nigeria.² Nevertheless, the State Department's 2000 list of egregious violators named the same seven as in 1999 with no additions.

In September the Commission testified before the Senate Foreign Relations Committee and the Subcommittee on International Operations and Human Rights of the House International Relations Committee regarding the State Department's *Annual Report on International Religious Freedom 2000*, issued in September 2000. In December it further issued an evaluation of the Clinton administration's implementation of IRFA, the findings of which are contained in Chapter XIV of this report.

Commissioners wrote to Secretary of State Colin L. Powell on February 16, 2001, to ask that he make "vigorous efforts" to ensure passage of resolutions at the UN Commission on Human Rights Commission session in Geneva condemning China, Sudan, Iran, and other countries for religious-freedom violations. The letter also urged him to seek European Union support for the resolutions and to make religious-freedom issues a prominent talking point in his discussions with Chinese Vice Premier Qian Qichen in March.

In September 2000, the Ambassador-at-Large for International Religious Freedom, Robert A. Seiple, resigned to return to the private sector. Ambassador Seiple made a significant contribution to the work of the Commission, on which he sat as an ex-officio nonvoting member. The Commissioners valued him as a colleague and regretted his departure. The Ambassador-at-Large for International Religious Freedom is a very important part of U.S. policy initiatives to promote religious freedom abroad – the State Department's annual report for 2000 calls his office "the fulcrum of the effort to promote religious freedom." The prolonged vacancy in this crucial position as this report went to press

threatens U.S. progress in promoting religious freedom. The Commission strongly urges President Bush to move quickly to fill the vacancy with a person as knowledgeable and distinguished as Ambassador Seiple.

B. People's Republic of China

The Commission spent a good deal of time during the year monitoring and commenting on the serious deterioration of religious freedom in the People's Republic of China. In its May 2000 Annual Report, the Commission recommended that Congress grant China Permanent Normal Trade Relations (PNTR) status only after China makes substantial improvements in respect for freedom of religion. Commissioners were invited to testify before the House Ways and Means Committee and the House International Relations Committee on the granting of PNTR status to China prior to the congressional vote on that bill. Two of the Commission's policy recommendations on China were proposed in congressional legislation.

Many hoped China would ease up on religious persecution following the Congress's decision to grant PNTR, but unfortunately the opposite occurred. Following the execution of several ethnic-Uighur Muslims in China in June and July, the Commission issued a statement pointing out the increasing persecution of Uighur Muslims as part of China's crackdown on religion and recommended actions the U.S. government should take in response. As the situation in China continued to deteriorate, the Commission recommended to the State Department that China again be included on the list of CPCs for its egregious violations of religious freedom. It also issued a statement in September recounting China's repressive behavior.

Following reports that the government of China intended to offer a \$1 billion sovereign-bond issue on the world market, the Commission in November wrote President Clinton to express its view that IRFA empowers the President to prohibit U.S. financial institutions – such as underwriters, mutual funds, and pension plans – from purchasing China sovereign bonds. It asked the President if he agreed with the Commission's legal conclusion and, if so, whether he intended to use his authority to block the bond issue. After public release of the Commission's letter to the President, China reportedly decided to postpone issuing the bonds. In March 2001, the Commission wrote to President Bush with the same inquiry that it had made to President Clinton.

This report contains further recommendations regarding China in Chapter II.

C. India

The Indian central government appears unable (and possibly unwilling) to control growing violence by self-proclaimed Hindu nationalists targeting religious minorities, particularly Muslims and Christians. Priests and missionaries have been murdered, nuns assaulted, churches bombed, and converts intimidated in scores of violent incidents over the past year. Hindu nationalists continue to threaten to build a temple on the site of a mosque in Ayodhya destroyed by a Hindu-nationalist mob in 1992.

Commissioners wrote the Secretary of State in July noting serious religious-freedom

violations in India and asking the State Department to keep that country under close watch. They also wrote President Clinton in September asking him to raise religious-freedom issues with Indian Prime Minister Atal Bihari Vajpayee during the latter's visit to the U.S. The Commission held a public hearing on religious freedom and U.S. policy in India in September, at which Hindu, Christian, and Muslim witnesses testified along with academics and former U.S. diplomats. In addition, the Commission is attempting to arrange a trip to India but has been unable as yet to obtain the Indian government's permission. Its report and recommendations regarding India are contained in Chapter III.

D. Indonesia

Continued religious fighting in Indonesia deeply concerns the Commission. The current communal violence in the Moluccas region has reportedly claimed the lives of between 5,000 and 8,000 Christians and Muslims since January 1999. There is evidence that the Indonesian government is not controlling its armed forces, resulting in murder, forced mass resettlement, and torture.

As sectarian violence continued after thousands of Muslim Laskar Jihad fighters traveled to the Moluccas and expanded the fighting there, the Commission wrote to the Secretary of State in July asking for a more energetic U.S. response to the killings, including the deployment, if necessary, of an international peacekeeping force. The Commission held a February hearing on Indonesia in Washington at which Moluccan Muslim and Christian witnesses testified along with experts in the region and former U.S. diplomats. The Commission's report and recommendations regarding Indonesia are found in Chapter IV.

E. Iran

The Commission continued to be deeply concerned about religious freedom in Iran, where conditions of religious freedom are very poor, particularly with respect to minority religious groups that are not officially recognized by the state and those perceived to be attempting to convert Muslims. Persecution of members of the Baha'i faith continues apace. Evangelical Christians suffer from a series of repressive measures. A number of Jews were convicted in 2000 on trumped-up espionage charges. For the last two years, the Secretary of State has determined that the government of Iran has engaged in or tolerated particularly severe violations of religious freedom, including prolonged detentions and executions based primarily or entirely upon the religion of the victims, thereby designating Iran as a CPC.

In her address to the American-Iranian Council in March 2000, then-Secretary of State Madeleine K. Albright announced that the U.S. was open to taking steps toward improving relations with Iran, if Iran were to take steps to address the issues that the U.S. has identified as prerequisites to better relations, such as desisting from the development of nuclear weapons and support for international terrorism. The Commission believes that human rights, including religious freedom, must remain an essential element of U.S. policy toward Iran.

In November, the Commission issued policy recommendations in a letter to the administration and the Congress regarding Iran. Those recommendations are included in Chapter V of this report.

F. Democratic People's Republic of Korea

In the Democratic People's Republic of Korea (DPRK or North Korea), notwithstanding the difficulty of obtaining reliable information on conditions in the country, it is apparent that religious freedom is non-existent. The government has imprisoned religious believers and suppresses all organized religious activity except that which serves the interests of the state.

The Commission wrote to the Secretary of State in July asking her to add the DPRK to the list of CPCs. Commissioners believe that the failure to do so would effectively reward its government for suffocating free speech, press, and travel so thoroughly that information on religious persecution is limited. The announcement of the Secretary of State's groundbreaking trip to Pyongyang in October prompted a letter from the Commission asking her to take up religious-freedom issues there. The Secretary included Assistant Secretary of State for Democracy, Human Rights, and Labor Harold Hongju Koh in her delegation and raised human rights and religious-freedom issues with her North Korean interlocutors.

The Commission made recommendations on the DPRK in a letter to President Clinton in December; these are included in Chapter VI of this report.

G. Nigeria

In Nigeria, disputes surrounding the actual and proposed enactment of elements of Islamic law into the criminal codes of many states in the northern part of the country have sparked a cycle of violence between Muslims and Christians in many areas. The Commission released a public statement expressing concern about an outbreak of Muslim-Christian violence in Nigeria in May. Commissioners wrote to President Clinton in August asking that he bring the matter up with President Olusegun Obasanjo during his visit to Nigeria; the President advised that he did so in remarks before the Nigerian parliament. Commission staff traveled to Nigeria in September, interviewing more than 40 government officials and religious leaders in four northern states and Abuja, the capital. The Commission's report and recommendations regarding Nigeria are found in Chapter VII.

H. Pakistan

In Pakistan, large numbers of Sunni Muslims, Sufis, Ahmadis, and Christians have been harassed, detained, and imprisoned on account of their religion under laws that prohibit blasphemy and essentially criminalize adherence to the Ahmadi faith. In April 2000, the military government abandoned its expressed intent to reform the procedure by which changes are brought under the blasphemy laws. Intercommunal violence between Sunni and Shiite Muslims continues. Religious minorities claim they are marginalized by a system of separate electorates, a system that appears to exacerbate other religious-freedom problems.

The Commission held a public hearing on Pakistan in September on Capitol Hill on

the same day as that on India, hearing testimony from Pakistani witnesses as well as academic experts and a former U.S. diplomat. After consultation with the State Department, Commissioners and staff also met with the Pakistani ambassador to the U.S. and a Cabinet minister to discuss religious-freedom issues in Pakistan. Commission staff traveled to Pakistan in December and interviewed scores of government officials, religious leaders, and others. The Commission's report and recommendations regarding Pakistan are found in Chapter VIII.

I. Russia

The Commission made policy recommendations in its May 2000 Annual Report regarding Russia, where it believes religious freedom is under threat from a 1997 law requiring the re-registration of religious groups and from discriminatory and arbitrary actions by local officials. The law requires that any group not re-registered by December 31, 2000, be "liquidated." In June, several Commissioners met with the Russian ambassador to the U.S. to discuss religious-freedom conditions in Russia. In October, Commissioners wrote to the President asking him to raise the re-registration issue with Russian President Vladimir I. Putin at the Asia-Pacific Economic Cooperation summit – specifically, to ask President Putin to postpone the deadline in light of the large number of organizations that reportedly remained unregistered. Despite similar pleas from Russia's official human rights ombudsman, the Russian government and parliament made no move to extend the deadline, but instead appeared to concentrate on speeding up the registration process. The Commission continues to monitor the situation closely; it is not yet clear what the policy of the Putin government will be regarding the liquidation of unregistered groups. In any event, the status of religious freedom in Russia continues to vary widely among local jurisdictions. The Commission's updated recommendations regarding Russia are contained in Chapter IX of this report.

J. Sudan

The continuing persecution of Christians, animists, and dissident Muslims by the government of Sudan as part of the 18-year civil war attracted much Commission attention. In July, Commissioners in a public statement urged the administration and the Congress not to ease sanctions until the Sudanese government takes verifiable steps to end religious persecution and engage in serious negotiations to end the war. The statement also called on the administration to make every effort to prevent Sudan from gaining a seat on the UN Security Council. The administration pursued a vigorous and successful diplomatic campaign to defeat Sudan's bid. The Commission also wrote the Secretary of State in July recommending that Sudan again be included on the list of CPCs for its egregious violations of religious freedom.

As a follow-up to its May 2000 recommendations regarding a public securities offering in the U.S. by the China National Petroleum Company (which is heavily involved in oil extraction in Sudan) and its subsidiary PetroChina, Ltd. (PetroChina), in August the Commission wrote the Treasury Department's Office of Foreign Asset Control (OFAC) inquiring whether that transaction violated U.S. economic sanctions against Sudan. OFAC replied in November that it did not find any violation of the existing sanctions regime.

At the invitation of the State Department, a Commissioner met with the Sudanese foreign minister in September at the United Nations in New York to discuss Sudan's religious-freedom violations. The Commission also testified on Sudan before the Congressional Human Rights Caucus in September. In October the Commission wrote to the SEC to recommend it investigate the accuracy and adequacy of material disclosures by the China Petroleum & Chemical Corporation (known as Sinopec) about its holdings in Sudan in a registration statement filed in connection with a securities offering in the U.S. In November the Commission wrote to the SEC again to recommend that it investigate whether the China National Petroleum Company and PetroChina have used the proceeds of their April 2000 sale of PetroChina stock in accordance with their disclosures in the registration statement for that offering. Under Commission sponsorship, former Assistant Secretary of State for African Affairs Dr. Susan Rice briefed members of Congress and their staffs in January 2001 on her recent trip to southern Sudan. In March, the Commission testified before a joint hearing on Sudan held by the Subcommittees on Africa and on International Operations and Human Rights of the House International Relations Committee.

In March the Commission issued a follow-up report and recommendations on Sudan, which are found in Chapter X of this report.

K. Vietnam

In Vietnam the law provides for extensive regulation of religious organizations by the state. Leaders and members of the banned Unified Buddhist Church of Vietnam, Hoa Hao Buddhists, Cao Dai followers, as well as Protestants and Roman Catholics have been detained without charge, imprisoned, heavily fined, harassed, or subjected to government surveillance.

The Commission's Chairman and Executive Director met in June with Vietnamese officials at the State Department to discuss conditions of religious freedom in that country. In October, the Commission wrote to President Clinton before his trip to Vietnam, outlining religious-freedom issues there and asking the President to take them up during his visit. The President addressed religious-freedom issues in a public speech and met with the Catholic Archbishop of Ho Chi Minh City (Saigon). Although the Vietnamese government last year told the Commission that it "welcomed" a visit, it later stated that Vietnam's Commission on Religious Affairs should host such a visit and that it would be unable to do so until at least May – the month when Commission membership changes and a trip is almost impossible.

The Commission held a February hearing on religious freedom and U.S. policy in Vietnam at which a Hoa Hao Buddhist, a representative of the Unified Buddhist Church of Vietnam, and Vietnamese Catholic and Protestant Christians testified, along with American experts and former U.S. diplomats. The Vietnamese government responded with condemnatory language and proceeded to place under house arrest a Catholic priest who submitted written testimony for the hearing. In March the Commission wrote to Secretary of State Colin L. Powell and Secretary of the Treasury Paul O'Neill recommending actions in response to religious-freedom violations in Vietnam. The Commissioners recommended to Treasury Secretary O'Neill that the United States should withhold its support for International Monetary Fund and World Bank loans to the government of Vietnam (except

those providing for basic human needs) until the government of Vietnam agrees to make substantial improvements in the protection of religious freedom. In its letter to Secretary of State Powell, the Commission urged the Secretary to prominently raise religious-freedom issues in his proposed visit to Vietnam in July, and recommended that until religious freedom significantly improves in Vietnam, the U.S. government should initiate or support a resolution to censure Vietnam at the annual meeting of the United Nations Commission on Human Rights in Geneva and should engage in a sustained campaign to convince other governments to support it.

The Commission's report and recommendations regarding Vietnam are found in Chapter XI of this report.

L. U.S. Capital Markets

The Commission studied economic tools that could impact international religious freedom, focusing on access to U.S. capital markets by companies doing business in CPC countries and the disclosure required in connection with those companies' securities transactions. The Commission found that foreign corporations, including Chinese petroleum companies, are vital investors in the oil industry of Sudan – a country subject to U.S. sanctions and known as one of the world's most egregious violators of religious freedom. Because of the direct connection between oil development and the Sudanese government's human rights abuses, the Commission recommended in March that corporations doing business in Sudan's petroleum industry be prohibited from issuing or listing their securities in U.S. capital markets. As described above in the sections on China and Sudan, the Commission has also expressed its concerns at various points throughout the year with regard to U.S. securities transactions involving the Chinese government and companies with business activities in Sudan.

Concerned that significant and material information is being withheld from the U.S. investing public, the Commission also studied carefully the disclosure requirements under U.S. law in connection with securities transactions of companies that have business activities in CPCs. The Commission's recommendations for heightened disclosure requirements in such transactions are contained in Chapter XII of this report.

M. The Middle East

Observing with great apprehension the increasingly religious nature of the Arab-Israeli conflict following the outbreak of violence between Israelis and Palestinians last fall, the Commission wrote to then-Secretary of State Albright in December 2000. The Commission requested that the U.S. government denounce forcefully the targeting of holy places of any religion and condemn those who call for violence in the name of religion. The Commission wrote that the U.S. government should further call for restoration of access to holy sites when legitimate security concerns are met, restoration of damaged sites, and prosecution of those who perpetrate desecration of religious sites. The Commission further expressed its belief that the United States should take the lead in calling upon government and religious leaders everywhere to repudiate all attempts to turn the already grave situation in the Middle East into a conflict among religions.

The Commission returned to the United States March 31 from a two-week trip to gather information on religious-freedom issues in Egypt, Saudi Arabia, and Israel and the Occupied Territories. During the course of the trip, the Commission delegation wrote to President Bush to ask him to raise religious-freedom issues with Egyptian President Hosni Mubarak during the latter's state visit to the United States in April and to express the concern that progress on religious freedom for all Egyptians accelerate. As this report went to press, it was not possible to include here a full review of that trip.

N. The Freedoms to Change Religion and Engage in Public Religious Expression and Persuasion

The freedom to change one's religion is a cornerstone of religious freedom.³ Likewise, the freedom to manifest one's religion through public expression – including expression intended to persuade another to change his or her religious beliefs or affiliation – is a primary component of the right to freedom of religion.⁴ Such expression is an essential manifestation of religious belief for members of many faith communities. Indeed, for some religious faiths it is a mandatory injunction upon adherents. Moreover, the freedom to change religion would be greatly diminished if the freedom to engage in public religious expression and persuasion were not fully ensured.

Unfortunately, these freedoms are subject to restrictions – in some cases egregious restrictions – by law, official policy or action, or societal attitudes in many countries around the globe.

The freedom to change one's religion, to adopt a religion, and to have a religion (or no religion) without coercion is absolute, and not subject to limitations of any kind by the state.⁵ Nevertheless, in several countries the law prohibits a change in one's religion, and the violator is subject to criminal penalties, including death. Whatever its status in religious law or practice, to regard apostasy as a criminal offense is a violation of religious freedom. In some cases these legal restrictions on apostasy are rarely enforced, but their very existence threatens those who wish to choose their religious beliefs or affiliation freely. In a number of countries particular faiths are banned, and the practice of these faiths is punishable by law. In Afghanistan and Indonesia, being an atheist is apparently prohibited. Also disturbing are reports in some countries that persons are forced, through violence or through withholding of essential humanitarian assistance, to profess a religion not of their choice.

The freedom to engage in public religious expression and persuasion is also severely curtailed in several countries. For example, in Saudi Arabia the public expression of any religion other than Wahhabi Islam is prohibited. In a number of countries, the law prohibits religious expression and persuasion under a wide variety of circumstances. In some cases, these restrictions specifically target noncitizens. There are also legal prohibitions in several countries on the importation and distribution of religious literature that effectively restrict religious expression and persuasion.

Governments have put forward a variety of justifications for such restrictions, including the protection of national security, the maintenance of public order and morality, and the protection of the rights and freedoms of others – including the freedom of those who

are exposed to or targeted by religious expression to have a religion. Such justifications must be considered with extreme care and some measure of suspicion. They are broad, vague, and can mask the intention to silence unpopular religious expression, to vitiate the right of some groups or individuals to freedom of religion, or even to persecute groups of religious believers. Restrictions of this sort can also be applied in a capricious or discriminatory manner (i.e., to unpopular or disfavored groups).

Limitations on the freedom of public religious expression are also sometimes justified as furthering the protection of a dominant political ideology or religion. Any limitation grounded in such a justification, standing alone, would not be consistent with protection of religious freedom.

Governments restrict religious expression and persuasion through direct and indirect means. In some countries, religious expression and persuasion are restricted directly by laws targeting such activity. In other cases, a variety of mechanisms is used by governments to restrict religious expression and persuasion or can have that effect: withholding official recognition or registration for religious communities and their institutions; withholding permits for the building or repair of places of worship; restricting the production, importation, and distribution of literature; restricting access to media; restricting the use of public or government property for assembly; restricting contact with coreligionists outside the country; controlling the solicitation of funds by private organizations and the provision of charitable, humanitarian, and social services; interfering with the selection of religious leaders; and interfering with the religious education of children.

Rather than being an unintended consequence of legitimate government activity, in some countries the desire to suppress public religious expression or persuasion underlies the decisions in these areas. Moreover, official and societal attitudes against public religious expression or groups that are perceived to engage in religious persuasion can lead to violence or discrimination. Thus, the issues of conversion and religious expression and persuasion are underlying factors in numerous religious-freedom violations. In the words of one expert who addressed the Commission, “In every country where there are significant restrictions on religious persuasion, there are other religious-freedom violations as well.”

Numerous complex factors contribute to the restriction of these important freedoms. The circumstances differ in any given country as a result of political, social, and economic relations among different religious communities that often have long-standing historical roots. At times, the state power is used to promote and enforce ideological principles (such as atheism by Communist governments) to the exclusion of other belief systems, including religion. The promotion of a dominant, state-sanctioned religion or ideology is often incompatible with alternative belief systems, which the state may view as forms of resistance or dissidence and may attempt to repress. Efforts to persuade individuals to change their belief systems may therefore be considered a threat to the status quo and consequently to the power structure, especially in totalitarian regimes.

Beyond official government policy, societal factors may also greatly affect the response to religious expression and persuasion. This societal response can be shaped by perceptions and attitudes regarding historical events or regarding religious beliefs that are

new or linked to foreign influences. Differing religious views regarding conversion, efforts to gain converts, and the circumstances that justify state intervention to curtail these activities also affect the response to religious expression and persuasion. All of these factors may combine to form social tensions that can be expressed by harassment, ostracism, and at times, violence.

These are important, complex, and sensitive issues, and thus can present difficult challenges for U.S. policymakers charged, as they are under IRFA, with opposing violations of religious freedom. During this annual cycle, the Commission has considered and addressed the freedoms to change religion and engage in public religious expression and persuasion in its public hearings and private briefings, in its fact-finding trips, and in connection with its reports and policy recommendations on particular countries. The Commission has also heard from two panels of experts about conflicts and restrictions in various countries on the freedom to engage in religious expression and persuasion, the effect of those restrictions on religious communities (including foreign missionary activity), and implications for U.S. foreign policy.

The Commission believes that restrictions on the freedom to change one's religion violate international law and merit continuing special attention. Restrictions of public religious expression and persuasion deserve further scrutiny and careful consideration. The current Commissioners will recommend to their successors that they continue substantial efforts to study and recommend policies protective of this important aspect of religious freedom.

The Commission is very concerned with specific situations in certain countries where enforced restrictions on these freedoms are clear, egregious violations of religious freedom.⁶ These include, for example, situations where:

- apostasy or conversion (from one or more faiths) is punishable by law (as is the case in Afghanistan, Bhutan, Iran, Mauritania, Nepal, Malaysia, and Sudan);⁷

- a religion is legally banned or its public profession is prohibited by law (as is the case in China, where numerous religious groups are banned and public religious activity outside of officially controlled religious institutions is prohibited; Iran, where Baha'is are banned; Maldives, where the public profession of non-Islamic religions is prohibited; Saudi Arabia (as mentioned above); Singapore, where the Jehovah's Witnesses are banned; and Turkmenistan, where only the official Soviet-era Sunni Muslim Board and the Russian Orthodox Church are recognized by the state as legal religious communities);

- religious expression and persuasion or the distribution of religious literature is virtually prohibited under all circumstances for one or more faiths (as is the case in the Democratic People's Republic of Korea, where virtually no public religious activity is permitted; Laos, where the printing and distribution of religious literature is prohibited outside of officially-controlled religious

institutions; Nepal and Tunisia, where an attempt to convert another are prohibited by law; and Vietnam, where religious expression and persuasion are restricted to regularly scheduled services in places of worship of officially controlled groups);⁸ and

-- there are reported systematic instances of the use of physical force intended to coerce the renunciation of one's faith or the adoption of another (as is reportedly the case in Burma, where security forces operating in religious minority areas are accused of coercing conversions to Buddhism through the threat of detention and harassment; in Indonesia where – in the face of inadequate government control – religious militants in the Moluccas are accused of coercing conversion to Islam through threat of violence; in Laos, where government officials reportedly force Protestant Christians to sign renunciations of their faith or face imprisonment; and in Sudan, where according to the State Department, children from non-Muslim families who have been captured and sold into slavery are forced to convert to Islam.⁹

The categories and examples given above are offered by way of example only, and are not intended to be exhaustive of the problem; there may be other situations of similar severity. Nevertheless, the seriousness of these violations necessitates attention and a response. The Commission urges the U.S. government to oppose these violations of religious freedom vigorously by raising them prominently and regularly in bilateral diplomatic discussions with the relevant governments and in multilateral forums, and by taking action with respect to each country as required by IRFA.

O. Other Activities

Section 104 of IRFA provides for improved training of U.S. Foreign Service officers in issues of international religious freedom. Commission staff attended sessions at the Foreign Service Institute to observe and initiate discussions with the State Department about how the Institute instructs diplomats on religious-freedom issues. On several occasions, the Commission's Executive Director instructed classrooms of officers on international religious freedom and other Commission staff briefed junior officers undergoing orientation. The Commission Chairman and Executive Director also met with Ambassador Ruth Davis, Director of the Foreign Service Institute, in October 2000 to stress the importance of training on this topic for ambassadors-designate and senior diplomats, and to explore ways the Commission could assist the Institute in providing such training.

The Commission undertook preparations for an independent expert study of the Immigration and Naturalization Service's expedited-removal program and how it affects potential refugees applying for asylum based on a fear of religious persecution, as authorized in IRFA. It has commissioned a leading immigration expert to develop a detailed blueprint and budget for conducting an independent and statistically reliable study at the Commission's expense. In preparation, Commission staff also reviewed the General Accounting Office study on expedited removal, which was mandated by IRFA and released in September, and consulted with its authors and with the Immigration and Naturalization Service.

As noted above, the Commission conducted numerous individual meetings with human rights monitors, faith communities, relief agencies (religious and secular), and other non-governmental organizations to discuss and receive information about international religious-freedom issues. The Commission recognizes the great value of interchanges with these groups, and is working on plans to establish regular joint meetings with interested parties. The first meeting of this kind was held in March; more than 80 representatives of more than 50 organizations attended.

P. Web Site

The Commission's Web site, at www.uscirf.gov, contains its Annual Reports; the State Department's annual reports on international religious freedom and human rights; all prepared and oral testimony from the Commission's hearings on Sudan (February 2000), China (March 2000), India (September 2000), Pakistan (September 2000), Vietnam (February 2001) and Indonesia (February 2001); copies of testimony prepared for delivery by Commissioners to congressional committees; its statements and press releases; international human rights documents; and information about the Commission, the Commissioners, and the International Religious Freedom Act of 1998 and related amendments.

Q. Cooperation With Other Agencies

As noted in the Commission's first Annual Report, the IRFA conferred upon the Commission the power to

secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission, subject to applicable law.¹⁰

The Commission is pleased to report that the Treasury Department's Office of Foreign Assets Control and the U.S. Securities and Exchange Commission staff have been most helpful and cooperative in responding to this Commission's requests for information and clarification as it explored issues of capital-market access. Likewise, the Central Intelligence Agency has responded positively to Commission requests for briefings.

The Commission reported last year that it had not gained full access to cables to and from embassies because of the State Department's assertion of a legal position (executive privilege as to deliberative process within the administration) with which the Commission does not agree. The Department has since constructed a time-consuming, cumbersome, and lengthy process whereby Commission staff are able to review some cables after they have been redacted. This process means the Commission cannot see cables until months after they are sent, making it difficult for the Commission to formulate timely policy recommendations in fast-moving situations overseas. The Commission has tried this system in good faith and concludes that it does not meet the Commission's needs. It can no longer acquiesce to this situation and will propose a more-expeditious process to the State Department.

R. Commissioners' Terms Expire

The Commissioners' terms expire on May 14, 2001, just a few days after the release of this report. The Commissioners would like to take this opportunity to thank those who appointed them for the privilege of serving on this first Commission on International Religious Freedom and to express their appreciation to each other for the bipartisan and cooperative atmosphere in which the Commission conducted its business. They look forward to close cooperation with their successors in this vitally important work.

¹ Commissioner John Bolton dissented, and Commissioner Laila Al-Marayati abstained, from the Commission's decision to recommend that Saudi Arabia be designated a CPC.

² Commissioner Michael K. Young, joined by Commissioner Nina Shea, dissented from the Commission's decision not to recommend that India should be designated as a CPC.

³ Article 18 of the Universal Declaration of Human Rights states that the right to freedom of thought, conscience and religion includes "freedom to change . . . religion or belief." Article 18 of the International Covenant on Civil and Political Rights provides that "No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice." The Human Rights Committee, the monitoring body of the International Covenant on Civil and Political Rights, has observed that "the freedom 'to have or to adopt' a religion or belief necessarily entails the freedom to choose a religion or belief, including, *inter alia*, 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." See Human Rights Committee, General Comment No. 22 (48) (Art. 18), U.N. Doc. CCPR/C/21/Rev.1/Add.4 (1993), ¶ 5.

⁴ A number of terms are used that encompass persuasive activity in the matter of religious beliefs and affiliation, such as proselytism, evangelism, and public witnessing. The use of these terms can be confusing. The term proselytism, in particular, is sometimes used to refer to actions intended to bring about an entirely voluntary change in religious beliefs and sometimes to refer pejoratively to efforts to convert others by coercive, deceptive, or manipulative means. The terms evangelism and witnessing are closely associated with Christianity, and do not necessarily work well to describe activity related to other religions. The term "religious persuasion" is not used in this report to mean one's religious faith, but rather the act of persuading another to change his religion or beliefs. The term is meant to be a neutral one: i.e., whether particular methods of religious persuasion are "improper," in the sense that a government may restrict them without violating religious freedom, depends upon a variety of specific factors and the context in which they are used and is not inherent in the definition itself.

⁵ See Human Rights Committee, General Comment No. 22 (48) (art. 18), U.N. Doc. CCPR/C/21/Rev.1/Add.4 (1993), ¶ 8; Arcot Krishnaswami, Study of Discrimination in the Matter of Religious Rights and Practices, U.N. Doc. E/CN.4/Sub. 2/200/Rev.1, U.N. Sales No. 60.XIV.2 (1960).

⁶ There may be cases where legal provisions, through lack of enforcement, are so archaic that they no longer have the effect of restricting religious expression and persuasion. This assessment, however, requires careful examination.

⁷ For example, a provision in the Penal Code in Mauritania imposes the death sentence for “any Muslim who abandons his faith and does not repent within three days.” However, this law has never been enforced. See House Committee on International Relations and Senate Committee on Foreign Relations, *Annual Report: International Religious Freedom 2000*, report prepared by U.S. Department of State, 106th Cong., Joint Committee Print, 51. Section 126 of the Sudan Criminal Act (1991) provides for the death penalty for “every Muslim who propagates for the renunciation of the Creed of Islam or publicly declares his renunciation thereof by an express statement or conclusive act.” The last reported prosecution for this offense was in 1998. See 2000 Religious Freedom Report, “Sudan,” 77. In Nepal, Article 19 (1) of the Constitution provides that “every person shall have the freedom to profess and practice his own religion as handed down to him from ancient times having due regard to the traditional practices: Provided that no person shall be entitled to convert the religion of any person.” Reprinted in Blaustein and Flanz, *Constitutions of the Countries of the World* (1987). According to the State Department, arrests for conversions in Nepal and engaging in religious expression and persuasion are rare.

⁸ For example, in Vietnam the government’s decree related to religious activities states that “religious activities [such as prayer sessions, celebration of ceremonies, preaching, and religious instruction] that overflow from the place of worship, or not previewed in the program presented each year [to the government for approval], must obtain authorization of the appropriate organs of State.” Moreover, the printing and dissemination, import and sale of religious artifacts must be submitted for government approval. See *Vietnam: Decree of the Government Concerning Religious Activities* No. 26/1999/ND-CP (1999), Arts. 8, 14. According to the State Department, Tunisia “does not permit proselytizing.” The government of Tunisia reportedly views proselytism as “an act against the public order for which foreign missionaries may be expelled. . . . There were no reported cases of official action against persons suspected of proselytizing during the period covered by this report [July 1999 through June 2000].” See 2000 *International Religious Freedom*, “Tunisia,” 482-83.

The State Department, in its reporting on these types of restrictions, should be precise as to what actions or forms of expression are prohibited under what circumstances, both in law and in practice. This information is important to assess the nature and extent of religious freedom violations.

⁹ See U.S. Department of State, *2000 Country Reports on Human Rights Practices*, “Sudan,” February 2001, 14.

¹⁰ IRFA § 203(b), 22 U.S.C. § 6432a(b).

II. PEOPLE’S REPUBLIC OF CHINA

A. Introduction

In the last year, the government of the People’s Republic of China (PRC or China) has expanded its crackdown on unregistered religious communities and tightened its control on official religious organizations. The government has intensified its campaign against the Falun Gong movement and its followers. It apparently has also been involved in the confiscation and destruction of up to 3,000 unregistered religious buildings and sites in southeastern China. Government control over the official Protestant and Catholic churches has increased. It continues to interfere in the training and selection of religious leaders and clergy. At the same time, the government continues to maintain tight control over Uighur Muslims and Tibetan Buddhists. Finally, cases of torture by government officials reportedly are on the rise.

In its May 2000 Annual Report, the Commission on International Religious Freedom recommended that Congress approve Permanent Normal Trade Relations (PNTR) status for China only after the Chinese government had made substantial improvements in the protection of religious freedom. Congress did approve PNTR, and the Commission was concerned that by doing so – without substantial action with regard to religious freedom and at a time when conditions of religious freedom have sharply deteriorated – the Chinese government could be led to believe that the United States does not attach significant importance to the right to freedom of religion. The Commission’s concern has been validated by the deteriorating religious-freedom situation in China over the last year. Thus, the Commission urges the U.S. government to work vigorously to promote religious freedom in China by making its concern known to the Chinese government and by working to secure substantial improvements.

Since the publication of its May 2000 Annual Report, the Commission and its staff have continued to monitor the condition of religious freedom in China. The Commissioners and the Commission staff have interviewed human rights and religious non-governmental organizations (NGOs) with expertise on China, individual experts, and U.S. government officials. In February 2000, the Commission requested permission from the Chinese government to visit that country. However, the Chinese government never responded to this initial request. The Commission renewed its request in recent months, to which the Chinese embassy in the United States responded that such a visit would be “highly inappropriate.”

B. Religious Freedom

1. Legal/Policy Developments

In the last year, the government has promulgated additional rules that restrict religious activities. It was disclosed that in September 2000, the Religious Affairs Bureau issued rules governing the religious activities of foreigners within China, which codified existing regulations that restrict the religious activities of foreigners and their contacts with Chinese citizens.¹ The rules provide that foreigners are allowed to “preach and expound the scripture” only at the invitation of official Chinese religious organizations, and only at

registered religious sites. Foreigners are not allowed to distribute religious literature, develop followers among Chinese citizens, or engage in “other missionary activities.”

Also in the last year, the Chinese government apparently has established official mechanisms to coordinate its national campaign against “cults,” focusing specifically on the Falun Gong movement and its followers.² The government and official media have disclosed that an “Office for Preventing and Handling Cults” was established in September 2000 under the State Council.³ Moreover, the government reportedly has created a Politburo-level permanent office in the Communist Party of China (CPC) that is responsible for the coordination of government efforts to crack down against the Falun Gong movement.⁴ According to the report, Vice Premier Li Lanqing, a member of the CPC Politburo Standing Committee, would head the new office. Finally, as an indication of the central government’s resolve to crack down on the Falun Gong movement, in March 2001, Premier Zhu Rongji, in his report to the National People’s Congress, stated:

We need to continue our campaign against the Falun Gong cult, and further expose and condemn the anti-human, anti-social and anti-science nature of the cult, which has become a tool for domestic and overseas forces hostile to our socialist government. We need to mete out severe punishment to the small number of criminals while making unremitting efforts to unite, educate and rescue the vast majority of people who have been taken in.⁵

2. Unregistered Religious Organizations

The Chinese government has intensified its campaign to crack down on unregistered religious communities and those that it has identified as “cults,” including the Falun Gong and some Protestant house-church movements. The government reportedly has detained and tortured religious prisoners, raided homes and independent churches, and closed, confiscated, or destroyed unregistered religious properties.

Since the second half of 1999, thousands of Falun Gong practitioners reportedly have been arrested and remain in some form of detention.⁶ According to the Falun Gong organization, since the second half of 1999, 162 followers have died as a result of torture and mistreatment by officials while in custody.⁷ The State Department and Amnesty International reported that police officials have tortured Falun Gong members who were detained or imprisoned. The official Chinese press has confirmed that nearly 200 Falun Gong practitioners have received sentences of up to 10 years for using the movement to “create social chaos” or to “obstruct the law.”⁸ On October 1, 2000 (which was China’s National Day), security forces reportedly beat and detained hundreds of Falun Gong practitioners (perhaps up to 1,000) for holding peaceful demonstrations in Beijing’s Tiananmen Square, protesting government policy against the group and official treatment of its followers.⁹ Hundreds of other followers reportedly have been confined to mental hospitals. More recently, as a part of the government’s intensified campaign against the Falun Gong, police and security forces reportedly raided the homes of more than 1,000 grassroots leaders of the movement in an effort to obtain evidence that these individuals have been conducting “cult-like practice,” engaging in economic crimes, or causing bodily harm to other Falun Gong followers.¹⁰ Another Qigong group, the Zhong Gong (which was banned

by the government in 1999), reports that more than 30 of its leaders continue to be imprisoned by the Chinese authorities.¹¹

The official crackdown on the Falun Gong has been extended to Hong Kong residents and foreign citizens. In September 2000, a Hong Kong-resident Falun Gong practitioner, along with a Chinese mainlander, reportedly were arrested nine days after they filed a legal complaint in Beijing against Chinese President Jiang Zemin and other high-ranking government officials for their part in the official crackdown.¹² In November, a U.S.-resident Falun Gong practitioner reportedly was arrested on charges of providing national security information to foreigners. In December, she was sentenced to three years in prison.¹³ Also in November, a Canadian citizen was sentenced to three years of re-education through labor for practicing Falun Gong.¹⁴ He was reportedly tortured by police officials while in custody and was released in January 2001.

Members of unregistered Protestant house churches have been detained, tortured, and subjected to other forms of government harassment. In some areas of China, properties belonging to or used by such unregistered groups have been confiscated, closed, or destroyed. The government crackdown on “cults” has placed increased pressure on unregistered Christian churches.¹⁵ It has been reported that in some parts of China, unregistered churches are routinely classified as “cults,” and the Chinese central government reportedly has designated 14 unregistered Protestant movements as “cults.”¹⁶ The unregistered churches also face difficulties when attempting to register with the government, and in some cases, local officials have refused to register them.¹⁷ Furthermore, unregistered churches continue to face obstacles in obtaining Bibles and other Christian literature, and are not allowed to operate independent training institutions.

In August 2000, local public security officials arrested 130 followers of the China Fangcheng Church in Henan Province because the church was officially labeled as an “evil cult,” and the government charged that its members were engaging in an illegal assembly that, according to the Chinese foreign ministry spokesperson, was “seriously violating the normal life of the local people here.”¹⁸ Among them were three U.S. citizens who were born in Taiwan, who reportedly were subjected to strip searches while in detention. They were eventually expelled from the country. Eighty-five of the 130 arrested reportedly were sent to re-education labor camps; they have since been released.¹⁹ In October 2000, a 21-year-old itinerant missionary of the China Evangelical Fellowship reportedly died of torture and mistreatment while under detention in Henan Province.²⁰ It was reported that he was arrested in September while worshipping in an underground house church. Hundreds of Protestants reportedly remain in labor camps and prisons. Many of these individuals allegedly have been subjected to torture and other extreme forms of punishment.²¹ Furthermore, government officials reportedly have imposed severe fines on unregistered Protestant organizations and their followers on account of their belief.²²

The relationship between the unofficial, Vatican-affiliated Roman Catholic Church and the Chinese government has deteriorated in the last year. The State Department reports that an August 1999 CPC document called on the authorities to eliminate the underground Catholic Church.²³ A number of Catholic bishops and priests reportedly remain in prison or in detention while the status of other priests and lay members remain unknown.²⁴ On

October 1, 2000, the anniversary for the founding of the PRC, the Vatican canonized 120 saints with ties to China. Eighty-seven of the new Chinese saints were killed during the Boxer Rebellion of 1900.²⁵ In response, the Chinese government accused several of the newly canonized saints of committing crimes of rape and extortion against the Chinese people.²⁶

Finally, in November-December 2000, local government officials destroyed, closed, or confiscated approximately 400 unregistered Protestant and Catholic church buildings in the Wenzhou area (located in the southeastern province of Zhejiang) as a part of the most destructive campaign to crack down on unregistered religious buildings and sites since the late 1970s.²⁷ There are reports that overall as many as 3,000 churches, temples, and shrines (Christian, Buddhist, and Daoist) in the area have been demolished, blown up, or confiscated for government use. China's state-run media have confirmed these reports.

3. Tibet

Chinese authorities maintain tight control over religious activity and places of worship in Tibet and reportedly have increased some restrictions in the last year. The government remains suspicious of Tibetan Buddhism because of its link with the Dalai Lama. The Tibet Information Network reports that monks and nuns comprised 74 percent of the 266 Tibetan political prisoners it had identified as of January 2001.²⁸ There have been reports of torture and other extreme forms of punishment meted out to imprisoned Buddhist monks and nuns.²⁹ According to the State Department, Tibetan monks and nuns are required to undergo "patriotic education," and monks are forced to renounce the Dalai Lama and the Dalai Lama-recognized Panchen Lama.³⁰ "Monks and nuns failing to accept these precepts can face formal expulsion from monasteries and nunneries, prohibition from any further religious activity, and restricted rights to education, employment and travel."³¹ Restrictions on religious practice have been extended to ordinary citizens in private homes: homes were searched for shrines, Tibetan religious paintings, and Dalai Lama pictures; school children were told not to visit monasteries and temples to pray or to attend religious ceremonies on threat of expulsion.³² Tibetan Buddhists reportedly are not permitted to observe the Dalai Lama's birthday and in the summer of 2000 strict measures were taken by the government to prevent public participation in other religious festivals.³³ Government employees and party officials in Tibet have been prohibited from participating in religious activities (including having altars and religious materials in their homes) and have been ordered to withdraw their children from monasteries, nunneries, and Tibetan schools in India.³⁴

4. Uighur Muslims³⁵

Government restrictions on the religious activities of Uighurs continue to be tight. Islamic institutions and prominent individuals in the Muslim community have become the target of oppressive, often brutal measures. Chinese authorities apparently have been unwilling or unable to differentiate between religious exercise or ethnic identity and "separatist" aspirations. As a result, government officials reportedly continue to restrict religious activities, including the building of mosques, in areas where ethnic unrest has occurred.³⁶ The government controls the appointment of imams. According to one account, imams are required to undergo political indoctrination and their sermons are censored by

government officials.³⁷ Uighurs reportedly are also prohibited from congregating in large numbers, including gathering family members to observe traditional religious holidays.³⁸ Government employees, teachers, and students must abide by government restrictions. For example, it has been reported that students, teachers, and government officials are not allowed to observe the daily act of praying five times.³⁹ Mosques apparently are required to record the names of the individuals attending each day's religious activities.⁴⁰ Students that are found to have attended mosques more than three times reportedly can be permanently expelled from school.⁴¹ Children who are found to have been taught Islam reportedly could also be expelled from school.⁴² Uighur Muslims appear to be the only Chinese citizens who are subject to capital punishment for political crimes. In 2000, according to Human Rights Watch, at least 24 Uighur Muslims were executed.⁴³ Finally, prison officials reportedly have tortured Uighur prisoners. In October 2000, one Uighur prisoner reportedly died as a result of torture and other mistreatment.⁴⁴

5. Registered Religious Communities

Over the past year, the government reportedly has also tightened its control over official religious organizations, especially the official Protestant and Catholic churches. The Chinese government, through state-sanctioned religious bodies, has increased its control over religious doctrine, seminary curricula, and the training and selection of leaders and clergy. Bishop Ding Guangxun, the concurrent honorary president of the official Three Self Patriotic Movement (TSPM) for the Protestant churches in China and the Christian Council of China, reportedly has introduced a "new theology" that seeks to de-emphasize the differences between believers and non-believers and to ensure that doctrines of the official Chinese Protestant Churches are compatible with socialist ideology.⁴⁵ One important feature of this theology is the denial of the fundamental Christian doctrine of salvation by faith.⁴⁶ This new theological construct was introduced into seminary curricula, which resulted in the departure (both voluntary and involuntary) of many faculty members and students.⁴⁷

In addition to the government's attempt to exert control over theology, the TSPM churches face other government restrictions. According to reports, they are not permitted to teach fundamental Christian doctrines such as creation and resurrection. They are not allowed to minister to those under the age of 18, and church members cannot preach outside their own village and province. Moreover, pastors that do not follow official guidelines may be relocated, removed from current positions, and stripped of salaries and accommodations.⁴⁸

The official Catholic Church apparently also faces increased government restrictions. The same August 1999 party document that called for the elimination of underground Catholic churches also called for the tightening of government control over the official church. According to the State Department, many clerics and members of the official church refuse to acknowledge the legitimacy of bishops who were appointed by the government, but not approved by the Vatican.⁴⁹

C. Commission Recommendations

In its May 2000 Annual Report the Commission recommend that the U.S. Congress should grant China Permanent Normal Trade Relations (PNTR) status only after the Chinese

government had made substantial improvements in respect to religious freedom, as measured by a number of specific standards.⁵⁰ Congress, of course, did approve PNTR status for China without any such religious-freedom preconditions. As detailed above, there has been a marked deterioration of the protection of religious freedom in China since the Commission's last report and since Congress approved PNTR. China has not ratified the International Covenant on Civil and Political Rights. The Chinese government has not provided information or permitted unhindered access to religious leaders who are in prison, in detention, under house arrest, or under surveillance. Nor, to the Commission's knowledge, has it released any such prisoners. As noted above, the Chinese government has refused to grant permission for the Commission to visit the country, rejecting the proposed visit as "highly inappropriate." The U.S.-China bilateral human rights dialogue has not resumed, apparently because of U.S. concerns regarding the commitment of the Chinese government to substantive discussions and follow-up actions.

Even with the PNTR issue settled, the Commission believes that Congress should pay careful attention to the conditions of religious freedom in China and to the persistent failure of the Chinese government to protect religious freedom. In granting PNTR, Congress did establish a commission to monitor human rights and the development of the rule of law in China.⁵¹ The Commission welcomes the establishment of this body and looks forward to working with it on human rights matters of mutual interest and responsibility once it begins to function. The Commission recommended last year that Congress invite the Dalai Lama to address a Joint Session of Congress and continues to urge the Congress to do so.⁵²

The Commission recommended last year that President Clinton personally lead efforts to pass a resolution censuring the Chinese government for its human rights violations at the annual session of the UN Commission on Human Rights (UNCHR).⁵³ Although then-Secretary of State Madeleine K. Albright attended the UNCHR session in Geneva and advocated such a resolution, U.S. efforts were defeated. In February 2001, the Commission wrote Secretary of State Colin L. Powell urging him to initiate a China resolution at this year's UNCHR session and to mount a sustained campaign at the highest levels to convince other governments to support it. On February 26, the State Department announced that it would sponsor a resolution; however, as of the date this report went to press, the United States has not formally introduced one.

At the same time that China's protection of religious freedom continues to deteriorate, the Chinese government sought to raise capital from U.S. investors. In September and October 2000, the press reported that the government of China was considering offering sovereign bonds in a total amount of \$1 billion in the near future, at least in part to U.S. investors. In November, the Commission wrote to President Clinton that, in its view, the President has the authority under the International Religious Freedom Act of 1998 (IRFA) to prohibit the purchase of China sovereign bonds by U.S. financial institutions.⁵⁴ It asked the President if he agreed with the Commission's conclusion and, if so, whether he intended to use his authority to prevent the China sovereign bond issue until the Chinese government made substantial improvements in respect for religious freedom and provided sufficient assurances to guarantee that the proceeds were never used to support religious persecution. The President's response did not address the question of his authority under IRFA, but he said that he did not favor prohibiting the sale. Also, in November, plans

to offer China sovereign bonds were reportedly shelved. In March 2001, the Commission wrote to President Bush with the same inquiry that it had made to President Clinton. If and when China sovereign bonds are offered to U.S. investors, the Commission will examine the circumstances and consider whether to recommend that the President exercise his authority to prevent such a sale.

In light of this background, the Commission makes the following recommendations:

1. In its bilateral relations with China, the U.S. government should persistently urge the Chinese government to take the following steps to protect religious freedom:

1.1. Establish the freedom to engage in religious activities (including the freedom for religious groups to govern themselves and select their leaders without interference, worship publicly, express and advocate religious beliefs, and distribute religious literature) outside state-controlled religious organizations and eliminate controls on the activities of officially registered organizations.

1.2. Permit unhindered access to religious persons (including those imprisoned, detained, or under house arrest and surveillance) by U.S. diplomatic personnel and government officials, the U.S. Commission on International Religious Freedom, and respected international human rights organizations. Release persons from imprisonment, detention, house arrest, or intimidating surveillance who are so restricted on account of their religious identities or activities.

1.3. Permit domestic Chinese religious organizations and individuals to interact with foreign organizations and individuals.

1.4. Cease discrimination against religious followers in access to government benefits, including education, employment, and health care.

1.5. Ratify the International Covenant on Civil and Political Rights.

In the U.S.-China Relations Act of 2000, Congress stated that it was the policy of the United States to encourage the Chinese government to protect the human rights of its people and to seek the support of other governments in urging Chinese improvements in human rights practices.⁵⁵ As one of the rights most abridged and abused by the Chinese government, religious freedom must be a key element of U.S. initiatives to promote human rights in China. American diplomats should consistently and prominently raise religious-freedom abuses with Chinese officials and advocate substantial improvements (as measured by the above standards) at the highest levels and at every available opportunity. In addition, the U.S. should urge other governments to raise the issue of religious freedom in their

bilateral contacts with the Chinese government. In an effort to keep religious freedom high on the agenda of U.S.-China relations, the State Department should continue to report in detail on the conditions of religious freedom in China.

2. The U.S. government should continue to work vigorously for the resumption of a high-level unconditional human rights dialogue with the PRC government when the Chinese government demonstrates its commitment to protecting religious freedom, for example, by addressing the items listed as 1.1 to 1.5 above.

In November 2000, PRC President Jiang Zemin reportedly verbally committed to resume the annual human rights dialogue with the United States that had been suspended since May 1999. The dialogue has not resumed, apparently because of U.S. concerns regarding the commitment of the Chinese government to substantive discussions and follow-up actions. The Commission believes that the dialogue should be resumed when the Chinese government has demonstrated its commitment to protecting religious freedom. Once resumed, religious-freedom issues should be prominent and the U.S. government should persistently advocate substantial action in the areas itemized as 1.1 through 1.5, above.

3. Until religious freedom significantly improves in China, the U.S. government, led by the personal efforts of the President of the United States, should initiate a resolution to censure China at the annual meeting of the UN Commission on Human Rights (UNCHR) and should support a sustained campaign to convince other governments at the highest levels to support it.

The Commission welcomes the U.S. government's decision to introduce a resolution regarding China's human rights practices at the UNCHR during its 2001 session in Geneva. The Commission would like to restate the importance of an early decision by the U.S. government each year on whether a resolution condemning China's human rights practices is warranted. Such U.S. resolutions will likely continue to fail in Geneva unless the President makes their adoption a high priority of the administration. The Commission urges the President to personally solicit support for the resolution from the leaders of UNCHR member countries. The success or failure of this referendum on China's standing in the international community is likely to depend on whether the President makes liberal use of the "bully pulpit" and effective diplomacy at every opportunity.

4. Companies that are doing business in China should be required to disclose the nature and extent of that business in connection with their access to U.S. capital markets.

There is a significant, undesirable gap in U.S. law regarding China and other "countries of particular concern" under IRFA (i.e. egregious religious-freedom violators): In some cases, companies that are doing business in China can sell securities on U.S. markets without having to disclose fully (1) the details of the particular business activities in China, including plans for expansion or diversification; (2) the identity of all agencies of the Chinese government with which the companies are doing business; (3) the relationship of the business

activities to violations of religious freedom and other human rights in China; or (4) the contribution that the proceeds raised in the U.S. debt and equity markets will make to these business activities and hence, potentially to those violations.⁵⁶ Across-the-board full disclosure of these details would prompt corporate managers to work to prevent their companies from supporting or facilitating these violations. It also would aid (1) U.S. investors in deciding whether to purchase the securities; (2) shareholders in exercising their ownership rights (including proposing shareholder resolutions for annual meetings and proxy statements); and (3) U.S. policymakers in formulating sound policy with respect to China and U.S. capital markets. The Commission recommends that the United States require such disclosure. As discussed in the Commission's recommendations with regard to U.S. capital markets disclosure, this requirement would also apply to those Chinese companies that are doing business in Sudan and issuing or listing securities in the United States.

5. The U.S. government should raise the profile of conditions of Uighur Muslims by addressing religious-freedom and human rights concerns in bilateral talks, by increasing the number of educational opportunities available to Uighurs, and by increasing radio broadcasts in the Uighur language.

The deteriorating condition of Uighur Muslims over the last year makes it especially important for the U.S. government to document the abuses against Uighurs and raise these abuses with the Chinese government. Moreover, the Commission recommended last year that the U.S. government increase the number of educational and cultural exchange opportunities available to Uighurs. It also recommended that there be increased radio broadcasts in the Uighur language.

The Commission understands that the ability to document the condition of Uighurs is limited. However, it is because information on the condition of Uighurs is limited that the U.S. government should expand its efforts to address their religious-freedom problems, including through increases in educational and cultural opportunities and radio broadcasts. The U.S. government apparently has not increased its support for these activities since May 2000.

6. The U.S. government should use its diplomatic influence with other governments to ensure that China is not selected as a site for the International Olympic Games until it has made significant and sustained improvements in religious freedom and human rights.

7. The State Department should identify specific individuals and entities involved in violations of religious freedom in China.

In a letter to Congress in 1999, in connection with the State Department's designation of China as a "country of particular concern" under IRFA, the Department stated that it would "identify specific individuals and entities" involved in violations of religious freedom in China as that information becomes available.⁵⁷ The Commission believes that the State Department should include that information in its human rights reports to Congress.⁵⁸

¹ Xinhua News Agency, “Full Text on Rules of Religious Activities of Aliens Within China,” September 26, 2000 (in Foreign Broadcast Information Service (FBIS)).

² In July 1999, the CPC Central Committee issued a circular banning Falun Gong practices among party members. In October, the Standing Committee of the National People’s Congress (NPC) adopted a resolution to ban all “heretic cult organizations.” Earlier in the same month, the Supreme People’s Court and the Supreme People’s Procuratorate issued judicial explanations (titled “Several Issues Concerning the Concrete Application of Laws in Handling Criminal Cases of Organizing and Making Use of Cult Organizations”) on laws regarding crimes committed by “cults.” Article 1 of the explanations vaguely define “cult” organizations (which are mentioned in Article 300 of the PRC Criminal Law) as “illegal organizations that are set up using religions, Qigong or other things as a camouflage, deify their leading members, and confuse, poison and deceive people, recruit and control their members, and endanger the society by fabricating and spreading superstitious heresies.” Xinhua News Agency, “Judicial Explanations Text on Cult Crimes,” October 30, 1999 (in FBIS); Xinhua News Agency, “Judicial Explanations on Crimes by Cults,” October 30, 1999 (in FBIS); Xinhua News Agency, “CPC Circular Banning Falun Gong Practices,” July 22, 1999 (in FBIS).

³ Embassy of the People’s Republic of China in the United States of America, “China Bans Falun Gong to Protect Human Rights,” (<http://www.china-embassy.org/eng/8819.htm>, accessed March 2, 2001); People’s Daily, “Chinese Official on Handling of Falun Gong Cult,” February 28, 2001 (http://english.peopledaily.com.cn/200102/27/eng20010227_63592.html, accessed March 23, 2001).

⁴ Ming Pao, “Li Lanqing Heads CPC’s New Office in Charge of Cracking Down on Falungong,” February 12, 2001 (in FBIS).

⁵ Xinhua News Agency, “Text of Zhu Rongji’s Report on Outline of 10th Five-year Plan,” March 16, 2001 (in FBIS).

⁶ U.S. Department of State, *2000 Country Reports on Human Rights Practices*, “China,” February 2001 (<http://www.state.gov/g/drl/rls/hrrpt/2000/eap/index.cfm?docid=684>, accessed February 26, 2001); Human Rights Watch, “China and Tibet,” *World Report 2001*, December 2000, 184.

⁷ Falun Dafa Info Center, “Death Toll in China,” (<http://www.faluninfo.net>, accessed March 6, 2001). Also see Amnesty International, *Torture – A Growing Scourge in China – Time for Action*, February 12, 2001 (<http://web.amnesty.org/ai.nsf/print/ASA170042001?OpenDocument>, accessed February 26, 2001).

⁸ Xinhua News Agency, “China Convicts 151 Falun Gong-related Criminals,” August 23, 2000 (in FBIS); Paul Eckert, “China jails 37 who spread Falun Gong Fliers,” *Reuters*, March 2, 2001.

⁹ Philip P. Pan, "Falun Gong Protesters Stun Beijing; Hundreds Disrupt Celebration Despite Heightened Security," *Washington Post*, October 2, 2000; Jeremy Page, "Falun Gong Protests Mar China's National Day," *Reuters*, October 1, 2000 (<http://www.faluninfo.net/displayAnArticle.asp?ID=894>, accessed March 22, 2001).

¹⁰ Willy Wo-Lap Lam, "Raids as China tracks Falun Gong worldwide," *CNN.com*, February 10, 2001 (<http://www.cnn.com>, accessed March 6, 2001).

¹¹ Interview with Zhong Gong representative by USCIRF staff, March 28, 2001.

¹² South China Morning Post, "Hong Kong Man Arrested in Falungong Bid to Sue Jiang Zemin," October 10, 2000 (in FBIS).

¹³ *2000 Country Reports*, "China" (Internet); Falun Dafa Info Center, "Ms. Teng Chun Yan – Jailed for Exposing the Crimes of Others," (http://www.faluninfo.net/appeals/dr_teng.asp, accessed March 7, 2001).

¹⁴ *2000 Country Reports*, "China" (Internet); David Ljunggren, "Released Canadian Falun Gong Follower Reports Torture in China," *Reuters*, January 21, 2001 (<http://www.faluninfo.net/displayAnArticle.asp?ID=2764>, accessed March 22, 2001).

¹⁵ Christian Solidarity Worldwide, *Protestant Christianity and Religious Freedom in China: Report from Fact Finding Mission*, December 2000 (http://www.csw.org.uk/china_december_2000.html, accessed April 4, 2001).

¹⁶ Information Center for Human Rights & Democracy, "130 Followers of China Fangcheng Church Arrested in Henan Province," August 24, 2000 (*Foreign Broadcast Information Service*, accessed March 2, 2001). According to this report, the 14 Protestant movements designated as cults are the China Evangelistic Fellowship, the China Fangcheng Church, the Total Scope Church, the Shouters Sect, the Disciples Sect, the Three Shifts of Servants Sect, the Established King Sect, the Eastern Lightening Sect, the Supreme Spirit Sect, the Lingling Sect, the New Testament Church, the Absolute Sect, the Cold Water sect, and the Blood Water and Sacred Spirit Bless Preaching Group.

¹⁷ Christian Solidarity Worldwide, *Protestant Christianity and Religious Freedom in China; Forum 18, Freedom of Religion: A report with special emphasis on the right to choose religion and registration systems*, 28-29.

¹⁸ Agence France Presse, "Embassy Says U.S. Citizens Freed, Underground Church Seeks End to Persecution," August 25, 2000 (in FBIS); Information Center for Human Rights & Democracy, "3 Chinese American Christians Expelled from China," August 28, 2000 (in FBIS); Agence France Presse, "PRC FM Spokesman Confirms Detention of 130 Underground Protestants," September 5, 2000 (in FBIS); *2000 Country Reports*, "China" (Internet).

¹⁹ Agence France Presse, "PRC FM Spokesman Confirms Detention of 130 Underground

Protestants.”

²⁰ Information Center for Human Rights & Democracy, “Protestant Beaten to Death in Detention Center in Henan,” October 19, 2000 (in FBIS); Christian Solidarity Worldwide, “Worsening Religious Persecution: Church Destructions & Martyrdom,” December 21, 2000 (<http://www.csworldwide.org/21-12-2000.html>, accessed March 15, 2001).

²¹ Christian Solidarity Worldwide, *Protestant Christianity and Religious Freedom in China*; Amnesty International, *Torture*.

²² Christian Solidarity Worldwide, *Protestant Christianity and Religious Freedom in China*.

²³ *2000 Country Reports*, “China” (Internet).

²⁴ *2000 Country Reports*, “China” (Internet); Human Rights Watch, “China and Tibet,” 185. According to the Cardinal Kung Foundation, as of October 31, 2000, more than 20 bishops and priests of the underground Catholic Church were in prison, under house arrest, or placed under strict police surveillance while the status of 37 priests and lay members remained unknown. The Cardinal Kung Foundation, “Prisoners of Religious Conscience for the Underground Roman Catholic Church in China,” October 31, 2000 (<http://www.cardinalkungfoundation.org/prisoners/index.html>, accessed March 2, 2001).

²⁵ Philip P. Pan, “‘Saints’ in Rome are ‘Henchmen’ to Beijing,” September 30, 2000; Associated Press, “China Denounces Pope’s Sainthoods,” October 1, 2000; *2000 Country Reports*, “China” (Internet); Forum 18, *Freedom of Religion*, 30.

²⁶ Xinhua News Agency, “RMRB Signed Article ‘Exposing True Colors of ‘Saints,’” October 2, 2000 (in FBIS); Reuters, “Pope Canonizes Chinese Martyrs; Beijing Upset,” October 1, 2000.

²⁷ Hangzhou Zhejiang Ribao, “Zhejiang’s Ouhai District Cracks Down on ‘Illegal’ Religious Buildings,” December 8, 2000 (in FBIS); Agence France Presse, “PRC Officials tell AFP 1,200 Temples Destroyed or Closed During Crackdown,” December 13, 2000 (in FBIS); Philip P. Pan, “Crackdown at Christmas Dims Holiday for Chinese: Regional Assault on Illegal Churches Worst in Decades,” *Washington Post*, December 18, 2000; Information Center for Human Rights & Democracy, “3000 Temples, Churches in Wenzhou Reportedly Closed Down, Demolished,” December 27, 2000 (in FBIS).

²⁸ Steven D. Marshall, *Suppressing Dissent: Hostile Elements II – Political Imprisonment in Tibet, 1987-2000* (Tibet Information Network, February 2001), 7.

²⁹ *2000 Country Reports*, “China” (Internet); Steven D. Marshall, *Rukhag 3: The Nuns of Drapchi Prison* (Tibet Information Network, 2000); Amnesty International, *Torture*.

³⁰ *2000 Country Reports*, “China” (Internet). According to the State Department, the Chinese government has denied repeated requests (including that of the UN High Commissioner for

Human Rights) for access to the 12-year-old Gendun Choekyi Nyima, whom the Dalai Lama recognizes as the 11th Panchen Lama. Government officials have stated that he is being held for his own safety and that he is attending classes in Tibet. The government continues to insist that the 11-year-old Gyaltsen Norbu, who it recognized, is the Panchen Lama.

³¹ Marshall, *Suppressing Dissent*, 8.

³² *2000 Country Reports*, “China” (Internet); Tibet Information Network, *News Review: Reports from Tibet, 2000*, 2001, 30.

³³ Marshall, *Suppressing Dissent*, 8.

³⁴ *2000 Country Reports*, “China” (Internet); Marshall, *Suppressing Dissent*, 8.

³⁵ The official designation for the area where most Uighurs in China reside is the “Xinjiang Autonomous Region.” (Xinjiang means “New Territories” in Chinese.) Most Uighurs, however, prefer to call this area “East Turkestan.”

³⁶ *2000 Country Reports*, “China” (Internet).

³⁷ Interview with Uighur representative by USCIRF staff, January 31, 2001.

³⁸ Ibid.

³⁹ Interview with Uighur representative by USCIRF staff, January 31, 2001.

⁴⁰ Ibid. *2000 Country Reports*, “China” (Internet).

⁴¹ Interview with Uighur representative by USCIRF staff, January 31, 2001.

⁴² Ibid.

⁴³ Human Rights Watch, “China and Tibet,” 186.

⁴⁴ Amnesty International, *Torture*.

⁴⁵ Paul Davenport, “Testimony of a Teacher Expelled from Nanjing Seminary,” *Compass Direct*, January 2001.

⁴⁶ “A Closer Look at the Church in China,” Ethics and Public Policy Center meeting, January 31, 2001. (USCIRF staff notes.)

⁴⁷ Ibid.

⁴⁸ Christian Solidarity Worldwide, *Protestant Christianity and Religious Freedom in China*.

⁴⁹ *2000 Country Reports*, “China” (Internet).

⁵⁰ See *Report of the United States Commission on International Religious Freedom, May 1, 2000* (“*USCIRF 2000 Annual Report*”), Recommendation 2.1, 41-44.

⁵¹ See U.S.-China Relations Act of 2000, § 302.

⁵² See *USCIRF 2000 Annual Report*, Recommendation 2.2.b, 44-45.

⁵³ See *USCIRF 2000 Annual Report*, Recommendation 2.3, 45-46.

⁵⁴ Letter from Elliott Abrams, Chairman, USCIRF to President William J. Clinton, November 1, 2000.

⁵⁵ U.S.-China Relations Act of 2000, § 203.

⁵⁶ See *Report of the United States Commission on International Religious Freedom, May 1, 2001*, 155-167.

⁵⁷ See Letter from Barbara Larkin, Assistant Secretary for Legislative Affairs, State Department, to U.S. Congress, October 22, 1999.

⁵⁸ See IRFA § 402(b)(2), 22 U.S.C. § 6442(b)(2), which provides the President shall seek to identify agencies or instrumentalities, as well as specific officials, of the government of each country designated as a country of particular concern that are responsible for particularly severe violations of religious freedom.

III. INDIA

A. Introduction

The U.S. Commission on International Religious Freedom has directed its attention to India in light of the disturbing increase in the past several years in severe violence against religious minorities in that country. The violence is especially troubling because it has coincided with the increase in political influence at the national and, in some places, the state level of the Sangh Parivar, a collection of exclusivist Hindu nationalist groups of which the current ruling party, the Bharatiya Janata Party, or BJP, is a part.

India is religiously a very diverse country that generally respects religious freedom. India has a democratically elected government and is governed by the rule of law. However, although the BJP-led government may not be directly responsible for instigating the violence against religious minorities, there is concern that the government is not doing all that it could to pursue the perpetrators of the attacks and to counteract the prevailing climate of hostility, in some quarters in India, against these minority groups. Moreover, the increase of violence against persons and institutions based entirely on religious affiliation is an alarming development in India.

Over the past year, the Commission has extensively examined and studied the situation in India. In September 2000, the Commission held a public hearing on religious freedom in India, which included testimony from Indian nationals of various religious traditions as well as American and Indian U.S. officials, academics, and a former senior U.S. diplomat. The Commission has also received numerous private briefings from academic and other experts, and conducted personal interviews with representatives of victimized groups from India, India experts, academics, former policymakers, and others intimately involved with events in that country. Finally, the Commission made every effort to travel to India to examine the situation directly, but has not yet gained permission from the Indian government. (A formal invitation is required if the Commission is to travel to India in an official capacity, and is the only way of securing the necessary meetings with government officials.) In October 2000, initial inquiries were made to the Indian Embassy in Washington about an invitation, but there was no response. After a meeting with India's ambassador to the U.S. in December, the Commission was assured that inquiries would be made to New Delhi, but nothing more has yet been heard in official channels.

B. Background

1. Demographic Information

India is an extraordinarily diverse country that is home to more than 1 billion people. Approximately 81.3 percent of the population is Hindu, 12 percent Muslim, 2.3 percent Christian, 1.9 percent Sikh, and 2.5 percent other religious groups, including Buddhist, Jain, and Parsi.¹ Tribal religious groups also exist, particularly in the middle and northeastern areas of the country. Approximately 68 million of India's citizens are members of these groups, whose religious practices are as varied as are the hundreds of tribes. Although there are sizeable Muslim minorities in nearly all Indian states, the state of Kashmir (or Jammu and

Kashmir) is the only one in which Muslims are in the majority, though Muslims are also concentrated in the states of Assam, Bihar, Uttar Pradesh, and West Bengal, as well as in the southwest. About 90 percent of India's Muslim population is Sunni and 10 percent Shia. Christians are sizeable minorities in the states of Goa, Kerala, and Manipur, and are the majority in Meghalaya, Mizoram, and Nagaland. Several Christian denominations are found in India today, including Roman Catholicism, Anglicanism, Eastern Orthodox, and, more recently, groups of Baptists and other Protestants. Sikhs form the majority in Punjab.

Hinduism is considered indigenous to India and dates back at least 3,500 years. Buddhism and Jainism originated in India around the 6th century BCE. Christianity, according to tradition and legend, is thought to have first come to India through the Apostle Thomas in the 1st century. The spread of Islam in India began in the 8th century, primarily through interaction with Arab traders. Sikhism began in the 16th century in what is now the state of Punjab.

2. Religious Freedom

a. Legal framework

The Indian Constitution guarantees that religion and national identity are separate and distinct entities. Indeed, the preamble of the Indian Constitution proclaims India to be a "sovereign socialist secular democratic republic" that ensures all citizens their right to "liberty of thought, expression, belief, faith, and worship." Other articles of the Constitution prohibit discrimination on the grounds of religion, and guarantee the right to establish religious organizations, the right for religious denominations to manage their own affairs, and the right of religious minorities to establish educational institutions of their choice. In addition, Article 25 provides for "the right to freely profess, practice, and propagate religion." Moreover, a special act adopted in 1991, the Places of Worship (Special Provisions) Act, prohibits the conversion of any place of worship of any religious denomination into a place of worship of a different religious group and provides for the preservation of the religious nature of places of worship as they existed at the time of independence.

b. Violence targeting religious minorities

i. Muslims

Post-independence India has experienced significant violence between different religious groups. Indeed, Hindu-Muslim tensions go back centuries, and the emergence of both India and Pakistan was colored by the vicious fighting between Hindus and Muslims that accompanied partition; tensions between the two groups have long simmered and sporadic violence against Muslims still occurs.

As Hindu nationalist groups have gained ground in India (see below), the concerns of the Muslim community have heightened. In December 1992, Hindu nationalists destroyed the 16th century Babri mosque in Ayodhya (in the northern state of Uttar Pradesh), and the ensuing nationwide riots left up to 3,000 dead, mostly Muslims, who were reportedly singled out for attack by police. The Srikrishna Commission established to investigate the violence

found that the nationalist Shiv Sena party government in Maharashtra state (where Mumbai – previously called Bombay – is located, and which has a significant Muslim minority) engaged in a deliberate and systematic effort to incite violence against Muslims. However, the Shiv Sena-dominated government in Maharashtra called the report “anti-Hindu” and refused to implement the Commission’s recommendations.

Despite the deadly riots in the aftermath of its destruction, the Ayodhya mosque site remains a live issue, with persistent calls from the Rashtriya Swayamsevak Sangh, or RSS, a Hindu nationalist organization, to build a Hindu temple there. In December 2000, the Indian Prime Minister, Atal Bihari Vajpayee, proclaimed that the building of a temple on the site was “an expression of national feeling” and part of the “unfinished agenda” of his government. Within two weeks, however, after opposition parties called for the resignation of several of his ministers and a censure vote, he stated that the destruction of the mosque was wrong and “against the Hindu ethos,” and that his government would “not allow any illegal attempt to build a Hindu temple” on the site.² Technically, the matter rests with the Indian courts, though tensions between the two sides remain very high and both Hindu and Muslim groups have vowed to move ahead with plans to build or re-build their place of worship on the site.

In recent years, friction over other holy sites in India has intensified. In many regions of the country, other mosques have been vandalized or destroyed, frequently with the aim of building a Hindu temple on the site. There are numerous shrines in India that are sacred to both Muslims and Hindus, and both groups have generally been able to worship and celebrate at these sites. In the past two years, however, there are increasing reports of extremist Hindu groups threatening to take over and occupy these places, such as, for example, a joint Muslim and Hindu shrine in the southern state of Karnataka. In November 2000, members of the nationalist Hindu cultural organization, Vishwa Hindu Parishad (or World Hindu Council, known by its acronym in Hindi, VHP), and its militant youth wing, Bajrang Dal, forced their way into a mosque in New Delhi and attempted to perform Hindu rituals on the site, claiming that Hindu temples existed on the site before the mosque was built. The VHP promotes the building of temples at hundreds of historic locations, most of which are currently Islamic cultural or sacred sites.

ii. Christians

Since January 1998, violence against Christians has increased dramatically in India. In fact, there has been more violence recorded against the Christian community in India in the past two years than in the previous 52 years since independence. The Indian Parliament reported that 116 attacks occurred against Christians between January 1998 and February 1999, and unofficial figures may be higher. Roman Catholic Church leaders in India put the number of attacks on Christian ministers and churches at 400 (by the end of 2000). These attacks included killings, torture, rape and harassment of church staff, destruction of church property, disruption of church events, and attempts to force renunciation of Christianity and “reconversion” to Hinduism. Many of the incidents involve states in the middle of the country, where Christian organizations provide missionary, humanitarian, and education services to tribal groups or members of India’s lower castes.

Perhaps the most notorious attack occurred in January 1999 in the state of Orissa, when a mob shouting Hindu nationalist slogans set fire to and killed Australian Christian missionary Graham Staines and his two sons while they were sleeping in their car. (Staines had worked in India caring for lepers for more than 30 years.) The Wadhwa Commission, a judicial commission of inquiry, found that the government failed to employ adequate resources to find the culprits. The Wadhwa Commission also exonerated Hindu extremist organizations of complicity. Although some suspects were arrested, Bajrang Dal member Dara Singh, who was implicated in the Staines murder, remained “at large,” despite his subsequent television appearances and his participation in further attacks in public places. Singh was eventually arrested in January 2000 after he had led a mob killing of a Muslim man, although his trial and that of 13 others for the Staines murder has been postponed four times since then.

Since the Staines murder, the attacks on Christians have continued; indeed, very recent reports indicate renewed attacks on churches, priests, and ministers, particularly in the state of Gujarat. Churches have been broken into, ransacked, looted, and burned both in that state and in the state of Uttar Pradesh by gangs of “sword and knife-wielding extremists.”³ Particularly troubling are the continued reports that religious institutions are being pointedly desecrated by militant groups, groups that several Christian leaders describe as associated with the Sangh Parivar. These attacks by militant Hindu groups increased after the RSS’s anniversary gathering in October 2000, at which speakers voiced nationalist rhetoric against “foreign” religions.

iii. Sikhs

Sikhs, followers of a 16th century religious teacher from India’s Punjab region, have been targets of societal violence and mistreatment by security authorities. The issue is both political and religious, as some Sikh groups in Punjab battle for their own independent nation called Khalistan or Sikhistan. In the struggle, Sikhs have been both perpetrators and victims of violence. In the course of suppressing militant secessionist Sikhs, the Indian army and government officials have been accused of engaging in extra-judicial killings, disappearances, and acts of torture, specifically targeting Sikhs (and Muslims) in the region. Violence between Sikhs and Hindus intensified in 1984 when Prime Minister Indira Gandhi sent troops into the Sikhs’ holiest shrine, the Golden Temple in Amritsar. More than 1,000 Sikhs died during this operation and more than 3,000 Sikhs died in ensuing riots. The government declared presidential rule in Punjab from 1987 to 1992 to help restore order; however, violence between militant Sikh and Hindu groups and security forces has continued. Human rights organizations have concluded that much of the current violence against Sikhs and Muslims in Punjab stems from propaganda by the Sangh Parivar.

iv. Hindus in Tripura State

The majority religious community has also been the subject of attack on the basis of religion. A Christian insurgent group in the northeastern state of Tripura called the National Liberation Front of Tripura, or NLFT, is reported to have banned Hindu and Muslim festivals in areas under its control. The NLFT has also been accused of burning Hindu temples and intimidating tribal peoples to convert to Christianity. The group contends that the dominance

of Hinduism has resulted in the marginalization of Christians in Tripura. At the same time, Christian organizations in the northeast region claim an increase in attacks by militant Hindu groups against missionary schools, churches, and facilities in recent years.

c. Government response

Reports from human rights and other groups, including the State Department's 1999 and 2000 Annual Reports on International Religious Freedom, do not implicate the Indian government in organizing or carrying out any of these violent attacks. However, in many of these cases, the government has failed to prosecute the individuals and organizations involved. Security forces have also failed to protect members of religious communities, even in cases where violence was likely. The National Commission on Minorities is frequently tasked with investigating these incidents, but its independence has been called into question, as it all too frequently exonerates the extremist nationalist groups, even in cases where evidence of their involvement is compelling.

Though the BJP-led government has not been directly implicated, many have accused the government of hesitating to prosecute responsible persons or groups, thereby helping to foster a climate in which extremists believe that violence against religious minorities will not be punished. Though the worst of the extremist groups do not have official power, they are closely aligned with those who are in power in India, and they are seen by human rights organizations to be deliberately encouraging an environment of increasing hostility toward religious minorities.

A prominent example of the government's failure adequately to act against those associated with communal violence was this past summer's controversial decision by a Shiv Sena-BJP government magistrate in the state of Maharashtra to dismiss charges against Shiv Sena leader Bal Thackeray for his role in inciting violence against Muslims in the riots following the destruction of the Babri Mosque.⁴ Similarly, as noted above, Bajrang Dal member Dara Singh remained at large even after he was directly implicated in orchestrating the mob that murdered the Staineses; he was finally arrested only after another mob killing. Moreover, the Wadhwa Commission set up to investigate the Staines killing accused the government of hindering its efforts while not making serious efforts of its own to find the guilty parties.

Admittedly, the national government in India is restricted in its ability to pursue those responsible for the violence because of the limits on its ability to control state law enforcement, the primary mechanism to bring perpetrators of communal violence to justice. Federal statutory mechanisms designed to protect human rights, including the National Minorities Commission and the National Human Rights Commission, have been hampered by limited authority, lack of cooperation by state governments, and, in the case of the Minorities Commission, decisions of questionable objectivity. In addition, virtually all India observers point to grave deficiencies in the country's judicial and law enforcement infrastructure, suggesting that even a decision to take legal action against perpetrators would be hampered by gross shortages of law enforcement officials, lawyers, and judges.

d. Religious conversion

Generally speaking, Hindus do not believe that there is only one path to spiritual salvation or that Hinduism alone upholds that one path.⁵ Hinduism maintains that all religions contain elements of truth. Thus, to a Hindu, someone who embraces Christianity can still remain a Hindu and need not sever his ties to the Hindu culture. Moreover, some Hindus apparently are deeply offended by what they perceive to be the claim that only one particular religion contains religious truth and that others (including Hinduism) are erroneous. It would seem that these different ideas about the nature of religious faith and claims to religious truth have contributed to some of the tensions among the religious communities in India.⁶

India's commitment to a secular state, as well as the right to profess and propagate one's religion, are plainly stated in India's Constitution. However, in 1977, the Indian Supreme Court ruled that the constitutional right to propagate religion did not include a right to convert (or attempt to convert) another. This decision upheld two laws that criminalized conversions under certain circumstances in the states of Orissa and Madhya Pradesh. In November 1999, the Orissa government passed an order preventing conversions without permission from the local police and the District magistrate. (This order is apparently being implemented; at the urging of Hindu groups, police in the Balasore district of Orissa reportedly stopped six tribals from converting to Christianity because a police investigation into their conversion was not yet completed.⁷) In January 2000, in Uttar Pradesh, the state passed a law restricting the use and construction of places of worship, a law the local Christian community believes could be used to prevent them from meeting legally. More recently, a bill that would punish "conversion through allurement" by a minimum three-year prison sentence was circulated in the state of Gujarat. There are still reports of various local or municipal governments attempting to put obstacles in the way of religious conversion, though these have thus far not been seen on a national scale.

The Indian Constitution authorizes special benefits for the members of the lower castes (including those referred to as Dalits, meaning "oppressed peoples," the name the untouchables, or lowest caste, have taken for themselves), with the aim of promoting the welfare of those at the bottom of the socio-economic ladder. A certain number of government jobs, for example, by law are reserved for lower-caste members (thus the benefits are referred to as "reservations"). Dalits who convert to Christianity or Islam, however, lose the affirmative action benefits Indian law provides. Those who defend this loss of benefits argue that the caste system only exists within the context of the Hindu religion and thus the denigrated status no longer applies once the person in question converts to another religion. However, even after their conversion, lower-caste members remain burdened with the same socio-economic hardships as before. In 1956, the benefits were extended to Sikhs also. More recently, some legal preferences were extended to Buddhists and Jains as members of religious communities closely related to Hinduism, but thus far to no other religions (though there have been numerous legal challenges on the issue).

Since the 1977 Supreme Court decision against conversion, there have been attempts to introduce national bills that would ban conversion of Dalit and indigenous tribal peoples, but they have so far been unsuccessful. Hindu nationalist groups are particularly critical of

proselytizing among Dalits and tribal peoples, claiming that Christian and Muslim groups exploit the tribals' low socio-economic status and tear them from their traditional culture and way of life. However, fierce opposition to conversion to any religion other than Hinduism (or other India-born religions) is an essential element of that nationalist ideology (see section below). In response to such perceived threats, Sangh Parivar members engage in "reconversion" activities to bring tribals back to Hinduism and Hindu culture, even though many were not Hindus before they converted to Christianity or Islam. Though Christians represent a very small fraction of the population (just over 2 percent), nationalist groups maintain that through conversions, aided by foreign missionaries, the Hindu majority will soon be overwhelmed by Christian converts. They have also called for strict limits on the activities of foreign and other Christian missionaries, blaming the country's policy of secularism on their continued presence in India. The RSS and other Sangh Parivar members generally consider Christian missionaries to be a threat to Hinduism, and in the northeastern region of the country, they accuse Christian groups of inciting insurgencies and separatist movements through their missionary activities.

3. Hindu Nationalism and the BJP

The recent increase in violence against religious minorities has been associated with the rise in power of Hindu nationalist organizations, including the Vishva Hindu Parishad (VHP), the Bajrang Dal, and the Rashtriya Swayamsevak Sangh (RSS), as well as their political wing, the Bharatiya Janata Party (BJP). These groups are collectively known as the Sangh Parivar. The BJP has led the national government since 1998 in coalition with regional parties (some without nationalist leanings). The BJP also controls the local government in several states, including in Gujarat, Uttar Pradesh, Himachal Pradesh, and Maharashtra, where it is the junior partner in a coalition with Shiv Sena.

The ideology of the Sangh Parivar holds that only Hindus are "real" Indians, suggesting that non-Hindus are foreigners and thus deserving of suspicion and even attack.⁸ Sangh Parivar groups argue that the previous leaders of India failed to create a nation sufficiently grounded in Hindu culture ("*Hindutva*"), and that Western thought, including the concept of secular government, is dangerous and detrimental to India, along with conversion to what they claim are "foreign" religions such as Islam and Christianity. Members of other religious communities are thus portrayed as foreign implants, and their patriotism and status as true Indian citizens are frequently called into question by Sangh Parivar groups.⁹ Conversion to Islam or Christianity is designated in the Sangh Parivar literature as a "social evil." Nationalist groups call for the "Hinduization" of education and culture, efforts that have brought protests from Muslim and Christian leaders. The VHP website proclaims that "the teaching of Bharatiya culture (Bharat is the motherland of the Hindu nation) and *dharma* [should] be made compulsory" and that "Hindu interest is the national interest." The VHP also calls for the repeal of the 1991 Places of Worship (Special Provision) Act. These groups are also responsible for attacks on artists who do not conform to their understanding of what it means to be Indian.

Yet, though Sangh Parivar ideology on the surface appears Hindu in nature, it is noticeably more nationalist than spiritual in content. Many observers and human rights groups draw a distinction between the Hindu religion and *Hindutva*, the nationalist ideology,

and contend that it is the nationalist rather than the religious crusade that has led many of these groups to, for example, undertake “reconversion” campaigns against those who convert to non-Hindu religions.¹⁰

One alarming development in the past year was the call by RSS leader K. S. Sudarshan at the group’s meeting in October 2000 for the government to “nationalize” the minority religions in India. “It is advisable,” he said, “to have a totally Indian church like the one in China,” a church that would promote “Indian” values and not recognize foreign authorities such as the Vatican. Muslims, he said, should embrace their “Hindu origins.” The statements by Sudarshan raised protests throughout India, including from the BJP government, which made great efforts to distance itself from the remarks.¹¹ Nevertheless, in February 2001, Sudarshan repeated his call for the “Indianization” of Islam, saying Muslims in India should join the “cultural mainstream.”¹²

Some have suggested that rising tensions between the ruling BJP and its associate members of the Sangh Parivar are at least partly behind the government’s reluctance to pursue perpetrators of sectarian violence in India. On the one hand, the BJP is apparently experiencing the pressure – and desire – to moderate its views in order to broaden its appeal and power base, and thereby maintain power. On the other, the party is disinclined to alienate the very constituencies that helped bring it to power.

Even in forming the ruling coalition, known as the New Democratic Alliance (NDA), before the elections, the BJP had to win allies in parts of the country where Hindu nationalism has limited influence. Almost immediately upon coming to power, the BJP backed away from three key RSS demands: the building of a temple on the site of the Babri Mosque in Ayodhya, the repeal of the law giving special status to the region of Jammu and Kashmir, and the implementation of a uniform civil code (which would establish national civil laws for personal status matters now covered by various religious codes). Many believe that the BJP is under constant pressure from its “ideological wing” in the RSS and other groups to make good on these demands, and is regularly criticized by the Sangh Parivar groups for having compromised in order to form the coalition government.

The strains between the BJP and the RSS and other groups were perhaps most evident during and after a recent RSS “camp meeting” in October 2000. At the meeting, RSS leader Sudarshan made rousing speeches filled with fiery nationalist rhetoric about the threats to India from Christian and Muslim Indians who have refused to embrace their Hindu heritage. Home Minister Lal Krishna Advani, who may succeed Vajpayee as leader of the BJP, attended this meeting, and was clearly participating in many of the RSS’ “drills.” Later, Advani asserted that the bonds between the BJP and the RSS are “unbreakable.” However, at the same time, then-BJP President Bangaru Laxman vociferously refuted Advani’s assertions, and sought to distance his party from the meeting and its forceful rhetoric.¹³

4. Secessionist Movements and the Kashmir Conflict

India is wrought with numerous secessionist and other power struggles in many of its states and regions, some of which have become violent. States in India have formed along linguistic and ethnic lines since independence, and ethnic and other loyalties have been

sporadically exploited by numerous political parties and movements. There have been demands to form territorial units within states not only along linguistic, ethnic, and religious lines but also, in some cases, based on a feeling of the distinctiveness of a particular region or its cultural or economic interests. The violence in some areas, which regularly takes dozens or even hundreds of lives per year, is usually carried out in the name of a struggle for greater autonomy or independence. In some areas, rival secessionist factions fight each other, with innocent citizens caught in the crossfire.

Kashmir, the only Muslim-majority state in India, is perhaps the most widely known and protracted secessionist struggle in India. For decades, human rights organizations have accused the Indian government of committing atrocities against civilians in the process of subduing militant secessionist groups in Kashmir. These violations include indiscriminate shootings, assault, rape, disappearances, custodial killings, torture, and forced confessions. More recently, militant Muslim separatist groups have often targeted Kashmiri Hindus (called Pandits), who have been resented since a Hindu ruler ceded Kashmir to India. The Indian government accuses Pakistan of funding militant groups in Kashmir, while Pakistan insists that it only offers political support for such groups.

The conflict intensified in the late 1980s, when Indian rule became harsher and Pakistan stepped up its support of certain militant groups. Pakistani and Indian troops have exchanged fire on several occasions, most recently in 1999. Indian security forces intensified their crackdown on Muslims in the Kashmir valley, and have been increasingly implicated in massacres of civilians, arbitrary arrests, rape, and torture. Thousands of Kashmiri Muslims have been killed since the conflict has heightened, many while in government detention.¹⁴ At the same time, Muslim militants have targeted Hindus (and sometimes Sikhs), resulting in a number of killings and approximately 200,000-250,000 Hindus displaced from the Kashmir valley (though there are also Kashmiri Muslim and Sikh refugees).¹⁵ Though the Kashmiri Hindu, Muslim, and Sikh civilian populations often co-exist peacefully in their neighborhoods, they are victims of abuse by militant groups and armed forces from all sides. Sikhs, who comprise a small minority in Kashmir, have generally not been targeted for violence. However, 35 Sikhs were killed while worshipping in a Sikh temple in March 2000, reportedly by militants, representing a new and dangerous direction in the conflict.

The conflict in Kashmir does not appear fundamentally to be a religious war, but rather a fight over who will, in the end, govern the region – Pakistan, India, or the Kashmiris themselves. More than anything else, the conflict has reflected the bitter and obsessive rivalry between India and Pakistan. However, the nature of the fighting in the past decade has indicated a greater tendency to bring religion directly into the conflict.

C. Commission Recommendations

1. The U.S. government should persistently press India to pursue perpetrators of violent acts that target members of religious groups.

Violent attacks against members of minority religious communities and their institutions, and sometimes against the majority community, have increased in India in recent years. The Indian government has repeatedly maintained that it is doing what it can to

apprehend the aggressors. But many observers believe that these efforts have not been adequate and that the government simply has not committed the necessary resources and force of will to the issue. Also, even in cases where there were early warnings of violence, police officers have often failed to provide adequate protection of targeted communities.

American concerns about violence against religious minorities should thus continue to be forcefully expressed, not least within the context of India's desire to be accepted and treated by the U.S. as a major regional leader and functioning democracy. If India wants to be received as such, it must do more to demonstrate that it is a country governed by the rule of law, with legitimate and functioning law-enforcement structures. The government should also do more to make explicit its commitment to its own laws with regard to religious freedom and toleration. The U.S. government should make clear that the Indian government's failure to do all it can to protect religious minorities from violent attacks raises serious questions about its commitment to abide by its own constitutional provisions and its obligations under international law. A continued decline in respect for religious freedom would present a serious obstacle in U.S.-Indian relations.

2. The U.S. government should make clear its concern to the BJP-led government that virulent nationalist rhetoric is fueling an atmosphere in which perpetrators believe they can attack religious minorities with impunity. While fully protecting freedom of expression, firm words and actions from the government of India are required to counteract this belief.

The BJP leaders in the government have consistently claimed that the growing influence of the RSS and other Hindu nationalist organizations is not connected to the outbreak of violence against Christians and Muslims in recent years. Yet, the ruling BJP is a Hindu nationalist party that, as part of the Sangh Parivar, seeks to spread the concept of *Hindutva*. According to *Hindutva*, a truly Indian identity includes adhering to the Hindu religion (including Buddhism and Jainism, which nationalists perceive as Hindu in origin), the only religion that is not a foreign import to India. Since members of minority religious communities such as Islam and Christianity are described as outsiders, their loyalty as Indian citizens is frequently challenged by Sangh Parivar groups.

Taking note of the BJP's recent attempts to distance itself from the more extremist demands of the RSS and other nationalist groups, the U.S. government should nevertheless make clear its concern that even if there is no *official* encouragement of violence against religious minorities, there is much within the "culture" of the Sangh Parivar that encourages it. Moreover, though it has not been directly implicated, some have accused the BJP-led government of tolerating the nationalist rhetoric and looking the other way concerning the involvement of nationalist groups in incidents of violence, thereby helping to foster the climate in which extremists believe that violence against religious minorities will be condoned. The National Commission on Minorities, for example, frequently tasked with investigating these incidents, invariably finds that the nationalist groups are not implicated in any way, even in cases where forceful evidence indicates precisely the reverse.

While on occasion BJP leaders distance themselves from extreme statements and

legal actions exonerating perpetrators, the BJP cannot claim with any credibility that this kind of nationalist rhetoric from Sangh Parivar members is not related at all to the violent attacks on religious minorities in India. For this reason, the U.S. government should urge the government of India to speak and act in ways that make clear its lack of sympathy or support for religious intolerance and persecution.

3. The U.S. government should support the stated policy of the BJP to oppose any move toward the nationalization of any religious institutions in India. The U.S. government should also press the government of India to oppose any attempts to interfere with or prohibit ties between religious communities inside India and their co-religionists outside the country, and any government efforts to regulate religious choice or conversion.

In October 2000 and again in February 2001, RSS leader K. S. Sudarshan called on the government to “nationalize” the Christian churches and to “Indianize” the Muslim community in India. The statements by Sudarshan, however, raised protest throughout India, including from the BJP government.

In light of these recent statements from RSS leaders, the Indian government must continue to make absolutely clear its opposition to any moves toward establishing “nationalized churches” or state-controlled religious institutions, or to interfere improperly with relations between Indian religious communities and their foreign co-religionists. The Indian government should also continue to oppose any attempt on the part of nationalist groups to determine the appropriate cultural context of the faith of the minority communities. Such actions would be inconsistent with the democratic principles enshrined in India’s constitution and its international human rights commitments, and would threaten to degrade further the protection of religious freedom in India.

As noted above, the U.S. government should express its concern that politically significant forces in India are actively promoting a national, patriotic identity in what can be viewed as religiously exclusive terms and defining national values on the basis of those terms. Likewise, the U.S. government should make clear that it views with concern any attempt by the Indian government to control or regulate religious communities and their institutions to promote or protect such national values. The Indian government should reaffirm its policy that it does not initiate or tolerate any attempt to interfere with or regulate the ability to choose or change one’s religious identity or affiliation.

4. As the U.S. government pursues greater engagement with India on a full range of issues, it should take advantage of new opportunities for government-to-government cooperation and communication on human rights, including religious freedom.

Though India and the United States have often been at odds for much of the past 50 years, the relationship has improved greatly and may become even warmer. Key issues between the U.S. and India have come to include regional stability, progress on a peaceful resolution to the conflict in Kashmir, security and nuclear proliferation, counter-terrorism, trade and investment, environmental protection, clean energy production, counter-narcotics

activities, disease control, and human rights, including religious freedom. In March 2000, President Clinton visited India as part of a major initiative to set U.S.-Indian relations on a new foundation of cooperation on shared concerns. In September 2000, Indian Prime Minister Vajpayee returned the visit by traveling to Washington. During the visit, President Clinton and Prime Minister Vajpayee signed a joint statement agreeing to cooperate on arms control and in combating terrorism and AIDS.

In the post-Cold War era, there is great opportunity for government-to-government cooperation on such issues as human rights and the protection of religious freedom. More channels of communication should be opened at all levels to achieve these aims. An appropriate role for the growing Indian-American community in this process should also be explored.

5. The U.S. should press India to allow official visits from government agencies concerned with human rights, including religious freedom.

In 1999 and 2000, India refused to permit an official visit from the U.S. Ambassador-at-Large for International Religious Freedom. As discussed above, although the Commission first sought to visit India in the fall of 2000, as of the date of this report it has not received permission from the Indian government to do so. India consistently proclaims itself to be an important member of the international community, and if it wants to be accepted as such, it must act in accordance with international norms of democratic practice, which includes internal – and external – scrutiny. The U.S. government should press for the acceptance of official visits by the Ambassador-at-Large for International Religious Freedom and by the Commission.

6. The U.S. government should encourage and facilitate private-sector communication and exchanges between Indian and American religious groups and other non-governmental organizations interested in religious freedom. The U.S. government should also press India to allow visits from non-governmental human rights organizations and other groups concerned with religious freedom.

India is a functioning democracy and an extremely complex country and society. There is an active community of religious groups and other NGOs concerned with human rights, including religious freedom, that operates relatively freely in India. Thus, wherever possible, American groups concerned about these issues should be encouraged to work together with their Indian counterparts. The activities of the Indian NGOs make plain that the Commission's concerns about religious freedom do not represent "outside interference," but reflect instead concerns of many of India's own citizens – from all religious traditions. The U.S. government should also make clear that its commitment to religious freedom as an element of its foreign policy is not a judgment on the effectiveness of India's own human rights organizations. The U.S. government should thus take an active role in facilitating cooperation and exchanges between religious communities and NGOs on the subjects of religious freedom and tolerance.

At the same time, India stands out among democratic countries in its refusal of

regular, unrestricted visits from internationally recognized non-governmental human rights organizations and its refusal also to permit their official presence in country. This conduct is not in accordance with India's international human rights commitments or with a transparent, functioning democracy that allows its citizens access to internationally recognized human rights monitors.

7. The U.S. government should allocate funds from its foreign assistance programs for the promotion of education on religious toleration and inclusiveness in India.

Independent India was founded on, and since independence has generally been committed to, secularism, understood as the separation between religion and citizenship and the prevention of sectarian conflict. The Indian Constitution guarantees that religion and national identity are separate and distinct. In addition, there are numerous articles in the Constitution and other legal codes ensuring religious freedom in India.

U.S. funds earmarked for democratization efforts should be used specifically to promote a greater understanding of India's different religious communities, its religiously inclusive tradition, its constitutional commitment to the separation of religion and government, and the ways in which India has been successful as a multicultural and multitrade society.

8. In the course of working toward improvements in U.S.-Indian economic and trade relations, the U.S. government should take into account the efforts of the Indian government to protect religious freedom, prevent and punish violence against religious minorities, and promote the rule of law. If progress is made, the U.S. should seek ways in which it can respond positively through enhanced economic ties.

In the last decade, India has begun to shift away from its socialist and statist economic policies and pursue American trade and investment, seeking ways to improve its foreign investment climate. Abandoning some of its strictest protectionist policies, India now allows foreign ownership of Indian firms and major American brands have begun to enter (or re-enter) the Indian marketplace. Bilateral trade by the end of the decade had reached \$12 billion annually, with the balance of trade in India's favor at \$6 billion.

However, trade and other relations were interrupted when the United States imposed comprehensive sanctions on India after its May 1998 nuclear weapons tests. The economic and political sanctions on India, mandated by the Arms Export Control Act, cut off all but humanitarian aid. Today, sanctions technically remain in place, and cannot be removed until current U.S. laws mandating them are repealed. However, in 1998 and 1999, Congress gave the president authority to waive several economic sanctions, with the result that some have been lifted temporarily, such as non-military sanctions involving agricultural exports and export credits. For example, in July 1998, President Clinton signed the Agriculture Export Relief Act, thereby amending the Arms Export Control Act by exempting food and other agricultural commodity purchases from nuclear non-proliferation sanctions for one year. In October, the President was given the authority to waive economic sanctions on India (and

Pakistan) for one year. And in November 1998, the President reduced sanctions against India in response to positive steps taken by it to address U.S. non-proliferation concerns. This action restored Export-Import Bank, Overseas Private Investment Corporation, and Trade and Development Agency programs, and also repealed the restrictions on the activities of American banks there. Most of these sanctions were waived once again in 1999.

During President Clinton's March 2000 visit to India, U.S. companies signed \$4 billion in projects with Indian (and Bangladeshi) firms, and the President announced \$2 billion in financial support for U.S. exports to India through the U.S. Export-Import Bank. During the September 2000 visit of Indian Prime Minister Vajpayee to Washington, U.S. officials announced \$900 million in Export-Import Bank financing to help Indian businesses purchase American goods and services. Agreements were also signed by American companies to construct three large power projects as part of increased energy cooperation.

American aid to India is modest in comparison to the country's size and population. American aid peaked in the mid-1960s and dropped steadily through the 1980s. American leverage through foreign assistance is thus admittedly low. For fiscal year 2000, \$48.5 million in development assistance was earmarked for India, and \$82.4 million in PL-480 food assistance, both of which are exempt from sanctions.

Should the U.S. government continue to waive economic sanctions against India and promote greater trade and investment, the implementation of our economic policies should take into account the progress of the Indian government on protecting religious freedom, ensuring the safety of religious minorities, and promoting the rule of law. The U.S. government should make clear to India that a stronger determination to address its law and order problems would do much to demonstrate that India is a stable society with legitimate institutions capable of dealing with those problems. In that case, the U.S. should review its economic engagement with India to determine how it can further promote such progress. Evidence of the improvements discussed above should be a factor in determining the level of U.S. assistance through the Export-Import Bank, Overseas Private Investment Corporation, Commodity Credits Corporation, and Trade and Development Agency.

¹ Department of State, "Background Notes: India," Bureau of South Asian Affairs, March 2000 (www.state.gov/www/background_notes/india_0003_bgn.htm, accessed December 5, 2000).

² The quotes are from numerous articles in the Indian press.

³ Press statement from the All India Christian Council, December 1, 2000.

⁴ India's Central Bureau of Investigation and the Srikrishna Commission, formed to investigate the Bombay riots, had accused Mr. Thackeray of "criminal conspiracy, intentional destruction and defiling of a place of worship, criminal trespass and intimidation of public servants on duty." Although the case was registered against Mr. Thackeray in 1993 and permission was sought from the government to prosecute him in 1994, the government did not grant permission to prosecute him until July 20, 2000. Riot police had surrounded the

courtroom and taken up key positions throughout the city of Bombay, amid threats of widespread violence by Thackeray supporters if he was remanded to custody. Despite credible evidence against him, the case was dismissed in court days later because of the prosecution's "failure" to complete the investigation within the prescribed time period.

⁵ Arvind Sharma, "Religious Freedom: a Hindu Perspective," U.S. Commission on International Religious Freedom, *Hearings on Religious Freedom in India and Pakistan*, September 18, 2000.

⁶ Ibid.

⁷ "Conversion of Six Tribals to Christianity Put Off," *Times of India*, February 24, 2001.

⁸ Hindu nationalist groups consider all religions that originated in India to be embraced by Hinduism. Thus Buddhism, Jainism, and Sikhism are viewed as authentic Indian religions. The VHP website refers to the "Semitic" religions of Christianity and Islam as part of a "foreign onslaught."

⁹ Ibid.

¹⁰ For a description of the movement and the nationalist nature of its ideology, see S. Prasannarajan, "Vision Hindutva," *India Today International*, October 30, 2000.

¹¹ After the incident, the BJP released a statement saying, "We wish to categorically state that what Sudarshan said about Christians and Muslims in India are the views of the RSS. They do not represent the views of the BJP." Moreover, the statement said, "the BJP's commitment to principles of secularism is 'complete, unconditional, and irreversible.'" Then-BJP President Laxman also said that the "RSS chief's recommendations for Indianizing the two religions would have no bearing on the functioning of the Vajpayee government." See "Laxman's Salvo: NDA is Secular," *The Times of India News Service*, October 19, 2000, "BJP Washes Hands of RSS Crusade," *Times of India*, October 19, 2000.

¹² "Sudarshan Kicks Up Fresh Controversy," *The Economic Times of India*, February 25, 2001; Stanley Pinto, "RSS Chief Seeks Indianisation of Islam," *The Times of India*, January 25, 2001.

¹³ Laxman was forced to resign in March 2001 as a result of corruption allegations.

¹⁴ Human Rights Watch, "Behind the Kashmir Conflict: Abuses by Indian Security Forces and Militant Groups Continue," March 2000, Summary, 2 (<http://www.hrw.org/hrw/reports/1999/Kashmir/summary.htm>, accessed December 5, 2000).

¹⁵ US Committee for Refugees, "Displacement from Kashmir," 2000, 1 (http://www.refugees.org/world/articles/Kashmir_displaced_India.htm, accessed January 18, 2001).

IV. INDONESIA

A. Introduction

In recent years in Indonesia, numerous serious and tragic conflicts have emerged, including disputes in which religion or religious freedom is a factor. In Aceh, hostility to the central government has resulted in a groundswell of support for holding a referendum on the region's political status, and an armed group has formed to fight for that aim. Non-violent activists as well as armed rebels have been the targets of government forces. In Irian Jaya, called Papua since January 2000, an independence movement has gained ground, resulting in serious clashes with Indonesian security forces. In Kalimantan, ethnic Madurese migrants have been the object of attacks by the local Dayaks, who, frustrated by economic impoverishment they believe is caused by the migrants' presence, have rampaged against them. And in the Moluccas, severe sectarian fighting between Muslims and Christians on the islands has resulted in appallingly high numbers of casualties and refugees fleeing the violence.

The sources of these conflicts are many and varied. These include:

- economic and cultural dislocation resulting from the previous government's transmigration program (which, in an effort to alleviate overcrowding on some islands, brought large numbers of people to the less-populated ones);
- vast development projects that often did little to alleviate poverty but greatly disrupted traditional economic and cultural practices;
- political reorganization that frequently left ethnic groups and religious communities that had cooperated in the past competing for political power;
- the determination by some elements in the Indonesian military to foment unrest to destabilize the government of President Abdurrahman Wahid and thereby forestall military reform and accountability;
- regional resentments of Jakarta's heavy-handed methods of control.

The ethnic and other tensions caused by these events, largely suppressed during the 32-year reign of former President Suharto, have surfaced with the fall of his regime.

Though religion or tensions between different religious communities has been an element, to varying degrees, in several of these conflicts, it is only in the Moluccas that religion quickly became the defining factor behind the fighting that broke out in January 1999 between the Muslim and Christian communities there. While the causes behind the initial conflict were numerous and multifaceted, the fighting almost immediately took on a sectarian character, and the ensuing violence has, for the most part, been based principally on religious affiliation. Moreover, unlike in the other conflicts, houses of worship in the Moluccas have been pointedly and extensively targeted, and hundreds of mosques and churches have been destroyed.

In addition, in the spring of 2000, an Indonesian Muslim group of fighters, called Laskar Jihad, from outside the Moluccas arrived on the islands, raising the fighting there to new and more deadly levels. Beginning in October of last year, there have been increasing reports of people being forced to convert to Islam or be killed.¹ In addition, there have been reports of forced circumcision of both men and women.² (The Commission has more recently received reports that Muslims were forced to attend church services and eat pork under threat of death on parts of the Islands as early as December 1999.)³ Thus, the clearly sectarian nature of the violence, the fact that people are being killed solely on the basis of their religion, and the evidence of apparent forced conversions prompted the Commission to give particular consideration to the Moluccan conflict. The fact that the other conflicts in Indonesia are not addressed in this report does not reflect the Commission's lack of concern for the bloodshed in those regions, but reflects instead its mandate to examine situations in which religious freedom – or religiously-based violence – is a central factor. The Commission will continue to monitor the other conflicts in Indonesia, and will turn its attention to them if it becomes clear that religion is emerging as a principal motivating force.

Since the fighting in the Moluccas began, from 5,000 to 8,000 people, Christians and Muslims, have been killed. Houses of worship of both communities have been destroyed. More than 500,000 people, again, both Christians and Muslims, have been forced to flee in fear of their lives. As this has transpired, there are numerous reports that elements from the Indonesian military and local police forces have done little to stop the fighting. Rather, it is alleged that they have contributed to – and perhaps even initiated – it. The Indonesian government has also made little effort to halt the conflict; indeed, many observers contend it has not given it serious attention.

In July 2000, the Commission wrote then-Secretary of State Madeleine K. Albright about the religion-based fighting generating alarmingly high casualties on the Moluccas. It expressed particular concern about evidence that the Indonesian government was tolerating levels of violence and killing that indicated egregious violations of religious freedom. Since then, the Commission has held several private briefings with specialists on Indonesia, including current and former American officials expert on that country, and has conducted personal interviews with individuals and groups from Indonesia, including from the Moluccas. In February 2001, the Commission held a public hearing on the situation in the Moluccas at which testimony was heard from representatives of the Moluccan Muslim and Christian communities as well as American academics and other experts.

B. Background on Indonesia and the Moluccas

1. Indonesia: Background Information

Indonesia is a country of approximately 210 million people, making it the world's fourth-largest country by population (and the largest Muslim country). A vast archipelago, Indonesia covers an area of 1,100 miles from north to south and 3,200 miles from west to east, and cartographers have counted up to 17,000 islands within its borders (though only about 6,000 are inhabited). There are more than 300 different ethnic groups in Indonesia, each with its own language.⁴

Islam had gained a strong foothold in Indonesia by the 12th century, replacing Hinduism throughout much of the country by the 16th century. (In a few areas, such as Bali, Hinduism is still prevalent.) Indonesian Islam has historically been influenced more by mystical traditions than legal precepts.⁵ Christian influences arrived in the 16th century, but never heavily penetrated the larger islands. Today Christianity is found predominantly in the smaller islands in eastern Indonesia. About 85 percent of the country's population is Muslim, 10 percent Christian (approximately 7 percent Protestant and 3 percent Catholic), 2 percent Hindu, 1 percent Buddhist, and 2 percent other religions.⁶

a. Religious freedom

The Constitution of 1945 established an Indonesian state philosophy called *Pancasila*. There were groups at the time that wanted an ethnically and religiously narrower definition of Indonesian identity, but “the framers of the *Pancasila* insisted on a culturally neutral identity ... overarching the vast cultural differences of the heterogeneous population.”⁷ According to the website of the Indonesian Embassy in Washington, “*Pancasila* comprises five principles: belief in the one and only God; a just and civilized humanity; the unity of Indonesia; democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives; and social justice for the whole of the people of Indonesia.”⁸

Constitutional guarantees of religious freedom apply to the five religions recognized by the state, namely Islam, Protestantism, Catholicism, Buddhism, and Hinduism. Confucianism, though “embraced” by the government, is not included on this constitutional list. The practice of Confucianism was restricted by legislation passed in 1967, though in January 2000 President Wahid revoked that law.⁹ In some remote areas, animism is still practiced.¹⁰ Though the Constitution officially recognizes only these religions, it also states that other religions, including Judaism, Zoroastrianism, Shintoism, and Taoism are not forbidden, and the practices of other religions are permitted. The law allows for conversions between faiths.¹¹ Some faiths, however, are banned, including Jehovah's Witnesses and some Islamic groups that are deemed to be unorthodox. The Baha'i faith was officially banned in 1962 and its adherents have experienced considerable persecution, including incarceration. However, the ban was revoked by President Wahid in the same January 2000 decree that abolished restrictions on Confucianism. In addition, according to the ideology of *Pancasila*, all Indonesians must believe in one God, making atheism technically forbidden.

2. The Moluccas¹²

Once known as the Spice Islands, the Moluccas or Moluccan Islands are located in the northeast region of the Indonesian archipelago, bordered by the Philippines to the north, Irian Jaya or West Papua to the east, and the Indonesian island of Sulawesi to the west. There are more than 20 large islands in the archipelago, the largest of which include Halmahera, Seram, and Buru, and the province is spread out over great distances of ocean. The population of the entire Moluccas is approximately 2 million, with a large concentration of people in Ambon, capital of the southern region. (Ambon refers also to the island on which the city is located.) The Arabs first brought Islam to the Spice Islands in the 13th century; the Spanish and Portuguese arrived in the 16th century, bringing Christianity with them, followed

in the next century by the Dutch. In 1990, the proportion of Muslims was 56 percent and Christians approximately 44 percent, the overwhelming majority of whom were Protestant.¹³ (In 1971, the split between Muslims and Christians on the province was more even at about 50 percent each.¹⁴ The difference reflects in part the results of former President Suharto's transmigration program.) Most of the islands in the Moluccas have long had mixed populations of Muslims and Christians, though the two were usually separated by choice or custom into their own villages.

a. Fighting erupts

In January 1999, serious fighting erupted between the Christian and Muslim communities on the Islands. Though there have been occasional lulls in the fighting, over the past two years 5,000-8,000 people have been killed and 500,000 people displaced from their homes. The conflict has divided Moluccans along religious lines, though its origins involve ethnic, economic, and political rivalries also.¹⁵ Houses of worship were pointedly targeted and more than 100 mosques and churches have been destroyed or damaged. During the first 15 months of the crisis, the fighting between the two groups, largely cyclical reprisals, resulted in more or less equal numbers killed on each side. In May 2000, however, fighters from the Laskar Jihad – a group based in Java outside of the Moluccas – arrived on the islands, obtained arms, and began attacking Christian villages. Since then, the balance has tipped decidedly against the Christian population there.¹⁶

The fighters from the Laskar Jihad, who have taken control of the other Muslim militia groups fighting on the Islands, have access to sophisticated weapons and communications equipment, and have thus taken the fighting to new levels. These more-extremist groups from outside the Moluccas, recruited purportedly to protect the Muslim population, have since declared their aim of “cleansing” the Islands of Christians, and have succeeded in clearing Christians out of villages throughout the Moluccas, either by killing them or driving them away under the threat of being killed. By October, there were reports that hundreds and perhaps thousands of Christians were forced to convert to Islam or be killed, especially on the islands of Seram, Kesui, and Teor.¹⁷ There are allegations also that some, both men and women, have been forced to undergo circumcision as part of their “conversion.”¹⁸ The Commission has also received reports that as far back as December 1999, Muslims in Halmahera were held captive for a time and were subjected to violent and humiliating episodes, including being forced to attend church services and eat pork (forbidden to Muslims).¹⁹

Though North Maluku has remained calm in recent months, the other central and southern islands of Maluku are described as being in a state of civil war, with nightly gunfire and bombs routinely going off in the streets.²⁰ Muslims as well as Christians continue to be killed, since although they are now outnumbered and to some extent outgunned, the Christians there are not helpless, and have formed their own militia groups. (Indeed, there are reports that a Christian counterpart to Laskar Jihad, called Laskar Kristus – the Army of Christ – has organized to fight Muslims.²¹) Many of the hundreds of thousands of refugees (both Christians and Muslims) have fled to various parts of Sulawesi, a province that is already strained by the presence of displaced persons from East Timor, Irian Jaya, and as far away as Aceh.²²

b. Reasons behind the fighting

Despite centuries of living together, tensions between Muslims and Christians had been growing steadily sharper in recent decades. This was so not least because of the large influx of Muslim immigrants from other provinces as part of Suharto's transmigration program, including Butonese from southwest Sulawesi, and Bugis and Makassaris from south Sulawesi.²³

The incursion of non-Moluccan Muslim immigrants did much to upset the long-standing balances of economic and political power on the Islands, and also undermined traditional loyalty and alliance systems to which both Moluccan Muslims and Christians had long adhered.²⁴ It also upset the population balance on the Islands in favor of Muslims, leaving many Christians to feel that their political, economic, and cultural existence was threatened. Thus, the fighting, at least at the beginning, was caused as much by economic and political concerns as by religious differences. Moreover, the administrative split of the Moluccas into two provinces, Maluku and North Maluku, in 1999 contributed to the tensions, especially in North Maluku, as the immediate result was fierce competition for political dominance in the newly made provinces.²⁵

Indonesia as a whole has been experiencing a chronic crisis stemming in part from the end of Suharto's 30-year dictatorial reign. Some experts view the fighting in the Moluccas as part of the general "disintegration of law and order." The military is in disarray and "all that is left are local civil-defense groups organized by communities."²⁶ The transmigration program resulted in serious disruptions of traditional ways of life and sowed acute bitterness among different ethnic and religious groups. Moreover, "grinding poverty and unemployment make recruits [for vigilante or other community militia groups] easy to find."²⁷ Secessionist movements and other ethnic, economic, and religious resentments, long suppressed by the Suharto regime, finally reached the surface at the same time when the country fell into a financial crisis and political and economic confusion. Thus, the violence on the Moluccas must be viewed in part within the wider context of the crisis facing Indonesia as a whole.

The apparent spark that led to the outbreak of fighting is reported to have been an argument in Ambon city between a Christian public transport driver and at least one Muslim passenger. The argument soon deteriorated into a brawl and then spiraled into several days of mob violence.²⁸ The fighting then spread to other islands, thus beginning the cyclical pattern. Much of the initial anger on the Christian side was directed at the Bugi, Butonese, and Makassar immigrants rather than Moluccan Muslims. In North Maluku, the fighting was not initially along religious lines at all but was between rival supporters of the two leading sultans in the region. However, all the fighting, according to a report of the International Crisis Group, an international non-governmental organization (NGO), was "quickly subsumed by religious rhetoric and confessional hatred." Whatever the source of the original outbreak of fighting in the Moluccas, the conflict escalated and intensified with the appearance of the Laskar Jihad and other outside militia groups on the Islands in the spring of last year. Indeed, the violence is now seen to be led by the Laskar Jihad, despite several known reconciliation efforts by Moluccan Muslim and Christian representatives. One incident that reportedly encouraged the involvement of the Jihad was a particularly bloody

battle in December 1999 on the island of Halmahera in the north in which 500 Muslims were killed and the district “cleansed” of 10,000 others who were forced to flee.²⁹ This incident, as one report notes, “was pivotal in galvanizing national Muslim calls for Jihad.”³⁰

Another historical event is a contributing factor to the tensions in the Moluccas. In 1950, in the first years of Indonesian independence, a group of Christians in the southern Moluccan islands, backed by Moluccan Christian soldiers from the Dutch colonial army, proclaimed the independent *Republik Maluku Selatan* (or RMS, Republic of the South Moluccas). The Indonesian Army quelled the uprising, though guerilla forces continued to fight for years after. Several RMS leaders escaped to Holland, where they established an RMS “government in exile.” While the vast majority of Christians on the Moluccas today do not support independence, the memory of the RMS and its separatist aims still resonates in Indonesia, and Moluccan Christians today are accused by Muslim groups of having independence as their goal. This accusation has been useful in galvanizing Muslims to fight, and the situation has not been aided by the fact that some diaspora Moluccan Christian groups have taken up the RMS banner.

c. The government response and the role of the military

The Indonesian government under President Wahid has been resoundingly criticized for failing to take the necessary steps to end the fighting in the Moluccas. It is true that Wahid did not take office until October 1999, 10 months after the fighting had erupted. But upon taking power, he apparently did not grasp the seriousness of the situation there or the military did not obey him. Vice President Megawati Sukarnoputri was appointed to lead reconciliation efforts, but she was equally uninterested and ineffectual in dealing with the crisis.³¹ Though Wahid threatened to arrest Laskar Jihad members if they went to the Moluccas, they went anyway, and no police or military action was taken either to prevent or punish them.³² To this date, the government has still taken no effective action against the Laskar Jihad and other militias on the Islands.

In June 2000, Wahid declared a state of civil emergency (one step below the imposition of martial law), giving the military and the police wide room to act, though under civilian command. However, this has apparently done little to change the situation on the ground. Many speculate that Wahid is reluctant to take firm action against the militant groups because of his own shaky position, since a significant portion of the country’s population is sympathetic to the plight of the Muslims on the Islands. Another concern is that if the Laskar Jihad fighters leave the Moluccas, they will take their fight elsewhere in Indonesia and pose an even greater threat.

Many have suggested that the unrest in the Moluccas, if not provoked, has at least been encouraged and supported by elements in the Indonesian military (though not necessarily the military as an institution), primarily in order to discredit and destabilize the Wahid government.³³ The army is seen as a prime beneficiary of the fighting, since once the population is devastated by conflict, it is the army that can go in and restore order, rather than the democratically elected government in Jakarta. According to Human Rights Watch, many contend that the conflict in the Moluccas (together with other outbreaks of violence throughout Indonesia) was deliberately provoked by forces loyal to former President Suharto,

with the aim of disrupting the situation to such an extent that a state of emergency would be declared, thus effectively returning the military to power.³⁴ Thus far, there is no *clear* evidence that could prove or disprove these contentions, but allegations have been made not only by outside observers, including several high-ranking American officials, but also by senior Indonesian officials.³⁵

Whatever the role of the military in causing the conflict, most observers agree that it has been anything but impartial since the fighting broke out two years ago. All over the Islands, military personnel have been seen to join in the conflict, especially, the Christians contend, against the Christian side.³⁶ Yet, some local police forces are said to have fought on the side of the Christians.³⁷ The reasons for the military's involvement vary, from its eventual aim of usurping power from the civilian government to the economic benefits that armed forces members have accrued since the fighting began.³⁸ Yet most experts are also agreed that the military is somehow necessary to bring an end to the fighting, as it is the only group that has the means necessary to halt the activities of the *jihad* groups and remove them from the Islands. Hence, the military is seen both as part of the problem and the solution. Yet, after the violence in the aftermath of the referendum on East Timor, many in and outside the government are reluctant to give the military more power to act. Even if the military were given such power, however, the armed forces would face severe institutional and logistical constraints, since the soldiers are inadequately trained, supplied, and paid.³⁹

C. Commission Recommendations

For many decades during the Cold War, U.S. and Indonesian security concerns coincided to make for cordial relations between the two countries. Military-to-military engagement was strong, a connection that continued even after the Cold War ended. However, relations deteriorated markedly in 1998 after the massacres in East Timor by forces associated with the Indonesian military, and military-to-military engagement between the two countries was suspended fully in 1999 (it had been partially suspended in 1992). As a result, U.S. influence in Indonesia is not as great as it once was, though some military contacts were renewed later by the Clinton administration (participation in peacekeeping exercises, for example). In addition, other issues had come to divide the two countries by this point, as there was increasing pressure on Washington throughout the 1980s and 1990s to give more weight to human rights issues in its relations with Jakarta. However, U.S. aid to Indonesia has increased in recent years, particularly in response to Indonesia's severe economic collapse in the wake of the 1997 Asian financial crisis.

Recent U.S. policy toward Indonesia has been within the framework of the U.S. government's goal of supporting the democratically elected government of President Wahid and a successful democratic transition after 30 years of authoritarian rule under Suharto.⁴⁰ In January 2000, the Clinton administration designated Indonesia one of four "key democracies" that would be the focus of U.S. aid during their democratic transition. In October 2000, however, U.S.-Indonesian relations deteriorated significantly after the American ambassador in Jakarta became involved in a series of high-profile disputes with Indonesian officials.

Many Indonesians contend that the West and particularly the U.S. are concerned

about the Moluccan conflict only because Christians are involved.⁴¹ In fact, any involvement from the United States is likely to be viewed through this lens. In addition, American and other Western concern for the Moluccas is sometimes seen by some Muslim groups as proof that the Christian West aims to break up the Moluccas and separate the Christian parts from Indonesia.⁴² This makes any direct American action extremely difficult, as Muslims throughout Indonesia have come to believe that the United States is potentially biased in its approach. As noted above, the Commission recognizes that there are serious conflicts elsewhere in Indonesia (e.g., in Aceh, Irian Jaya/Papua, and Kalimantan), some of which do, while others do not, involve religious-freedom violations.

As of this writing, it remains unclear what the government in Indonesia will look like in the near future. Since 1999, President Wahid has introduced several democratic reforms, but has not effectively managed to secure power in the country. He is increasingly seen as weak and ineffectual, particularly in the midst of the crises and ethnic and religious conflicts battering the country. By January 2001, there were growing demands for his resignation, not least because of allegations of corruption. Wahid claims that opponents within the military and political establishment are working to undermine his authority and the reform process, particularly reforms of the military itself.

1. The U.S. government should put sustained pressure on the Indonesian government and the Indonesian military to pay serious attention to the brutal conflict in the Moluccas and to make concerted efforts to pursue a reconciliation program that ensures security for both sides and that perpetrators most responsible for the killings are brought to justice.

Despite the shocking number of casualties in the Moluccan fighting and the wider repercussions for Indonesia as a whole, neither President Wahid nor Vice-President Megawati appear to appreciate the reasons the fighting began or the seriousness of the conflict, and the government's response – or lack of one – has demonstrated this indifference. Nor are they or other high-level government officials sufficiently aware of the significance of not seizing the initiative in resolving the conflict, leaving that role to be played by various military leaders who have stepped in to fill the void.

Though the Indonesian government has not to date shown itself capable of resolving the conflict, it should nevertheless be encouraged to make a greater effort in this regard. The United States should be prepared to provide technical assistance to these reconciliation efforts as necessary. The government of Indonesia should be advised that any plan must provide for the security of both communities on the Islands, including the removal of all outside militia groups and the disarming of the internal militias. However, this reconciliation effort should not be seen as a military action.

Human rights groups and other observers point out that, after 30 years of dictatorship, there is no effective judicial system functioning in Indonesia. While establishing a legitimate system based on the rule of law would be a lengthy and very difficult process, the country needs some method of immediately bringing to justice those most responsible for the killings in the Moluccan conflict. For the most part, instigators of the deadliest massacres on the Moluccas have gone free and the Indonesian government has made no attempt to go after

them. It would do much to help the reconciliation process in the Moluccas if the most prominent ringleaders of the violence, including leaders of both Muslim and Christian militias, could be seen to receive just punishment.

2. The U.S. government should press the government of Indonesia to attend to the immediate removal of all outside militia forces on the Moluccas, Muslim or Christian. The U.S. government should also press Indonesia to see that these and other groups are disarmed. Moreover, rogue elements in the Indonesian security forces must be brought under control.

It is agreed by virtually all observers and human rights groups that only with the arrival of such outside groups as the Laskar Jihad did the fighting on the Islands become severe, and religion become an uglier tool in the conflict. As the ICG report notes, “the Laskar Jihad is not the cause of Maluku’s problems, but they are now the greatest instigator and beneficiary of the violence.”⁴³ It is not only Muslim militias that have entered the conflict from outside the Moluccas, though, as there are also Christian militia groups, some associated with gangsters from cities outside the Islands, that played a central role in the conflict until spring of last year.⁴⁴ According to the same ICG report, the Muslim militias, led by the Laskar Jihad, are more organized, while the Christian groups “tend to be fragmented ... with only a nebulous sense of the larger provincial picture.”⁴⁵

President Wahid’s government has made no effort to apprehend the Laskar Jihad and other militia members, despite his threat to do so if they went to the Islands. The Muslim and Christian populations on the Moluccas have demonstrated that they want peace and have attempted several times to negotiate their own settlement to the conflict. These efforts are reportedly thwarted, however, by the extremist outside groups that have transformed this sectarian conflict into their own wider struggle.

3. The U.S. government should support the reconciliation efforts of indigenous or international non-governmental organizations (NGOs) in the Moluccas, including by increasing its funding for such efforts through support for USAID’s democracy and good-governance programs, interreligious programs in educational institutions, and other programs in Indonesia. This should include working with respected Indonesian human rights lawyers and academics to devise an emergency program for restoring the rule of law in Indonesia, including in the Moluccas. Within its assistance program to Indonesia, the U.S. government should also increase assistance geared specifically to both Christian and Muslim victims and refugees of the conflict. The U.S. government should also press the government of Indonesia to allow more access to the Moluccas for humanitarian relief organizations, as well as for official representatives or human rights monitors from such groups as the Association of Southeast Asian Nations (ASEAN).

Since the government of Indonesia has not demonstrated the willingness or ability to deal appreciably with the Moluccan conflict, the U.S. should consider supporting the

reconciliation efforts of international and indigenous NGOs on the ground.

In addition to reconciliation efforts on the Moluccas, the U.S. government should continue and increase its support for democratization and civil-society building programs more generally in Indonesia, including developing public accountability, political party building, education in religious tolerance, and the promotion of a free media. After an emergency rule-of-law program is established to deal with the worst conflicts, the U.S. government should help promote a broader program to build a credible, independent judicial system in Indonesia. This support could include assistance and training for police, lawyers, and judges, as well as indigenous human rights and watchdog organizations that provide accountability.

In addition to the many who have been killed in the Moluccas, massive destruction of property has occurred and more than 500,000 have had to flee their homes, either to other islands in the Moluccas or neighboring islands such as Sulawesi. The refugees are currently in a desperate situation; even if the fighting were to end and they were allowed to return to their homes, many of them no longer have homes to return to. Not only food is needed but jobs and corresponding equipment also. The U.S. government should work with the government of Indonesia to ensure that the funds earmarked for the Moluccan refugees actually reach them.

Moreover, many NGOs have reported restricted access to crisis spots on the Islands. The most common pretext is security; however, there is some concern that access is restricted in order to limit the amount of news about the Moluccan situation that reaches the outside world, particularly outside Indonesia. Humanitarian aid and reconciliation projects are desperately needed. Thus, the government of Indonesia should ensure that human rights and humanitarian aid groups are not prevented from travel to the Islands and can access all the victim and refugee communities there.

4. The U.S. government should ensure that, if resumed, U.S.-Indonesian military ties be directed toward reform of the Indonesian military.

Under the Suharto regime, the military enjoyed considerable political and economic power to which it has become accustomed. Many observers contend that a number of the conflicts plaguing Indonesia, including that in the Moluccas, were generated or at least stoked by elements in the military that do not want to relinquish that power. Moreover, there is widespread corruption within the military, exacerbated by the poor conditions in which lower ranks must subsist. According to a witness at the Commission's February 2001 hearing, "Soldiers have not only taken sides in the Moluccas with little fear of punishment, providing cover for attacks and sometimes weapons, but they have actively benefited from the conflict by, for example, charging exorbitant fees for safe passage from one part of Ambon to another."⁴⁶

Clearly, the Indonesian military is in need of reform, and American-led education and training programs may be beneficial in this regard. There have recently been calls on the U.S. government to end the ban on providing military equipment and training, and to re-establish contacts with the Indonesian military. The Commission takes no position on this

question, but any education and training support that the United States is prepared to offer should be directed toward assisting the Indonesian military in integrating reforms that involve the acceptance of civilian control and the upholding of international human rights standards. Such reform should also include allowing officers and others to be held responsible for the serious abuses that have been seen in conflicts such as in the Moluccas. If willingness to reform is confirmed, technical and other material assistance may become appropriate. To date, such willingness has not been demonstrated, and Indonesian security forces continue to encourage and participate in conflicts throughout Indonesia with impunity. U.S. military assistance should not contribute to this in any way.

5. The U.S. government should earmark funds for the training of Indonesian police and prosecutors in human rights, rule of law, and crime investigation.

In the Moluccas, the police have been both unprepared and unwilling to deal with the violence, frequently doing little or nothing to oppose either local mobs or the outside militia groups involved in the fighting. Most reports indicate that they have also not been impartial in situations where they have taken action.

Until April 1999, the police forces in Indonesia were a branch of the armed forces and considered to be the most corrupt branch.⁴⁷ The police have now been separated from the military, but the forces are in dire need of training and reform. In order for democratization efforts in Indonesia to succeed, the integrity and credibility of the police must be established.

6. The U.S. government should help support the safeguarding of a free press in Ambon and other major areas in the Moluccas.

Commission hearing witnesses indicated that broadcast media in certain regions in the Moluccas are monopolized by one community and that the other side is routinely denied access. There are also reports that the one-sided broadcasting often distorts events in ways that serve to exacerbate the conflict. The U.S. government should urge the government of Indonesia to ensure equal access to broadcast media to all religious communities on the Islands.

¹ These reports indicated that men, women, and children were compelled to declare openly their allegiance to Islam or face death, torture, or destruction of their homes. Many were then renamed with “Muslim” names. As part of the process of “conversion,” some, though not all, were forced to undergo circumcision, regardless of gender or age, in what were reportedly extremely primitive and unsanitary conditions.

² Islamic scholars consider any form of unwilling circumcision to be contrary to Islamic teachings. In addition, the “circumcision” (or genital mutilation) of females is not considered by historians of Islam to be an Islamic practice but a cultural one, a local ritual that precedes the adoption of Islam in those regions where it is practiced.

³ It should be noted that Muslim and Christian scholars maintain that any element of coercion

in the conversion to Islam or Christianity is contrary to the teachings of both faiths.

⁴ Paul Michael Taylor, "The Indonesian Archipelago," in *Islands: the Illustrated Library of the Earth*, Rodale Press: Emmaus Pa., 1994, 110, 112.

⁵ Robert W. Hefner, "Profiles in Pluralism: Religion and Politics in Indonesia," in *Religion on the International News Agenda*, Mark Silk ed., 2000, 84.

⁶ US Department of State, *Annual Report on International Religious Freedom 2000*, "Indonesia," September 2000, 2

(http://www.state.gov/www/global/human_rights/irf/irf_rpt/irf_indonesi.html, accessed January 30, 2001).

⁷ Library of Congress, "Pancasila: The State Ideology," *A Country Study: Indonesia*, 1992, 1 ([http://lcweb2.loc.gov/cgi-bin/query/r?frd/cstdy:@field\(DOCID+id0141](http://lcweb2.loc.gov/cgi-bin/query/r?frd/cstdy:@field(DOCID+id0141), accessed February 1, 2001).

⁸ <http://www.kbri.org/>(accessed February 1, 2001).

⁹ *2000 Religious Freedom Report*, "Indonesia," 2 (Internet).

¹⁰ U.S. Department of State, *Background Notes*, "Indonesia," October 2000, 1 (http://www.state.gov/www/background_notes/indonesia_0010_bgn.html, accessed January 18, 2001).

¹¹ *2000 Religious Freedom Report*, "Indonesia," 4 (Internet).

¹² Many reports refer to Maluku, the Maluku Islands or the Malukus, as well as Moluccas. According to some Indonesia experts, the term "Moluccas" is more functional to refer to the entire group of islands, as "Maluku" refers now only to the central and southern islands and "North Maluku" to the islands in the north. (The Moluccas were divided into two separate provinces in 1999.)

¹³ Less than 7 percent of the population of the Moluccas is Catholic.

¹⁴ Blair Palmer, "Liminal Subjects and Subjective Memory in Indonesia: Butonese Migrants Returning to Buton After Fleeing the Ambon War, 1999-2000," unpublished paper, December 2000, 3.

¹⁵ International Crisis Group, *Indonesia: Overcoming Murder and Chaos in Maluku*, ICG Asia Report No. 10, December 2000, iii.

¹⁶ Additional information about this group can be obtained from its website at <http://www.laskarjihad.or.id>.

¹⁷ U.S. Department of State, *2000 Country Reports on Human Rights Practices*, "Indonesia,"

February 2001, 30

(<http://www.state.gov/g/drl/rls/hrrpt/2000/eap/index.cfm?docid=707>, accessed March 6, 2001).

¹⁸ See for example Chris Brummitt, "Christians Allege Forced Circumcision in Troubled Indonesia Province," *Associated Press*, January 31, 2001, and Richard C. Paddock, "'Purified in the Name of Allah,'" *Los Angeles Times*, March 13, 2001. As mentioned, even women are allegedly being forced to undergo "circumcision" in the form of genital mutilation, even though this practice is, according to a Moluccas expert, not generally common to Moluccan Muslims (though among other Muslim groups in Indonesia, there has existed a symbolic, that is, non-mutilating, circumcision ceremony to which Muslim girls are sometimes subject). Moderate Muslim leaders have condemned the forced conversions and circumcisions as contrary to Islamic teachings. See Lindsay Murdoch, "Brutal Religious War Leaves Paradise Soaked in Blood," *Sidney Morning Herald*, January 27, 2001.

¹⁹ Two witnesses at the Commission's hearing on the Moluccas discussed this. The Commission also received a report from a respected Muslim leader in the Moluccas that such incidents had occurred in Halmahera, then a Christian stronghold, in December 1999. This is the same month and same area that the large massacre against Muslims occurred, an event that helped incite militant Muslim groups in other parts of Indonesia to go to the Moluccas to defend Muslims there. See also U.S. Department of State, *2000 Country Reports*, "Indonesia," 30 (Internet).

²⁰ The fighting in the Moluccas should be viewed in two different contexts, as the Maluku province in the south, long dominated politically by Christians, has had an experience of fighting different from that in North Maluku. The latter is about 80 percent Muslim, and political power reflected a centuries-old rivalry between two local sultanates, one of which, the Sultan of Ternate, was largely supported by the Christian population there. See ICG, "Overcoming Murder and Chaos in Maluku, 6-7.

²¹ See "Holy War in the Spice Islands," *The Economist*, March 15, 2001.

²² U.S. Committee for Refugees, *Country Report*, "Indonesia," 2000, 9 (http://www.refugees.org/world/countryrpt/easia_pacific/Indonesia.htm, accessed January 18, 2001).

²³ Human Rights Watch, *Report*, "Indonesia: the Violence in Ambon," March 1999, 4 (<http://www.hrw.org/reports/1999/ambon/amron-01.htm>, accessed October 31, 2000).

²⁴ Local resentment as a result of the transmigration policy, kept under the surface during the Suharto era, has emerged and apparently played a role in a number of regional conflicts in Indonesia, including the gruesome fighting that erupted in Borneo in February 2001. The indigenous Dayaks increasingly grew to resent the presence of the Madurese, the newcomers who, it was claimed, took their land and their jobs.

²⁵ One scholar lists dozens of factors that have been cited as the cause of the conflict in the Moluccas, factors that can be grouped under the following headings: religion; local politics; national politics; migration; regional autonomy; history; institutional concerns; provocateurs, local beliefs; and economic considerations. See Palmer, "Liminal Subjects and Subjective Memory in Indonesia, 8-10.

²⁶ James Castle, "Business and Investment Climate in Indonesia," *USINDO Open Forum*, June, 2000 (http://www.usindo.org/sub/brief_5.htm, accessed January 22, 2001).

²⁷ Louise Williams, "Violent Shadows Darken Democracy," *Sydney Morning Herald*, December 27, 2000.

²⁸ ICG, "Overcoming Murder and Chaos in Maluku, 5.

²⁹ *Ibid.*, 8. See also *2000 Religious Freedom Report*, "Indonesia," 9 (Internet).

³⁰ *Ibid.*, 8.

³¹ *Ibid.*, 17.

³² *Ibid.*, 9. See also Robert W. Hefner, U.S. Commission on International Religious Freedom, *Hearings on the Moluccas*, February 13, 2001.

³³ See, for example, Dana R. Dillon, "Too Soon to Resume Military-to-Military Engagement with Indonesia," *Heritage Foundation Background*, September 2000; ICG, "Overcoming Murder and Chaos in Maluku," pp. 19-21; Human Rights Watch, "Violence in Ambon," 5 (Internet). See also USCIRF, *Hearings on the Moluccas* (Hefner testimony).

³⁴ One Indonesia expert asserts that "the bulk of the funding for the *jihād* campaign has been provided by businessmen linked to former President Suharto." See USCIRF, *Hearings on the Moluccas* (Hefner testimony).

³⁵ Human Rights Watch, "Violence in Ambon," 1 (Internet).

³⁶ John A. Titaley, U.S. Commission on International Religious Freedom, *Hearings on the Moluccas*, February 13, 2001.

³⁷ H. M. Jusuf Ely, U.S. Commission on International Religious Freedom, *Hearings on the Moluccas*, February 13, 2001. See also *2000 Religious Freedom Report*, "Indonesia," 5 (Internet).

³⁸ According to one former diplomat, soldiers in Indonesia make so little money that "they are tempted to sell their services or weapons and have done so in Maluku." See Paul Gardner, U.S. Commission on International Religious Freedom, *Hearings on the Moluccas*, February 13, 2001.

³⁹ International Crisis Group, “Indonesia’s Maluku Crisis: the Issues,” *Indonesia Briefing*, July 2000, 8.

⁴⁰ Larry Niksch, “Indonesian Separatist Movement in Aceh,” *Congressional Research Service Report*, January 2001, 5.

⁴¹ USCIRF, *Hearings on the Moluccas* (Gardner testimony).

⁴² Paul Michael Taylor, U.S. Commission on International Religious Freedom, *Hearings on the Moluccas*, February 13, 2001.

⁴³ ICG, “Overcoming Murder and Chaos in Maluku,” 13.

⁴⁴ USCIRF, *Hearings on the Moluccas* (Ely testimony).

⁴⁵ ICG, “Overcoming Murder and Chaos in Maluku,” 15.

⁴⁶ Sidney Jones, U.S. Commission on International Religious Freedom, *Hearings on the Moluccas*, February 13, 2001.

⁴⁷ *Ibid.*

V. IRAN

A. Introduction

The conditions of religious freedom are very poor in Iran, particularly with respect to minority religious groups that are not officially recognized by the state and those perceived to be attempting to convert Muslims. For the last two years, the Secretary of State has determined that the government of Iran has engaged in particularly severe violations of religious freedom, including prolonged detentions and executions based primarily or entirely upon the religion of the victims, thereby designating Iran as a “country of particular concern” pursuant to the International Religious Freedom Act of 1998.

In her address to the American-Iranian Council in March 2000, then-Secretary of State Madeleine K. Albright announced that the United States was open to taking steps toward improving relations with Iran, if Iran were to take steps to address the issues that the United States has identified as prerequisites to better relations, such as desisting from the development of nuclear weapons and support for international terrorism. Secretary of State Colin L. Powell has indicated that the Bush administration, while continuing to insist that Iran end its pursuit of weapons of mass destruction, support for terrorism, and human rights abuses, would seek to “nuance” its Iran policy in order to encourage Iranian moderates. The Commission believes that human rights, including religious freedom, must remain an essential element of U.S. policy toward Iran.¹

B. Background

The Constitution of the Islamic Republic of Iran provides that the official religion of Iran is Islam of the doctrine of the Twelver (Jaafari) School and stipulates that all laws and regulations, including the Constitution itself, must be based on Islamic criteria. The Constitution also provides that other Islamic schools of doctrine are to be accorded full respect in matters of religious rites, religious education, and personal status. It recognizes Zoroastrians, Jews, and Christians as the only religious minorities who, as such, are free to engage in religious practices and act according to their own rules in matters of personal status and religious education “within the limits of the law.”

Current, reliable statistics on the religious composition of Iranian society are not available. Shia Muslims are reported to comprise 89 percent of the population, 10 percent are Sunni Muslim, and one percent are non-Muslims, including Baha’is (300,000), Christians (250,000, including 150,000 Armenian Orthodox, 30,000 Assyrians-Chaldeans and small communities of Catholics and Protestants), Zoroastrians (30,000), and Jews (30,000).

Members of the Baha’i community suffer the worst forms of religious persecution at the hands of the state. More than 200 Baha’is were executed in the first six years following the 1979 revolution. Since 1983, the Baha’i community has been barred from assembling in public or operating administrative institutions. The Iranian government does not recognize Baha’is as a religious minority, rather in its view Baha’is constitute a political organization that was associated with the Shah’s regime, is opposed to the Iranian Revolution, and engages in espionage activities on behalf of foreign countries, including Israel. Baha’is are

effectively prevented from (1) teaching or practicing their religion; (2) communicating with or sending funds to Baha'i world headquarters; (3) attending public or private universities; and (4) holding government jobs (all Baha'is were removed from government positions in the 1980s). Baha'i holy places, cemeteries, and administrative properties were seized after the 1979 revolution, and many places have been destroyed. Much of the personal and business property belonging to Baha'is has also been seized.

According to the State Department, as of June 30, 2000, 11 Baha'is were under arrest for the practice of their faith, including four persons who have been sentenced to death – two for alleged “Zionist Baha'i activities” and two for apostasy. In addition, a number of Baha'is – particularly those engaged in educational activities – were harassed and detained over the preceding year.

Members of the officially-recognized non-Muslim minorities – Christians, Jews, and Zoroastrians – are subject to legal and other forms of official discrimination. They are reportedly (1) prohibited from being elected to a representative body (except for reserved seats in the National Parliament); (2) prohibited from serving in the army, the security services, and the judiciary, and from becoming school principals (even in private minority schools); (3) limited in their access to higher education; and (4) suffer discrimination in legal proceedings.

The trial and conviction of a group of Iranian Jews in 2000 on charges of espionage and cooperating with Israel, under conditions that fell far short of international standards, illustrates the continued vulnerability of that group to harassment and imprisonment.

In addition to the problems faced by other Christians in Iran, Evangelical Christians are subjected to a number of further repressive measures. This harsher treatment is reportedly due, in part, to the Western origins of Iranian Protestant churches, their continued links with Evangelical churches outside Iran, and their willingness to seek out and accept converts from other religions. Iranian Evangelicals operating in Iran are subject to harassment and close surveillance and many are reported to have fled the country. Evangelical services are allowed only on Sundays and government officials require notification when a new member joins a church. Some Protestant associations have been unable to officially register since 1979, while a number of Protestant places of worship remain closed by government order since the 1980s. There are also allegations that the government played a role in the murders or disappearances of a number of Evangelical Christian leaders in the past ten years.

Members of the Sunni Muslim minority face a number of difficulties. Sunni Iranians, for example, claim that the government has prevented them from building a Sunni mosque in Tehran. They also point to the 1994 murder of a Sunni imam who had been critical of the regime and to the destruction of the only Sunni mosque in the eastern town of Mashhad as evidence of official and popular hostility toward Sunnis. Iranian Sunni leaders have alleged widespread abuses and restrictions on their religious practice, including detentions and torture of Sunni clerics and bans on Sunni teachings in public schools and Sunni religious literature, even in predominantly Sunni areas.

A number of senior Shiite religious leaders who have opposed various religious and/or political tenets and practices of the Iranian government have also reportedly been targets of state repression, including house arrest, detention without charge, unfair trials, torture and other forms of ill treatment. In addition, the government has closed and confiscated educational and charitable institutions associated with these leaders. In some cases, these clerics have been targeted for their opposition to reported restrictions on controversial religious practices and state control of religious institutions.

C. Commission Recommendations

In light of the preceding description of the situation in Iran, the Commission makes the following recommendations:

1. The President or Secretary of State should reaffirm to the government of Iran that improvement in religious freedom and other human rights in that country is a prerequisite for the complete relaxation of sanctions by and the normalization of relations with the United States.

In the past, the State Department has articulated four conditions for the improvement of relations with Iran: (1) Iran should not develop weapons of mass destruction, (2) Iran should not sponsor terrorism, (3) Iran should not impede the “peace process” in the Middle East, and (4) Iran should improve its human rights record. With regard to human rights, including religious freedom, for example, the State Department spokesman stated on July 23, 1998 that U.S. concerns about religious freedom in Iran “will play an important role in any future dialogue with the government of Iran.” Statements made late in the previous administration appear to have dropped reference to the fourth condition. In her March 2000 speech, then Secretary of State Albright articulated only two conditions to the full normalization of diplomatic relations with Iran and the elimination of sanctions: halting nuclear weapons development and ending support of terrorism. As the new administration continues to review and reformulate its Iran policy, the Commission recommends that the fourth condition – improvement in the area of human rights – be prominently and publicly reinstated as an essential part of U.S. relations with the government of Iran, and that religious freedom be clearly included in such advocacy of human rights in Iran.

2. The U.S. government should consistently, continuously, and vigorously press the government of Iran to improve conditions of religious freedom, and should urge its European and other allies to support advocacy for religious freedom in Iran. Voice of America Farsi-language broadcasting into Iran should include regular reporting on religious freedom in Iran and religious-freedom issues in general.

Although the United States does not have diplomatic relations with Iran, the U.S. government should use every opportunity available to press the government of Iran to improve the protection of religious freedom, including public statements and diplomacy in multilateral forums. The Commission recognizes statements made in the past by the White House and the State Department concerning persecution against members of the Baha’i community and the arrest and trial of the members of the Iranian Jewish community, and

believes that such statements made at the highest levels should continue as events dictate. The U.S. government also should urge others, in particular the European Union and those European allies that are engaged in trade and investment relations with Iran, to press for improvements in the conditions of religious freedom in their bilateral relations.

3. The U.S. government should continue to sponsor or support annual resolutions of the United Nations Commission On Human Rights (UNCHR) condemning Iran's egregious and systematic violations of religious freedom and should recruit the support of other Commission member countries, until such violations cease.

Support for a strong resolution condemning human rights violations in Iran is reportedly diminishing among members of the UNCHR. The United States should continue its support for annual resolutions by the UN General Assembly and the UNCHR regarding the human rights situation in Iran, including condemning the Iranian government's egregious and systematic violations of religious freedom, and calling upon the government of Iran to extend an invitation to the Special Representative of the UNCHR on human rights in Iran to visit the country.

4. The United States should facilitate (through issuance of visas) and remove barriers (such as the U.S. Department of Justice policy of fingerprinting Iranians at ports of entry) to unofficial cultural exchange – e.g., academic, religious, athletic, and scientific – between the United States and Iran.

Former Secretary Albright in her March 2000 address stated that Americans should work to expand and broaden person-to-person exchanges of academics and civil society leaders between the United States and Iran. The Commission believes that such exchanges should be encouraged. Iranian religious leaders in particular may benefit from travel in the United States and exposure to American religious leaders who concern themselves with the process of the protection and promotion of religious freedom and with interreligious dialogue and action in the United States.

One impediment to cultural and religious exchanges appears to be an order of the Justice Department that all non-immigrants bearing Iranian travel documents that are seeking entry into the United States must be registered, photographed, and fingerprinted at the port of entry. This policy applies to essentially all Iranians seeking to enter the United States. Iranian scholars, athletes, and others have protested the application of this policy, and in some cases have declined invitations to the United States or have returned home after refusing to be fingerprinted upon arrival. The current, broad fingerprinting policy has frustrated efforts to engage in person-to-person exchanges with Iran, and appears to be more restrictive than is necessary to meet U.S. security objectives. In addition, the publicity in Iran surrounding the use of this policy is reportedly used by those in Iran who oppose the improvement of relations with the United States to criticize those who favor increased ties.

¹ In November 2000, the Commission wrote to President Clinton to express its deep concern over the conditions of religious freedom in the Islamic Republic of Iran, and made the recommendations contained herein with respect to U.S. policy toward Iran.

VI. DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA

A. Background

Notwithstanding the difficulty of obtaining reliable information on conditions in the Democratic People’s Republic of Korea (DPRK or North Korea), it is apparent that religious freedom is non-existent in that country. As the State Department concludes: “Genuine religious freedom does not exist.”¹ The government has imprisoned religious believers and apparently suppresses all organized religious activity except that which serves the interests of the state. Since July 1999, there have been reports of torture and execution of religious believers, including between 12 and 23 Christians on account of their religion.²

There have been significant developments in U.S.-DPRK relations in the last year, including a visit to Washington by the first vice chairman of the DPRK National Defense Commission, then-Secretary of State Madeleine K. Albright’s historic visit to North Korea, and the announcement that certain sanctions against the country would be lifted. In March 2001, Republic of Korea (South Korea) President Kim Dae-Jung visited the United States, and President Bush expressed U.S. support for the South Korean efforts to engage North Korea. However, President Bush also indicated that the United States would not resume missile talks with the DPRK soon and that North Korea remains a threat to U.S. security.

B. Commission Recommendations

U.S. policy toward North Korea has focused on concerns with the proliferation of weapons of mass destruction and missile technology, and peace on the Korean Peninsula. Nevertheless, in light of recent developments and the grievous religious-freedom situation there, the Commission believes that the United States must place significant emphasis on the protection of religious freedom in the DPRK. Therefore, the Commission makes the following recommendations:

1. In the course of further discussions with the North Korean government, the U.S. government should strongly urge the DPRK to reaffirm publicly its commitments under the International Covenant on Civil and Political Rights (ICCPR).

The DPRK acceded to the ICCPR in 1981. In August 1997, however, the North Korean government indicated its intention to withdraw from the treaty in protest against a resolution of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities that criticized the government’s human rights performance. Although the North Korean government apparently stated in August 1999 that it was ready to honor its obligations under the ICCPR, it has yet to submit the required reports. The Commission recommends that the United States urge the North Korean government to reaffirm publicly its commitments under the ICCPR.

2. The U.S. government should press the DPRK to immediately establish conditions whereby the status of religious freedom can be assessed and progress be monitored.

As a result of extensive government control, very little reliable information on the status of religious freedom has emerged from North Korea, as is true with regard to information on conditions in the country generally. The State Department notes that the North Korean government “does not allow representatives of foreign governments, journalists, or other invited visitors the freedom of movement that would enable them to fully assess human rights conditions there.”³ The DPRK government has not responded to a request by the UN Special Rapporteur on Religious Intolerance for an official invitation to visit the country. As an indication of the importance of religious freedom and other human rights to the process of normalization of bilateral relations, the U.S. government should insist that the DPRK immediately establish conditions whereby the status of religious freedom can be assessed and progress be monitored. Immediate actions that the North Korean government should take to address this issue include an invitation to the U.N. Special Rapporteur on Religious Intolerance; an invitation to the Ambassador-at-Large for International Religious Freedom and the Commission; and granting entrance to and sufficient freedom of movement by U.S. and foreign officials, journalists, as well as humanitarian and other appropriate non-governmental organizations.

3. The U.S. government should ensure that any permanent peace treaty between the parties to the Korean War include provisions on religious freedom and non-discrimination in the treatment of religious minorities.

The 1953 Armistice Agreement is an interim cease-fire agreement signed by the military commanders of the North Korean People’s Army, the Chinese People’s Volunteers, and the United Nations Command, which was represented by the commander-in-chief of the U.S. forces. The so-called “Four-Party Talks” (comprising the United States, the People’s Republic of China, the DPRK, and the Republic of Korea (South Korea)) have as one of its goals the conclusion of a “permanent peace treaty” that would formally end the Korean War. The U.S. government should strongly advocate the inclusion in any permanent peace treaty of provisions safeguarding religious freedom and non-discrimination in the treatment of religious minorities. Such provisions are included, for example, in various peace treaties concluded at the end of the First and Second World Wars.

4. The U.S. government should communicate to the government of the DPRK that substantial improvements in religious freedom and other human rights in North Korea is a prerequisite for the normalization of relations with and the complete relaxation of sanctions by the United States.

5. The U.S. government should communicate to the DPRK government that when any U.S. diplomatic presence is opened in North Korea, diplomatic personnel should have reasonable access within the country to assess the state of religious freedom and to monitor developments, and that a religious-freedom dialogue should begin and take place at the highest policymaking levels.

6. U.S. government officials should raise the issue of religious freedom – and the point that improvement of religious freedom is a central

component of the improvement of U.S.-DPRK relations – in all high-level diplomatic exchanges with the DPRK.

Disputes over security concerns and weapons proliferation have dominated the bilateral dialogue between the United States and the DPRK. Also of great concern is the humanitarian situation in the DPRK and the massive suffering that the North Korean people have apparently endured there. Despite the grave human rights situation, it does not appear that concern with human rights, including religious freedom, has yet played a role in the U.S. government's policy toward North Korea. The Commission therefore recommends that substantial improvements in religious freedom and other human rights in the DPRK be made a prerequisite for the normalization of relations between the United States and North Korea. The United States should insist that a U.S. diplomatic presence in the DPRK must include the ability of U.S. personnel to monitor religious-freedom conditions. Moreover, as part of increased ties with the DPRK, the United States should insist that a regular religious-freedom dialogue take place at the highest policymaking levels. Finally, the issue of religious freedom should be raised in all high-level diplomatic exchanges with the DPRK, as former Secretary of State Albright did during her visit in October 2000.

7. The U.S. government should urge the Republic of Korea and Japan, as part of trilateral coordination among the United States and those two countries, to press human rights and religious freedom in their talks with the DPRK as well.

The Trilateral Coordination and Oversight Group was created in April 1999 to facilitate greater policy coordination between the United States, Japan, and South Korea. After the Trilateral Foreign Minister's Meeting that followed her visit to Pyongyang in October, former Secretary Albright remarked that it is essential that the three countries carry on the discussions with North Korea "in parallel, and that we reinforce each other in terms of making sure that each country's special concerns are met." One special concern with respect to North Korea for the trilateral group is the "abductee" issue (i.e. Japanese claims that between the late 1970s and early 1980s, North Korean agents abducted as many as 20 civilians from Japan). Former Secretary Albright stated that she raised this issue with DPRK officials during her visit. Likewise, the United States should urge the Republic of Korea and Japan, as part of trilateral coordination among the United States and these two countries, to press human rights and religious freedom in their talks with the DPRK.

¹ House Committee on International Relations and Senate Committee on Foreign Relations, *Annual Report on International Religious Freedom 2000*, report prepared by U.S. Department of State. 106th Cong., 2nd sess., 2001, Joint Committee Print, 195.

² *2000 Religious Freedom Report*, 197.

³ *2000 Religious Freedom Report*, 195.

VII. NIGERIA

A. Introduction

The Commission's concern with the conditions of religious freedom in Nigeria was substantially heightened in the first half of 2000 by reports of violent clashes between Muslims and Christians. The conflict, sparked by the controversy surrounding the adoption of Shariah in several northern Nigerian states, resulted in several thousand deaths. In late September, Commission staff traveled to Nigeria and met with Nigerian federal and state government officials and religious leaders in the capital and four northern states (Kano, Zamfara, Sokoto, and Kaduna) to assess the state of religious freedom in northern Nigeria. The Commission extends its appreciation to the government of Nigeria and to the U.S. diplomatic mission for their assistance in connection with this trip. In addition, the Commission and its staff have met or communicated with Nigerian religious leaders (including those from the southern portion of the country) and other experts on Nigeria and U.S.-Nigerian relations.

Religious life in Nigeria is public, vigorous, and diverse. Nevertheless, Nigeria continues to suffer from outbursts of violent communal conflict along religious and ethnic lines, pervasive mistrust among religious and ethnic communities, and reportedly serious lapses in the protection of human rights generally. The threats to religious freedom, including reports of religious discrimination, are serious and ongoing. Moreover, recent events portend a possible deterioration in the conditions of religious freedom. Serious outbreaks of Muslim-Christian violence – exacerbated by social, economic, and political conditions that foster religious and ethnic tensions – threaten to divide further the populace along religious lines and undermine the foundations of religious freedom in Nigeria.

The movement in several northern Nigerian states to expand the legal application of Shariah has sparked communal violence and is a source of continuing volatility and tension between Muslims and Christians at both the national and local levels. According to Muslim leaders, the expansion of Shariah is a grassroots popular demand and is rooted in a number of religious, historical, and social factors. Christian leaders and Muslim critics of the Shariah movement, as well as some federal government officials, have attributed the push for Shariah to northern political elites displaced by the advent of democracy and seeking to undermine President Olusegun Obasanjo's rule. Defenders of the expansion of Shariah state that its provisions, both as proposed and as enacted thus far, will not apply to non-Muslims in the north. However, Christians in the north fear that an expanded application of Shariah in their states could expose their communities to increased violence and discrimination. President Obasanjo has been criticized, both inside and outside Nigeria, for not responding more decisively to the religious violence and communal tensions brought about by the Shariah controversy. Regardless of the motivation for the expansion, the Shariah movement – how it is implemented and/or exploited – has the potential to spark renewed violence (and a cycle of violent reprisals), to undermine fragile relations between communities, to fuel intolerance, fear, and incitement, and to undercut equal treatment under the law. The manipulation of religious doctrines and religious sentiments for political ends by any party poses real dangers to religious freedom, as ethnic, tribal, or communal violence take on more explicitly religious overtones, and religious belief, identity, and practice become more of the target.

Current U.S. policy is based on support for Nigeria's democratic transition and its potentially stabilizing role in the region. Central to these goals is the ability of the Nigerian government and people to deal peacefully with religious conflict and its underlying causes, thereby promoting the protection of religious freedom. The U.S. government should assist the Nigerians in their efforts to deal effectively with these problems.

B. Background

1. Demography

Nigeria is a complex multi-ethnic and multi-confessional society. Nigeria's roughly 115 million inhabitants comprise more than 250 ethnic groups speaking more than 500 languages. While there are no accurate modern counts, the *CIA World Fact Book* estimates that roughly 50 percent of Nigerians are Sunni Muslims, while approximately 40 percent are Christians, predominantly Catholics, but also Protestants.¹ Muslims, most of who are Hausa-Fulani, Nigeria's largest "ethnic" group, make up roughly 90-95 percent of the population of the northernmost states. Christians are heavily concentrated in the southeast (Igboland) where they make up roughly 90-95 percent of the local population. In the southwest (Yorubaland), meanwhile, Muslims and Christians are roughly evenly split. The remaining 10 percent of the population follow traditional-indigenous beliefs and are scattered throughout the southeast, southwest, and the "Middle Belt."

2. Religious Freedom

a. Shariah-based criminal laws in northern Nigeria

A system of Shariah law and courts covering the personal status of Muslims (e.g., marriage, divorce, inheritance) has existed in northern Nigeria since before independence in 1960. Since October 1999, eleven northern Nigerian states have expanded or announced plans to expand the application of Shariah. Although the particulars vary from state to state, each has adopted, or plans to adopt, a Shariah-based penal code and provisions to extend the jurisdiction of Shariah courts beyond personal status matters to include Shariah crimes and punishments.² These new codes generally ban the sale and distribution of alcohol, criminalize adultery and gambling, and provide for Shariah punishments such as amputation of the hand for theft or stoning for adultery. Apostasy from Islam is not criminalized. There are also reports that in some states, as part of the Shariah expansion, public schools and transportation systems are being segregated by sex, and that in Zamfara state there are plans to segregate health facilities.

While laws based on Shariah are not new in northern Nigeria, the current move to expand Shariah in the criminal area has become a contentious and volatile issue throughout Nigeria, and a source of tension, division, and violence between Muslims and Christians.³ There is growing concern, inside and outside Nigeria, over how the expansion of Shariah will affect the rights of individual Muslims and non-Muslims and relations between the religious communities.

The states that have implemented, or plan to implement, Shariah-based criminal law assert that the laws apply only to Muslims. According to U.S. Embassy officials, Shariah

courts have no formal jurisdiction over non-Muslims except in civil matters where a Christian expressly consents to the jurisdiction. Some states allow Muslims to opt out of the Shariah courts and have their cases tried in the civil magistrate court, while others do not. In states that do not allow Muslims to opt out, all Muslims are subject to Shariah-based criminal codes regardless of their personal preference or of their particular interpretation of Islamic law (which may conflict with the interpretation adopted by state law).⁴ In addition, in January 2001, a quasi-official corps of volunteer Shariah enforcers in Zamfara state was reportedly given full powers of arrest and prosecution by Governor Ahmed Sani, on the basis that local police had failed to enforce Shariah laws.⁵ This raises the possibility that Shariah provisions may be enforced against some Nigerians to whom they should not apply. In Kano state, official Shariah enforcers (known as the Hizbah) are acting as a kind of “shadow” police force, and there are several reports of criminal elements masquerading as Shariah enforcers in order to perpetrate assaults and other crimes, further threatening the rule of law.

Northern Christians fear that the Shariah-based laws will be applied to them. They also are generally fearful that the extension of Shariah will have a negative impact on their communities: exacerbating what they assert to be an atmosphere and legacy of discrimination and “second class” status; creating the potential for violence from Muslim vigilantes taking the law into their own hands; restricting evangelism efforts; raising the possibility of the loss of livelihoods and exposure to criminal penalties as a result of prohibitions on the sale and distribution of alcohol; and restricting Christian women’s access to public transportation (which affects all women).

Shariah represents a powerful symbol for both Nigerian Muslims and Christians, and the issue has been politicized and subsumed within the country’s broader competing political interests. Nigerian Christians and others with whom the Commission delegation met view the drive for Shariah as a political scheme by northern elites, now finding themselves out of power, aimed at destabilizing the current government of President Obasanjo. In contrast, most Nigerian Muslims with whom the delegation met argued that the drive for Shariah stems from a genuine grassroots desire by Muslims to live according to Islamic norms. Some politicians, most notably Governor Sani of Zamfara, claim to have run for office and been elected on a platform of implementing Shariah. Independent observers have suggested that the popularity of Shariah may also be rooted in frustration with rampant corruption, lawlessness, and the lack of genuine justice in the state courts. Others suggest that the Shariah movement is the product of Nigeria’s democratic transition, which has provided new opportunities for expression and organization.

The question of whether the new Shariah-based criminal laws violate the Nigerian constitution is a contentious and sensitive one. The current constitution prohibits state and local governments from adopting an “official religion,” but authorizes state Shariah courts and confers on them jurisdiction “in civil proceedings involving questions of Islamic personal law” (such as marriage, divorce, and inheritance). The constitution also confers on Shariah appellate courts “such other jurisdiction as may be conferred upon it by the law of the State.”⁶ Many Christians argue that the expansion of Shariah represents a prohibited “official religion.” On the other hand, many Muslims argue that the expansion falls within the enumerated state power to confer additional jurisdiction on Shariah courts and is an expression of the religious freedom of Muslim Nigerians. A number of legal challenges to

the new Shariah-based criminal laws were dismissed by the Zamfara state High Court in February 2001 on the basis that the plaintiffs lacked standing.⁷ Northern Nigerian Muslim political and religious leaders with whom the Commission met did not acknowledge that the Nigerian Supreme Court would be the final arbiter of appeals involving Shariah law. This raises the possibility of an additional constitutional crisis with respect to the expansion of Shariah.

b. Religiously-based discrimination

According to the State Department's *Annual Report on International Religious Freedom 2000*: "In general, states with a clear Christian or Muslim majority explicitly favor the majority faith." Christians in the northern states complain of what they view as officially sanctioned discrimination at the hands of Muslim-controlled governments and describe their communities as "second class citizens." Most complaints predate the recent initiatives regarding Shariah, and include allegations of official discrimination in denial of applications for building or repairing religious institutions, education, access to state-run media, representation in government bodies, and government employment. Christians report that they have difficulty obtaining permits to build churches and religious schools, and in some cases, to buy or lease land and buildings. They also claim that Christian students are sometimes required to attend instruction in Islamic Religious Knowledge (IRK) and that the requirements (where they exist) for providing Christian students with Christian Religious Knowledge (CRK) are often not met.⁸ There appear to be no restrictions on open-air public preaching and distribution of Biblical literature, at least in Zamfara, Sokoto, and Kaduna states. However, Christians report that they are barred from access to state-owned media.⁹ According to Christians with whom the Commission delegation met in Zamfara and Sokoto, much of the purported discrimination was due to the fact that these Christian communities are not adequately represented in important state and local government agencies, such as the Ministry of Religious Affairs and agencies dealing with zoning and land use.

Minority 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.¹⁰ Southern Muslim leaders, such as those at the Nigerian Supreme Council for Islamic Affairs, report official or officially sanctioned discrimination in the media, education, and representation in government institutions. They claim that Muslims are treated unfairly by what they perceive to be Christian-dominated media in the south, both in terms of access of Muslim religious groups to state-run media and in how issues that touch Muslims, including communal violence, are presented in the local media. Muslim community leaders complain that Muslim students in public schools have been denied access to Islamic Religious Knowledge, whereas Christian Religious Knowledge is provided. Southern Muslim leaders report, however, that they have the freedom to propagate their faith and do so openly. According to local press reports, U.S. embassy officials and leaders of the Muslim community in the south, southern Muslims also claim that they are not fairly represented in public institutions such as state legislatures, judicial bodies, and local councils,¹¹ and that Muslims face discrimination in law enforcement as a result of prevalent negative attitudes and stereotypes about Muslims.¹²

c. Communal violence

In February and May of 2000, violence between Nigerian Muslims and Christians erupted, sparked by events connected to the ongoing Shariah controversy. Several thousand Nigerians, both Muslims and Christians, died in these outbursts of violence. According to several reports, in February thousands of Christians assembled in Kaduna city to protest against the Kaduna state assembly's announcement that it had formed a committee to investigate the possibility of adopting a Shariah-based criminal law.¹³ Unruly elements of the crowd returning from the demonstration reportedly attacked local Muslims, prompting counter-attacks and sparking an uncontrollable wave of communal violence all throughout the Kaduna metropolitan area. The violence resulted in tremendous loss of life among both Muslims and Christians, attacks on mosques and churches, and the destruction of property belonging to both communities. Following the violence in Kaduna, there were reprisal attacks against northern (i.e., non-indigene) Muslims in the southeastern part of the country. In addition to violence associated with the controversy surrounding Shariah, there are periodic instances of violence in several areas of Nigeria targeting particular religious communities or religious sites, and there is reported to be a religious component to a continuing cycle of Hausa-Yoruba violence that claimed more than 100 lives in Lagos in mid-October 2000.¹⁴

C. Commission Recommendations

In order to protect and promote religious freedom in Nigeria, the objectives of U.S. policy should be threefold: (1) to prevent further conflict between religious communities; (2) to encourage a political settlement of the Shariah controversy in a manner that protects the sensibilities and the right to religious freedom of individuals from all religious communities; and (3) to support social, economic, and political development programs by Nigerians that enhance the protection of religious freedom, strengthen law enforcement, improve relations between religious communities, and resist efforts to politicize religion, religious identity, and the exercise of religious freedom.

A stable and economically viable Nigeria is vital to U.S. strategic and economic interests and warrants U.S. government involvement. Stability helps maintain a climate favorable to U.S. trade and investment and promotes greater stability throughout West Africa, where Nigeria has considerable influence. In order to help prevent further religious conflict, the U.S. government should urge all Nigerians, and others active in Nigeria, to diffuse rather than inflame religious intolerance.

Against this background, the Commission makes the following recommendations:

- 1. The U.S. government should make the promotion of religious freedom a high priority in its diplomatic discussions with the Nigerian government and urge President Olusegun Obasanjo to condemn – publicly, forcefully, and consistently – religious intolerance and discrimination, and to promote religious freedom and mutual understanding between Muslims and Christians.**

President Obasanjo should be strongly encouraged to use his position and leadership to speak out against sectarian violence, religious intolerance, and religious discrimination throughout civic life, and to promote religious freedom and greater understanding between Muslims and Christians. Strong, consistent, and unequivocal statements from his “bully pulpit” on these issues will help create a national consensus to address these problems.

2. The U.S. government should urge the Nigerian government to counter religiously-based discrimination by doing the following:

2.1. Investigate alleged discriminatory obstacles to establishing and repairing places of worship and work with state and local governments in order to remove such obstacles where they exist;

2.2. Where offered in public schools, provide religious instruction on a non-discriminatory basis and without compelling any student with a religious objection to attend; and

2.3. Ensure equal access to state-run radio and other government media resources to all religious groups without discrimination.

Members of religious minority communities in Nigeria complain that they sometimes face difficulty in obtaining permission to build or repair places of worship, religious schools, and other religious properties. While such delays may at times result from bureaucratic problems, many minority representatives allege that such obstacles are often the result of religiously-based discrimination on the part of local and state authorities responsible for issuing such permits. The national government should be urged to investigate these complaints, and to work closely with state and local governments to resolve them by eliminating such discrimination where it exists. Both Christians and Muslims in states where they are in the minority complain that their children who attend public schools are denied meaningful access to teachers or instruction of their religion. Unlike in the United States, religious instruction in Nigeria is permitted in the public schools, and there is government involvement in the provision of such instruction. Wherever this is the case, it is critical that there be no discrimination against any Nigerian on the basis of religion and that religious minorities attending those public schools be granted access to teachers and instruction of their religion. In addition, in January 2001, Nigerian lawmakers approved a proposal by the Nigerian Inter-Religious Council to make religious education compulsory at the elementary and secondary school levels. If and when this is implemented, students with religious objection to such instruction should not be compelled to attend. Lastly, both Christian and Muslim leaders claim that their religious groups are improperly restricted in their access to state-run media in those areas where they are in the minority. The U.S. government should urge the Nigerian government to address this problem effectively and in a manner consistent with the right to free expression.

3. The U.S. government should urge the Nigerian government to monitor closely the implementation of Shariah-based criminal law in northern states: (a) to ensure that it does not apply to non-Muslims and respects the religious-freedom rights of all citizens, and (b) to prevent law

enforcement activities in northern states by any quasi-official or private corps of Shariah enforcers.

In each case that the Commission is aware of, non-Muslims are said to be exempt from the application of Shariah-based penal codes and not subject to the jurisdiction of the corresponding court systems. The Nigerian federal government should be urged to ensure that persons charged, tried, and punished for criminal offenses in Shariah-based systems are treated fairly and equitably, including with respect to the determination of whether or not they are Muslim. Mechanisms should be in place to ensure that any accused person, Muslim or not, may opt out of the Shariah court system. Further, the enforcement of the criminal law should not be in the hands of untrained, unauthorized “Shariah enforcers” outside the police force. Rather, law enforcement (both at command and operational levels) should be structured and implemented in a professional, non-sectarian manner.

4. The U.S. government should urge the Nigerian government to take effective steps to prevent and contain acts of communal violence, prevent reprisal attacks, and bring those responsible for such violence to justice.

Critical to the protection of religious freedom in Nigeria is the ability of all levels of government to effectively prevent communal violence, contain and defuse violence once it arises, and bring the perpetrators of violence to justice. Although the Nigerian federal government has taken some steps to prevent tensions and has acted to quell violence, it has apparently made little progress in arresting and charging those responsible for the violence in Kaduna, and subsequent reprisal attacks in the south.

5. The U.S. government should, through its foreign assistance programs:

5.1. Support programs aimed at preventing communal conflict, defusing inter-religious tensions, and promoting religious tolerance and respect for religious freedom and the rule of law; and

5.2. Support programs that foster objective, non-inflammatory, and non-biased reporting by the Nigerian media in a manner consistent with the right to free expression.

To the extent that it provides foreign assistance to Nigeria, the United States should support programs by religious communities, inter-religious dialogue forums, and other non-governmental organizations throughout Nigeria that seek to prevent communal violence, defuse inter-religious tensions, and promote religious tolerance and respect for religious freedom. Such programs can disseminate accurate, objective news and information on such topics as religious communities, conditions of religious freedom, and the adoption and implementation of Shariah. This will help to reduce the atmosphere of mistrust, ignorance, and innuendo in which conflict and violence can so easily erupt. Such programs can also be used to mediate conflict and prevent or manage outbreaks of violence should they occur.

Current threats to religious freedom in Nigeria are related, at least in part, to the perceived failure of administrative, judicial and law enforcement institutions to operate

fairly, effectively, and according to the rule of law. The United States, through its foreign aid programs, should work with Nigerians on training those involved with law enforcement and criminal law adjudication in transparency and public accountability, due process, equal protection, legal ethics, and the rule of law. Lessons or expertise could be drawn from U.S.-based and other organizations that operate effective programs in judicial training, law reform, and professional law enforcement training in other parts of the world.

It is alleged that Nigerian media reporting about religious issues, including inter-communal violence, can be biased. The lack of objective news and information is said by some to contribute to the volatility of relations between religious communities. Special emphasis should be placed on working with Nigerian media and through Voice of America broadcasting, which should include regular reporting on religious freedom, religious tolerance, and relations between religious communities in Nigeria.

6. The U.S. government should make the promotion of religious freedom a high priority and should strengthen its information-gathering efforts throughout Nigeria, particularly in northern states and areas plagued by communal violence.

The diplomatic presence of the United States throughout Nigeria has diminished in recent years. The Commission is concerned that this not hamper the ability of the United States to monitor religious freedom and communal violence, and engage Nigerians both in and out of government on these issues. For example, a U.S. consulate in Kaduna (closed in 1999) might have allowed U.S. officials better access to firsthand information regarding communal and religious violence in February and May and greatly enhanced the mission's ability to respond to the unfolding crisis. Because many of the religious-freedom problems in Nigeria are local in nature, an adequate presence throughout Nigeria is essential.

¹ No reliable recent data exists for religious demography in Nigeria. Most current estimates are extrapolated from the last official census conducted in 1963, which put Muslims at 47 percent, Christians at 35 percent, and followers of traditional-indigenous religions at 18 percent of the population ("Nigeria: A Country Study," Library of Congress, 191). A survey conducted in February 2000 by Professors Peter Lewis of American University and Michael Bratton of Michigan State University, which drew from a representative sample of the Nigerian population, suggests that no religious group constitutes a majority of the population (see Lewis and Bratton, "Attitudes Toward Democracy and Markets in Nigeria: Report of a National Opinion Survey January-February 2000," April 2000).

² As of April 10, 2001, Zamfara, Sokoto, Niger, Katsina, Kano, Kebbi, and Yobe states have implemented new Shariah criminal laws. Bauchi, Borno, and Jigawa states have adopted but have not yet implemented them. Kogi, Gombe, and Nassarawa states have announced that they intend to adopt Shariah criminal laws, while Plateau, Kwara and Ondo have rejected their adoption. Meanwhile, Kaduna state, the site of last spring's sectarian violence, has announced a 'modified form' of Shariah, providing for concurrent jurisdiction of customary and Shariah courts (based on choice), devolution of powers to local governments to

determine the application of Shariah in their districts, and designation of areas that are exempt from prohibitions on the sale and distribution of alcohol.

³ Most of the existing Northern Nigerian Penal Code is based on Shariah but omits severe punishments such as amputation, stoning, and caning. Northern Muslims have campaigned to implement an expanded form of Shariah for Muslims since independence in 1960.

⁴ As of April 10, 2001, several Shariah-based sentences had been handed down in Zamfara state and include a hand amputation (for theft) and two cases of flogging (for fornication). In Fall 2000 a Sokoto man was convicted of theft and sentenced to have his hand amputated – a sentence that had not yet been carried out as of April 10, 2001.

⁵ Africa News, “Zamfara Gets Alternative To Nigeria Police Force,” January 31, 2001.

⁶ Constitution of the Federal Republic of Nigeria, Article 277.

⁷ Interestingly, 14 year-old Bariya Magazu, who was caned in January 2001 in Zamfara state for fornication in apparent violation of a court-issued legal stay of execution, may have legal standing to challenge on appeal the constitutionality of the new Shariah-based criminal law.

⁸ Unlike in the United States, the Nigerian government allows and provides for religious instruction in public schools. While courses in CRK and IRK are currently not compulsory at any level, states and schools may choose (and usually do) to provide either CRK or IRK (or, in some instances, both) in public schools. Teachers of IRK and CRK are employed and paid by the state; however, there are apparently no regulations or guidelines established by either state or federal officials for certifying or training religious instructors, or for regulating the curricula they choose. In January 2001, however, Nigerian lawmakers approved a proposal by the Nigerian Inter-Religious Council (NIREC) to make religious education, both Muslim and Christian, compulsory at the elementary and secondary school levels, and a Ministry of Education commission has been charged with developing a religious curriculum.

⁹ Given widespread illiteracy, radio is a particularly important medium in Nigeria.

¹⁰ Relations between Muslims and Christians in the southwest (Yorubaland), where they are roughly evenly split, are reportedly generally amicable.

¹¹ Dr. Abdul Lateef Adegbite, “Overview of Religious Freedom in the Southern States of Nigeria,” Nigerian Supreme Council for Islamic Affairs (no date).

¹² Based on correspondence between USCIRF staff and the Nigerian Supreme Council for Islamic Affairs, January 2001.

¹³ Kaduna’s Gov. Makarfi claims that he had convened a meeting of Kaduna’s religious leaders, both Muslim and Christian, and that they had arrived at a consensus to create a committee to investigate the issue.

¹⁴ Christian churches in Sokoto were attacked in March. However, there were no deaths and local Christians agreed that the motive was robbery, not religion.

VIII. PAKISTAN

A. Introduction

Although the government of Pakistan does not appear to be engaged in a systematic effort to persecute religious minorities, it is clearly not doing enough to adequately protect the religious freedom of all of its citizens. Members of the Ahmadi religious community are prevented by law from engaging in the full practice of their faith. Religious minority groups (including Christians, Ahmadis, and Hindus) complain that they are politically marginalized by a system of separate electorates, and that this system exacerbates other religious-freedom problems. The criminal laws against blasphemy are abused, resulting in detention of and sometimes violence against religious minorities as well as the targeting of numerous Muslims on account of their religious beliefs. Finally, there is a substantial amount of sectarian violence, largely targeting Shiite Muslims, committed by organized groups of religious extremists.

General Pervaiz Musharraf, who took power in a military coup in October 1999, made some announcements early in his tenure that appeared to indicate that his government was going to begin to address some of these problems. Unfortunately, his government has, so far, failed to live up to many of the expectations that it had raised. Moreover, it has been criticized in Pakistan for capitulating to, and thus emboldening, political and other societal forces that advocate policies that are antagonistic to the protection of religious freedom for all Pakistanis and the equal citizenship of all religious communities.

In September 2000, the Commission held a public hearing on religious freedom and U.S. policy in Pakistan at which it heard the testimony of witnesses from the region as well as academic experts and a former U.S. diplomat. In December, two members of the Commission's staff visited Pakistan at the invitation of the Pakistani government. The Commission delegation held extensive meetings with Pakistani government officials, representatives of religious communities, religious political parties, and human rights non-governmental organizations, legal advocates, religious scholars, journalists, humanitarian aid workers, and U.S. and other foreign diplomats in Islamabad, Lahore, Karachi, and Chenab Nagar (formerly known as Rabwah, the center of the Ahmadi community). The Commission extends its appreciation to the government of Pakistan as well as the U.S. diplomatic mission for their assistance in connection with this trip. In addition to these efforts, the Commission met with the Pakistani Ambassador to the United States, and received private briefings from representatives of religious communities in Pakistan, academic and other experts, and State Department and other U.S. government officials.

B. Religious Demography

The population of Pakistan is approximately 138 million. Official population statistics are based on the last completed census from 1981. A new census was conducted in 1998, but, as of the date of this report, the government has not released the results as they relate to the religious composition of Pakistan's population. Estimates place Muslims at approximately 97% of the population. Sunni Muslims predominate at 77%, while Shiite Muslims make up about 20% of the population. The Shia are concentrated in Karachi,

Lahore, and in the northwestern border zone with Afghanistan. According to the State Department, current estimates of the number of Ahmadis in Pakistan are between 3 and 4 million. Christians and Hindus each constitute about 1.5 percent of the population. Christians, primarily belonging to the Church of Pakistan (Anglican/Presbyterian) and the Roman Catholic Church, are centered in Lahore but live throughout the country. Hindus are found primarily in Sindh province and in the vicinity of Quetta. There are small numbers of Buddhists, Parsis (Zoroastrians), Sikhs, and followers of traditional tribal religions.

C. Ahmadis

Ahmadis are followers of Mirza Ghulam Ahmad, who founded a religious community in the late nineteenth century in what was then British India. Although Ahmadis consider themselves to be Muslim, some Muslims in Pakistan hold the opposite view because of the Ahmadis' claim that their founder was a recipient of divine revelation and a prophet of God. This claim is believed by some Muslims to violate a basic Islamic tenet regarding the finality of the prophet Muhammad.¹ This religious difference has been used in the past by certain Pakistani governments to justify a number of legal restrictions on the Ahmadis' practice of their faith.

In 1974, during the Zulfikar Ali Bhutto regime and after a number of days of debate in the National Assembly, a constitutional amendment was passed that declared Ahmadis to be non-Muslims for purposes of the Constitution and law. Beginning in 1984, a number of criminal provisions were promulgated that specifically targeted Ahmadis, essentially punishing any Ahmadi who "poses" as a Muslim.²

Because the religious practices of the Ahmadis apparently are essentially the same as those of most Sunni Muslims, these legal prohibitions have the effect of a far-reaching ban on the public practice of their faith. As these laws have been interpreted and applied, it is illegal for Ahmadis to call their places of worship "mosques," to worship in non-Ahmadi mosques or public prayer rooms (otherwise open to all Muslims), to perform the Muslim call to prayer, to publicly quote from the Quran, to wear on their person the medallion carrying the *Kalima* which states the basic affirmation of the Muslim faith, to preach in public, to seek converts, to use the traditional Islamic greeting in public, and to produce, publish, and disseminate religious materials. Ahmadis have reportedly been arrested for all of these acts.

The Ahmadis report that since 1984, approximately 3,000 individuals, including their current religious leader who lives in London, have been charged under anti-Ahmadi laws and/or with blasphemy or other religious offenses. As of December 2000, 11 Ahmadis were reportedly being detained under such charges, while approximately 20 others have been charged but are not in detention. The major Ahmadi religious organization has not been able to hold an official meeting since 1974. Ahmadis also report that they are prevented from advancing to high posts in the government and the military, and that they are unable to obtain government scholarships to, or sometimes even admission into, colleges and universities. In addition, Pakistani Muslims who apply for a passport must declare that they consider the Ahmadi founder to be an "imposter" and that his followers are non-Muslims. This means that Ahmadis are unable to obtain a passport or to travel abroad without violating their conscience, i.e. declaring themselves to be non-Muslim.³

In the Ahmadis' view, the enforcement of criminal laws and other discriminatory measures against them is not primarily the result of a direct campaign of the current government or of widespread social enmity, but results from pressure by small groups of religious extremists on local government officials to initiate and prosecute cases against Ahmadis. However, the current government is criticized for not opposing the activities of these extremists or adequately supporting local officials in their efforts to resist such pressures. Recent incidents of violence against Ahmadis in October 2000 (discussed below) were attributed to the activities of these extremist groups, and to the atmosphere of intolerance that their activities – and the government's acquiescence – had created. In addition, given the alleged endemic corruption in the Pakistani legal system, the threat of prosecution under the anti-Ahmadi laws, like the blasphemy and many other laws, can be used to settle personal disputes that have nothing to do with religion.

D. The Separate Electorate System for Religious Minorities

By an amendment adopted in 1985, the Constitution provides that a certain number of seats in the National and Provincial Assemblies are set aside for four categories of non-Muslims: Christians, Ahmadis, Hindus, and others (Parsis, Sikhs, Buddhists, and others). Religious minority Assembly members are elected on an at-large basis from voting rolls made up solely of members of their communities. Muslims (and no others) vote for Muslim Assembly members on a territorial basis.⁴

The representatives of Ahmadi, Christian, and Hindu religious communities that testified before the Commission and with whom the Commission delegation met in Pakistan were virtually unanimous in stating that this "separate electorate" system for religious minorities was the most significant problem that they faced, one that was at the root of many of their other religious-freedom problems, and thus eliminating the separate electorate was a necessary step in addressing those problems. Many asserted that this electoral system rendered religious minorities "second-class citizens" and placed them outside the mainstream of Pakistani political life; some termed it "religious apartheid." Moreover, it has the effect of completely disenfranchising the Ahmadis, as they reportedly do not participate at all in elections because they believe that to vote under the separate system is an explicit declaration that they are non-Muslims.

Minority representatives consistently stated that they believed they would be better represented by Assembly members elected by the total voting population of a particular locality, even if the numerical strength of religious minorities prevented the direct election of Christian, Hindu, or Ahmadi legislators.⁵ Under the separate electorate system, it is alleged that local Muslim legislators do not respond to the concerns of religious minorities in their districts, but would do so if they identified minorities as part of their constituency and had to rely on their votes. Also, religious minority representatives elected under the separate electorate are typically based in major urban centers, far away from the dynamics of local problems. Because many religious-freedom problems are asserted to be essentially local ones, such as the abusive enforcement of the blasphemy (see below) and anti-Ahmadi laws, and local intolerance, violence and discrimination, it is believed that having local representatives (regardless of their religion) who were responsive to local concerns would help prevent abuses and defuse tensions. Many minority representatives also believed that

moving to a joint electorate might help set in motion a long-term political process that would ultimately reduce the enforcement of discriminatory laws and incidents of religious intolerance and violent extremism.

One measure of the strength of the dissatisfaction of religious minorities with the separate electorate system is their conscious boycott of the recent phase of local elections held in December 2000. Notwithstanding what is alleged to be a promise made by General Musharraf to representatives of religious minorities to hold local elections with a joint electorate, the first round of elections for local governing councils employed a scheme of representation based on separate electorates. Acknowledging that minority communities had generally boycotted the local elections in protest against the separate electorate system, federal Minister for Local Government and Rural Development Omer Asghar Khan has reportedly asked the government and policymaking institutions to give serious consideration to introducing the joint electorate system in general elections.⁶

E. Abuses of the Blasphemy Laws

There appears to be widespread agreement among government officials, legal advocates, and leaders of many religious communities in Pakistan that the criminal provisions against blasphemy are being abused. The Pakistani Penal Code contains provisions dating from the British colonial period that punish words and acts intended to be injurious to religious feelings (of followers of any religion). During military rule under Zia ul-Haq, provisions were added that penalize defamation of the Prophet Muhammad (punishable by death), persons associated with the Prophet, and the Quran.⁷

Those who testified before the Commission and with whom the Commission delegation met in Pakistan describe the nature of these abuses in the following way. To initiate a blasphemy case, any person can file a First Information Report (FIR) at the local police station. By doing so in a public way, a crowd of angry persons can be assembled and the police will take the accused into custody, ostensibly (and at times sensibly) for his or her own safety. Once local feelings have been aroused, local officials are reluctant to release the accused before trial. The instigators of such charges (alleged to be almost always false) are reported to fall into three categories: (1) those who have a personal dispute with the accused that is unrelated to religion (but the blasphemy law is a convenient way to attack them); (2) representatives of small but active organizations characterized as "fundamentalists" and "extremists" that operate throughout the country that target "deviant" Muslims, Ahmadis, Christians, and other religious minorities for prosecution; and (3) local Muslim religious leaders who are either ideologically or organizationally aligned with or sympathetic to the aforementioned groups.

Numerous Ahmadis, Christians, Hindus, and Muslims have been charged under the blasphemy laws. There has reportedly been an increase in recent years in abuses of the blasphemy laws against Muslim religious targets, including Sufis and Muslim religious scholars.⁸ Blasphemy cases continue to be filed under the Musharraf government, and the Human Rights Commission of Pakistan reports that a total of 38 blasphemy cases were filed in the first 10 months of 2000 against 40 Ahmadis, 26 Muslims, and six Christians.

Many of those charged with blasphemy are eventually acquitted at trial (but only after serving long detentions), or cleared on appeal to the High Court.⁹ However, the judicial process typically takes years. Courts have handed down sentences ranging from two years imprisonment to death for blasphemy law violations. The appeal of the one person who has been sentenced to death, a Christian, has been pending since 1996. In 1998, a Shiite Muslim convicted of blasphemy was given the death sentence. His case is still pending. Moreover, there have been several well-publicized cases of mob and terrorist violence (sometimes fatal) against those accused of blasphemy (including those in police custody), and some accused have reportedly fled the country on account of harassment and threats.

Many of those with whom the Commission consulted believed that abuses of the blasphemy law could be mitigated with a change in the procedure for registering, investigating, and prosecuting cases. Many believed that the proposal announced by General Musharraf in April 2000 to require an investigation and approval by the local Deputy Commissioner prior to allowing the filing of an FIR (and taking the accused into custody) would have been effective in curbing at least some of the abuses.¹⁰ Others believed that the decision to move forward with a blasphemy arrest should rest with a central authority in Islamabad, because, as a local official, the Deputy Commissioner would still be subject to local pressures. Nevertheless, the government's reform proposal was withdrawn soon after it was announced, reportedly as a result of pressure from some Muslim religious groups. An additional meaningful reform that was suggested to the Commission was that the most commonly-used blasphemy provision (i.e. Pakistan Penal Code sec. 295-A) should be removed from the list of crimes that are tried by the special anti-terrorist courts, where the accused has fewer procedural protections, and more restricted rights to appeal, than in normal criminal courts.¹¹

F. Religious Violence

There are dozens of cases each year of deadly violence between Sunni and Shiite Muslims.¹² In many cases, prominent Shiite figures (both political and religious) are targeted. On numerous occasions, multiple killings (including of children) have taken place at Shiite mosques during religious services. According to Shiite and Sunni political leaders, as well as government officials, this violence is not the result of societal intolerance between these religious communities, but is organized and carried out by a small group of extremists on both sides of the sectarian divide. Pakistanis, including government officials, with whom the Commission met blamed a variety of outside instigators, including the Taliban in Afghanistan, Saudi Arabia, Kuwait, the United Arab Emirates, Iran, and India, for supporting extremist activities.¹³

Although this situation is a very complex one, there is reportedly a religious component to the violence, in that a small minority of Sunni Muslim religious leaders preaches that the Shia are heretics and justifies violence against them in religious terms. However, others consider the violence to be primarily political or criminal in nature, as there are high levels of both types of violence in Pakistan. According to one Shiite leader with whom the Commission delegation met, the government was not cracking down hard enough on terrorist activities targeting Shia; the authorities have not made sufficient arrests nor was capital punishment carried out against those who were arrested.

Pakistan has a large number of Islamic religious schools that play an important role in the country's educational system. There have been reports that a very small percentage of these schools provide weapons training and thus contribute to religious violence. A scholar who testified before the Commission and who has studied Islamic religious schools has concluded that some of these schools run by particular religious groups provide ideological training and motivation to those who go on to fight in Afghanistan and Kashmir, and take part in violence targeting religious minorities in Pakistan as described above. The government has been criticized in Pakistan for not taking steps to disarm these schools and to put a stop to their involvement in acts of violence.

In September and October 2000, there were two instances of deadly violence against Ahmadis. In both instances, Ahmadi groups were attacked at prayer and a total of 10 people were killed. In one case, the perpetrator was a local person who had a history of harassing Ahmadis – a possibly deranged individual who was known to, but not restrained by, the local authorities. He was reported to have incited an angry group of local people who subsequently destroyed the Ahmadi mosque. In the second case, the attack was carried out by a group of men unknown to the local community. Arrests have been made in at least one case.

G. Commission Recommendations

- 1. The U.S. government should urge the Pakistani government to sign and ratify the International Covenant on Civil and Political Rights.**
- 2. The U.S. government in its bilateral relations with the Pakistani government should take the position that the separate electorate system for religious minorities is inconsistent with democratic principles, the right to equal citizenship, and the protection of political rights without discrimination on the basis of religion as provided in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.**

Pakistan is almost unique in its system of separate electorates for religious minorities. The only other country that the Commission is aware of that employs separate electorates on the basis of religion is Iran. Members of religious minorities and others in Pakistan told the Commission they believe that this system renders them second-class citizens, which contradicts the promise made by the founder of Pakistan, Muhammad Ali Jinnah, that persons of all faiths were equal citizens of the country. In addition, they consider it to be discriminatory and detrimental to the protection of religious freedom. Moreover, the system violates the internationally recognized political rights of both religious minorities and Muslims.

Because the separate electorate system as regards to Provincial and National Assemblies is a constitutional issue, only the National Assembly should make changes to it. Thus, the current military government should not be encouraged to make such changes unilaterally. Nevertheless, the U.S. government should take the position that a transition to democratic rule in Pakistan will not be considered by the United States to be complete unless

and until all Pakistanis have equal political rights regardless of their religion, i.e. elections are held by universal and equal suffrage. In addition, the U.S. government should urge the Pakistani government to allow local elections to go forward on the basis of a joint electorate including religious minorities. In the event that this change is not made, the State Department should monitor closely the participation of religious minorities in the ongoing local elections that are scheduled to run until mid-2001.

3. The U.S. government in its bilateral relations with the Pakistani government should take the position that the existence and enforcement of laws targeting Ahmadis that effectively criminalize the public practice of their faith violates the right to freedom of religion guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The State Department should closely monitor the application and enforcement of laws targeting Ahmadis. The U.S. government should also urge the Pakistani government to effectively prevent discrimination against Ahmadis in government and military employment, and education.

As described in detail above, laws targeting Ahmadis in effect criminalize the public practice of their faith. The existence and enforcement of these laws is a denial of religious freedom. Government officials that the Commission delegation met with in Pakistan expressed the view that the Ahmadis were free to practice their faith, as long as they did not claim to be Muslims. Without regard to the veracity of that view, such a condition is not consistent with the freedom to manifest one's religion or belief. Few question that Ahmadis sincerely consider themselves to be Muslim. When individuals sincerely refuse, as a matter of conscience, to accept a government determination of the character of their faith, it is a violation of religious freedom to expose those individuals to criminal penalties or to withhold important government benefits (such as a passport) from them. The U.S. government should express this concern to the Pakistani government and, in that connection, closely monitor the application and enforcement of laws targeting Ahmadis. In addition, regardless of the Ahmadis' status as Muslims or non-Muslims as far as the Constitution of Pakistan is concerned, or that community's acceptance of that decision, there can be no legitimate justification for the official discrimination to which they are reportedly subject. The U.S. government should therefore urge the Pakistani government to take effective steps to prevent discrimination against Ahmadis.

4. The U.S. government should urge the Pakistani government to implement procedural changes to the blasphemy laws that will reduce and aim at ultimately eliminating their abuse. The State Department should monitor the application and enforcement of the blasphemy laws.

Abuse of the blasphemy laws is a problem that successive Pakistani governments have identified as such, but have yet to address in an effective manner.¹⁴ As a result of this failure, Muslims (particularly non-Sunni Muslims), Christians, Ahmadis, and others have been charged as criminals, tried in special anti-terrorist courts, and punished for the public expression of their religious beliefs and because of their religious identity. In addition, private citizens are using the Pakistani legal system as a weapon of intolerance and

discrimination, and to settle personal disputes – a problem not limited to the blasphemy laws.

The U.S. government should urge the Pakistani government to take effective steps to reduce abuses of the blasphemy laws, including procedural reforms that will limit, and eventually eliminate, those abuses. In order to draw the attention of the Pakistani government to particular instances or patterns of abuse, the State Department should continue to actively monitor the application and enforcement of the blasphemy laws. Some representatives of religious minorities in Pakistan have expressed the view that public, international attention given to individual blasphemy cases can be counter-productive and potentially lead to violence. The State Department should take this concern into consideration in choosing the most effective way to advocate with the Pakistani government on this issue.

5. The U.S. government should urge the Pakistani government to take effective steps to prevent sectarian violence and punish its perpetrators, including disarming militant groups and any religious schools that provide weapons training. The U.S. government should also urge the Pakistani government to establish and support mechanisms of interfaith dialogue that encompass all religious communities in Pakistan, and facilitate widespread dissemination of the work and findings of this dialogue.

Religious extremism is acknowledged as a serious problem in many sectors of Pakistani society. Dozens of Muslims die every year in inter- and intra-sectarian violence. The Pakistani government appears to have taken some steps to address the problem, including a recent announcement regarding its intention to disarm militant groups. While the Musharraf government has paid some attention to this problem, it has also been criticized for not doing enough to prevent sectarian violence, punish its perpetrators, and disarm religious militants. Some have charged that the government has supported, or at least turned a blind eye toward, religious militants because such groups provide fighters that implement government foreign policy objectives in Kashmir and Afghanistan.

The Pakistani government should be urged to do all that it can – consistent with the freedoms of religion, expression, assembly, and association – to prevent sectarian violence and to punish the perpetrators of that violence. The United States should encourage these efforts.

6. The U.S. government should urge the Pakistani government to complete the denationalization of Christian schools and colleges in Punjab province.

In 1972, the government nationalized without compensation a number of private educational institutions in Sindh and Punjab provinces, including all private Christian schools and colleges. Although all of the schools in Sindh apparently have been returned, the progress of denationalization in the Punjab has been very slow. In 2000, there were more than 40 Christian schools still under government control.¹⁵ Moreover, in some cases the government has reportedly demanded extensive prepayment of teachers' salaries before they

will return the schools. The U.S. government should urge the Pakistani government to expeditiously return nationalized Christian schools and colleges in the Punjab to their former owners.

7. The U.S. government should, through its own foreign assistance and in conjunction with other donors, support the following in Pakistan:

7.1. teacher training and other educational programs in religious tolerance;

7.2. non-governmental organizations engaged in legal advocacy to protect the right to freedom of religion, in particular defense of persons charged under the blasphemy and anti-Ahmadi laws;

7.3. judicial reform and law-enforcement training;

7.4. improvements in the public education system in order to promote the availability and quality of education for all Pakistanis.

U.S. government assistance to Pakistan is quite limited, in part due to the sanctions imposed following the 1998 Pakistani nuclear tests. Current U.S. assistance is primarily in the form of aid to non-governmental organizations (NGOs) in Pakistan working in the fields of health and education, with a goal toward building the capacity of those NGOs. This NGO initiative, which has been providing about \$3 million in aid annually since 1994, is scheduled to wind down in 2002. Recently, the State Department has been authorized by Congress to provide government-to-government assistance for education. According to USAID, aid assessments are currently being made in the areas of education and democratic political development.

Although U.S. assistance to Pakistan is modest, some part of it should be employed to help Pakistanis develop their own solutions to religious-freedom problems. The U.S. can also coordinate with other bilateral and multilateral donors to address these issues. Most directly, U.S. aid in the area of education should include support for programs designed to promote religious tolerance, conflict resolution, and greater awareness and understanding among religious communities. In addition, in terms of capacity building, the United States should support NGOs in Pakistan engaged in legal advocacy to protect the right to freedom of religion. Where open support by the United States might expose such NGOs to criticism or harassment by others opposed to their missions, appropriate intermediaries should be found. These organizations play an important role in the protection of religious freedom in Pakistan, particularly because so many religious-freedom problems there are legal in nature and many victims of legal abuses apparently cannot afford adequate representation. In addition, legal advocates are not always willing to defend those charged under the blasphemy and anti-Ahmadi laws because they reportedly fear being stigmatized or harassed for doing so.

More generally, many religious-freedom violations in Pakistan stem from abuses of law enforcement in the Pakistani legal system and the failure of that system to protect

fundamental rights, including the right to freedom of religion, in a timely manner. Thus, improvements in the transparency, accountability, ethics, and independence of law enforcement and the judicial system will have significant derivative benefits to the protection of religious freedom. The United States should devote some of its assistance and expertise to this area.

Furthermore, the Pakistani public education system is by all accounts in a deplorable state. The 1998 census put the total illiteracy rate at 45 percent; for adults it is below 33 percent. The Human Rights Commission of Pakistan reports that primary school participation in Punjab is only 38 percent. Most of the Commission's interlocutors in Pakistan strongly suggested that tolerance and the protection of religious freedom in Pakistan would be promoted in the long term by increasing the capacity and quality of education for all Pakistanis.

Finally, U.S. foreign assistance in all areas should not contribute to religious tensions in Pakistan, and all programs should be carefully reviewed to determine if cooperation among different religious communities could be integrated into such programs. Moreover, the United States should not support through its democracy and governance programs local elections in Pakistan that are conducted on the basis of separate electorates.

¹ There are two separate groups of Ahmadis: the Qadiani group (Qadian, in India, was the place where Ahmadis were concentrated before partition) and the Lahori group. The Qadianis believe that the founder of the movement was essentially a prophet of God. The Qadianis are by far the larger of the two groups, and they have adherents all over the world. Their spiritual leader is currently in London. The Lahori group, smaller in number and generally living in the area around Lahore, do not consider the founder of the Ahmadis to be a "prophet (*nabi*)" as such, but a "reformer (*mujaddid*).² Despite this distinction, the Lahori group is subject to the same legal restraints as the Qadianis and they report the same problems.

² In 1984, Sections 298-B and 298-C were added to the Pakistan Penal Code. Section 298-B prohibits Ahmadis from using certain descriptions and titles that are references reserved to the Prophet Muhammad in either spoken or written form, with any other person. It also prohibits Ahmadis from calling their place of worship *masjid* or their call to prayer an *azan*. Section 298-C prohibits Ahmadis "from calling themselves Muslims or posing as Muslims; from referring to their faith as Islam; from preaching or propagating their faith; from inviting others to their fold and from insulting the religious feelings of Muslims."

³ One of the declarations on the passport application in the case of Muslims reads: "I consider Mirza Ghulam Ahmad Qadiani to be an imposter *nabi* [i.e. prophet] and also consider his followers whether belonging to the Lahori or Qadiani group to be non-Muslim."

⁴ Following the military takeover in October 1999, the National and Provincial Assemblies were dissolved. Although the Pakistan Supreme Court has determined that National Assembly elections must be held by October 2002, Chief Executive Musharraf recently

affirmed that elections for the National Assembly would be held before this deadline. No date has been set for Provincial Assembly elections. Elections for local councils from village to district levels are due to be concluded by mid-2001.

⁵ Some in Pakistan argue that if the joint electorate fails to produce adequate representation for religious minorities, additional Assembly members can be selected or appointed; however, in their view, the principle of the joint electorate should not be sacrificed to achieve this result.

⁶ *The Dawn*, January 2, 2001. As a result of the “conscious boycott” of minorities in Pakistan all the non-Muslims who filed their nominations for the contest were returned unopposed in 16 to 18 districts. The number of those returning to these councils without contest is 383 in the Punjab, 96 in Sindh, 31 in (NWFP) North West Frontier Province and three in Baluchistan Provinces. The total number of seats in these provinces is 550, 205, 135, and 67, respectively. Electronic correspondence from Father James Channan, Lahore.

⁷ Offenses in the Pakistan Penal Code touching on blasphemy include performing acts or uttering words intended to outrage or wound the religious feelings of others (secs. 295-A and 298); blasphemy against the Prophet Muhammad (sec. 295-C); defiling a copy of the Quran (sec.295-B); and making derogatory statements concerning other Muslim holy personages (298-A).

⁸ Sufi figures arrested under the blasphemy laws include Shaykh Muhammad Yusuf Ali and Ahmed Gohar Shahi. Shaykh Yusuf Ali was convicted of defiling the name of Prophet Muhammad. In January 2001, the Supreme Court of Pakistan refused on technical grounds to hear his bail petition. Ahmed Gohar Shahi is the leader of a Sufi sect called Anjuman Sarfros-e-Islam. He was convicted *in absentia* because in one of his publications he claims that his face appeared on the Kaaba of Mecca. Gohar Shahi fled to England, allegedly because of the blasphemy accusation against him. Several of his followers are currently in jail for or charged with blasphemy law violations. Dr. Yunus Shaykh, an Islamic scholar was arrested in October 2000 because of statements he made about the Prophet Muhammad and his early wives. Pakistani government officials with whom the Commission delegation met cited Dr. Shaykh’s case as an example of abuse of the blasphemy laws.

⁹ On January 25, 2001, a Pakistani High Court acquitted three Christians of blasphemy charges. They had been in detention since 1998.

¹⁰ Some hoped that if effective procedural reforms were implemented, enforcement attempts would dwindle and the laws would fall into disuse, as they have in certain European countries that still have blasphemy laws on the books.

¹¹ In its meeting with the minister for Religious Affairs, the Commission delegation was told that the official Council on Islamic Ideology was considering a proposal to amend the blasphemy laws to include a specific punishment for intentionally filing false charges because filing such charges is contrary to the injunction of Islam. Apparently, there is already a similar provision that applies to all offenses in the Penal Code. This existing

provision has reportedly not helped to reduce the types of abuses described above.

¹² In 1997, the toll for inter-sectarian killings was the highest for several years. One hundred sixty-five people were killed that year, 95 Shias and 70 Sunnis. In 1998, the total number of those killed in sectarian violence was around 150. In 1999, in addition to inter-sectarian conflicts between Sunni and Shias, intra-Sunni conflicts flared up between rival political factions. Up to 100 were killed that year. Data from the Human Rights Commission of Pakistan's *State of Human Rights in 1997, 1998, 1999*.

¹³ The Commission has no evidence to support such accusations.

¹⁴ *The Dawn*, 14 January 2001.

¹⁵ National Commission for Justice & Peace, *Communal Violence and Human Rights Violations (With special reference to rise of fundamentalism in Pakistan, causes of its dominance and the churches' response)* (2000).

IX. RUSSIA

A. Introduction

The future of religious freedom in Russia remains uncertain at a critical moment in that nation's history. The Russian federal government has yet to articulate a policy regarding the situation created by its decision not to extend once again the deadline for registration under a 1997 law that required religious organizations to register in order to operate as legal entities. Thus, some 1,500 unregistered religious organizations are subject to "liquidation" by the state. In addition, the government of President Vladimir I. Putin has yet to establish an effective way to ensure that local and regional laws, policies, and practices do not abridge religious freedom.

The Putin government appears to be committed to the principle of religious freedom, and, like the government of Boris Yeltsin before it, has taken several steps to mitigate religious-freedom violations. Moreover, the Russian courts, led by the Russian Constitutional Court, have in some cases protected the right to religious freedom and provided remedies for the violation of that right, at times overturning local decisions and ameliorating some of the worst features of the 1997 law. Nevertheless, it is uncertain how vigorous the Putin government will be in dealing with Russia's many religious-freedom problems.

It also remains uncertain how the Putin government will respond over time to U.S. government concerns and pressure on religious-freedom issues. The U.S. government has been monitoring and has engaged the Russian government on religious-freedom concerns. The Commission believes that the United States should continue its efforts to monitor, engage at the highest levels, and provide assistance where useful to promote religious freedom in Russia.

The Commission has monitored religious-freedom developments in Russia since its May 2000 Annual Report, consulting with representatives of several religious communities in Russia, human rights organizations, academic experts, and U.S. officials. Following the release of the Commission's report, several Commissioners met with the Russian ambassador to the United States to discuss religious-freedom conditions in Russia. The Commission hopes that the international attention it helped to bring to the conditions of religious freedom in Russia will continue to have a positive effect on the policies of the Russian government.

B. Religious Freedom

The protection of the right to freedom of religion took a significant step backward in 1997 when Russia enacted a federal law (the 1997 Religion Law) that replaced legislation adopted in 1990 that provided broad protections for the exercise of the right to freedom of religion and for the equality of religious communities. The 1997 Religion Law created a hierarchy of religious organizations and effectively restricted the rights, powers, and privileges of smaller, newer, and foreign religious communities. It also established an onerous and intrusive registration process and other mechanisms of state interference with the activities of religious organizations. As noted above, the negative impact of the 1997

Religion Law appears, thus far, to have been mitigated to some extent by the Russian federal authorities and by decisions of the Russian Constitutional Court.

In March 2000, the 1997 Religion Law was amended to extend the registration deadline for religious organizations until December 31, 2000. The amendment provided that unregistered groups be “liquidated” after that date. In its May 2000 Annual Report, the Commission expressed concern that the expiration of the deadline would leave organizations that had not been able to register subject to arbitrary and discriminatory liquidation by the state. The Commission also noted that regional officials implementing the 1997 Religion Law reportedly had prevented the registration of some unpopular religious communities. A recent example of this problem is the refusal of local Moscow officials to register that city’s branch of the Salvation Army, apparently on the bizarre grounds that it is a paramilitary and potentially subversive organization, and notwithstanding the fact that local branches had been registered in a number of other Russian cities, including St. Petersburg. Despite diplomatic efforts by the United States, the registration deadline was not extended.¹

According to the State Department and a report by Keston News Service, Russian Ministry of Justice officials have stated that approximately 10 percent of those religious organizations registered before the adoption of the 1997 Religion Law (between 1,500-2,000 organizations), had not been re-registered.² As this report went to print, however, there were no detailed statistics regarding which organizations had failed to re-register.³

A segment of those organizations that have not been re-registered are reportedly no longer in existence or operation. Also included in this group, however, are organizations that have been denied registration for allegedly invidious or discriminatory reasons. In addition, there are several reports that religious organizations were unable to re-register for financial reasons, because of bureaucratic difficulties, or because they were not sufficiently aware of the requirement or process of re-registration.⁴ Furthermore, several religious bodies have apparently refused to register under the 1997 Religion Law because of the bureaucratic difficulties and interference that they perceive to come along with official registration or, in some cases, as a matter of conscience.⁵

It is still unclear what the policy of the Russian central government will be with regard to the liquidation of unregistered religious organizations. This apparently leaves regional and local officials without guidance or accountability as to how to deal with such organizations and their legal status and rights. However, there are reports that the central Ministry of Justice has instructed local officials to continue to process re-registrations for those organizations that had filed applications, but did not complete registration, before the deadline’s expiration.

Other religious-freedom problems exist in Russia both in addition to and as a consequence of the 1997 Religion Law and its registration process. The problems vary in intensity from region to region, but most appear to relate to local government officials’ treatment of religious communities that are, or are perceived to be, new, foreign-influenced, or non-Russian – such as Roman Catholics, Jehovah’s Witnesses, The Church of Jesus Christ of Latter-day Saints, certain Pentecostals, and other Protestant groups. Even so, “traditional” religious communities such as Buddhists, Jews, and Muslims also experience problems,

particularly where they constitute a small minority of the local population. Disturbingly, one area where numerous problems have occurred is the city of Moscow.

Local officials have harassed and interfered with the activities of religious communities, preventing them from constructing, renovating, or renting suitable places for worship; distributing religious publications; and conducting religious education.⁶ Protestant, Catholic, and Muslim indigenous believers and foreign missionaries have been harassed by security officials, denied re-entry visas, and even expelled, for propagating their faith.⁷ Regional officials implementing the 1997 Religion Law have denied registration and sought the liquidation of unpopular religious communities – including Baptists, Buddhists, Catholics, Charismatic Christians, The Church of Jesus Christ of Latter-day Saints, Jehovah's Witnesses, Jews, Pentecostals, Seventh-day Adventists, and Orthodox groups not associated with the Moscow Patriarchate – in some cases using panels of “experts” to examine the beliefs and activities of the targeted group. In addition, one-third of Russia's constituent regions have enacted legal regulations on religious activities that are more restrictive and discriminatory than the 1997 Religion Law and that the federal government believes may violate the Russian Constitution.⁸ The central government has yet to develop an effective method of disciplining local officials or bringing regional or local laws into line with federal law and the Russian Constitution.

There have been several violent attacks targeting religious minorities in the last year. In March 2001, several armed men attacked the Pentecostal Church of Lipetsk, one of the oldest churches of the Russian Pentecostal Union. The police reportedly arrived approximately 12 hours after the attack. Reports speculate that the attack was provoked by media publications targeting the Pentecostals of Russia, as well as heightened intolerance provoked by the labeling of Pentecostals as a “totalitarian sect.”⁹ In August and September 2000, there were attacks on a Jewish Sunday School in Ryazan and on gatherings of the Jehovah's Witnesses and the Church of Jesus Christ of Latter-day Saints in Volgograd.¹⁰ Anti-Semitic acts continue, as does anti-Muslim activity, and, according to the State Department, the Russian federal government has taken “only limited steps” to advance its promised initiatives against extremism and anti-Semitism.¹¹

The Jehovah's Witnesses have re-registered 97 percent of their organizations.¹² However, officials in two regions in Russia – Moscow and Kabardino-Balkaria – have not re-registered Jehovah's Witness organizations within their jurisdiction. The local Department of Justice in Moscow continues to refuse to re-register the local Jehovah's Witness group, despite a February 2001 Municipal Court decision that denied the local prosecutor's request to liquidate that group.¹³ In the Kabardino-Balkaria region, two cases are pending. First, the prosecutor in the city of Prokhladny has filed a motion to liquidate the local community of Jehovah's Witnesses. Second, in Maysky, where the Jehovah's Witnesses have not been registered as a legal entity, the local prosecutor has brought a legal action to ban their activities.¹⁴

The Roman Catholic Church has completed its legal registration since the passage of the 1997 Russia Religion Law, including a September 2000 full and independent registration for the Jesuit community.¹⁵ However, the Catholic Church had experienced difficulties in legally registering the dioceses of Southern Russia and Eastern Siberia, since the bishops of

those dioceses – Most Rev. Klemens Pickel (Apostolic Administrator of Catholics in European Russia) and Most Rev. Jerry Mazur (Apostolic Administrator of Eastern Siberia) – are not legally Russian citizens and have been allegedly denied citizenship arbitrarily.¹⁶ In February 2001, Father Stanislaw Opiela, a Polish Jesuit priest who is the secretary of the Catholic Bishops' Conference of Russia, was refused a Russian entry visa for the third time in six months.¹⁷ Additionally, the paralysis of property-restitution claims contributes to the cost of establishing new parishes and renting space. In March 2001, the Russian Duma had its Committee for International Affairs ask the Ministry of Foreign Affairs for information regarding measures taken to “prevent the spread of Catholicism” in Russia and other Orthodox states.¹⁸

There are allegations that the Putin government is attempting to influence the selection of Jewish community leaders and is promoting divisions in the Jewish community, as it apparently has become involved in the struggle between two rival claimants to the post of chief rabbi of Russia: Adolf Shayeveich (of the Russian Jewish Congress) and Berl Lazar (of the Federation of Jewish Communities of Russia). Putin has allegedly thrown his support behind Lazar in opposition to Shayeveich; the latter is reportedly aligned with the media tycoon Vladimir Gusinsky (who has himself experienced legal difficulties with the Putin government).¹⁹ In March 2001, Putin reportedly signed a decree that changed the composition of his advisory council on religious organizations to include Lazar and omit Shayeveich.²⁰

In February 2001, the Justice Ministry of the Russian Federation registered the Salvation Army at the national level as a centralized religious organization (CRO). However, the local authorities in Moscow have refused to register that city's branch of the Salvation Army, and a local court has upheld this refusal. According to a high-level federal Ministry of Justice official, the legal struggle to register the Moscow branch is apparently not affected by registration as a CRO at the national level.²¹ The Salvation Army has local religious organizations registered in five Russian cities; nine unregistered branches, however, including Moscow, have been threatened with liquidation.²²

Muslims in Russia continue to encounter religious-freedom problems, including difficulties in building mosques, recovering confiscated religious property, and ministering to Muslim members of the armed forces, as well as allegations of religious stereotyping in the official media.²³

There continue to be allegations that a close relationship between the Russian Orthodox Church (Moscow Patriarchate) (“ROC”) and state officials – particularly on the regional and local levels – has resulted in preferential treatment for the ROC in connection with public funding for building and renovating churches and official discrimination against other religious communities in the areas of registration, property disputes (especially those involving property claims by other Orthodox Churches such as the Old Believers), and interference with missionary activity and public religious gatherings of non-Orthodox groups.²⁴ According to the State Department, the ROC has “special arrangements with government agencies to conduct religious education and to provide spiritual counseling to members of the armed forces” that have not been made available to other religious communities.²⁵ In October 2000, the Russian Interior Minister reportedly called for closer

cooperation between his ministry and “the clergy” in order to “prevent the further spread in Russia of religious sects whose aim is undermining Russian statehood.” The “clergy” in this statement was generally interpreted to mean ROC clergy.²⁶

C. Commission Recommendations

The U.S. government should continue to monitor religious-freedom issues closely and carefully and to raise them forcefully with the Russian government at the highest levels. U.S. efforts appear to have had a positive impact on the situation in the past. Moreover, the responsiveness of the Putin government to U.S. concerns regarding religious freedom is an important indicator of the Russian government’s commitment to uphold its international human rights obligations. The U.S. government should pay particular attention to the Russian government’s handling of:

- unregistered religious organizations;
- discriminatory laws, policies, and practices at the local and provincial level;
- anti-Semitic, anti-Muslim, and other extremist activities targeting religious minorities;
- visa, residence, and citizenship decisions regarding foreign missionaries and other religious workers;
- internal disputes of religious communities; and
- demands for a closer cooperation between any arm of the state and the Russian Orthodox Church that would result in preferential treatment for the Russian Orthodox Church or official discrimination against other religious communities.

In its May 2000 Annual Report, the Commission made several recommendations as to how the U.S. government could promote religious freedom in Russia. Several of these recommendations concerned the importance of the U.S. government in (1) monitoring religious-freedom conditions in Russia, and (2) urging the Russian government to take effective steps to protect religious freedom.²⁷ In light of the current conditions in Russia, the Commission believes that all of its recommendations from May 2000 would still contribute to the promotion of religious freedom there, and therefore reaffirms them. Indeed, in some cases, the need for the recommended action is even more compelling as a result of the expiration of the registration deadline.

Beginning in 1997, successive foreign operations appropriation acts have included a provision that prohibits U.S. foreign assistance to the Russian government unless the U.S. President certifies that it has implemented no law that discriminates against religious groups in Russia in violation of international human rights agreements to which Russia is a party.²⁸ The Commission recommended last year that this provision (formerly known as the “Smith Amendment” after its original author, Sen. Gordon Smith) be reenacted until it was clear that the Russian government would work to ensure that Russian laws did not discriminate on the basis of religion.²⁹ The Commission continues to believe that the Smith Amendment is an

effective tool for promoting religious freedom in Russia. In the aftermath of the expiration of the registration deadline and because the Putin government's policy on the liquidation of unregistered groups has yet to emerge, this provision sends a strong signal that the United States attaches substantial importance to the Russian government's commitment to apply its laws consistent with its international obligations. The Commission recommends that in weighing whether to make the certification required under that law, the President should use the factors listed above.

In 2000, the Commission also recommended a number of positive steps that the U.S. government could take to promote religious freedom in Russia, including supporting programs by Russians aimed at preventing religious intolerance and discrimination and promoting exchanges between U.S. and Russian religious leaders, as well as judges, lawyers, and legal-rights organizations.³⁰ These programs continue to be needed. In particular, the Commission recommended last year that the U.S. government support the activities of Russian public-interest organizations that defend the right to freedom of religion or belief in Russian courts.³¹ Given the expiration of the registration deadline and the consequent threat of legal action against religious organizations, as well as the effectiveness in some cases of the Russian judicial system in protecting religious freedom, such programs are especially important now.

Noting that religion appears to play a role on both sides of the conflict in the Caucasus, the Commission recommended in May 2000 that the U.S. government should make the humanitarian and human rights crisis in Chechnya a high priority issue in its bilateral relations with Russia.³² In August 2000, the State Department announced that it was contributing \$2.6 million to assist the more than 250,000 people displaced by the conflict in Chechnya, and also called on the Russian government to implement a resolution of the UN Commission on Human Rights (UNCHR) regarding Chechnya, calling for the establishment of a broad-based, independent commission of inquiry to investigate alleged human rights violations and breaches of international humanitarian law.³³ According to the State Department, the Russian government has not complied with the provisions of this UNCHR resolution.³⁴ Therefore, the Commission reiterates its recommendation of last year regarding Chechnya and supports the actions noted above that the State Department has taken.

¹ Late in 2000, Oleg Mironov, the official Russian human rights ombudsman who in 1999 determined that several of the provisions of the 1997 Religion Law violated international human rights standards, urged President Putin to extend the registration deadline to December 31, 2003. See NTV/Radiotserkov, "Plenipotentiary For Human Rights Advocates Extension For Re-registration of Religious Organizations," December 20, 2000, and "Religious Deadline," *The Moscow Times*, December 21, 2000 (<http://www.stetson.edu/~psteeves/relnews/0012d.html>, accessed March 30, 2001).

² Viktor Korolyov, head of the department for re-registration of religious organizations, cited in Geraldine Fagan, "Russia: Re-registration Figures for Religious Organizations," *Keston News Service*, April 2, 2001. Korolyov stressed, "however, that no one was rushing to liquidate them, but that this would take place 'in accordance with the law'."

³ A high-level official in the Russian Ministry of Justice has released the following information on the numbers of religious organizations, by denomination, that were registered prior to 1997 and have successfully re-registered by the December 31, 2000 deadline: Russian Orthodox Church (Moscow Patriarchate) (10,912), Islamic (3,048), Pentecostal (1,323), Evangelical Christian-Baptist (975), Evangelical Christian (612), Adventist (563), Jehovah's Witnesses (330), Old Believers (278), Roman Catholic (258), Lutheran (213), Jewish (197), Buddhist (193), Presbyterian (192), non-denominational Christian (156), Hare Krishna (106), Methodist (85), True Orthodox Church (65), Full Gospel Church (62), Evangelical Christians in the Spirit of the Apostles (54), Pagan (41), Church of Jesus Christ of Latter-day Saints (33), Church of the Sovereign Mother of God (28), Baha'i (19), Unification Church (17), Church of the Last Testament (15). See Viktor Korolyov, head of the department for re-registration of religious organizations, cited in Geraldine Fagan, "Russia: Re-registration Figures for Religious Organizations," *Keston News Service*, April 2, 2001.

⁴ Moscow Helsinki Group, *The Human Rights Situation in the Russian Federation, 1999*, September 2000 (http://www.fsumonitor.com/MHG_99/MHG_cover.shtml, accessed April 3, 2001).

⁵ Ibid. For example, the Council of Churches (Initsiativniki Baptists) reportedly determined not to re-register their 32 organizations by the December 31, 2000 deadline. See Geraldine Fagan, "Russia: Re-registration Figures for Religious Organizations," *Keston News Service*, April 2, 2001.

⁶ U.S. Department of State, *2000 Country Reports on Human Rights Practices*, "Russia," February 26, 2001, 26-27 (<http://www.state.gov/g/drl/rls/hrrpt/2000/eur/index.cfm?docid=877>, accessed April 2, 2001).

⁷ Ibid.

⁸ For an example of a further attempt to tighten control over religious groups through local law, see Geraldine Fagan, "Russia: Attempt to Toughen 1997 Law on Religion," *Keston News Service*, March 15, 2001 (discussing draft law proposed by the parliament of Voronezh region).

⁹ Slavic Center for Law and Justice, "Pentecostal Church Attacked In Lipetsk; Police Stay Idle," March 26, 2001.

¹⁰ U.S. Department of State, "Russia: Recent Acts of Intolerance and Anti-Semitism," Statement by Philip T. Reeker, Deputy Spokesman, October 3, 2000 (<http://secretary.state.gov/www/briefings/statements/2000/ps001003.html>, accessed April 6, 2001).

¹¹ U.S. Department of State, *2000 Country Reports on Human Rights Practices*, "Russia," February 26, 2001, 28 (<http://www.state.gov/g/drl/rls/hrrpt/2000/eur/index.cfm?docid=877>,

accessed April 2, 2001). Union of Councils for Soviet Jews, *Anti-Semitism, Xenophobia and Religious Persecution in Russia's Regions 1999-2000*, February 2001 (http://www.fsmonitor.com/2000_report/toc.html, accessed March 30, 2001).

¹² U.S. Department of State, *2000 Country Reports on Human Rights Practices*, "Russia," February 26, 2001 (http://www.state.gov/www/global/human_rights/2000_hrp_report/Russia.html accessed April 2, 2001).

¹³ In this case, the judge also ordered the prosecution to pay approximately U.S. \$2,800 for the expert commission of five specialists who considered evidence during the trial, which spanned over two years. See Administrative Center of Jehovah's Witnesses in Russia, *Jehovah's Witnesses and the 1997 Law on Freedom of Conscience and Religious Associations*, March 26, 2001, 7-8; Geraldine Fagan, "Russia: Jehovah's Witnesses Win Moscow Court Case," *Keston News Service*, February 23, 2001.

¹⁴ Administrative Center of Jehovah's Witnesses in Russia, *Jehovah's Witnesses and the 1997 Law on Freedom of Conscience and Religious Associations*, March 26, 2001, 6-7.

¹⁵ Tatyana Titova, "Russia: Jesuits Finally Receive Re-Registration," *Keston News Service*, September 18, 2000.

¹⁶ Meeting of USCIRF Staff with Archbishop Thaddaeus Kondrusiewicz and representatives of the U.S. Catholic Conference, November 16, 2001. Letter to USCIRF from Walt Grazer, U.S. Catholic Conference Policy Advisor for Religious Freedom, Human Rights, and Europe, March 23, 2001.

¹⁷ Tatyana Titova, "Russia: Senior Catholic Priest Refused Visa for Third Time," *Keston News Service*, March 5, 2001.

¹⁸ The inquiry originated with deputy chairman of the State Duma, Vladimir Zhirinovsky, whose press office verified that the inquiry was connected to the impending visit to Ukraine in June 2001 by Pope John Paul II, and also with a February meeting in the Vatican between the Pope and the Russian Prime Minister Mikhail Kasyanov. Tatyana Titova, "Russia: Duma Investigates Measures to 'Prevent the Spread of Catholicism,'" *Keston News Service*, March 19, 2001 and Frank Brown, "Russian Parliament Asks Government To Combat Catholic Expansion," *Catholic News Service*, March 13, 2001.

¹⁹ *2000 Country Reports*, "Russia," 28 (Internet).

²⁰ Geraldine Fagan, "Russia: Radical Overhaul of Presidential Religion Committee," *Keston News Service*, March 23, 2001.

²¹ Viktor Korolyov cited in Geraldine Fagan, "Russia: Salvation Army Receives Status of 'Centralized Religious Organization,'" *Keston News Service*, February 26, 2001.

²² Geraldine Fagan, "Russia: Shut-Down Begins of Salvation Army Programmes," *Keston News Service*, December 22, 2000. The Salvation Army currently has local religious organizations registered in five Russian cities: St. Petersburg, Petrozavodsk, Vyborg, Volgograd, and Rostov-on-Don.

²³ Moscow Helsinki Group, *The Human Rights Situation in the Russian Federation, 1999*, September 2000 (http://www.fsumonitor.com/MHG_99/MHG_cover.shtml, accessed April 3, 2001); *2000 Country Reports*, "Russia," 39 (Internet).

²⁴ Moscow Helsinki Group, *The Human Rights Situation in the Russian Federation, 1999*, September 2000 (Internet).

²⁵ *2000 Country Reports*, "Russia," 27 (Internet).

²⁶ Julie A. Corwin, "Interior Minister Calls For Joint Efforts With Orthodox Church Against Sects," *Radio Free Europe/Radio Liberty Newslines (RFE/RL Newslines)*, Vol. 4, No. 195, Part I, October 9, 2000 (citing ITAR-TASS report).

²⁷ *Report of the United States Commission on International Religious Freedom ("USCIRF 2000 Annual Report")*, May 1, 2000, Recommendations 3.1, 3.2, 3.5, 3.10, 50-51, 53, 55-56. The Commission also recommended that the U.S. government encourage the Russian government to agree to the request of the UN Special Rapporteur on Religious Intolerance to visit Russia. See *ibid.*, Recommendation 3.9, 55. In his 2001 Report to the UN Commission on Human Rights, the Special Rapporteur on Religious Intolerance reported that the Russian government has not responded to his request for a visit to that country. See UN Special Rapporteur on Religious Intolerance, *Civil and Political Rights, Including Religious Intolerance*, E/CN.4/2001/63, February 13, 2001, ¶ 169.

²⁸ U.S. Congress, Public Law 106-429, Sec. 565, *Making Appropriations for Foreign Operations, Export Financing, and Related Programs for the Fiscal Year Ending September 30, 2001, and for Other Purposes*, 106th Cong., 2d sess. (November 2000).

²⁹ *USCIRF 2000 Annual Report*, Recommendation 3.4, 52-53.

³⁰ *USCIRF 2000 Annual Report*, Recommendations 3.6, 3.7, and 3.8, 53-54.

³¹ *USCIRF 2000 Annual Report*, Recommendation 3.8, 54-55.

³² *USCIRF 2000 Annual Report*, Recommendation 3.3, 51-52.

³³ U.S. Department of State, "U.S. Contributes \$2.6 Million to UN Humanitarian Efforts in Chechnya," Press Statement by Richard Boucher, August 11, 2000 (<http://secretary.state.gov/www/briefings/statements/2000/ps000811.html>, accessed April 6, 2001); U.S. Department of State, Daily Press Briefing (DPB #67), "Council of Europe's Committee of Ministers Decide Against Suspending Russia for Human Rights Abuses in Chechnya/U.S. Calls on Russia to Implement the UN Human Rights Resolution," June 29,

2000 (<http://secretary.state.gov/www/briefings/0006/000629db.html>, accessed April 6, 2001).

³⁴ 2000 *Country Reports*, “Russia,” 17 (Internet).

X. SUDAN

A. Introduction

In its first annual report issued May 2000, the Commission found that the government of Sudan was the world's most violent abuser of the right to freedom of religion and belief. The Commission also found that religion was a major factor in the ongoing civil war, and that religion and religious-freedom violations were intertwined with other human rights and humanitarian abuses in Sudan. In the Commission's view, the Sudanese government was committing genocidal atrocities against civilian populations in the southern part of the country and in the Nuba Mountains. In light of these conditions, the Commission recommended, among other things, that the Clinton administration launch a comprehensive program of diplomatic and economic pressures to stop human rights abuses in Sudan. Moreover, the Commission was disturbed by the reported connection between oil development and the Sudanese government's abuses, as well as by an initial public offering of securities in the United States by a subsidiary of one of the government's joint-venture partners in the development of Sudan's oil fields. Therefore, the Commission recommended that foreign companies engaged in the development of Sudan's oil and gas fields be prohibited from raising money in U.S. capital markets.

The situation in Sudan has grown worse in the year since the release of the Commission's report. The government of Sudan continues to commit egregious human rights abuses – including widespread bombing of civilian and humanitarian targets, abduction and enslavement by government-sponsored militias, manipulation of humanitarian assistance as a weapon of war, and severe restrictions on religious freedom. The relationship between oil and the government's actions has become clearer. While the Clinton administration did take some steps to address the situation, including successfully working to prevent Sudan from taking a seat at the UN Security Council and earmarking aid to communities in southern Sudan and to the political opposition (the National Democratic Alliance, or NDA), the issue of Sudan for the most part remained on the back burner of U.S. policy as the government's own interagency report acknowledged last year.¹ Its actions fell well short of the comprehensive, sustained campaign that the Commission believes is commensurate with the Sudanese government's abuses. The Commission urges the Bush administration to mount such a campaign, as detailed more fully in Section C.

B. Human Rights and Religious Freedom Abuses in Sudan

The following is a brief description of some of the Sudanese government's egregious human rights abuses, focusing primarily on events since the Commission's last report.²

The civil war that has cost the lives of some 2 million people and displaced 4 million others over the last 18 years continues unabated, with no significant movement for peace. The political opposition to President Omar Hassan Ahmad al-Bashir's ruling National Congress Party (NC) boycotted national elections held in December 2000, which continued the NC's grip on power. Shifting alliances among the ruling party and the political opposition – including a reported agreement between Hassan al-Turabi (head of the recently formed Popular National Congress and former ally of President al-Bashir) and the Sudan

People's Liberation Movement/Army (SPLM/A) – have not, as yet, resulted in any significant change in the political order. The Sudanese government continues to suppress forcefully any political opposition, and commit grave human rights abuses both in its prosecution of the war and more generally throughout the areas of the country under its control. The SPLA and forces aligned with it continue to control much of the southern portion of the country and have reportedly committed some human rights abuses in areas they control.

1. Aerial Bombardments of Civilian and Humanitarian Targets

Since the Commission's May 2000 Annual Report, the government of Sudan has intensified its deliberate bombing attacks on civilian and humanitarian targets. Bombings include hospitals, schools, churches, markets, relief-organization compounds, and other clearly civilian and humanitarian installations.³ Organizations that have carefully tracked civilian bombings have compiled reports of more than 150 incidents in the year 2000.⁴ For example, in July and August 2000, Sudanese government warplanes bombed facilities of humanitarian groups operating under the UN's Operation Lifeline Sudan (OLS) umbrella. In December, two persons were reportedly killed and a church was destroyed in a bombing in Lui. It is believed that additional bombings go unreported because international aid workers are generally absent from the Nuba Mountains and areas east of Khartoum.⁵ These bombings not only kill and injure civilians (including children) and destroy property, but also disrupt humanitarian-relief activities and economic and social life and generally terrorize local populations. There is also evidence suggesting that the Sudanese government is using increasingly sophisticated, deadly, and damaging weapons.⁶

The government's bombing of civilian targets continued despite international awareness of the problem and public assurances by President al-Bashir in April 2000 that such bombings would cease. Because of the continued bombings, the Sudan Council of Churches, the New Sudan Council of Churches, and the Sudan Catholic Bishops' Conference have all called for an internationally enforced no-fly zone.

2. Interference with Humanitarian Assistance

The Sudanese government continues to deny access for humanitarian relief distribution, particularly in the state of Western Upper Nile, through its control over relief flights pursuant to its agreement with the UN's OLS. This denial of access threatens the lives of many in the region who reportedly face critical food shortages.⁷ In addition, as noted above, the government has targeted humanitarian facilities for bombing and other attacks. In June 2000, an attack by government forces near a Roman Catholic mission in Gumriak reportedly killed 32 persons, including women and children. In January 2001, government-sponsored militias destroyed an International Committee of the Red Cross compound in the southern Sudan village of Chelkou.⁸ As a result of government bombings of humanitarian facilities, the UN, on its own initiative, suspended OLS relief flights in August for several weeks.

The government also allegedly has tolerated the use of humanitarian assistance for religious purposes. The Commission has received reports from credible sources – Anglican

and Catholic bishops in Sudan – that UN-provided humanitarian aid to the country's displaced and needy population is being distributed on the condition that the recipients convert to Islam.

There are reports of instances where opposition forces have also interfered with the delivery of humanitarian aid. In February 2001, forces allied with the SPLA looted and damaged a UNICEF compound in the town of Nyal in southern Sudan.⁹

3. Slavery and Abductions

Government security forces and government-sponsored militias continue to abduct women and children into conditions of slavery. For example, in early January 2001, government-sponsored militias raided villages in Bahr al-Ghazal, killing 11 people and abducting 122 women and children, according to UNICEF officials in Khartoum.¹⁰ According to the State Department, some 12,000-15,000 women and children, mostly Dinka, remained in captivity at the end of 2000.¹¹ Some non-governmental organizations place the number of slaves significantly higher.¹²

Although the Sudanese government denies that slavery even exists in Sudan (much less its own involvement or complicity in the practice), in May 1999 it established the Committee for the Eradication of the Abduction of Women and Children (CEAWAC). CEAWAC has been generally criticized for not operating in good faith and for being largely ineffectual in light of the extent of the problem. According to Human Rights Watch, although the CEAWAC has retrieved some slaves from their owners, the government made a deliberate decision “not to record the identity of the abductors or forced labor owners, let alone prosecute anyone involved.”¹³ In addition, according to UNICEF, the government has refused to give permission to transport 60 children who have been waiting for six months to be reunited with their families in SPLA-controlled areas.¹⁴

4. Religious Freedom

The Sudanese government has continued its assault on the religious freedom of non-Muslims as well as some Muslims (particularly those associated with the political opposition). In September 2000, the State Department named Sudan (for the second consecutive year) as a “country of particular concern” (CPC) pursuant to the International Religious Freedom Act of 1998, finding that the government of Sudan had engaged in systematic, ongoing, and egregious violations of religious freedom.

Religious groups must be registered by the government to operate legally, and approval can be difficult to obtain. Unregistered groups cannot build places of worship or meet in public. Even registered groups face difficulties. For example, the government continues to deny permission to construct Roman Catholic churches. Certain Islamic orders – including orders associated with the political opposition – are denied permission to hold public assemblies. Government forces have bombed Christian churches, schools, hospitals, and mission facilities in the Nuba Mountains and southern Sudan. Apostasy from Islam is a crime punishable by death. According to the State Department, children from non-Muslim families who have been captured and sold into slavery are forced to convert to Islam.¹⁵ As

noted above, there are reports that humanitarian aid is used to coerce conversions. There are reports that security forces have harassed and detained persons on account of their religion.¹⁶ In February 2001, security forces entered the compound of the Sudan Catholic Bishops' Conference (SCBC) in Khartoum and confiscated six vehicles.¹⁷

5. Oil and Foreign Investment

The connection between oil development (and oil revenues) and the Sudanese government's human rights abuses has become increasingly apparent over the last year. First, the discovery and the drilling of oil reserves in the Upper Nile province has led to a "scorched earth" policy by the government to remove civilian populations from areas surrounding oil installations. Second, the government reportedly uses the oil facilities themselves (e.g., airstrips and roads) in staging military operations.¹⁸ Third, according to the State Department, oil revenues have allowed the government to increase its investment in military hardware.¹⁹

Despite growing international awareness of this connection, oil development has attracted significant foreign investment in Sudan. U.S. economic sanctions prohibit U.S. companies from investing or doing business in Sudan. Current sanctions, however, do not prohibit foreign companies from doing so, and the U.S. Department of Energy reports that the following are active in Sudan's oil and gas industry: AGIP (Italy), China National Petroleum Corporation (People's Republic of China),²⁰ Gulf Petroleum Corporation (Qatar), Lundin Oil Corporation (Sweden),²¹ National Iranian Gas Company (Iran),²² OMV (Austria), Petroliaam Nasional Berhad (Malaysia),²³ Royal Dutch Shell and Trafigura Beheer B.V. (Netherlands), Talisman Energy Corporation (Canada), and TotalFina/Elf (France). In February 2001, Russian oil companies reportedly signed a memorandum of understanding with the Sudanese government regarding exploration and export of oil from two areas of the country.²⁴

As detailed in the Commission's first Annual Report, U.S. economic sanctions generally do not prohibit these foreign companies from issuing securities in U.S. markets or listing their shares on U.S. exchanges.²⁵ Two Chinese companies involved in Sudan oil raised money in U.S. capital markets in 2000. In April, the China National Petroleum Corporation (CNPC) and its subsidiary, PetroChina Company Limited (PetroChina), offered shares in PetroChina to U.S. investors. In October 2000, the China Petroleum & Chemical Corporation (known as Sinopec) offered shares in large quantities for sale on U.S. markets.²⁶ The *Wall Street Journal* reported on October 11 that a Sinopec subsidiary (Zhongyuan Petroleum Corporation) had a joint venture in Sudan's oil fields with a unit of CNPC; that last summer Sinopec gave its entire interest in the Sudan venture to CNPC, the major shareholder of its chief domestic rival, PetroChina; that Sinopec had not disclosed the value of any assets received from CNPC in return for this transfer; and that there was evidence that Sinopec's subsidiary continues to do business in Sudan's oil fields.²⁷ In addition to these initial public offerings, companies such as Talisman, Royal Dutch Shell, Lundin Oil, and TotalFina/Elf all list securities on the New York Stock Exchange.

Some of the companies noted above that are doing business in Sudanese oil are reportedly under public or shareholder pressure to divest their Sudan business interests. In

February 2001, the Sudan Inter-Agency Reference Group, a coalition of Canadian non-governmental organizations, called for a divestment campaign against Talisman. According to Canadian news sources, the Royal Bank of Canada, which is one of the largest Talisman shareholders, is also being targeted for a boycott and other consumer action if it does not divest itself of Talisman shares. In addition, BP Amoco Corporation (which has no direct business activities in Sudan) is reportedly under pressure from activists and its shareholders to divest its stake in PetroChina, CNPC's subsidiary.²⁸

C. Commission Recommendations

The Commission concludes that the actions of the U.S. government toward the government of Sudan in the past year, while mixed, have not been commensurate with the appalling violations of religious freedom and other human rights by that government, violations which have already reached genocidal proportions and have only worsened since this Commission's report last May.

In its first annual report of May 2000, the Commission proposed that the U.S. government launch a comprehensive 12-month plan that would immediately respond to the crisis in Sudan and reward measurable improvement or punish deterioration in the Sudanese government's record on religious freedom and other human rights.²⁹ The administration did not implement any comprehensive initiative of the scale that the Commission believes is necessary to address the situation. While the Clinton administration did take some initiatives in line with the Commission's recommendations, key elements of the Commission's plan appear to have been neglected.

Despite at least 150 reported aerial bombings of civilian hospitals, markets, churches, and schools by Khartoum's air force, the continued abduction and enslavement of women and children, and the government's "scorched earth" policy designed to remove populations from around oil facilities, President Clinton did not adequately employ the "bully pulpit" of his office to inform the American public or enlist international opposition to such crimes.³⁰ Any efforts to raise multilateral economic and diplomatic pressure on the Sudanese government had little apparent impact on Sudan's non-U.S. trade, foreign investment in its oil fields, or the government's acquisition of military hardware.³¹ While we hold European and other nations responsible for their foreign policies regarding Sudan, which have too often displayed indifference to the human rights violations there, we also believe that the U.S. government should have put more energy into diplomatic efforts to gain support for a more assertive policy.

Regrettably, the U.S. government has done nothing to advocate an internationally enforced ban on aerial bombardment of civilians in Sudan nor has it requested an investigation and adjudication of whether the Sudanese government has violated the Chemical Weapons Convention.³² The State Department has not given its opinion whether the government of Sudan has violated the 1948 Genocide Convention.³³ Nor has the U.S. government implemented the Commission's recommendations that companies active in Sudan's petroleum industry not be allowed further access to U.S. capital markets and that American investors be informed if the proceeds of their investments in foreign corporations will help finance that industry.³⁴

Given the close connection between development of Sudan's oil resources (which would be minimal without foreign investment) and the Sudanese government's human rights abuses, the Commission continues to believe that the United States should not grant access to its capital markets to any foreign company involved in Sudan's oil industry, and in general should require greater disclosure by all companies doing business in Sudan so that U.S. investors are apprised of the nature and extent of that business. This year the Commission expands its recommendation on disclosure to all companies doing business of any kind in Sudan so that investors can make fully informed decisions.³⁵ Regarding our recommendation that the Securities and Exchange Commission (SEC) investigate the adequacy and reliability of filings made by a foreign corporation whose parent is the largest stakeholder in Sudan's oil pipeline, the SEC advised us that it does not independently investigate the accuracy of information in such filings.³⁶ In response to the Commission's recommendations to the Treasury Department that its Office of Foreign Assets Control (OFAC) investigate possible violations of U.S. Sudanese Sanctions Regulations, OFAC notified the Commission that it did not find any violation of the existing sanctions regime.³⁷ Because the Commission concludes that these regulations are too porous, it recommends they be tightened.³⁸

The Clinton administration – with support from Congress – did approve a number of steps that reflect the Commission's recommendations. Among these steps that were approved but not yet implemented were providing communities in southern Sudan with radios, evacuation vehicles, and other equipment to warn and protect noncombatants against aerial bombings.³⁹ The administration also approved administrative aid to the political opposition (NDA).⁴⁰ U.S. aid to rebuild the civil and economic infrastructure of the south through the Sudan Transitional Assistance for Rehabilitation (STAR) program has expanded.⁴¹ The administration laudably continued to increase the portion of U.S. aid to Sudan that is delivered outside of the United Nations' OLS, thus unbound by Khartoum's bans on humanitarian delivery to rebel-controlled areas of need.⁴² Nevertheless, most U.S. aid continues to flow through OLS. The Commission recommends below that the U.S. government continue to expand all of these forms of aid outside the UN system. However, the forest should not be lost for the trees. While all of these aid programs are needed to help ameliorate some of the effects of the Sudanese government's abhorrent policies, they do not by themselves represent the kind of coordinated public, diplomatic, and economic pressure that the Commission believes is necessary to change the Sudanese government's policies.

The Commission continues to believe that a comprehensive, coordinated strategy led on a priority basis by those at the highest levels of the U.S. government is necessary to address the humanitarian and human rights crisis in Sudan. Essential elements of this strategy include raising public awareness of the Sudanese government's human rights abuses, consistent condemnation of those abuses, and employing and advocating a variety of bilateral and multilateral pressures on the Sudanese government until it makes substantial and systematic improvements. The Commission urges the President and the Secretary of State to implement and lead such a strategy. In light of the worsening situation in Sudan, and building on the policies it proposed last year, the Commission makes the following recommendations:

- 1. The U.S. government should appoint a nationally prominent individual – who enjoys the trust and confidence of President Bush and**

Secretary of State Colin L. Powell and who has appropriate authority and access – whose sole responsibility is directed to bringing about a peaceful and just settlement of the war in Sudan and an end to the religious-freedom abuses and humanitarian atrocities committed by the Sudanese government. The United States should not appoint an ambassador to Sudan at this time.

The U.S. government needs a high-level, high-profile individual devoted full-time to carrying out diplomatic initiatives as well as coordinating policy among U.S. government agencies. Specifically, this envoy would seek to exert influence on the government of Sudan and Sudanese opposition factions in order to bring about a cessation of human rights abuses and a peaceful and just settlement of the conflict. The Special Envoy for Sudan appointed by the Clinton administration, Harry A. Johnston, despite good intentions and hard work, did not have the international prominence, the high-level access, or a mandate sufficiently broad to command the attention of the Sudanese government, or to engage regional leaders and European allies at the highest diplomatic levels. All of these attributes are necessary to make progress on ending the war in Sudan. In addition, because the issues in the Sudan conflict cut across different regions of the world, as well as touch on international financial markets, the envoy should have both the stature and the authority to work within and across U.S. government agencies.

Because the situation in Sudan continues to deteriorate and its government has not taken effective steps to address any of the serious concerns of the United States over religious freedom and other human rights, the United States should not at this time appoint an ambassador to Sudan. Any embassy activity should be directed by a chargé d'affaires. If the government of Sudan demonstrates substantial, sustained, and comprehensive improvement in the human rights conditions for the people throughout the country, the U.S. government should seriously consider raising the level of diplomatic representation.

2. The U.S. government should continue to increase the amount of its humanitarian assistance that passes outside of Operation Lifeline Sudan (OLS) and should press OLS to deliver aid wherever it is needed, especially the Nuba Mountains, with or without the approval of the Sudanese government.

In order to limit the Sudanese government's ability to employ food assistance as a weapon against its opponents, the U.S. government should work vigorously to ensure that its food aid gets to the people in Sudan who need it. The government of Sudan continues to restrict access to certain areas of the country by OLS. Famine also continues and in mid-February 2001 it was reported that famine led to the displacement of 98,000 people in the eastern part of the country.⁴³ In part because of the ongoing restrictions on access, the United States has been increasing the percentage of aid that it has provided outside of the OLS system, from 14 percent in fiscal year 1997 to 34 percent in fiscal year 2000. A further increase reportedly is planned for fiscal year 2001. As long as OLS is regularly prevented from reaching those in need, this shift to increasing reliance on non-OLS aid should continue. Moreover, U.S. efforts to strengthen the capacity of humanitarian groups delivering aid outside of OLS should also continue. In addition, the United States should urge other donor

countries to provide aid outside of the OLS framework. Khartoum's bans on humanitarian flights apparently have the effect of limiting some non-OLS relief flights as well. In addition to the increase in non-OLS aid, the United States – which is OLS's largest contributor – should support OLS efforts to expand and maintain its access throughout the country, especially the Nuba Mountain area. Also, the U.S. government should continue to work with the SPLM/A to ensure that it does not interdict, divert, or obstruct the provision of humanitarian assistance in areas under its control. Finally, the United States should stop using non-governmental organizations that discriminate on the basis of the religion of recipients in their distribution of aid and services.

3. The U.S. government should increase its assistance to southern Sudan and the NDA.

The State Department approved but did not implement the authority granted to it by Congress to provide non-lethal aid directly to communities in opposition-controlled areas of Sudan through local organizations. However, in fiscal year 2000 approximately \$3 million in aid was given to local communities in southern Sudan under the STAR program. The purpose of this aid is to stimulate a market economy and increase food production and security. Such aid is critically important to improving living conditions and promoting civil society in southern Sudan, and the U.S. government should increase its support for these programs.

In addition to the STAR program, the Clinton administration had plans to provide \$3 million of assistance to the political opposition in Sudan – the NDA – for building its capacity to participate in the peace process. Congress has authorized up to \$10 million in aid to southern Sudan for fiscal year 2001; the State Department is actively considering whether to use these authorized funds. This type of aid is consistent with the Commission's recommendations from last year and should be increased. However, aid should not be given to any opposition group unless it is making substantial and verifiable efforts to adhere to international human rights norms.⁴⁴

4. The U.S. government should launch a major diplomatic initiative aimed at enlisting international pressure to stop the Sudanese government's bombing of civilian and humanitarian targets; ground attacks on civilian villages, feeding centers, and hospitals; slave raids; and instigation of tribal warfare.

There are numerous reports of the escalating frequency, accuracy, and deadliness of the Sudanese government's bombing of civilian and humanitarian targets. It is unconscionable that the regime in Khartoum can engage in such flagrant violations of human rights and humanitarian law on a regular basis without significant negative reactions from governments committed to respect for religious freedom and human rights.

The U.S. government should work vigorously to develop international support for diplomatic and economic pressure on the government of Sudan to stop bombing civilian and humanitarian targets. The United States should introduce resolutions at the UN, including in the UN Commission on Human Rights, condemning the government of Sudan and should

initiate a debate in the UN Security Council on Khartoum's egregious violations of the Geneva Convention, such as bombings and ground attacks on civilian villages, feeding centers, and hospitals; slave raids; and instigation of tribal warfare.

5. The U.S. government should strengthen economic sanctions against Sudan and should urge other countries to adopt similar policies. The United States should prohibit any foreign company from raising capital or listing its securities in U.S. markets as long as it is engaged in the development of oil and gas fields in Sudan. The U.S. government should not issue licenses permitting the import of gum arabic from Sudan to the United States.

U.S. economic sanctions against Sudan should be strengthened and not reduced. They should be strengthened by (a) prohibiting access to U.S. capital markets for those non-U.S. companies engaged in the development of the Sudanese oil and gas fields, and (b) not issuing further licenses for the import of gum arabic to the United States.

The Commission is aware of the current debate both internationally and in the United States on the effectiveness of economic sanctions generally. Unilateral economic sanctions by the United States have not prevented foreign investment in Sudan's oil business, which has, in turn, provided the Sudanese government with significant financial support for its egregious human rights and humanitarian abuses. However, it has not been established that U.S. sanctions have been completely ineffective. They can continue, for example, to slow the rate of increase of foreign investment in Sudan and oil revenues to the Sudanese government. One way to increase the potential effectiveness of the sanctions is to convince other economic powers to adopt similar policies. In this regard, the Commission urges the U.S. government to encourage economic pressure on the Sudanese government in its bilateral relations at all levels with countries that engage in substantial trade with or provide significant foreign investment to Sudan.⁴⁵

Current sanctions prohibit investment by U.S. companies in Sudan. They also prohibit transactions between U.S. companies and the Greater Nile Petroleum Operating Company (Sudan's oil consortium) or Sudapet (Sudan's petroleum company).

In the absence of multilateral economic sanctions, however, preventing access to U.S. capital markets by foreign companies engaged in the oil-development business in Sudan targets a specific weakness in the current U.S. sanctions regime. The Commission recommends that foreign corporations doing business with Sudan's petroleum industry be prohibited from issuing or listing its securities on U.S. capital markets.

The Commission does not lightly recommend these significant restrictions on U.S. capital markets access, but believes that the specific conditions in Sudan warrant them.⁴⁶ The government of Sudan is committing genocidal humanitarian and human rights abuses. There is a direct connection between oil production and those abuses. Foreign investment is critical to the development of Sudan's oil fields and maintaining oil revenues.⁴⁷ Expanding U.S. sanctions in the area of capital markets access specifically targets what is likely the most significant resource that the Sudanese government has to prosecute the war.

Moreover, the issue of continuing economic sanctions against Sudan is one of principle as well as effectiveness. Reducing sanctions against Sudan at this time – after the Sudanese government has made no concessions but rather has increased its civilian bombings and other atrocities – would be to reward it for worsening behavior. This will send the wrong message to the government of Sudan and the international community.

With respect to licenses granted in 1999 and 2000 to permit U.S. imports of gum arabic, the purpose of granting those licenses was to allow U.S. importers time to identify alternative sources of supply. Because a reasonable amount of time has elapsed, no further licenses should be granted, and efforts should be continued to identify alternate suppliers of this product.

If the government of Sudan demonstrates substantial, sustained, and comprehensive improvement in the human rights conditions for people throughout the country, the U.S. government should seriously re-evaluate its sanctions regime.

6. Companies that are doing business in Sudan should be required to disclose the nature and extent of that business in connection with their access to U.S. capital markets.

There is a significant, undesirable gap in U.S. law regarding Sudan and other CPC countries: In many cases, foreign companies that are doing business in Sudan can sell securities on U.S. markets without having to disclose fully (1) the details of the particular business activities in Sudan, including plans for expansion or diversification; (2) the identity of all agencies of the Sudanese government with which the companies are doing business; (3) the relationship of the business activities to violations of religious freedom and other human rights in Sudan; or (4) the contribution that the proceeds raised in the U.S. debt and equity markets will make to these business activities and hence, potentially to those violations.⁴⁸ Across-the-board full disclosure of these details would prompt corporate managers to work to prevent their companies from supporting or facilitating these violations. It also would aid (1) U.S. investors in deciding whether to purchase the securities; (2) shareholders in exercising their ownership rights (including proposing shareholder resolutions for annual meetings and proxy statements); (3) the Treasury Department's Office of Foreign Assets Control in enforcing existing sanctions; and (4) U.S. policymakers in formulating sound policy with respect to Sudan and U.S. capital markets. The Commission recommends that the United States require such disclosure.

7. The U.S. government should intensify its support for peace negotiations and for the Declaration of Principles, and make a just and lasting peace a top priority of this administration's global agenda.

Peace negotiations under the auspices of the Intergovernmental Authority on Development have produced no significant results in the past year, and indeed no longer continue. The Sudanese government remains publicly committed to negotiations using the framework of the Declaration of Principles (DOP). The U.S. government should support any viable peace process under the DOP and should encourage the inclusion of the NDA in peace negotiations. The United States should also consider direct involvement in negotiations with

both the Sudanese government and the opposition. Moreover, as the Commission recommended last year, the U.S. government should use its diplomatic influence to urge Egypt to be a constructive partner in peace negotiations.

8. The U.S. government should work to increase human rights and media reporting on abuses in Sudan, including supporting, diplomatically and financially, the placement of human rights monitors in southern Sudan and in surrounding countries where refugee populations are present.

Humanitarian and religious groups, human rights organizations, and journalists have labored under very difficult conditions to bring to light the human suffering and human rights abuses in Sudan. Their efforts are severely hampered by the Sudanese government's restrictions on access to many parts of the country. As a result, the full extent of the abuses being committed in Sudan is still not known. The U.S. government should urge the Sudanese government to allow human rights monitors and the media to operate throughout the country, and should work with opposition groups to ensure such access in the areas under their control. The United States should support the deployment of human rights monitors in southern Sudan (including monitoring teams that can verify reports of bombings) and in surrounding countries where Sudanese refugees are concentrated.

Concurrence with Qualifications to Recommendations 3 and 5

Dr. Laila Al-Marayati

Recommendation 3: The U.S. government should increase its assistance to southern Sudan and the NDA.

This recommendation differs from that in the Commission's May 2000 report, which advocated aid to the SPLA, and other opposition groups including the NDA, in the event that the Khartoum government failed to make substantial improvements during a six-to-12 month period with respect to human rights abuses (see USCIRF 2000 Annual Report, II.A., Recommendations 1.2e-f). However, due to the dominance of the SPLA in southern Sudan, it is possible to assume that non-lethal aid to opposition forces will also fall into the hands of the SPLA, which is responsible for human rights abuses that should preclude any support by the U.S. government (see Al-Marayati Dissent to II.A., Recommendations 1.2e-f, USCIRF 2000 Annual Report).

In addition, the current statement by the Commission mentions that aid should not be given to "any opposition group unless it is making verifiable efforts to adhere to international human rights norms." Due to the degree of documented human rights abuses by the SPLA (e.g. manipulation and diversion of humanitarian aid, conscription of child soldiers into combat, arbitrary arrests, abductions, etc.), actual compliance with international norms (not simply "efforts") must be significant and sustained before any aid would be considered. At this time, no such improvements have been verified by either the U.S. government or credible non-governmental human rights organizations in the region.

Finally, aid to the opposition, unless to a much greater degree than heretofore applied

by the U.S. government, is unlikely to shift the balance of power enough to pose a significant threat to the Khartoum government and thereby lead to an end to the fighting. Therefore, recommendations for assistance to opposition groups (other than humanitarian aid) should be considered in light of their overall effect on the civil war.

Recommendation 5: The U.S. government should strengthen economic sanctions against Sudan and should urge other countries to adopt similar policies....

The Commission's report rightly points out that unilateral sanctions have not prevented foreign investment in Sudan, particularly in the oil industry whose revenues have enabled the Sudanese government to strengthen its position with respect to the war. While one approach is to push for broader, multilateral support and to close loopholes at least with respect to U.S. financial markets, the lack of effectiveness of sanctions to date requires serious analysis by the U.S. government to determine if the sanctions regime itself is a useful tool for effecting change and improving the situation with respect to religious freedom in Sudan.

Therefore, in addition to the Commission's recommendations in the report, I would urge the administration to review the sanctions policy as part of an overall approach to helping solve the problems that plague Sudan at this time. First, the U.S. government should determine if current sanctions against Sudan and their expansion will have the desired result with respect to human rights in general and religious freedom in particular. Second, if the U.S. government deems that strengthening the sanctions regime is indicated, it also needs to determine when such sanctions could be lifted, such as in an incremental fashion as Sudanese government policy and practice show satisfactory progress in ending widespread human rights abuses.

¹ U.S. Department of State, *Interagency Review of U.S. Civilian Humanitarian and Transition Programs, Annex 3* (January 2000).

² See *Report of the United States Commission on International Religious Freedom*, May 1, 2000 ("USCIRF 2000 Annual Report"); *Staff Memorandum for the Chairman: Religious Freedom in Sudan, China, and Russia*, May 1, 2000 ("Staff Memorandum"). Recent human rights reports on Sudan include Amnesty International, *Sudan: Oil in Sudan: Deteriorating Human Rights* (March 5, 2000) (<http://www.web.amnesty.org/ai.nsf/ai.nsf/index/AFR540012000>, accessed February 5, 2001) ("Oil in Sudan"); Amnesty International, *Report 2000*; Human Rights Watch, *World Report 2001*; "Sudan"; U.S. Department of State, *2000 Country Reports on Human Rights Practices*, "Sudan," February 2001; John Harker, *Human Security in Sudan: The Report of a Canadian Assessment Mission*, prepared for the Minister of Foreign Affairs, January 2000 ("Harker Report"); Leonardo Franco, Special Rapporteur of the United Nations Commission on Human Rights, *Situation of Human Rights in Sudan*, September 11, 2000, U.N. Doc. No. A/55/374.

³ According to the State Department, the Sudanese government “bombed a hospital run by the NGO Samaritan’s Purse in Lui in Western Equatoria. Norwegian People’s Aid reported that on April 16, government forces dropped bombs near a child feeding compound. On July 28, in Akhuem in northern Bahr el-Ghazal, several bombs landed close to a Doctors Without Borders plane and near its health center, prompting the medical team to evacuate the area.” *2000 Country Reports*, “Sudan.”

⁴ Information supplied by U.S. Committee for Refugees and Sudan Focal Point – Europe.

⁵ See “Sudan’s Human Rights and Humanitarian Emergency,” testimony of Roger Winter, Executive Director, U.S. Committee for Refugees, before the Congressional Human Rights Caucus, September 28, 2000.

⁶ Sudan Focal Point - Europe (2000).

⁷ According to Human Rights Watch, early in 2001 inter-factional fighting among the Nuer and between the Nuer and the Dinka – ignited by the government in Khartoum and the SPLM/A – reached dangerous proportions and aggravated conditions of famine and food availability in southern Sudan. See Human Rights Watch, *Analysis of the Current Fighting and its Relation to Famine*, March 2001, (<http://www.hrw.org/campaigns/sudan98/sudan-analysis.html>, accessed March 2, 2001).

⁸ Sudan Catholic Bishops’ Conference (SCBC), *Message to IGAD* (September 15, 2000) (provided to USCIRF by SCBC).

⁹ See U.S. Department of State, “Report of Attack on UN Relief Base in Southern Sudan,” March 1, 2001 (<http://www.state.gov/r/pa/prs/ps/index.cfm>, accessed March 20, 2001); Human Rights Watch, *World Report 2001*, “Sudan.”

¹⁰ Reuters, “Sudan Raiders Abduct 122 Women and Children in South,” January 10, 2001.

¹¹ *2000 Country Reports*, “Sudan,” 4.

¹² Private organizations that have engaged in redemption or “buy-back” and retrieval of slaves report that their efforts have targeted thousands of slaves in the past year. Christian Solidarity International, with the assistance of black African community leaders and Arab retrievers, claims to have liberated more than 38,000 Sudanese slaves since 1995. These “buybacks” have been criticized by some aid agencies, human rights groups, and by UNICEF.

¹³ Human Rights Watch, *World Report 2001*, “Sudan,” at 82-83. See also, *2000 Country Reports*, “Sudan” (Internet), 4.

¹⁴ Reuters, “Sudan Raiders Abduct 122 Women and Children in South,” January 10, 2001.

¹⁵ *2000 Country Reports*, “Sudan” (Internet), 14.

¹⁶ Ibid.

¹⁷ Charles Omondi, “Armed Policemen Storm the Compound of the Sudan Catholic Bishops’ Conference (SCBC),” (<http://SudanInfonet.tripod.com>, accessed February 17, 2001).

¹⁸ See Harker Report.

¹⁹ *2000 Country Reports*, “Sudan,” 4 (Internet); Christian Aid (UK), *The Scorched Earth: Oil and War in Sudan*, March 15, 2001 (<http://www.christian-aid.org.uk>, accessed March 15, 2001). In this report, Christian Aid warns “what is happening in Upper Nile is only a foretaste of what could happen all across the south if the international community continues to turn a blind eye to attacks on civilians in the name of profit.” See also UN Special Rapporteur on Sudan, *Oral Statement on the Human Rights Situation in the Sudan Mr. Gerhart R. Baum*. Commission on Human Rights 57th session (19 March-27 April 2001).

²⁰ CNPC is the state-owned oil company of the People’s Republic of China. It owns a 40 percent interest in the Greater Nile Petroleum Operating Company (GNPOC). CNPC is also very active in the Adar Yel concession area in eastern Upper Nile.

²¹ This small oil company operates south of Bentiu. Lundin Oil is a prime beneficiary of the newly completed road that extends 60 miles south of Bentiu and allows not only oil equipment but also heavy military equipment to move south. Communication to USCIRF from Dr. Eric Reeves dated January 14, 2001.

²² According to Amnesty International, the following non-Sudanese companies are involved in the building of Sudan’s oil pipeline: Allen Power Engineering Ltd (UK), Denim Pipeline Construction Ltd (Canada), Mannesmann (Germany), Roll’n Oil Field Industries (Canada), Weir Pumps Ltd (UK). See *Oil in Sudan*. It is also reported that Rolls Royce (UK) is involved in the pipeline. See *The Observer*, March 11, 2001.

²³ Petronas is the state-owned oil company of Malaysia. An original GNPOC partner, Petronas reportedly has a 30 percent stake in the consortium. Petronas has also the “right of refusal” on Talisman Energy Corporation’s 25 percent share in GNPOC, should Talisman withdraw.

²⁴ Agence France-Presse, “Russian Companies to Start Oil Operations in Sudan,” February 9, 2001.

²⁵ *USCIRF 2000 Annual Report*, 37-39.

²⁶ See SEC Registration Statement, China Petroleum & Chemical Corporation (Reg. No. 333-12502); *Far Eastern Economic Review*, November 8, 2000.

²⁷ *The Wall Street Journal*, October 11, 2000.

²⁸ *Agence France-Presse*, February 15, 2001.

²⁹ *USCIRF 2000 Annual Report, Recommendation 1.2*, 29-33.

³⁰ In contrast, then-Secretary of State Madeleine K. Albright condemned Sudan's aerial bombings on several occasions, including after a meeting arranged by the Commission with a Sudanese bishop in February 2000. In addition, Dr. Susan Rice, then U.S. Assistant Secretary of State for African Affairs, bravely toured southern Sudan in November 2000. Dr. Rice interviewed civilian victims of Khartoum's bombing and enslavement campaigns, and publicly reported on and condemned them.

³¹ *USCIRF 2000 Annual Report, Recommendation 1.2.b*, 30.

³² *USCIRF 2000 Annual Report, Recommendations 1.5 and 1.6*, 34-35.

³³ *USCIRF 2000 Annual Report, Recommendation 1.7*, 35.

³⁴ *USCIRF 2000 Annual Report, Recommendations 1.8 and 1.9*, 35-37.

³⁵ *Recommendation 6, infra* at p. 132.

³⁶ *USCIRF 2000 Annual Report, Recommendation 1.13*, 39; letter dated January 9, 2001, from David B.H. Martin, Director, Division of Corporation Finance, U.S. Securities and Exchange Commission, to Elliott Abrams, Chairman, USCIRF.

³⁷ *USCIRF 2000 Annual Report, Recommendations 1.10, 1.11, and 1.12*, 37-39; letter dated November 15, 2000, from R. Richard Newcomb, Director, Office of Foreign Assets Control, Department of the Treasury, to Elliott Abrams, Chairman, USCIRF. See *USCIRF 2000 Annual Report*, 26-27, 35-39; *Staff Memorandum*, 65-80.

³⁸ *Recommendation 5, infra* at p. 131.

³⁹ *USCIRF 2000 Annual Report, Recommendation 1.5*, 34.

⁴⁰ *USCIRF 2000 Annual Report, Recommendation 1.2.e*, 32.

⁴¹ *USCIRF 2000 Annual Report, Recommendation 1.4*, 34.

⁴² *USCIRF 2000 Annual Report, Recommendation 1.1*, 28-29.

⁴³ Michel Sailhan, "Two Million Sudanese Displaced," *The Mail and Guardian*, February 20, 2001.

⁴⁴ *USCIRF 2000 Annual Report, Recommendation 1.2.e*, 32.

⁴⁵ *USCIRF 2000 Annual Report, Recommendation 1.2.b*, 30.

⁴⁶ As of the date of this report, the Commission has not determined if a policy against issuing or listing securities on U.S. markets should apply to companies doing business in other

countries designated as Countries of Particular Concern under IRFA.

⁴⁷ Energy Information Administration, U.S. Department of Energy, *Sudan*, November 2000, (<http://www.eia.doe.gov/emeu/cabs/sudan2.html> accessed November 11, 2000).

⁴⁸ *Staff Memorandum*, 65-80.

XI. VIETNAM

A. Introduction

Despite a marked increase in religious practice among the Vietnamese people in the last 10 years, the Vietnamese government continues to suppress organized religious activities forcefully and to monitor and control religious communities.¹ The government prohibits religious activity by those not affiliated with one of the six officially recognized religious organizations. Individuals have been detained, fined, imprisoned, and kept under close surveillance by security forces for engaging in “illegal” religious activities. In addition, the government uses the recognition process to monitor and control officially sanctioned religious groups: restricting the procurement and distribution of religious literature, controlling religious training, and interfering with the selection of religious leaders.

There have been significant developments in U.S. policy toward Vietnam in the past year. In July 2000, after a one-year delay by the Vietnamese government, the United States and Vietnam signed a Bilateral Trade Agreement, which, if ratified by the U.S. Congress, would pave the way for the granting of conditional normal trade relations status to Vietnam. In November 2000, President Clinton visited Vietnam, marking the first visit to that country by a U.S. president in more than 30 years.

In February 2001, the Commission held a public hearing in Washington, D.C., on religious freedom and U.S. policy in Vietnam. The Commission heard testimony from representatives of a number of Vietnamese religious communities, as well as experts on Vietnam and its relations with the United States. In addition, the Commission and its staff have met with representatives of the Vietnamese government, Vietnamese religious communities, and human rights organizations with expertise in Vietnam (including Vietnamese-American organizations), as well as academic experts and U.S. government officials. It has also solicited information from organizations and individuals that were unable to meet with the Commission or its staff. Moreover, at the invitation of Ambassador Dinh Thi Minh Huyen, Director of the International Organizations Department at the Vietnamese Foreign Ministry, the Commission made a formal request in November 2000 to visit Vietnam. Although the Vietnamese government has “welcomed” the Commission’s visit, it has informed the Commission that such a visit should be hosted by Vietnam’s Commission on Religious Affairs, which would be unable to accommodate the Commission until at least May 2001. This fact has prevented the Commission from traveling to Vietnam prior to the release of this report.

The Commission invited Father Thaddeus Nguyen Van Ly, a Roman Catholic priest based near Hue, Vietnam, to testify at its February hearing and Fr. Ly submitted written testimony. Fr. Ly has been persistently critical of the Vietnamese government’s failure to protect religious freedom – activity that led to his imprisonment for close to a decade. On March 5, 2001, the Vietnamese official media confirmed that the government placed Fr. Ly under administrative detention (i.e. house arrest) for “publicly slandering” the Vietnamese Communist Party and “distorting” the government’s policy on religion.² The Commission remains deeply concerned that the Vietnamese government may be punishing Fr. Ly for his response to the Commission’s invitation. The action of the Vietnamese government is

clearly a demonstration of the government's continued suppression, not only of religious freedom, but of other fundamental human rights as well. Moreover, the Commission believes that the United States has the moral responsibility to support and protect those Vietnamese citizens, including Fr. Ly, who have the courage to speak to us in the pursuit of the realization of fundamental human rights.

B. Religious Demography

Vietnam is the world's 13th most populous country, with a population of nearly 80 million people.³ The oldest and largest religion is Buddhism, and approximately 50 percent of Vietnamese are Buddhists. The Roman Catholic Church in Vietnam has a following of approximately 6 million people. The Cao Dai and the Hoa Hao Buddhists are two indigenous religious communities, each of which has from 1 to 3 million adherents. The Cao Dai religion was formally organized in the 1920s and its religious center is located in Tay Ninh province in southern Vietnam. It is syncretic in nature, combining elements of Catholicism, Buddhism, Taoism, and the traditional worship of spirits and ancestors. The Hoa Hao religion is considered by many of its followers as a "reformed" branch of Buddhism. Huynh Phu So founded the religion in 1939 at Hoa Hao Village in the southern province of An Giang, and most Hoa Haos continue to live in that region of the Mekong River Delta. The Hoa Hao religion does not have priests, builds few temples, and eschews many of the ceremonial aspects of other Buddhist traditions. Protestants in Vietnam reportedly number approximately 700,000 to 800,000. About two-thirds of the Protestant population are members of ethnic minority groups, including the Montagnards in the Central Highlands and the Hmong in the northwestern provinces. By all accounts, the number of Protestants in the country has grown substantially in recent years. There is also a small, primarily Sunni, Muslim population estimated at 50,000 persons spread throughout Vietnam. Finally, there are between several hundred and 2,000 Vietnamese Baha'i followers, who are largely concentrated in the south.⁴

C. Religious Freedom

1. Legal Framework

The Constitution of Vietnam provides for the freedom of religion and belief for citizens of the country.⁵ However, the Constitution also permits restrictions on these freedoms in furtherance of vaguely defined interests of the state and the Vietnamese Communist Party (VCP). The Constitution guarantees that all aspects of the polity and society are controlled by the VCP ("the vanguard of the Vietnamese working class" and the "faithful representative" of the whole nation) and the Fatherland Front (the umbrella organization of non-communist elements, which along with its member organizations "constitute the political base of people's powers").⁶ Several constitutional provisions also allow the government to punish "severely" all acts that violate the undefined "interests of the motherland and the people."⁷

In April 1999, the Vietnamese government issued a Decree Concerning Religious Activities (1999 Religion Decree), which establishes the basic legal framework within which religious activities take place and codifies state control over religious organizations. The

1999 Religion Decree defines the extent of the Vietnamese government's control of religious communities and activities. Article 5 states:

All activities which threaten freedom of religious belief, all activities using religious belief in order to oppose the State of the Socialist Republic of Vietnam, to prevent the believers from carrying out their civic responsibilities, to sabotage the union of all the people, to go against the healthy culture of our nation, as well as superstitious activities, will be punished in conformity with the law.⁸

The decree stipulates that religious organizations must be registered with the state and religious activities must be approved by the relevant levels of government, including, in some cases, the prime minister. For example, the "printing and dissemination," and "the production, the commercialization, and the export and import" of religious products and literature "must be submitted to the regulation of the State."⁹ The government must also approve the nomination, ordination, and the transfer of clergy and lay "specialists."¹⁰ Furthermore, religious organizations and officials must report, and obtain when necessary the authorization of the Bureau of Religious Affairs for, their interactions with foreign organizations and individuals, and their activities abroad.¹¹ Finally, the decree essentially ensures that the Vietnamese government need not return confiscated religious properties to their original owners.¹²

In addition to the 1999 Religion Decree, the government decree on administrative detention is frequently used to detain and harass religious believers for unofficial religious activities.¹³ This decree permits the use of administrative detention without trial for six months to two years as a means to punish those who contravene national security.¹⁴ Activities that contravene national security are further defined in the Vietnamese Criminal Code to include activities seeking to overthrow the Communist government and attempts to undermine national unity, such as promoting division between religious believers and nonbelievers.¹⁵

The Vietnamese government's Religious Affairs Bureau is reportedly preparing a new ordinance on religion for consideration by the National Assembly.¹⁶ The draft law apparently contains provisions similar to the 1999 Religion Decree. One addition in the proposed ordinance is that religious organizations may apply for recognition by the state. However, the proposed definition of a religious organization – "an organization founded with a religious objective, endowed with a Charter in conformity with state law and a leadership approved by the State" – essentially precludes the recognition of religious organizations that are not controlled by the government.¹⁷

2. State Control of Religious Activities

In Vietnam, as one witness before the Commission testified, "there is no freedom of religion, because the freedom of religion is controlled by the governmental authorities at all levels."¹⁸ The preconditions of official recognition constitute the primary mechanism for this pervasive state control of religious communities and activities. The utilization of this mechanism as a means of control reportedly stems from the Vietnamese Communist Party's

fear, due in part to historical factors, that independent, organized religions and religious communities could serve as alternative bases of loyalty, social organization, and political power.¹⁹ Hence, religion “is controlled by its incorporation as an organ of state and by denying it any autonomy.”²⁰

a. Officially recognized religious groups

The Vietnamese government officially recognizes Buddhist, Roman Catholic, Protestant, Cao Dai, Hoa Hao, and Muslim religious organizations. The recognized Buddhist, Cao Dai, and Hoa Hao religious organizations were created and are operated by the government. The official Buddhist organization, the Vietnamese Buddhist Church, was created by the government in 1981 to put into place an officially controlled Buddhist organization that would subsume the popular Unified Buddhist Church of Vietnam (UBCV), which has been effectively banned since that time. Hoa Hao organizations were dissolved after the fall of Saigon in 1975, and no Hoa Hao institution was recognized by the state until 1999. At that time, the government created the Committee of Hoa Hao Representatives (CHHR). This organization is made up almost entirely of Communist Party members and apparently is not recognized as legitimate by the vast majority of Hoa Haos. Nevertheless, the CHHR has sought to control all Hoa Hao religious activity, particularly at the Hoa Hao village, which is the center of Hoa Hao religious life.

Although the government has recognized some Cao Dai denominations, the large majority of Cao Dai organizations and their followers reportedly are opposed to the government-appointed committee that manages all Cao Dai affairs.²¹ Indeed, the government continues to control the official Cao Dai denominations tightly and to suppress the unofficial ones through this committee. A number of independent Cao Dai followers reportedly have been imprisoned for their opposition to government interference.²² In October 1998, two Cao Dai followers apparently were arrested and imprisoned after attempting to meet with the UN Special Rapporteur on Religious Intolerance during his visit to Vietnam.²³ The government also prohibits spiritist practices, which are key elements in the religion’s leadership selection process.²⁴ Finally, the Vietnamese government reportedly confiscated much of the Cao Dai religious properties after 1975.²⁵

Although the Roman Catholic Church has generally fared better than other religious communities, they continue to face significant government restrictions. For example, the government controls the organization, agenda, and publications of the annual Pastoral Assembly of the Catholic Bishops Conference of Vietnam (CBCV); intervenes in the selection process of bishops, priests, and seminary students (resulting in a shortage of bishops and priests); influences the content of seminary instruction; and prohibits CBCV publications at the national or local levels.²⁶ The government has reportedly imprisoned or detained a number of Catholic priests who have carried out pastoral activities without government permission or who were ordained without government approval. The government has confiscated thousands of Catholic Church properties, including churches, schools, hospitals, and seminaries in the north (since the 1950s) and in the south (since 1975). A great number of these properties have not been returned and have been converted into meeting halls, storage facilities, and Communist education centers.

The state-controlled Buddhist organizations and the Protestant Evangelical Church of Vietnam (the officially recognized Protestant community in northern Vietnam) share many of the problems the Catholic Church faces, including government influence over the selection of religious leaders and the management of religious properties, prohibitions on religious publications, and the failure to return confiscated property.

In April 2001, the Vietnamese government reportedly recognized the Evangelical Church of Vietnam in the south and its member churches.²⁷ Legal status would be granted to 300 individual churches, which apparently represent just a fraction of the Protestant churches in the country. The government would not recognize the majority of the ethnic minority Protestant churches in the Central Highlands. It has been reported that not all southern Protestants support the government's planned recognition for fear it would mean the end of the Church's autonomy, a concern that has been substantiated by reports that the Church's new constitution must be approved by the Vietnamese government.²⁸

b. Unrecognized religious communities

Notwithstanding the extensive state control over recognized religious communities, the Vietnamese government's harshest repression is reserved for members of unrecognized communities, including the UBCV, the Hoa Hao, and independent Protestant churches.

Over the past three years, the Vietnamese government has adopted what one witness who testified before the Commission called "a subtle, insidious strategy" to isolate UBCV clergy and followers.²⁹ Although no longer in prison, several prominent UBCV leaders, including Venerable Thich Huyen Quang and Venerable Thich Quang Do, are under house arrest or strict police surveillance and are denied the ability to register their respective temples as their place of residence, thereby making their stay at their own temples illegal. Even when UBCV leaders manage to travel, they suffer from police harassment (including detention and strip searches).³⁰ The Vietnamese government also prohibits works of charity and humanitarian relief by UBCV clergy; it blocked a recent attempt by UBCV leaders to provide relief to flood victims in the Mekong Delta. Moreover, the government continues to "demolish religious buildings, architectures, and statues; and confiscate church properties, some of which were then used as storage or transformed into government buildings."³¹ In February 2001, UBCV monk Thich Thai Hoa (who submitted written testimony to the Commission hearing) organized a weeklong interfaith religious event near the city of Hue. Local officials reportedly set up roadblocks, forced students to attend school on the weekend that fell during the event, and engaged in other forms of harassment to prevent people from attending the gathering. Local officials reportedly also placed Father Ly under temporary house arrest in order to prevent his attendance at the event.³²

The Vietnamese government restricts the activities of the unofficial Hoa Hao Buddhist organizations and their members. Many Hoa Hao Buddhists cannot obtain permits to visit Hoa Hao village, the birthplace and center of the religion. The Vietnamese government also interferes with the Hoa Haos' efforts to conduct charitable works (including recent attempts to provide relief to flood victims), which apparently is one of the four central principles of Hoa Hao Buddhism.³³ Moreover, the government prohibits the public celebration of major ceremonies, such as the ceremony to commemorate the disappearance of

the religion's founder, as well as the public display of important religious symbols, such as the Hoa Hao Buddhist flag.³⁴ The government actively harasses and arrests Hoa Haos who seek to participate in religious celebrations or appeal for religious freedom. For example, in September 2000, five Hoa Hao Buddhists were sentenced to prison terms of one to three years for appealing to the central government against local police brutality that occurred during a December 1999 meeting to plan for the celebration of the founder's birthday. In March 2001, local police officials arrested Le Quang Liem, a Hoa Hao leader in Ho Chi Minh City. It was reported that he was severely beaten and that the arrest was in anticipation of the planned March 19 commemoration of the Hoa Hao founder's disappearance. Liem was released shortly after his arrest; however, he reportedly was later placed under "administrative surveillance," which went into effect on March 17 and restricts his ability to travel in Vietnam for a period of two years.³⁵ The government has not returned any of the hundreds of Hoa Hao properties confiscated after 1975.³⁶

The government continues to repress forcefully the activities of Protestants who are ethnic minorities or who are members of independent house churches (these groups make up the large majority of Vietnamese Protestants). Official documents recently published by Freedom House indicate that the Vietnamese government is conducting a campaign to co-opt and suppress the growth of the Protestant community, especially among the Montagnards, the Hmong, and other ethnic minorities.³⁷ Independent Protestants face constant harassment from the Vietnamese authorities, including police raids on homes and house churches, detention and imprisonment, confiscation of religious and personal property, physical and psychological abuse, and fines for engaging in unapproved religious activities (such as collective worship, public religious expression and distribution of religious literature, and performing baptisms, marriages, or funeral services).³⁸ In addition, it is reported that ethnic Hmong Protestants have been forced by local officials to agree to abandon their faith.³⁹ Finally, none of the 398 Montagnard Protestant Church properties seized by the Communist Party after 1975 have been returned.

The ethnic minorities in the Central Highlands and the northwestern provinces of Vietnam have a long history of strained relationship with the ethnic Vietnamese and successive governments, including during French rule and during the Vietnam War. After 1975, the relationship between the Communist regime and the Montagnards in the Central Highlands was further strained by the mass migration of ethnic Vietnamese (at times encouraged and approved by the government) into the region. These migrants came to occupy lands traditionally held by ethnic minorities. Furthermore, the fact that ethnic minorities constitute approximately two-thirds of the Protestant population in Vietnam introduced another volatile element into the already tense relationship. Indeed, the tenuous nature of the relationship between the government and ethnic minorities was demonstrated in February 2001, when thousands of Central Highlanders protested, seeking the return of ancestral lands and the freedom to practice their religion.⁴⁰

D. The Bilateral Trade Agreement and Normal Trade Relations Status

For three consecutive years, from 1998 to 2000, President Clinton granted Vietnam a waiver from the requirements of the Jackson-Vanik Amendment to the Trade Act of 1974 that restrict economic aid to countries with non-market economies that also have restrictive

emigration policies. Each year, congressional efforts to disapprove the presidential waiver have failed.

In July 1999, the United States and Vietnam announced an “agreement in principle” on a bilateral trade agreement (BTA). The agreement was not officially signed until a year later (due to internal divisions among the VCP leadership) and must be ratified by the U.S. Congress. If the Congress approves the BTA, the United States would extend temporary normal trade relations (NTR) status to Vietnam, which would significantly reduce U.S. tariffs on most imports from Vietnam. In addition, it would grant Vietnam access to U.S. government financial facilities that extend credits, credit guarantees, or investment guarantees. In return, Vietnam agreed to undertake a wide range of market-liberalization measures, including extending NTR treatment to U.S. exports, reducing tariffs on goods, easing barriers to U.S. services, committing to protect certain intellectual-property rights, and providing additional inducements and protections for foreign direct investment. The agreement does not address the Vietnamese government’s interference with the distribution of literature, multi-media broadcasts, and other forms of transmission into Vietnam, for example Radio Free Asia broadcasts.

However, notwithstanding an approved BTA, Vietnam would be still subject to the Jackson-Vanik restrictions, unless they are waived by the President (and the waiver is not overturned by Congress). In other words, even with the BTA in place, the President can suspend NTR by not promulgating a Jackson-Vanik waiver or the Congress can suspend NTR by overturning a presidential waiver.

E. Commission Recommendations

With a new administration in place and as Congress prepares to consider the ratification of the Bilateral Trade Agreement, the time is ripe for the U.S. government to assess how the promotion of religious freedom factors into U.S. policy toward Vietnam. The Commission believes that approval of the BTA without any U.S. action with regard to religious freedom risks worsening the religious-freedom situation in Vietnam because it may be interpreted by the government of Vietnam as a signal of American indifference. We note that after approval of Permanent Normal Trade Relations status for the People’s Republic of China, unaccompanied by any substantial U.S. action with regard to religious freedom in that country, religious freedom in China has declined markedly in the past year. With this background in mind, the Commission makes the following recommendations:

- 1. The U.S. Congress should ratify the U.S.-Vietnam Bilateral Trade Agreement (BTA) only after it passes a sense of the Congress resolution calling for the Vietnamese government to make substantial improvements in the protection of religious freedom or after the Vietnamese government undertakes obligations to the United States to make such improvements. Substantial improvements should be measured by the following standards:**

1.1. Release from imprisonment, detention, house arrest, or intimidating surveillance persons who are so restricted due to their religious identities or activities.

1.2. Permit unhindered access to religious leaders by U.S. diplomatic personnel and government officials, the U.S. Commission on International Religious Freedom, and respected international human rights organizations, including, if requested, a return visit by the UN Special Rapporteur on Religious Intolerance.

1.3. Establish the freedom to engage in religious activities (including the freedom for religious groups to govern themselves and select their leaders, worship publicly, express and advocate religious beliefs, and distribute religious literature) outside state-controlled religious organizations and eliminate controls on the activities of officially registered organizations. Allow indigenous religious communities to conduct educational, charitable, and humanitarian activities.

1.4. Permit religious groups to gather for annual observances of primary religious holidays.

1.5. Return confiscated religious properties.

1.6. Permit domestic Vietnamese religious organizations and individuals to interact with foreign organizations and individuals.

The items listed in Recommendation 1 above are standards by which the progress of the Vietnamese government in the protection of religious freedom can be measured. The Commission believes that the BTA should not be approved until the Congress calls on the government of Vietnam to make substantial improvements in protecting religious freedom or until that government has demonstrated its commitment to protecting religious freedom as measured by these standards.

The BTA does not currently include any provision that would safeguard human rights and religious freedom in Vietnam. The Commission believes that the seriousness and extent of religious-freedom violations in Vietnam warrant a commitment on the part of the Vietnamese government to make substantial improvements in the protection of religious freedom. The Commission does not endorse a particular method of securing such a commitment, but notes that IRFA authorizes the President to “negotiate and enter into a binding agreement with a foreign government to cease, or take substantial steps to address and phase out, the act, policy, or practice constituting the violation of religious freedom.”⁴¹

2. If Congress ratifies the BTA and approves conditional Normal Trade Relations (NTR) status for Vietnam, it should review Vietnam’s progress on the protection of religious freedom as part of an annual review of that status.

Upon ratification of the BTA, Vietnam's conditional NTR status would still be subject to review by Congress on an annual basis if and when the President issues a Jackson-Vanik waiver for Vietnam. Should Congress decide to approve the BTA, the Commission urges that it examine Vietnam's progress on the protection of religious freedom and human rights as part of this annual review.

3. The United States should withhold its support for International Monetary Fund (IMF) and World Bank loans to Vietnam (except those providing for basic human needs) until the government of Vietnam agrees to make substantial improvements in the protection of religious freedom, as measured by the standards itemized in 1.1 through 1.6 above.

The IMF and the World Bank reportedly are considering loans to the Vietnamese government of up to \$800 million to further Vietnam's economic reform programs. The proposed loan package would provide up to \$400 million during the first two to three years of the program. An additional \$400 million would be conditional upon the Vietnamese government making satisfactory progress in the implementation of its economic reforms during the program's initial period. While these loans are part of the two organizations' ongoing assistance to the Vietnamese government, they reportedly would represent the first set of IMF and World Bank loans to Vietnam in five years. Officials of the IMF and the World Bank apparently are hopeful that their respective executive boards will approve the loans in April 2001, with implementation to follow in May. As of the date that this report went to print, no decision has been made.

As mentioned above in connection with congressional approval of the BTA, the Commission believes that supporting economic aid through international financial institutions that primarily benefits the Vietnamese government without requiring that government to make a commitment to substantially improve its protection of religious freedom may be interpreted as a signal of U.S. indifference. The Commission recognizes that Congress has set down policy guidelines for the withholding of U.S. support for IMF or World Bank loans on human rights grounds in both the International Financial Institutions Act of 1977 and IRFA.⁴² The Commission believes that the severity of the Vietnamese government's violation of religious freedom, and its apparent unwillingness to make sustained improvements in the protection of religious freedom, warrants the use of this sanction. The United States, as a member of the IMF and World Bank Executive Boards, should withhold its support for loans to the government of Vietnam until that government agrees to make substantial improvement in the protection of religious freedom. The U.S. should not withhold its support for loans made for the purpose of providing for the basic human needs of the Vietnamese people.⁴³

4. The U.S. government should make the protection of religious freedom a high-priority issue in its bilateral relations with Vietnam, including in the annual human rights dialogue with the Vietnamese government and in future trade negotiations, advocating substantial improvement in the protection of religious freedom as measured by the standards itemized as 1.1 through 1.6 above.

The U.S. Department of State should advise the office of the U.S. Trade Representative (USTR) on the state of religious freedom and other human rights in Vietnam, and should request that the USTR advance the U.S. government's interests in human rights in and through the negotiations and the provisions of any further trade agreement or companion agreement between the two countries.

The United States and Vietnamese governments have held bilateral human rights dialogues since 1995. The U.S. government should ensure that the discussion of religious freedom receives high-priority attention in these annual dialogues, as well as in other bilateral contacts. The United States should press vigorously for substantial improvement in the protection of religious freedom in Vietnam, as measured by the specific standards referred to above.

The State Department should ensure that the USTR, as the executive branch's interagency coordinator of U.S. trade policy and the lead trade negotiator, is advised of the state of religious freedom and other human rights in Vietnam prior to and during its trade negotiations with its Vietnamese counterpart. Furthermore, the State Department should request that the USTR advance the U.S. government's interests in promoting human rights and religious freedom in the conduct of its trade negotiations with the Vietnamese government and that such interests should be reflected in the provisions of any further trade agreement or companion agreement between the two countries.

5. The U.S. government should insist that the Vietnamese government permit domestic Vietnamese religious and other non-governmental organizations to distribute their own and donated aid.

One important aspect of many Vietnamese religious communities is their commitment, as a matter of conscience, to humanitarian relief and other works of charity. However, the Vietnamese government has prohibited indigenous religious groups and their members from providing relief and social services to the Vietnamese people.⁴⁴ For example, in October 2000 the Vietnamese government barred UBCV leaders such as the Venerable Thich Quang Do and the Venerable Thich Khong Tanh from providing much-needed relief to victims of one of the largest floods in Vietnam's recent history, despite the fact that the Vietnamese government was incapable of providing sufficient relief and was openly courting international relief aid. The Hoa Hao Buddhists were also prevented from providing flood relief.

While the U.S. government should continue to provide humanitarian and relief aid to Vietnam should the need arise, the Commission believes that the United States should insist that the Vietnamese government permit domestic religious and other non-governmental organizations to distribute their own and donated aid.

6. The U.S. government should, through its foreign assistance and exchange programs, support individuals (and organizations, if they exist) in Vietnam that are advocating human rights (including religious freedom), the rule of law, and legal reform. It should also support

exchanges between Vietnamese religious communities and U.S. religious and other non-governmental organizations concerned with religious freedom in Vietnam.

The United States currently gives Vietnam around \$8 million in direct foreign assistance, primarily humanitarian aid and support for economic reform. Although there are individuals in Vietnam who advocate for legal reform and human rights (including religious freedom), the Vietnamese government generally prohibits independent human rights, humanitarian, and other such organizations. In order to promote religious freedom in Vietnam, the U.S. government should support such individuals (and organizations, if they exist) in these efforts. This could be done through direct support as well as educational and other exchanges with appropriate U.S. partners.

7. Until religious freedom significantly improves in Vietnam (as measured by the standards itemized as 1.1 through 1.6, above), the U.S. government should initiate or support a resolution to censure Vietnam at the annual meeting of the UN Commission on Human Rights and should engage in a sustained campaign to persuade other governments to support it.

8. The U.S. government should continue to support the Association for Southeast Asian Nations (ASEAN) Human Rights Working Group, and should encourage the Vietnamese government to join the working group.

In 1993, the ASEAN Inter-Parliamentary Organization adopted a Declaration on Human Rights that included a provision encouraging the ASEAN member states to form a regional human rights mechanism.⁴⁵ Following this formal declaration, ASEAN – through consultations among representatives of the ASEAN member states, regional organizations, and Southeast Asian non-governmental organizations – established the Working Group for an ASEAN Human Rights Mechanism (Working Group). The Working Group is comprised of national working groups in member states which in turn are made up of representatives from the academe, non-governmental organizations, government, business, media, and “national human rights institutions.” To date, Indonesia, Malaysia, the Philippines, and Thailand have formed national working groups, and Singapore is in the process of forming one. In July 2000, the Working Group submitted to ASEAN a draft agreement that calls for the establishment of a permanent human rights commission.

The Commission believes that the U.S. government should continue to support the Working Group and its efforts to promote the creation of a permanent ASEAN human rights organization. The U.S. government should urge the Vietnamese government to join the Working Group and establish its own national working group as a sign of its commitment to protecting religious freedom and other human rights. The establishment of such an organization in Vietnam would lay the foundation for regular discussions on human rights between Vietnam and other Southeast Asian countries. The Vietnamese government discussed with Working Group officials the possibility of forming such a national body in Vietnam during a recent visit to Hanoi.

9. The United States should continue to support Radio Free Asia (RFA) broadcasts into Vietnam as a vehicle for promoting religious freedom and human rights in that country.

It is widely reported that the Vietnamese government jams RFA broadcasts into Vietnam. The reported efforts by the Vietnamese government to block RFA transmissions reflect RFA's importance to the Vietnamese people as a source of news and information about Vietnam that is independent of the Vietnamese government. The Commission recommends that the U.S. government should continue to support RFA broadcasts into Vietnam not only as a source of news and information but also as a vehicle for promoting religious freedom and human rights in that country.

¹ The increase in religious practice in Vietnam has coincided with a loosening of government restrictions over social life in Vietnam.

² Associated Press, "Vietnam detains Catholic priest for testimony against U.S. trade pact," March 5, 2001; Steve Kirby, "Vietnam punishes priest who dared to speak out to US freedoms panel," *Agence France Presse*, March 4, 2001.

³ Information pertaining to ethnic and religious demography is based on the following sources: Central Intelligence Agency, *The World Factbook 2000*, Washington, D.C., 2000; House Committee on International Relations and Senate Committee on Foreign Relations, *Annual Report on International Religious Freedom 2000*, report prepared by U.S. Department of State. 106th Cong., 2d sess., 2000, Joint Committee Print, 231-233; Amnesty International, *Socialist Republic of Vietnam: Religious Intolerance – Recent Arrests of Buddhists*, January 2, 2001; Embassy of Vietnam, *Some Facts on Religious Freedom in Vietnam*, Washington, D.C., February 2001; Kevin Boyle and Juliet Sheen, ed., *Freedom of Religion and Belief – A World Report*, (1997).

⁴ According to the State Department, an estimated 130,000 Baha'i followers resided in Vietnam prior to 1975. *2000 Religious Freedom Report*, "Vietnam," 233.

⁵ Vietnam Constitution, art. 70.

⁶ Vietnam Constitution, art. 4, 9.

⁷ Vietnam Constitution, art. 3.

⁸ Socialist Republic of Vietnam, *Decree of the Government Concerning Religious Activities (April 19, 1999)*, trans. Stephen Denney. [Translated from Vietnamese to French by Eglise D'Asie.]

⁹ *Ibid.*, art. 14.

¹⁰ *Ibid.*, art. 20, 21.

¹¹ Ibid., art. 22, 23, 24, 25, 26.

¹² Ibid., art. 11, sec. 3 states, “The buildings, land and other items transmitted by these organizations or by religious officials to the organs of the State for it to manage and use, in application of the political line of the Democratic Republic of Vietnam, of the Provisional Revolutionary Government of South Vietnam, or of the Socialist Republic of Vietnam, or given or offered to the State, are now the property of the Socialist Republic of Vietnam.”

¹³ UN Special Rapporteur on Religious Intolerance, *Civil and Political Rights, Including the Question of Religious Intolerance*, E/CN.4/1999/58/Add.2, December 29, 1998, ¶ 17, 18, 19. [Government Decree CP/31.]

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Vo Van Ai, U.S. Commission on International Religious Freedom, *Hearing on Vietnam*, February 13, 2001, 26; Socialist Republic of Vietnam, *Projet d'une Ordonnance sur la Religion (2000)*, trans. International Buddhist Information Bureau (2000).

¹⁷ Ibid.

¹⁸ The Rev. John Tran Cong Nghi, U.S. Commission on International Religious Freedom, *Hearing on Vietnam*, February 13, 2001, 44.

¹⁹ In the 1940s, from their base in southern Vietnam, the Hoa Hao Buddhists actively participated as a key group in the fight for independence from the French. However, the relationship between the Hoa Haos and the Vietnamese Communists was strained when the Communists reportedly attacked Hoa Haos without provocation in 1945. In 1947, the Communists reportedly killed Huynh Phu So, the founder of the religion, when he attended a meeting of the Vietnamese pro-independence forces convened by the Communists. Nguyen Long Thanh Nam, “Hoa Hao Buddhism, A Revolutionary Religion,” 1987 (E-mail message received December 13, 2000).

²⁰ Zachary Abuza, U.S. Commission on International Religious Freedom, *Hearing on Vietnam* (written testimony), February 13, 2001, 5.

²¹ Sergei Blagov, *The Cao Dai: A New Religious Movement* (1999), 130-151.

²² *2000 Religious Freedom Report*, “Vietnam,” 237.

²³ Ibid.

²⁴ Hum D. Bui, written statement submitted to the U.S. Commission on International Religious Freedom, March 9, 2001. Blagov, *The Cao Dai*, 130-151.

²⁵ Blagov, *The Cao Dai*, 132.

²⁶ The Rev. Thaddeus Nguyen Van Ly, written testimony submitted to the U.S. Commission on International Religious Freedom, *Hearing on Vietnam*, February 13, 2001, 2-4.

²⁷ David Brunnstrom, "Hanoi recognizes southern protestant church branch," *Reuters*, April 3, 2001.

²⁸ USCIRF Interview with Protestant representative, December 6, 2000; Reuters, "Vietnam Protestants gather for historic conference," February 7, 2001; Reuters, "Vietnam Protestants to pass 'conforming' chapter," February 8, 2001.

²⁹ Vo Van Ai, *Hearing on Vietnam* (written testimony), 12.

³⁰ Ibid., 23. On February 4, 2001, prior to the Commission's February 13, 2001 hearing, the Ven. Thich Quang Do, the UBCV deputy head, and his colleagues were arrested, interrogated, and strip-searched by local security personnel on their return from a traditional Lunar New Year visit to Ven. Thich Huyen Quang, the UBCV supreme patriarch.

³¹ The Ven. Thich Thai Hoa, written testimony submitted to the U.S. Commission on International Religious Freedom, *Hearing on Vietnam*, February 13, 2001, 2. According to one source, only 5 to 10 percent of the confiscated Buddhist properties in the south have been returned. USCIRF, *Hearing on Vietnam* (Abuza written testimony), 6.

³² Bhikkhu Thich Thai Hoa, *Report No. 1 of the Week of Prayer*, Free Vietnam Alliance, February 9, 2001 (E-mail message received February 14, 2001); USCIRF Interview with Vietnamese-American organization, February 12, 2001; Deutsche Presse-Agentur, "Vietnam clamps down on religious fete in Hue," February 14, 2001.

³³ The four principles are: Respect parents and ancestors; serve the country; maintain one's faith in Hoa Hao Buddhism; and serve humanity. Huynh-Mai Nguyen, U.S. Commission on International Religious Freedom, *Hearing on Vietnam*, February 13, 2001, 1.

³⁴ USCIRF, *Hearing on Vietnam* (Huynh-Mai Nguyen written testimony), 3-4.

³⁵ David Brunnstrom, "Vietnam sect leaders allowed home, status unclear," *Reuters*, March 19, 2001; David Brunnstrom, "Vietnam restricts travel by dissident Buddhist," *Reuters*, March 25, 2001. The Vietnamese authorities recently sentenced two other Hoa Hao Buddhist leaders to prison terms of two and five years, respectively. Nguyen Van Diem, Le Quang Liem's deputy, was sentenced to two years in prison after he was arrested in March 2001, in connection with Liem's arrest. Ha Hai, the third highest-ranking Hoa Hao leader, was sentenced to five years in prison in January for violating house arrest rules and "abusing democratic rights of the state." Hai was placed under house arrest in March 2000 for attempting to hold a commemoration of the founder's disappearance. In November, he was re-arrested when he attempted to visit Ho Chi Minh City on the eve of President Clinton's visit to Vietnam.

³⁶ USCIRF, *Hearing on Vietnam* (Huynh-Mai Nguyen written testimony), 6; Central Council of Administrators of the Hoa Hao Buddhist Church in the United States, “List of Confiscated Hoa Hao Buddhist Church Properties in Vietnam,” February 2001.

³⁷ Center for Religious Freedom, “*Directions for Stopping Religion*”: *Official Secret Vietnamese Documents on How to Arrest the Spread of Christianity and other Evidence of Religious Persecution*, Freedom House, October 2000.

³⁸ The Rev. Paul Ai, U.S. Commission on International Religious Freedom, *Hearing on Vietnam*, February 13, 2001, 36-42.

³⁹ Religious Liberty Commission, “Exhibit 1,” *On the Cruel Edges of the World: The Untold Story of the Persecution of Christians Among Vietnam’s Minority Peoples*, World Evangelical Fellowship, Bangkok, Thailand, March 1999.

⁴⁰ Margot Cohen, “Thunder From the Highlands,” *Far Eastern Economic Review*, March 1, 2001 (http://www.feer.com/_0103_01/p024region.html, accessed March 26, 2001).

⁴¹ International Religious Freedom Act of 1998, § 404(c), 22 U.S.C. § 6444.

⁴² Sec. 701, International Financial Institutions Act of 1977, 22 U.S.C. § 262d; IRFA § 405(a)(12), 22 U.S.C. § 6445.

⁴³ In March 2001, the Commission wrote to the Secretary of the Treasury communicating this recommendation.

⁴⁴ This appears to be in conflict with the government’s own regulations. Article 17 of the 1999 Religion Decree provides that “the clergy and religious can carry out economic, cultural and social activities as all other citizens.”

⁴⁵ Association for Southeast Asian Nations, *Bangkok Declaration*, March – April 1993 (<http://www.rwgmechanism.com/asia.html>, accessed March 26, 2001).

XII. U.S. CAPITAL MARKETS DISCLOSURE

There is a significant, undesirable gap in U.S. law regarding the most egregious religious-freedom violator countries: In many cases, foreign and domestic companies that are doing business in these countries can sell securities on U.S. markets without having to disclose fully (1) the details of the particular business activities in those countries, including plans for expansion or diversification; (2) the identity of all agencies of the governments of these countries with which the companies are doing business; (3) the relationship of the business activities to violations of religious freedom and other human rights; or (4) the contribution that the proceeds raised in the U.S. debt and equity markets will make to these business activities and hence, potentially to those violations. Across-the-board full disclosure of these details would prompt corporate managers to work to prevent their companies from supporting or facilitating these violations. It also would aid (1) U.S. investors in deciding whether to purchase the securities; (2) shareholders in exercising their ownership rights (including proposing shareholder resolutions for annual meetings and proxy statements); (3) the Treasury Department's Office of Foreign Assets Control (OFAC) in enforcing existing sanctions; and (4) U.S. policymakers in formulating sound policy with respect to religious-freedom violator countries and U.S. capital markets. The Commission recommends that the U.S. require such disclosure.

A. Background

1. Countries of Particular Concern (CPCs)

The International Religious Freedom Act of 1998 (IRFA) contains a formal mechanism for identifying those foreign governments that have especially abysmal records of protecting religious freedom. 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" (CPC).¹ According to section 3(11), the phrase "particularly severe violations of religious freedom" means violations that are systematic, ongoing, and egregious, including torture, prolonged detention without charges, disappearances, and other flagrant denials of human rights on account of an individual's religious belief or practice.²

IRFA further directs the President to promote religious freedom in a designated CPC by taking one or more of the actions specified in section 405, unless the President determines that pre-existing sanctions are satisfactory or otherwise waives the requirement.³ Such actions include the suspension of U.S. development assistance or security assistance under the Foreign Assistance Act of 1961; restrictions on the activities of the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the Trade and Development Agency with respect to the foreign government involved (and certain related entities); U.S. opposition to loans by international financial institutions primarily benefiting the foreign government; the restriction of certain licenses for exports to the foreign government; prohibitions on certain transactions of U.S. financial institutions; and prohibitions on U.S. government procurement activities.

The President, through his delegate, the Secretary of State, designated the following

countries as CPCs in October 1999 and again in September 2000: Burma, the People's Republic of China ("China"), Iran, Iraq, and Sudan. In response to those designations, the President pursuant to IRFA has taken no additional actions, expressly relying instead on pre-existing sanctions.⁴

2. Securities Transactions of Concern to the Commission

The genocidal levels of destruction and religious persecution in Sudan first galvanized the Commission's concern over securities transactions in the United States. The Commission views the government of Sudan as being the world's most violent abuser of religious freedom; its murderous behavior is financed directly by the development of oil fields in south-central Sudan. Development of those fields has given the government both the incentives and the resources for waging a campaign of death and destruction against its own people. Development of the fields has been conducted, in league with the Sudanese government, by a joint venture that includes the China National Petroleum Company (CNPC), Petroliaam Nasional Berhad (Petronas), and Talisman Energy Corporation (Talisman). Each is a foreign company.⁵ CNPC is organized under Chinese law and controlled by the Chinese government. Petronas is Malaysia's national petroleum corporation and is wholly owned by the Malaysian government. Talisman is a private corporation organized under Canadian law.

In view of the specific circumstances in Sudan, including the close connection between oil development and the Sudanese government's human rights abuses, the Commission has recommended that the U.S. government prohibit any foreign company from raising capital or listing its securities in U.S. markets as long as it is engaged in the development of oil and gas fields in Sudan. Although the Commission does not at this time recommend a general rule broadening these capital-market-access restrictions to all CPC governments or to U.S. or foreign companies with business activities in other CPCs, it will continue to examine such restrictions as U.S. policy options in light of the circumstances pertaining to each country.⁶

Because of CNPC's heavy involvement in Sudan, the Commission was alarmed in 1999 by press reports that CNPC wished to raise capital on U.S. markets. Indeed, CNPC eventually did do that. In April 2000, CNPC and its subsidiary, PetroChina Company Limited (PetroChina), offered shares in PetroChina to U.S. investors, saying that they would use the proceeds in part to retire debt CNPC had incurred previously. Concerned that CNPC might use U.S. capital to retire debt it had incurred in developing the Sudanese oil fields, the Commission studied (1) the current sanctions applicable to Sudan (the Sudanese Sanctions Regulations);⁷ and (2) the registration statement filed with the Securities and Exchange Commission (SEC) for the offering of PetroChina shares. The Commission learned that the Sudanese Sanctions Regulations contain a loophole. According to the interpretation of those regulations by OFAC, a U.S. person may purchase shares offered by a foreign company that does business in Sudan so long as the proceeds are not "earmarked" for a project in Sudan and the company's business in Sudan is not a predominant part of its overall business.⁸

The registration statement filed in connection with the offering reflected no earmarking of proceeds for operations in Sudan. Rather, it contained a commitment by

CNPC to use an elaborate and murky procedure for channeling the proceeds so as to avoid any violation of the Sudanese Sanctions Regulations. Further, the registration statement indicated that CNPC's business in Sudan was not a predominant part of its overall business. Thus, U.S. investors appeared to have been insulated from the sanctions regulations, even while the Sudanese government may be benefiting from the proceeds of the CNPC offering. However, it still was, and still remains, not entirely clear what CNPC's true intentions were with respect to retiring any Sudan-related debt. Nor is it known yet that CNPC in fact did not use the proceeds to retire Sudan-related debt.⁹

In considering this loophole, the Commission came to appreciate that Talisman, whose shares are already traded on U.S. markets, would be able to make further offerings of securities, so long as it avoided any earmarking of the proceeds for Sudan, because Talisman's business in Sudan is not a predominant part of its overall business. As a result, the Commission in May 2000 (and again in March 2001) formally recommended a flat ban against the sale of securities on U.S. markets by any foreign company that is engaged in developing the oil and gas fields in Sudan. The Commission also recommended that, short of such a ban, the United States should require any such company in offering securities to describe those development activities in Sudan and disclose whether it plans to use the proceeds to support them. The Commission explained that, in its view, such disclosures would be important for investment decisions and government policymaking.¹⁰ Today's recommendation is an extrapolation of that second recommendation.

Since the CNPC offering, the signs have increased that Chinese corporations will be trying to raise even greater amounts of capital on U.S. markets and may use that capital to support business not only in China, but in other CPCs. First, in October 2000, the China Petroleum & Chemical Corporation (known as Sinopec) offered shares in large quantities for sale on U.S. markets.¹¹ The *Wall Street Journal* reported on October 11 that a Sinopec subsidiary (Zhongyuan Petroleum Corporation) had a joint venture in Sudan's oil fields with a unit of CNPC; that last summer Sinopec gave its entire interest in the Sudan venture to CNPC; that it has not disclosed the value of any assets from CNPC in return for this transfer; and that there is evidence that Sinopec's subsidiary continues to do business in Sudan's oil fields. Moreover, Dow Jones reported in January 2001 that Sinopec had concluded an agreement and begun work on a \$150 million project in Iran to upgrade petroleum facilities there. This activity may put Sinopec in violation of the Iran-Libya Sanctions Act.¹² Neither Sinopec's business in Sudan nor its impending deal in Iran was disclosed in the Sinopec prospectus filed in connection with the offering.¹³

Second, according to Reuters, an executive vice-president of the New York Stock Exchange (NYSE) stated that six or seven other Chinese corporations had plans to offer shares for sale on U.S. markets during 2001.¹⁴ According to the same executive, the PetroChina and Sinopec offerings had helped to increase the value of shares of Chinese corporations traded on the NYSE to \$6.1 billion, a tenfold increase since the end of 1999. Finally, according to another press account, one of those Chinese corporations, the China National Offshore Oil Corporation (CNOOC), may invest some of the proceeds from its offering in another CPC, Iran, as well as in other countries that have experienced violations of religious freedom, including Saudi Arabia and Indonesia.¹⁵

Although the efforts of foreign companies (*e.g.*, CNPC and Sinopec) to obtain capital on U.S. markets have seized the Commission's attention, it is apparent that the efforts of U.S. companies deserve attention too. For example, many U.S. companies have made, or wish to make, investments in China and may work to raise capital on U.S. markets to support such investments. According to the U.S. Chamber of Commerce, direct foreign investment in China by U.S. companies equaled approximately \$7.7 billion in 1999.¹⁶ Although U.S. sanctions imposed in 1997 have virtually eliminated all U.S. investments in Burma, the Unocal Corporation (Unocal) still has significant operations there.¹⁷

In sum, judging by the recent offerings of Chinese companies and increasing investments by U.S. and foreign companies in China, potentially large amounts of U.S. capital can flow into business activities in CPCs through sales of securities on U.S. markets by U.S. and foreign companies. A prime example is the possibility that the proceeds from sales of CNOOC's shares will be used in two CPCs – China and Iran.¹⁸

3. U.S. Economic Sanctions

U.S. economic sanctions present the only significant legal constraint, albeit a porous one, on the flow of U.S. capital into CPCs through sales of securities on U.S. capital markets. Some U.S. economic sanctions apply to all CPC countries. Those sanctions govern the behavior of U.S. persons – for example, U.S. citizens, entities organized under the laws of jurisdictions within the United States, or persons located in the United States.¹⁹ Each set of those sanctions varies substantially one from another. At one extreme, the sanctions foreclose most forms of direct economic interaction between U.S. persons and the CPC. The sanctions for Sudan offer an example of that extreme.²⁰ At the other end of the scale, the sanctions in question permit most forms of economic interaction. The sanctions for China are the prime example.²¹

The key point, however, is that none of the current sanctions entirely forecloses U.S. persons from purchasing securities offered by a company that is doing business in a CPC. Thus, in varying degrees, they allow U.S. capital to flow into the economies of the CPCs. In particular, U.S. persons are free to purchase shares from offerings by foreign companies where the only CPC in which they do business is China. For the other CPCs, the situation is more restrictive. For example, U.S. persons are free to purchase shares offered by non-U.S. companies where the CPC in which they do business is:

-- Burma, but only so long as the company does not derive its profits predominantly from its own involvement in the economic development of resources located in Burma;²² or

-- Sudan, but only so long as the proceeds are not earmarked for use in Sudan, the company's business in Sudan is not the predominant part of its overall business, and the company is not controlled by the government of Sudan.²³

In short, there are pathways through the sanctions thicket by which U.S. persons are able to invest in foreign companies that do business in CPCs. The pathway in the case of China is wide open, and, in the case of the other CPCs, more restricted but nevertheless

available. We have not yet found comprehensive statistics on how much capital is raised from U.S. markets by foreign companies that do business in CPCs, and therefore recommend that the executive branch collect and maintain statistics on the nature and extent of U.S. business interests in CPCs and U.S. capital markets activity by foreign companies that conduct business activities in CPCs. Prominent examples include oil and gas companies such as TotalFina/Elf, S.A., BP Amoco Corporation and Royal Dutch/Shell.²⁴

While investment in foreign companies is the principal way by which U.S. capital can flow into CPCs, investment in U.S. companies is another, but much less substantial, way. U.S. persons are free to purchase shares from offerings by U.S. companies that do business in China or, in the case of at least one U.S. company, in Burma.²⁵ However, the various sanctions restrict to a trickle the level of business U.S. companies may do lawfully in the other CPCs. Hence, as a practical matter, there are no opportunities for significant amounts of U.S. capital to flow through U.S. companies into those quarters.

4. SEC Disclosure Requirements

The SEC's disclosure regulations are generally designed to provide investors in U.S. markets with "material" information about the companies offering securities and the securities being offered. However, materiality turns on whether the information in question would be likely to be significant to a reasonable investor in the total mix of available information, and the SEC has generally viewed "significance" from an economic standpoint.²⁶ Thus, the overall mix of available information would determine whether a company necessarily would or would not have to describe the details of its involvement in the CPC, the relationship of that involvement to violations of religious freedom, and the specific use of the proceeds to support the involvement.

It is certainly possible to imagine a case where all of that information would be material from a purely economic standpoint. Talisman, one of the partners in the development of the Sudanese oil fields, is a good example. Its activities in Sudan may not be the predominant part of its business, but they may nevertheless be large enough potentially to affect the company's overall financial health. If so, the relationship of Talisman's business, including use of the proceeds, to the murderous behavior of the Sudanese government may well be of significance to a reasonable investor because the behavior has generated civil war, instability, deterioration of the population and the national infrastructure, poor relations with foreign governments, and an international divestment campaign. With respect to the last factor, in February 2001, the Sudan Inter-Agency Reference Group, a coalition of Canadian NGOs, called for a divestment campaign against Talisman.²⁷ According to Canadian news sources, the Royal Bank of Canada, which is one of the largest Talisman shareholders, is also being targeted for a boycott and other consumer action if it does not divest itself of Talisman shares.

On the other hand, it is certainly possible to imagine a case where all the information would not be material from a purely economic standpoint – for example, where the level of business in the CPC were only a tiny fraction of the overall business of the company. Of course, in absolute terms, the investment may still be substantial, so that the data could still be important for reasons other than valuation of the offered securities.

The point is that current SEC requirements for both foreign and U.S. issuers do not necessarily call for all of the data in all cases.²⁸ An examination of two central sets of disclosure requirements underscores this point.

Risk Factors. One provision applicable to foreign private issuers calls for a disclosure of those “risk factors that are specific to the company or its industry and make an offering speculative or one of high risk,” including “factors relating to the countries in which it operates.”²⁹ Similarly, the comparable provision for U.S. issuers calls for a discussion of “the most significant factors that make the offering speculative or risky.”³⁰ Unfortunately, however, China’s egregious violations of religious freedom by themselves are not likely to be factors that make an offering risky in the case of a company that does business in China, yet they are part of an overall set of policies and practices that arguably create a shaky political and business environment.

Use of Proceeds. Another provision applicable to foreign issuers calls for a statement of “the estimated net amount of the proceeds broken down into each principal intended use thereof.” It adds: “If the company has no specific plans for the proceeds, it should discuss the principal reasons for the offering.”³¹ The comparable provision for U.S. issuers is identical substantively. It calls for “the principal purposes for which the net proceeds ... from the securities to be offered are intended to be used and the approximate amount intended to be used for each such purpose.”³² The provision adds: “Where registrant has no current specific plan for the proceeds, or a significant portion thereof, the registrant shall so state and discuss the principal reasons for the offering.”³³

This means that there are situations in which Talisman can make an offering without having to discuss the extent to which an infusion of U.S. capital into it might end up supporting the behavior of the government of Sudan. It could keep any use of the proceeds in Sudan to a minor level in relative terms, or it could simply postpone specific planning. That, however, would leave prospective investors and government policymakers who care about the persecution in Sudan completely in the dark. The same is true about a U.S. company that is doing business in China. As another example, in Unocal’s prospectus filed with the SEC in August 1999, the entire “use of proceeds” section reads as follows: “We will use the net proceeds from the sale of the common stock purchased from us pursuant to the plan for our general corporate purposes, including investments in, contributions to, or extensions of credit to our subsidiaries.”³⁴

Disclosure Example. Upon preliminary research, the Commission is concerned that U.S. and foreign companies with significant business interests in CPCs are not disclosing the nature and extent of these interests, as well as the risks associated with the abhorrent human rights records of these countries and their designation as CPCs.

One example is Nike, Inc. (Nike). According to the annual report filed by Nike with the SEC for the fiscal year ending May 31, 2000, 43 percent of Nike’s footwear and an unspecified percentage of its apparel is manufactured by independent contractors in China.³⁵ Although China-specific revenue figures are not reported, fiscal year 2000 revenues for the Asia/Pacific region for Nike footwear and apparel were \$928.2 million. Nike also reported that it had a branch office or subsidiary in China. However, the identity of these

“independent contractors” in China or their relationship with the Chinese government is not disclosed. Likewise, the Nike Form 10-K does not discuss the Chinese government’s dreadful human rights record, its designation by the U.S. government as an egregious violator of religious freedom under IRFA, or the potential sanctions associated with such designation. Indeed, there is no mention of human rights in the entire filing.³⁶

In Nike’s prospectus filed with the SEC in April 1999 in connection with a \$500 million offering of debt securities, no information is provided on Nike’s business in China or on any risks associated with that business as a result of China’s record on human rights, or specifically on religious freedom.³⁷ Nor are potential investors told whether or not Nike will use the proceeds from its debt offering to support its business in China. The entire “Use of Proceeds” section of the prospectus reads as follows:

Unless we indicate otherwise in the applicable prospectus supplement, we intend to use the net proceeds from the sale of the debt securities for general corporate purposes, which may include, but are not limited to, refinancing of debt, working capital, capital expenditures and investments in subsidiaries.³⁸

Thus, potential investors in the Nike debt offering were not made aware of the nature and extent of Nike’s business in China (including the identity of its Chinese business partners) or the potential risks that flow from China’s human rights record.

B. Commission Recommendations

The Commission is concerned that significant and material information is being withheld from the U.S. investing public. Foreign companies appear to be able to raise capital in U.S. markets without disclosing their business interests in CPCs, the risks associated therewith, and whether or not the proceeds from the sale of securities will be used to support their business in the CPC (and perhaps to support a foreign government that has been found to engage in or tolerate egregious religious-freedom violations). The problem is especially acute in the case of foreign companies because unlike U.S. companies, foreign companies are generally permitted under U.S. law to do business in CPCs that are subject to comprehensive U.S. economic sanctions. Moreover, these companies can, in a wide range of circumstances, raise capital in U.S. markets without violating those sanctions. Thus, the issue of adequate disclosure is particularly important. Most important, however, is that reasonably prudent investors in U.S. financial markets may and should deem the information described above as material to their investment decisions.

Against that background, the Commission makes the following recommendations:

1. The United States should require any U.S. or foreign issuer of securities that is doing business in a country that has been designated as a “country of particular concern” (CPC) under the International Religious Freedom Act of 1998 to disclose in any registration statement filed with the U.S. Securities and Exchange Commission (SEC) for any new offering of securities the following information as to each such country:

1.1. the nature and extent of the business that it and its affiliates are conducting in the particular CPC, (i) including any plans for expansion or diversification and any business relationships with agencies or instrumentalities of the government of the CPC and (ii) specifying the identity of such agencies or instrumentalities;

1.2. whether it plans to use the proceeds of the sale of the securities in connection with its business in the CPC and, if so, how; and

1.3. all significant risk factors associated with doing business in the CPC, including, but not limited to: (i) the political, economic and social conditions inside the CPC, including the policies and practices of the government of the CPC with respect to religious freedom; (ii) the extent to which the business of the issuer and its affiliates directly or indirectly supports or facilitates those policies and practices; and (iii) the potential for and likely impact of a campaign by U.S. persons based on human rights concerns to prevent the purchase or retention of securities of the issuer, including a divestment campaign or shareholder lawsuit.

2. The United States should require any issuer that is doing business in a CPC to disclose the information specified in items 1.1 and 1.3 above in its filings with the SEC, including its annual proxy statement or annual report, in the case of a U.S. issuer, or its U.S. markets annual report, in the case of a foreign issuer.

The benefits of these recommended disclosures would be substantial. They would give corporate managers strong incentives to ensure that their organizations are not participating in, or in any way facilitating, religious persecution in CPC countries. And they would provide information upon which prospective investors, shareholders, OFAC, and government policymakers could all make wiser decisions for their particular purposes. On the other side of the balance, the costs of the disclosures would be modest from the standpoint of preparing them. Of more concern is the potential for complicating and even increasing issuers' legal liabilities. While that potential warrants close examination, the Commission believes that it does not outweigh the benefits of disclosure, particularly because it would expect economic materiality to continue to be the core principle from which those liabilities would arise.

3. The U.S. government, including Congress, should examine how the structuring of securities transactions or the manipulation of corporate relationships by non-U.S. issuers can be used to circumvent U.S. economic sanctions.

The CNPC/PetroChina securities offering discussed above is an example of a significant possible loophole in U.S. sanctions law. In that case, a newly-created subsidiary company (PetroChina) was able to sell securities to U.S. investors despite the fact that its

parent company (CNPC) did significant business in Sudan. According to OFAC, this securities transaction fell outside the Sudan sanctions apparently because the predominant part of PetroChina's business was not in Sudan, and the proceeds of the sale were not earmarked for use in Sudan. Under current law, CNPC may indeed not have been able to sell its securities to U.S. investors, whereas the newly-created PetroChina subsidiary could, and did.

The Commission is concerned that transactions may be structured or corporate relationships manipulated (as, for example, between a parent and one of its subsidiaries) so as to sell securities to U.S. investors notwithstanding U.S. economic sanctions. The Commission therefore recommends that the administration and Congress examine carefully the nature and extent of this potential problem and the legal tools necessary or available to address it, with a view toward ensuring that one of the central purposes of U.S. economic sanctions – preventing the target country from obtaining funds from U.S. investors – is not circumvented.

¹ 22 U.S.C. § 6442(b)(1).

² 22 U.S.C. § 6402(11).

³ See IRFA §§ 402(c)(5), 405, 407, 22 U.S.C. §§ 6442(c)(5), 6445, 6447.

⁴ See Letter from Barbara Larkin, Assistant Secretary for Legislative Affairs, State Department, to U.S. Congress, October 22, 1999; Letter from Barbara Larkin, Assistant Secretary For Legislative Affairs, State Department, to U.S. Congress, September 26, 2000.

⁵ The remaining joint venture partner is Sudapet, which is Sudan's national petroleum company. A number of other companies are reportedly active in Sudan's oil and gas industry, including TotalFina/Elf (France), Royal Dutch Shell and Trafigura Beheer B.V. (Netherlands), AGIP (Italy), Lundin Oil Corporation (Sweden), OMV (Austria), Gulf Petroleum Corporation (Qatar), and National Iranian Gas Company (Iran). See Energy Information Administration, U.S. Department of Energy, *Sudan*, November 2000 (<http://www.eia.doe.gov/emeu/cabs/sudan2.html>, accessed November 11, 2000); Amnesty International, *Sudan: Oil in Sudan: Deteriorating Human Rights*, March 5, 2000 (<http://www.web.amnesty.org/ai.nsf/ai.nsf/index/AFR540012000>, accessed February 5, 2001).

⁶ In September and October 2000, the press reported that the government of China was considering offering sovereign bonds in a total amount of \$1 billion in the near future, at least in part to U.S. investors. In November, the Commission wrote to President Clinton that, in its view, the President has the authority under IRFA to prohibit the purchase of China sovereign bonds by U.S. financial institutions. It asked the President if he agreed with the Commission's conclusion and, if so, whether he intended to use his authority to prevent the China sovereign bond issue until the Chinese government made substantial improvements in respect for religious freedom and provided sufficient assurances to guarantee that the proceeds were never used to support religious persecution. The President's response did not address the question of his authority under IRFA, but he said that he did not favor prohibiting

the sale. Also in November, plans to offer China sovereign bonds were reportedly shelved. In March 2001, the Commission wrote to President Bush with the same inquiry that it had made to President Clinton. If and when China sovereign bonds are offered to U.S. investors, the Commission will examine the circumstances and consider whether to recommend that the President exercise his authority to prevent such a sale.

⁷ 31 C.F.R. Part 538.

⁸ See Letter dated March 27, 2000, from Newcomb (OFAC) to Wyckoff (USCIRF) (FAC No. SU-180427).

⁹ For a detailed discussion of the Commission's investigations, see U.S. Commission on International Religious Freedom, *Staff Memorandum to the Chairman: Religious Freedom in Sudan, China, and Russia*, May 1, 2000, 65-80 ("*Staff Memorandum*"). The Commission recommended that the U.S. Securities and Exchange Commission (SEC) investigate the adequacy and reliability of CNPC's filings, and the SEC responded that it does not independently investigate the accuracy of information in such filings. *Report of the United States Commission on International Religious Freedom*, May 1, 2000, *Recommendation 1.13*, 39 ("*USCIRF 2000 Annual Report*"); letter dated January 9, 2001, from David H. Martin, Director, Division of Corporation Finance, U.S. Securities and Exchange Commission, to Elliott Abrams, Chairman, USCIRF. The Commission also recommended to the Treasury Department that OFAC investigate possible violations of the Sudanese Sanctions Regulations, and OFAC notified the Commission that it did not find any violation of the existing sanctions regime. *USCIRF 2000 Annual Report, Recommendations 1.10, 1.11, and 1.12*, 37-39; letter dated November 15, 2000, from R. Richard Newcomb, Director, Office of Foreign Assets Control, Department of the Treasury, to Elliott Abrams, Chairman, USCIRF.

¹⁰ *USCIRF 2000 Annual Report, Recommendation 1.9*, 36-37.

¹¹ See SEC Registration Statement, China Petroleum & Chemical Corporation (Reg. No. 333-12502); *Far Eastern Economic Review*, November 8, 2000.

¹² 50 U.S.C. §1701.

¹³ In October 2000, the Commission wrote to the SEC to recommend that it investigate the adequacy and accuracy of the disclosures in Sinopec's registration statement filed with the SEC in connection with its securities offering.

¹⁴ Reuters, "N.Y. Stock Exchange expects several Chinese IPOs," December 1, 2000.

¹⁵ Bloomberg, "CNOOC Plans to Double Profit in 5 Years by Pumping Oil Overseas," November 23, 2000.

¹⁶ Data received by USCIRF from the U.S. Chamber of Commerce. According to the U.S.-China Business Council and the China Ministry of Foreign Trade and Economic

Cooperation, the figure for 1999 U.S. direct investment in China is approximately \$6 billion. This figure first appeared in the November-December 2000 issue of *The China Business Review*.

¹⁷ Unocal Corporation was able to maintain its activities in Burma because these activities predated the implementation of sanctions in 1997. Unocal's 1999 Annual Report indicates that it has "an approximate 28 percent non-operating working interest in natural gas production from the Yadana field, offshore Myanmar [Burma] in the Andaman Sea." Revenues from this interest in 2000 were reported by Unocal at \$72 million. See Unocal Form 10-K filed for fiscal year 2000. A few other U.S. companies reportedly have some presence in Burma. See Investor Responsibility Research Center, "Multinational Business in Burma (Myanmar)," December 2000.

¹⁸ The CNOOC initial public offering opened on the New York Stock Exchange on February 27, 2001.

¹⁹ For an example of a definition of "U.S. persons" for sanctions purposes, see 31 C.F.R., § 538.315.

²⁰ See 31 C.F.R., Part 538.

²¹ See for example the highly selective sanctions imposed in response to the Tiananmen Square massacre, which appear at 22 U.S.C. § 2151 note (P.L. 101-246, title IX, § 902, 104 Stat. 83 (Feb. 16, 1990); P.L. 102-549, Title II, § 202(e), 106 Stat. 3658).

²² See 31 C.F.R. § 537.405.

²³ See Letter dated March 27, 2000, from Newcomb (OFAC) to Wyckoff (USCIRF) (FAC No. SU-180427); *Staff Memorandum*, 65-80.

²⁴ According to its 1999 Annual Report, TotalFina/Elf S.A., a French company, has operations in Iran and Burma. According to its website, BP/Amoco has business activities in China and Iran. According to its website and its most recent Form 20-F filed with the SEC, Royal Dutch Shell has business activities in China, Iran, and Sudan.

²⁵ See generally 31 C.F.R. Part 537.

²⁶ See, e.g., Williams, *The Securities and Exchange Commission and Corporate Social Transparency*, 112 Harv. L. Rev. 1197 (April 1999).

²⁷ See Statement by the Sudan Inter-Agency Reference Group, February 13, 2001 (www.web.net/~iccaf/huanrights/sudaninfo/harker1year.htm, accessed March 28, 2001).

²⁸ The Commission has asked the SEC for its views on whether the nature and extent of disclosure recommended by the Commission below is already required by existing law. In March 2000, the Commission received a detailed response from the SEC, in which it stated

that disclosure of a company's connections with CPCs "will or will not be required depending on the materiality of the financial impact of conducting that business." It went on to say that a company selling its securities in a public offering is not required to disclose the use that it will make of the proceeds of such sales when the offering is made in response to favorable market conditions, rather than to fund specific actions. Letter dated March 26, 2001 from David B.H. Martin, Director, Division of Corporation Finance, SEC to Elliott Abrams, Chairman, USCIRF. The Commission is concerned that because many public offerings are made on the basis of market conditions, companies can raise funds in U.S. capital markets to support business activities in CPC countries without having to disclose this. In addition, the failure to require disclosure of use of proceeds under these circumstances may have an impact on the enforcement of sanctions regulations. In the case of Sudan, as discussed above, U.S. persons are free to purchase shares offered by non-U.S. companies that have business activities in Sudan as long as those activities are not the predominant part of their overall business and *as long as the proceeds of the sale are not earmarked for use in Sudan*. Enforcement of the latter requirement may be more difficult in some cases because there is no disclosure requirement.

²⁹ SEC Final Rule, International Disclosure Standards, Form 20-F, Part I, Item 3(D) (<http://www.sec.gov/rules/final/34-41936.htm>).

³⁰ Regulation S-K, 17 C.F.R. § 229.503(c).

³¹ SEC Final Rule, International Disclosure Standards, Form 20-F, Part I, Item 3(C)(1) (<http://www.sec.gov/rules/final/34-41936.htm>).

³² Regulation S-K, 17 C.F.R. § 229.504.

³³ Ibid.

³⁴ Unocal Corporation, Form S-3 Registration Statement, filed with the SEC August 2, 1999. This prospectus was filed in connection with a dividend reinvestment and common stock purchase plan.

³⁵ See Nike, Inc. Form 10-K for the fiscal year ended May 31, 2000, filed with the SEC August 29, 2000, 4.

³⁶ In Nike's Form 10-K filed for the previous fiscal year ending May 31, 1999, China's human rights record was obliquely mentioned in the section on "Trade Regulation:" "While the U.S. continues to have foreign policy as well as human rights concerns with China, the Clinton administration and Congress have opposed using China's [Normal Trade Relations] status as a means of addressing those concerns." Nike 1999 10-K, p. 5. This reference does not appear in Nike's fiscal year 2000 annual report, notwithstanding the Secretary of State's designation of China as a CPC in September of that year.

³⁷ Nike's other public filings are incorporated by reference into the prospectus. Prospectus, p. 4.

³⁸ Prospectus, p. 6. According to a search in the SEC's electronic database, EDGAR, no prospectus supplement appears to have been filed for this offering.

XIII. U.S. FOREIGN ASSISTANCE

A. Background

In its first two years, the Commission has found significant religious-freedom violations in some countries that receive U.S. foreign assistance. Foreign aid can be an important tool to promote religious freedom either directly or indirectly. Foreign assistance can support programs directly concerned with promoting religious freedom, such as legal advocacy, technical assistance, or human rights education. It can also support religious freedom indirectly by supporting programs that promote, for example, democracy, civil society, rule of law, professional law enforcement, and judicial independence.

The provisions of the International Religious Freedom Act of 1998 (IRFA) explicitly endorse the use of foreign assistance funds to promote religious freedom. In IRFA, Congress made a finding that in connection with its foreign assistance programs, the U.S. “should make a priority of promoting and developing legal protections and cultural respect for religious freedom.”¹ Congress also recommended that in countries where religious-freedom violations occur U.S. missions develop a strategy, as part of their annual program planning, to promote religious freedom and to allocate funds to programs “deemed to assist in the promotion of the right to religious freedom.”²

In the course of examining the conditions of religious freedom and U.S. policy in several countries, the Commission has made recommendations regarding the specific areas in which religious freedom could be promoted through U.S. foreign assistance.³ In addition, in November 2000, the Commission wrote to the heads of the U.S. Agency for International Development (USAID) and the National Endowment for Democracy to inquire about the extent to which the promotion of religious freedom is a part of their programs and activities in such countries as Russia, Nigeria, Egypt, Turkey, Vietnam, India, Pakistan, Laos, Turkmenistan, and Indonesia. Members of the Commission’s staff have met with USAID staff regarding aid programs in Nigeria and Pakistan, as well as with representatives of non-governmental organizations who contract with USAID to operate programs in those countries and in Indonesia. Further, in December 2000, the Commission recommended that the State Department’s Annual Report on International Religious Freedom should include a complete description of the nature and magnitude of programs funded by the U.S. government that touch on the promotion of religious freedom or religious tolerance (including person-to-person exchanges with the United States) in each country that has significant religious-freedom violations but nevertheless receives U.S. foreign aid.

Concomitant with the emphasis on using U.S. foreign assistance to promote religious freedom is the principle that such assistance should not serve to undermine the protection of religious freedom or contribute to religious intolerance. In that regard, IRFA provides that it is U.S. policy to channel foreign assistance to governments other than those found to be engaged in “gross violations” of the right to freedom of religion.⁴

In addition, the Commission is concerned that U.S. foreign assistance is not used to support organizations that engage in violence that targets individuals on the basis of religion or that support official government policies of religious discrimination, or programs that

discriminate against recipients or beneficiaries on the basis of religion. Therefore, the Commission makes the following recommendations.

B. Commission Recommendations

1. No U.S. foreign assistance should be provided to any U.S. or foreign person (governmental or non-governmental) who, in a foreign country and at any time during the preceding 24-month period, has (a) committed acts of violence targeting individuals on account of their religious belief or practice, or (b) served as an instrumentality of official government policies of invidious religious discrimination. Furthermore, no U.S. foreign assistance should be provided to any program that discriminates against recipients or beneficiaries on the basis of religion.

2. The State Department, in its annual International Religious Freedom Report (or in a classified addendum) should identify (a) agencies or instrumentalities of foreign governments engaged in violations of religious freedom, and (b) non-governmental entities engaged in violations of religious freedom and describe the nature and extent of those violations.⁵

¹ IRFA § 501(a)(2), 22 U.S.C. § 2151n note.

² IRFA § 106, 22 U.S.C. § 6415.

³ See the recommendations on India, Indonesia, Nigeria, Pakistan, Russia, and Vietnam in *Report of the Commission on International Religious Freedom*, May 1, 2001.

⁴ IRFA § 2(b)(2), 22 U.S.C. § 6401 (b)(2).

⁵ See IRFA §§ 102(b)(1)(B), 402(b)(2), 22 U.S.C. §§ 6412(b)(1)(B), 6442(b)(2).

XIV. THE INTERNATIONAL RELIGIOUS FREEDOM ACT AND THE STATE DEPARTMENT'S *ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM* – 2000

A. Introduction

One of the guiding purposes and principles behind the International Religious Freedom Act (IRFA) is to make the issue of international religious freedom an integral part of this nation's foreign policy agenda. The conditions of religious freedom in certain countries may be grave and deteriorating – in many instances on account of factors beyond the control of the United States – but not, if the IRFA process is working properly and vigorously, on account of a lack of attention paid to the issue as a matter of U.S. foreign policy. This report assesses the vitality and effectiveness of certain parts of the IRFA process as it is functioning in its second year.¹

IRFA sets out a number of interrelated mechanisms to further U.S. promotion of international religious freedom:

- the creation in the State Department of an Office of International Religious Freedom 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;
- a requirement that the President designate those countries that are the most egregious violators of religious freedom and generally take action to oppose violations; and
- the creation of the U.S. Commission on International Religious Freedom.

The Commission was created both to monitor the international religious-freedom situation and to make recommendations to the President, the Secretary of State, and the Congress as to how the United States can further the protection and promotion of religious freedom.

Most of the mechanisms established by IRFA are now in their second year of existence, and in September 2000, four significant events occurred with respect to IRFA and U.S. foreign policy related to international religious freedom. First, the State Department issued its *Annual Report on International Religious Freedom 2000* (2000 Annual Report), finding that: "Much of the world's population lives in countries in which the right to religious freedom is restricted or prohibited." Second, then-Secretary of State Madeleine K. Albright announced those countries designated as "countries of particular concern" (CPCs) – the most egregious violators of religious freedom.² Disappointingly, only those countries named as CPCs in 1999 were so designated in 2000, despite ample evidence that others had met the statutory threshold. Third, Secretary Albright announced the actions that she would take pursuant to IRFA to promote religious freedom in those countries designated as CPCs. Again disappointingly, no additional action was taken against any CPC. And fourth, Robert A. Seiple, the first Ambassador-at-Large for International Religious Freedom, stepped down

from his office – leaving this post vacant through the date this report went to print.

B. Importance of the Annual Report on International Religious Freedom

The *Annual Report on International Religious Freedom* is an important means of keeping religious freedom high on the foreign policy agenda and promoting religious freedom abroad. It brings to light the facts on the ground, and – perhaps just as significant – it describes what the U.S. government is doing to promote religious freedom around the world. In the International Religious Freedom Act, Congress stated that it was the policy of the United States to oppose violations of religious freedom engaged in or tolerated by governments of foreign countries and to promote religious freedom through specific actions targeting violators. In other words, the law requires that U.S. foreign policy take into account the nature and severity of religious-freedom violations, and be adjusted accordingly. This report is the yardstick with which to measure the U.S. government's progress in meeting the goals of the statute. The Commission urges all those interested in promoting religious freedom to review carefully what the 2000 Annual Report says U.S. policy is toward violators of religious freedom and what the United States is doing to promote religious freedom. Unfortunately, the report shows that in several key countries – those in which significant religious-freedom violations occur – U.S. policies and actions do not reflect the gravity of the situation.

C. Reporting on the Facts and Circumstances of Religious Freedom

The State Department has done a highly commendable job in its second annual report of telling the tragic story of religious persecution around the globe. As the Commission noted in its own first annual report released in May 2000, as important as the report itself is the impact that its preparation has had on the State Department and our embassies. This year's report generally shows a more complete understanding of religious-freedom issues and extensive fact-finding and verification. It reflects hard work on the ground.

In other respects as well, this year's report is an improvement over last year, and the Commission is pleased that some of the recommendations made in its first annual report appear to have been adopted by the Department.³ Each country report now has an introduction generally identifying the most significant religious-freedom problems in that country. There is a separate subsection detailing relevant law. The Commission's review of the Department's instruction cable sent to the embassies earlier this year also shows that the Department incorporated many of the Commission's suggestions in what information it solicited from embassy officials.⁴

However, problems remain. In some of the reports, the main thrust of what is happening and why is lost in detail and through omissions of important context.

For example, the 2000 Annual Report, in its dozen or so pages relating to Sudan, does not adequately address the linkage between oil development in Sudan and government persecution of religious minorities. Nor does the report address the Sudanese government's pattern of interference with humanitarian aid deliveries as a long-standing problem of religious discrimination. The Commission has asserted these important linkages, and

believes that the State Department should address them as well.

Another notable problem is that this year's report includes a section in the executive summary entitled "Improvements in International Religious Freedom," the contents of which is also reported in the individual country chapters. The Commission believes that the reporting of such "improvements" must be carefully handled in order to avoid misrepresentation of the conditions of religious freedom. Such positive developments deserve to be noted, but labeling what are really positive developments as "improvements" confuses positive steps with real and fundamental progress in eliminating religious persecution. The mention of such positive steps in the executive summary can overshadow an overall negative situation. The executive summary should be the place to report on fundamental, lasting change in the protection of religious freedom (as may be the case, for example, in Azerbaijan) but not particular events that may be positive. Severe persecutors can make a positive gesture without improving the overall conditions of religious freedom. On occasion they do it to deflect criticism and mislead foreign observers.

In the case of Sudan, for instance, the positive developments highlighted in the executive summary are changes of a shallow nature, and not the type of developments that would signal a change in the regime under which many religious believers suffer horribly. Another example is Laos, where the release of religious prisoners – a welcome event – is characterized in the executive summary as "significant improvement." But the Laos country chapter noted that "the government's already poor record for religious freedom deteriorated in some aspects." These contradictory messages are found in the report's discussion of Vietnam as well.

Another persistent problem with the 2000 Annual Report is the failure to elaborate religious-freedom problems that stem from state control of institutions of majority religious communities, which can be significant. For example, nothing is mentioned regarding state control of Shiite Muslim institutions by the state in Iran. Very little is mentioned of methods of state control of Muslim religious institutions in the report on Egypt. The Commission noted this problem last May with respect to the 1999 Annual Report.

D. Selecting Countries of Particular Concern

The Commission is pleased that the State Department has listed for a second year Burma, the People's Republic of China, Iran, Iraq, and Sudan as "countries of particular concern," as well as the Taliban regime in Afghanistan and the Milosevic regime in Serbia – which, while technically not states or governments under IRFA, also remain "particularly severe violators of religious freedom." This year's Annual Report affirms that the conditions in those countries have not changed sufficiently so as to warrant a change in designation. While the Milosevic regime is no longer in place in Serbia, the State Department should pay close attention to the religious-freedom situation there and the ability and willingness of the governments of Serbia and the Federal Republic of Yugoslavia, as well as newly elected officials in Kosovo, to protect religious freedom, and the Department should make further designations under IRFA as appropriate.

The Commission is very disappointed that the Secretary did not name Laos, the

Democratic People's Republic of Korea (DPRK), Saudi Arabia, and Turkmenistan as CPCs.⁵ On July 28, 2000, the Commission wrote to the Secretary concluding that the governments of each of these four countries have engaged in particularly severe violations of religious freedom and thus meet the statutory threshold for designation as CPCs. The Commission's conclusion was based on the information that was available to it at that time. The information contained in the 2000 Annual Report only confirms that these countries should be designated as CPCs.

In Laos, during the 12 months preceding the Secretary's CPC designations, increasing numbers of Protestants, Baha'is, and Catholics were subjected to detention, arrest, and harassment, and more than 50 persons had been reportedly imprisoned for the peaceful practice of their faith. Moreover, the State Department reported that in 2000, government authorities arrested and detained (sometimes for months) more than 95 Christians and their spiritual leaders.⁶

In the DPRK, notwithstanding the difficulty of obtaining reliable information on conditions in the country, it is apparent that religious freedom is non-existent. As the 2000 Annual Report states: "Genuine religious freedom does not exist." The government has imprisoned religious believers and apparently suppresses all organized religious activity except that which serves the interests of the state. Not identifying this repressive government as a CPC effectively rewards it for suffocating free speech, press, and travel so thoroughly that information on religious persecution is limited.

In Saudi Arabia, the government brazenly denies religious freedom and vigorously enforces its prohibition against all forms of public religious expression other than that of Wahhabi Muslims. Numerous Christians and Shiite Muslims continue to be detained, imprisoned, and deported. As the Department's 1999 and 2000 Annual Reports both bluntly summarize: "Freedom of religion does not exist." How then can Saudi Arabia not be deemed a country of particular concern?

In Turkmenistan, where the ruling regime is reminiscent of Stalin's, only the official Soviet-era Sunni Muslim Board and the Russian Orthodox Church are recognized by the state as legal religious communities. Members of unregistered communities – including Baha'is, Christians, Hare Krishnas, and independent Muslims – have been reportedly detained, imprisoned, deported, harassed, fined, and have had their services disrupted, congregations dispersed, religious literature confiscated, and places of worship destroyed. The 2000 Annual Report notes a decline in the Turkmenistan government's overall respect for religious freedom and notes "severe restrictions" on minority religious groups.

In Ambassador Seiple's testimony before Congress following the release of the 2000 Annual Report, he noted the importance of diplomacy as the context in which decisions take place about which country qualifies as a CPC and what actions to take as a consequence thereof.⁷ The Commission notes that under IRFA, the designation of a CPC is dependent solely on the facts and circumstances of religious freedom; the consideration of other factors should come into play with respect to what policies to adopt and what actions to take in response to such a designation.

In addition to the four countries that the Commission recommended be named as CPCs, the Commission advised the Secretary of State that another four governments are close to earning the CPC label for their countries. India, Pakistan, Uzbekistan, and Vietnam are among those countries that have attracted the Commission's particular scrutiny, and they deserve the Department's as well.⁸ The 2000 Annual Report bears this out.

E. Reporting on U.S. Actions to Promote Religious Freedom

The label of CPC is important; it brings into the spotlight the egregious violators. But the act of labeling is only one aspect of the statute. IRFA requires policy responses, and the Annual Report on International Religious Freedom is a report on U.S. policies and actions to promote religious freedom and not only a report on facts and circumstances.

F. U.S. Actions in Response to CPC Designation

Nowhere in the 2000 Annual Report does the State Department mention the sanctions it may have imposed as a result of a country's designation as a "country of particular concern." Unfortunately, this is consistent with State's previous practice: it has, to the Commission's knowledge, done nothing to publicize the sanctions imposed under IRFA in October 1999. The Department continues this practice in spite of the statutory mandate in IRFA to state in the Annual Report what actions were taken in response to CPC designation.⁹

In September 2000, following the redesignation of Burma, China, Iran, Iraq, and Sudan as CPCs, the State Department reported in a letter to the Congress that "the Secretary has decided to take no further action with respect to these countries since the action taken last year for each of the countries in question is still in effect."¹⁰ Although this non-action by the Secretary may be authorized under IRFA, the Commission believes that it is indefensible policy in the cases of Sudan and China. Not surprisingly, the State Department has not submitted to the Congress the required evaluation of the effectiveness of the prior actions against CPCs.¹¹

In the cases of Sudan and China, the sanctions the Secretary of State identified in 1999 as meeting the requirements of IRFA are inadequate and have been ineffective. Regarding Sudan, the Department stated in October 1999 that "the sanction that the Secretary of State has determined satisfies the requirements of [IRFA] is the use of the voice and vote of the United States to oppose any loan or other use of funds of international financial institutions to or for Sudan."¹² The situation in Sudan continues to deteriorate, and there is no evidence to suggest that the identified sanction has had any effect on the religious-freedom policies of the government of Sudan. More-effective actions that the Commission has recommended include closing U.S. capital markets to third country companies that participate in the development of Sudanese oil fields (the revenue from which helps to fund the Sudanese government's war effort) and taking steps to end Sudan's ability to control foreign food aid and use it as a weapon of war.¹³

Regarding China, the Department stated in 1999 that the Secretary of State "restricts exports of crime control and detection instruments and equipment."¹⁴ It is difficult to believe that this sanction sends a strong message to Beijing on religious freedom. In September

2000, the Secretary took no further action against China, despite the Department's own finding of a marked deterioration of religious freedom and the manifest failure of the Department's initial response.

The Commission also notes that under IRFA, the President must take action (or issue a waiver of the requirement to take such action) with regard to all countries the government of which engages in or tolerates violations of religious freedom, and not only CPCs.¹⁵ These actions do not appear to be so recorded in the 2000 Annual Report. The State Department should identify in the Annual Report each of the actions taken pursuant to IRFA in response to CPC designation or in response to a finding that a foreign government has engaged in or tolerated a violation of religious freedom.

G. Other U.S. Actions to Promote Religious Freedom

In general, the 2000 Annual Report shows that U.S. embassy personnel in a number of countries have been working to raise the issue of religious freedom with their foreign counterparts. Embassy personnel have also made inquiries and sought to monitor the legal proceedings of some religious detainees. Ambassador Seiple and his staff have traveled widely to reinforce the message of the importance of religious freedom to the United States.

Political officers in U.S. embassies are investigating-religious-freedom issues. For example, U.S. embassy staff accompanied Commissioners and staff on fact-finding missions in September 2000 to northern Nigeria, in December 2000 to Pakistan, and in March 2001 to Egypt, Saudi Arabia, and Israel and the Occupied Territories. A representative of the Office of International Religious Freedom accompanied commission staff on its trip to Nigeria. The Commission wishes to thank the U.S. officials that provided assistance on these trips, and notes that the expertise and engagement on religious-freedom issues that they demonstrated reflects an important goal of the statute.

The Department's Office of International Religious Freedom reportedly maintains some prisoner lists and issue briefs on religious freedom, as required by section 108 of IRFA.¹⁶

The Commission applauds these actions. However, progress in the promotion of religious freedom also requires that steps be taken at the highest levels of interaction between the U.S. and foreign governments. Religious prisoners and persecution must be prominently raised in virtually every meeting between American diplomats and violator governments.

The Commission notes that in the executive summary of the 2000 Annual Report, actions taken by the Commission itself are listed in the section on what the U.S. government has done with respect to a number of countries. This practice should not be continued. The Commission is not empowered by Congress to implement U.S. foreign policy, but to make policy recommendations. Congress has required the Commission to report on its activities separately from the State Department. Including Commission actions in the Annual Report may blur the distinction between it and the State Department – in the minds of the American public, non-governmental organizations, religious communities, and foreign governments.

The State Department's 2000 Annual Report describes a number of countries where

the conditions of religious freedom have deteriorated yet U.S. policy toward those countries has not been adjusted as a result.

In the case of China, the report bluntly and accurately reports that the Chinese government's attitude toward religious freedom has deteriorated and persecution of religious minorities has increased. The report reflects this situation in almost excruciating detail. Arrests of Falun Gong and Zhong Gong practitioners and a crackdown on Protestants and Catholics worshipping in unregistered groups have accelerated dramatically since June of last year. At least eight Uighur Muslims were executed in June and July 2000 on charges of "splitting the country." The receptivity of the Chinese government to U.S. concerns about religious freedom in China also appears to have deteriorated. The Chinese government refused to reinstate official bilateral dialogue on human rights and religious freedom until recently. Government officials have refused to meet with U.S. embassy officials who intended to raise religious-freedom issues with them. The Department's Special Coordinator for Tibet and a member of her staff were denied visas for travel to Tibet. It is distressing that the Clinton administration and majorities of both houses of the Congress were willing to overlook all of this in pursuing a campaign for Permanent Normal Trade Relations status for China.¹⁷

In a 1999 report to Congress, the State Department stated that: "As a matter of policy, the Department of State, in conjunction with other U.S. agencies as appropriate, will continue vigorously to pursue all other available means of altering Chinese behavior with respect to religious freedom."¹⁸ Judging from the 2000 Annual Report and then-Secretary Albright's failure to take further action against China under IRFA in September 2000, it is not at all apparent that the executive branch has vigorously pursued "all . . . available means" of altering Chinese behavior toward religious freedom.

Of particular concern to the Commission is the current ability of the Chinese government to obtain capital on U.S. markets. In 1998, the government sold bonds in large quantity to U.S. investors, without having to disclose with specificity how it planned to use the proceeds. It stated merely that it planned to use the money "for general governmental purposes, including infrastructure projects."¹⁹ Those purposes, however, include oppressive regulation of domestic religious activity and development of oil resources in Sudan.

In September and October 2000, the press reported that the government of China was considering offering sovereign bonds in a total amount of \$1 billion in the near future, at least in part to U.S. investors. In November 2000, the Commission wrote to President Clinton that, in its view, the President has the authority under IRFA to prohibit the purchase of China sovereign bonds by U.S. financial institutions.²⁰ It asked the President if he agreed with the Commission's conclusion and, if so, whether he intended to use his authority to prevent the China sovereign bond issue until the Chinese government made substantial improvements in respect for religious freedom and provided sufficient assurances to guarantee that the proceeds were never used to support religious persecution. The President's response did not address the question of his authority under IRFA, but he said that he did not favor prohibiting the sale. Also, in November, plans to offer China sovereign bonds were reportedly shelved. If and when China sovereign bonds are offered to U.S. investors, the Commission will examine the circumstances and consider whether to

recommend that the President exercise his authority to prevent such a sale.

Also of concern is the current ability of Chinese corporations to sell their securities to U.S. investors. The proceeds from these sales could end up supporting the repressive policies of the government, inasmuch as it controls the corporations. But, in addition, the money might be used directly or indirectly to support development of the oil fields in Sudan, where at least one Chinese corporation is heavily involved.²¹ In light of this problem, the Commission has recommended more specific disclosure in registration statements filed with the Securities and Exchange Commission about business activities in CPC countries such as China and about the use of proceeds of securities offerings in the United States.

Turkmenistan is another example of where the State Department concludes that conditions of religious freedom have worsened and yet the reported U.S. actions do not appear to reflect any change in U.S. policy. A promise in May 1999 by President Niyazov to the State Department to allow minority religious groups to register, thus legalizing their activities, has yet to be fulfilled.

A third example is France, where the report describes in detail some disturbing recent events that threaten the protection of religious freedom of minority religious groups in that country. In particular the National Assembly in June 2000 passed a bill targeting so-called "sects" for dissolution and establishing a new crime of "mental manipulation." As of the date this report was sent to the printer, the proposed law is pending in France's Senate. However, a comparison of this year's report on what the United States has done, in comparison to last year's report on what the United States did, shows that despite worsening conditions, the United States appears to have done less. This deserves an explanation.

The report also illustrates a number of instances where U.S. policy does not appear to be in line with the gravity of religious-freedom problems in a particular country.

The report on Sudan does not reflect that the U.S. government has made a high-level priority of implementing any comprehensive plan to deal with the atrocities being committed there. Neither does it evaluate the effectiveness of current and previous U.S. policy toward promoting religious freedom. When the Commission studied that situation over the past 18 months, it was struck by the huge disparity between the scale of atrocities being committed by the government of Sudan and the response of the U.S. government. Yes, atrocity-by-atrocity, the Clinton administration expressed outrage and disapproval. The administration also worked with great success to prevent Sudan from taking a seat on the UN Security Council. But we did not see from the U.S. government evidence of the kind of consistent high-level commitment to a comprehensive policy that would be necessary to achieve results.

Consequently, in its recommendations on Sudan released in March 2001, the Commission stated that it continued to believe that a comprehensive, coordinated strategy led on a priority basis by those at the highest levels of the U.S. government is necessary to address the humanitarian and human rights crisis in Sudan. Essential elements of this strategy include raising public awareness of the Sudanese government's human rights abuses, consistent condemnation of those abuses, and employing and advocating a variety of bilateral and multilateral pressures on the Sudanese government until it makes substantial and

systematic improvements. The Commission urged the President and the Secretary of State to implement and lead such a strategy.

With regard to the Democratic People's Republic of Korea, the 2000 Annual Report notes that the United States does not have diplomatic relations with that country. Nevertheless, the United States does have a policy with respect to North Korea and one that has undergone significant change since January 2000, including the announcement of the lifting of certain sanctions against the country and then-Secretary of State Albright's historic visit to the country in October 2000. The Commission is not taking a position on the wisdom of these actions. However, it is apparent from the 2000 Annual Report and subsequent events that human rights and religious freedom have not yet played a significant role in the development of policy with respect to one of the world's worst religious-freedom violators.

With respect to Iran, again a country with which the United States has no diplomatic relations and where there have been significant developments in U.S. policy since March 2000, it is reported that U.S. officials have raised religious-freedom issues and problems facing religious minorities in international forums and in public statements at the highest levels. However, the United States can and should make clear to the government of Iran that improvement in religious freedom and other human rights in that country is a prerequisite for the complete relaxation of sanctions by and the normalization of relations with the United States.

The Executive Summary and the individual country reports contain what are essentially lists of particular actions the State Department has taken in each country with respect to religious freedom. While this type of report is necessary and illuminating, an important piece is missing. The 2000 Annual Report does not contain a good description of State Department policies – on a Department-wide, regional, or even individual country basis – to promote religious freedom. The report does not explain how the promotion of religious freedom as a foreign policy objective is integrated into regional and bilateral affairs, into foreign aid and U.S. mission funding priorities, or into U.S. activity in multilateral human rights forums such as the UN Commission on Human Rights and the Organization for Security and Cooperation in Europe. The reader is thus left with the impression that the Department is without a plan as to how to implement IRFA's central statutory purpose: the integration of religious freedom into U.S. foreign policy.

As a final point, IRFA encourages the State Department to take positive steps to promote religious freedom. For example, Congress recommended in the statute that U.S. diplomatic missions in violator countries give particular consideration to programs and activities that promote religious freedom in its own funding decisions and its recommendations of projects to receive U.S. government funding.²² The State Department's Annual Report should include a complete description of the nature and magnitude of programs funded by the U.S. government that touch on the promotion of religious freedom or religious tolerance (including person-to-person exchanges with the U.S.) in each country that has significant religious-freedom violations but nevertheless receives U.S. foreign aid. Some information of this type was provided in the reports on Bosnia and Herzegovina, Indonesia, and especially Egypt, but not in the reports of other relevant countries that receive substantial funding allocations under the democracy and governance programs of the U.S. Agency for

International Development, such as Bulgaria, Georgia, Nigeria, Russia, and Ukraine.

H. The Ambassador-at-Large for International Religious Freedom

The Commission commends the hard work that Ambassador Robert A. Seiple and his staff have put not only into the Annual Reports on International Religious Freedom, but also their substantial efforts throughout the year to keep religious freedom on the foreign policy agenda. Ambassador Seiple also made a significant contribution to the work of the Commission, on which he sat as an *ex-officio* nonvoting member, and the Commissioners have valued him as a colleague.

The Commission regrets his departure. The Ambassador-at-Large for International Religious Freedom is a very important part of U.S. policy initiatives to promote religious freedom abroad – the 2000 Annual Report calls his office “the fulcrum of the effort to promote religious freedom.” A prolonged vacancy in this crucial position threatens U.S. progress in promoting religious freedom. The Commission has urged President Bush to move quickly to fill this vacancy.

I. Other Issues

The Commission reported last year that it had not gained full access to cables to and from embassies because of the Department’s assertion of a legal position (executive privilege as to deliberative process within the administration) with which the Commission does not agree. The Department has since constructed a time-consuming, cumbersome, and lengthy process whereby Commission staff are able to review some cables after they have been redacted. This process means the Commission cannot see cables until months after they are sent, making it difficult for the Commission to formulate timely policy recommendations in fast-moving situations overseas. The Commission has tried this system in good faith and concludes that it does not meet the Commission’s needs. It can no longer acquiesce to this situation and will propose a more-expeditious process to the State Department.

International religious freedom has become an important foreign-policy issue. The growing interest in the United States in the conditions of religious freedom around the globe and in the promotion of religious freedom through U.S. foreign policy is exemplified not only by the passage of IRFA but also by increasing public awareness of religious-freedom violations in countries such as China and Sudan. Secretary of State Powell has publicly stated that, in his view, the State Department has not been given adequate resources to perform its functions. The Commission believes that this is particularly true in the religious-freedom area. We further believe that in order to meet its obligations under IRFA and to ensure that the promotion of religious freedom remains a foreign-policy priority, adequate staff must be devoted to these tasks. The Commission urges the State Department to review its staffing of religious-freedom issues in U.S. embassies and in its regional and functional bureaus, particularly in the Office of International Religious Freedom, and provide an increase in staffing adequate to perform the important task of promoting international religious freedom.²³

¹ The Commission issued this report in similar form as it appears here on December 8, 2000.

² In August 1999, President Clinton delegated many of his powers and responsibilities under the IRFA to the Secretary of State.

³ See *Report of the United States Commission on International Religious Freedom, May 1, 2000* (“USCIRF 2000 Annual Report”), “State Department Annual Reports,” 59-66.

⁴ In addition, each country chapter in the annual religion report addresses the existence of government policies concerning forced religious conversion of minor U.S. citizens, as required by IRFA section 102(b)(1)(B)(ii).

⁵ Commissioner John Bolton dissented, and Commissioner Laila Al-Marayati abstained, from the Commission’s decision to recommend that Saudi Arabia be designated a “CPC.”

⁶ See U.S. Department of State, *2000 Country Reports on Human Rights Practices*, “Laos,” February 2001.

⁷ In his testimony on September 7, 2000, before the Subcommittee on International Operations and Human Rights of the House International Relations Committee, Ambassador Seiple stated that “as we apply [the IRFA] criteria in deciding what action to take, we try to place them in the context of diplomacy. Is diplomacy working? Are there trends in one direction or another? Is a particular action likely to help, to hinder, our diplomatic efforts to improve the situation?”

⁸ Commissioner Michael K. Young, joined by Commissioner Nina Shea, dissented from the Commission’s decision not to recommend that India should be designated as a CPC.

⁹ IRFA § 102(b)(1)(F)(i), 22 U.S.C. § 6412(b)(i)(F)(i).

¹⁰ Letter from Barbara Larkin, Assistant Secretary for Legislative Affairs, Department of State, to U.S. Congress, September 26, 2000.

¹¹ See IRFA §§ 402(c)(4), 404(a)(4), 22 U.S.C. §§ 6442(c)(4), 6444(a)(4).

¹² Letter from Barbara Larkin, Assistant Secretary for Legislative Affairs, Department of State, to U.S. Congress, October 22, 1999.

¹³ See *Report of the United States Commission on International Religious Freedom, May 1, 2001*, 131, 129.

¹⁴ *Ibid.*

¹⁵ See IRFA § 401(a)(1)(B), 22 U.S.C. § 6441(a)(1)(B).

¹⁶ 22 U.S.C. § 6417.

¹⁷ See *USCIRF 2000 Annual Report*, 41-45.

¹⁸ Letter from Barbara Larkin, Assistant Secretary for Legislative Affairs, Department of State, to U.S. Congress, October 22, 1999.

¹⁹ People's Republic of China, *Prospectus: Debt Securities and/or Warrants to Purchase Debt Securities*, November 24, 1998.

²⁰ Letter from Elliott Abrams, Chairman, USCIRF to President William J. Clinton, November 1, 2000.

²¹ See *Report of the U.S. Commission on International Religious Freedom, May 1, 2001*, "U.S. Capital Markets," 156-158.

²² IRFA § 106, 22 U.S.C. § 6415.

²³ See IRFA, § 101(d), 22 U.S.C. § 6411.

APPENDIX 1: BIOGRAPHIES OF MEMBERS

U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Elliott Abrams, the Commission's Chairman, is President of the Ethics and Public Policy Center in Washington, D.C. After serving on the staff of Sens. Henry M. Jackson and Daniel Patrick Moynihan in the 1970s, he served as Assistant Secretary of State for International Organization Affairs, Assistant Secretary of State for Human Rights and Humanitarian Affairs, and Assistant Secretary of State for Inter-American Affairs during the Reagan administration. He was a Senior Fellow at the Hudson Institute from 1990 to 1996, when he moved to the Ethics and Public Policy Center. He is a member of the Council on Foreign Relations and the National Advisory Council of the American Jewish Committee.

Firuz Kazemzadeh, Ph.D., of Alta Loma, California, current Vice Chairman of the Commission, is a Senior Advisor for the National Spiritual Assembly of the Baha'is of the United States. He is Professor Emeritus of History at Yale University, having taught Russian history there from 1956 until his retirement in 1992. During his tenure at Yale, Dr. Kazemzadeh also served variously as Director of Graduate Studies in Russian and Eastern European Studies; Chair of the Committee on Middle Eastern Studies; Director of Graduate Studies in History; and Master of Davenport College. He is the author of several books relating to Russia and Central Asia.

Laila Al-Marayati, M.D., is a founding member and past president of the Muslim Women's League, a Los Angeles-based nonprofit organization focusing on the dissemination of accurate information about Islam and Muslims, particularly regarding women. Dr. Al-Marayati has written articles and participated in numerous conferences addressing issues related to Islam and women such as reproductive health and sexuality, challenges facing Muslim women in the United States and abroad, stereotyping, and the abuse of the rights of Muslim women. Dr. Al-Marayati served as a member of the State Department's Advisory Committee on Religious Freedom Abroad. She has addressed the issue of religious discrimination and persecution against Muslims in Europe before Members of Congress and at the OSCE Conference on Human Dimension Issues held in Warsaw, Poland in 1998 as a member of the U.S. Delegation. She is a practicing obstetrician-gynecologist based in Los Angeles.

John R. Bolton has been Senior Vice President of the American Enterprise Institute for Public Policy Research since January 1997. In the administration of President George Bush, Mr. Bolton was Assistant Secretary of State for International Organization Affairs. He served in the Reagan administration as Assistant Attorney General of the Civil Division from 1988 to 1989. Before that, he was Assistant Attorney General for the Office of Legislative Affairs (1985-88), where he was responsible for obtaining Senate confirmation of the President's nominees to the Supreme Court and lower Federal benches. He also served as General Counsel (1981-82) and Assistant Administrator for Program and Policy Coordination (1982-83) of the Agency for International Development.

Theodore Cardinal McCarrick, Ph.D., D.D., Archbishop of Washington, was elevated to the College of Cardinals on February 21, 2001. Before Pope John Paul II named him as Archbishop of Washington in November 2000, he served as the Fourth Archbishop of Newark, New Jersey (1986-2000). The National Conference of Catholic Bishops elected Archbishop McCarrick to head its Committee on Migration in 1986 and in 1992. In 1992, he was also named to head the Committee for Aid to the Church in Central and Eastern Europe, and was elected in 1996 as Chair of the Committee on International Policy. He was elected one of 15 U.S. bishops to serve as a member of the Synod for America held in 1997. At the conclusion of that Synod, the bishops elected him to serve on the Post Synodal Council. In November 1996, Archbishop McCarrick was invited to serve on the Secretary of State's Advisory Committee on Religious Freedom.

Rabbi David Saperstein is Director of the Religious Action Center of Reform Judaism, which represents the Reform Jewish Movement to Congress and the administration. He served as the first Chairman of the Commission from June 1999 to June 2000. He has headed several religious coalitions and served on the boards of numerous national organizations, including Common Cause, the NAACP, and People for the American Way. He currently co-chairs the Coalition to Preserve Religious Liberty, comprised of more than 60 national Catholic, Protestant, Jewish, and educational groups opposing school-prayer amendments and legislation. Also an attorney, Rabbi Saperstein teaches seminars in both First Amendment church-state law and Jewish law at Georgetown University Law School.

Robert A. Seiple (ex-officio) joined the State Department in August 1998 as Principal Advisor to the President and Special Representative to the Secretary of State for International Religious Freedom. In May 1999, he was named the first U.S. Ambassador-at-Large for International Religious Freedom. Before that, he spent 11 years as President of World Vision, Inc., the largest privately funded relief and development agency in the world. He founded within World Vision the Institute for Global Engagement, a strategic think tank for global advocacy. Seiple, who was President of Eastern College and Eastern Baptist Theological Seminary from 1983 to 1987, was named "Churchman of the Year" in 1994 by Religious Heritage America. He resigned as ambassador-at-large in September 2000.

Nina Shea is the Director of the Center for Religious Freedom of Freedom House in Washington, D.C. She has been an international human rights lawyer for 22 years and has for 15 years focused specifically on the issue of religious persecution. Before her appointment to the Commission, Ms. Shea served on the Advisory Committee on Religious Freedom to the U.S. Secretary of State. Ms. Shea has organized and sponsored numerous fact-finding missions to Sudan, China, Egypt, and elsewhere and has testified regularly before Congress on the governments of these and other countries. She is the author of *In the Lion's Den*, a book on anti-Christian persecution around the world. She was appointed as a public delegate on the U.S. delegation to the UN Commission on Human Rights in 2001.

The Honorable Charles Z. Smith, of Seattle, Washington, is a Justice of the Washington State Supreme Court. He was originally appointed in July 1988, to fill an unexpired term, and was elected, unopposed, in 1988 and 1990, and most recently in 1996 to another term of six years. Justice Smith served from 1965 to 1995 on the General Board of the American Baptist Churches, USA, and was President of the American Baptist Churches

from 1975 to 1977, and Immediate Past President from 1977 to 1979. He has served in several local, national, and international organizations concerned with religious freedom and human rights, including active participation with the national Interreligious Task Force on Soviet Jewry, monitoring compliance with the Helsinki Accords during the period from 1977 to 1985.

Dean Michael K. Young served as the Commission's Vice Chairman from June 1999 to June 2000. He joined the George Washington University Law School as Dean in 1998 after serving as the Fuyo Professor of Japanese Law and Legal Institutions at the School of Law of Columbia University. He also served as Director of the Center for Japanese Legal Studies, the Center for Korean Legal Studies, and the Project on Religion, Rights, and Religious Freedom at Columbia University. During the administration of President George Bush, he served as Ambassador for Trade and Environmental Affairs, Deputy Under Secretary for Economic and Agricultural Affairs, and Deputy Legal Adviser to the U.S. Department of State.

APPENDIX 2: THE INTERNATIONAL RELIGIOUS FREEDOM ACT¹

SELECTED PROVISIONS

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

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

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

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

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

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

(b) DESIGNATIONS OF COUNTRIES OF PARTICULAR CONCERN FOR RELIGIOUS FREEDOM.—

(1) ANNUAL REVIEW.—

(A) IN GENERAL.— Not later than September 1 of each year, the President 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.

¹ P.L. 105-292, as amended, 22 U.S.C. § 6401, et seq. The full text of the Act can be found on the Commission's Web site, www.uscifr.gov.