



UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM  
Annual Report 2010



**Annual Report of the  
United States Commission on International Religious Freedom**

**May 2010**  
(Covering April 1, 2009 – March 31, 2010)

**Commissioners**

Leonard A. Leo

*Chair*

*(July 2009 – June 2010)*

Felice D. Gaer

*Chair*

*(July 2008 – June 2009)*

Michael Cromartie

Dr. Elizabeth H. Prodromou

*Vice Chairs*

*(July 2008 – June 2010)*

Dr. Don Argue

Imam Talal Y. Eid

Felice D. Gaer

Dr. Richard D. Land

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Ambassador Jackie Wolcott

*Executive Director*

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Stephen R. Snow, Senior Policy Analyst

Front Cover: URUMQI, China, July 7, 2009 – A Uighur Muslim woman stands courageously before Chinese riot police sent to quell demonstrations by thousands of Uighurs calling for the government to respect their human rights. The Uighurs are a minority Muslim group in the autonomous Xinjiang Uighur region. Chinese government efforts to put down the ethnic and religious protest resulted in more than 150 dead and hundreds of arrests. (Photo by Guang Niu/Getty Images)

Back Cover: JUBA, Southern Sudan, April 10, 2010 – School children participate in a prayer service on the eve of Sudan's first national elections in more than two decades. Those elections are called for under the Comprehensive Peace Agreement between North and South Sudan, the full implementation of which is widely believed to be essential to averting another bloody civil war marked by sectarian strife. Although the elections were deeply flawed, many Southern Sudanese saw them as a necessary milestone on the road to a January 2011 referendum on Southern Sudan's political future--the final major step in the peace agreement. (Photo by Jerome Delay/Associated Press)

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UNITED STATES COMMISSION ON  
INTERNATIONAL RELIGIOUS FREEDOM

April 29, 2010

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

Dear Mr. President:

I am pleased to transmit the 2010 Annual Report of the U.S. Commission on International Religious Freedom (USCIRF). This report covers the period of April 2009 through March 2010, and was prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998 (IRFA), 22 U.S.C. 6401 et seq., P.L. 105-292, as amended by P.L. 106-55 and P.L. 107-228.

The Annual Report documents religious freedom abuses and limitations in 28 countries around the world, as well as concerns at the United Nations and the Organization for Security and Cooperation in Europe. The Annual Report:

- Recommends that the State Department designate five additional “countries of particular concern,” or CPCs, under IRFA for egregious violations of religious freedom – Iraq, Nigeria, Pakistan, Turkmenistan, and Vietnam;
- Recommends eight countries be re-designated as CPCs – Burma, China, Eritrea, Iran, North Korea, Saudi Arabia, Sudan, and Uzbekistan – and that additional actions are taken;
- Documents violations of religious freedom in countries placed on the USCIRF Watch List and urges increased U.S. government response;
- Highlights efforts of some member states at the United Nations to undermine religious freedom standards through the flawed “defamation of religions” concept; and
- Discusses measures still required to address flaws in U.S. policy regarding expedited removal of asylum seekers.

USCIRF concludes that the adoption of these and other recommendations found in the Annual Report would considerably advance U.S. efforts to protect and promote the universal right to freedom of religion or belief worldwide.

We would welcome the opportunity to discuss these policy recommendations with you.

Sincerely,



Leonard Leo  
Chair



UNITED STATES COMMISSION ON  
INTERNATIONAL RELIGIOUS FREEDOM

April 29, 2010

The Honorable Hillary Clinton  
Secretary of State  
Washington, D.C. 20520

Dear Madam Secretary:

I am pleased to transmit the 2010 Annual Report of the U.S. Commission on International Religious Freedom (USCIRF). This report covers the period of April 2009 through March 2010, and was prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998 (IRFA), 22 U.S.C. 6401 et seq., P.L. 105-292, as amended by P.L. 106-55 and P.L. 107-228.

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Leonard Leo  
Chair



UNITED STATES COMMISSION ON  
INTERNATIONAL RELIGIOUS FREEDOM

April 29, 2010

The Honorable Nancy Pelosi  
Speaker of the House of Representatives  
Washington, D.C. 20515

Dear Madam Speaker:

I am pleased to transmit the 2010 Annual Report of the U.S. Commission on International Religious Freedom (USCIRF). This report covers the period of April 2009 through March 2010, and was prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998 (IRFA), 22 U.S.C. 6401 et seq., P.L. 105-292, as amended by P.L. 106-55 and P.L. 107-228.

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Sincerely,



Leonard Leo  
Chair



UNITED STATES COMMISSION ON  
INTERNATIONAL RELIGIOUS FREEDOM

April 29, 2010

The Honorable Robert Byrd  
President Pro Tempore of the Senate  
Washington, D.C. 20510

Dear Senator Byrd:

I am pleased to transmit the 2010 Annual Report of the U.S. Commission on International Religious Freedom (USCIRF). This report covers the period of April 2009 through March 2010, and was prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998 (IRFA), 22 U.S.C. 6401 et seq., P.L. 105-292, as amended by P.L. 106-55 and P.L. 107-228.

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Sincerely,



Leonard Leo  
Chair

## **INTRODUCTION**

The term religious persecution brings to mind images of a foreign government preventing people from worshipping or otherwise mistreating them for their beliefs. A second and equally egregious threat to religious freedom, however, commonly occurs but receives far less attention. Many governments fail to punish religiously motivated violence perpetrated by private actors. This breakdown in justice—known as impunity—has been repeatedly confronted as a harsh reality in many places by the U.S. Commission on International Religious Freedom (USCIRF).

USCIRF has seen the effects of impunity firsthand—particularly on vulnerable minority religious groups—during fact-finding trips to Egypt, Nigeria, and Sudan. USCIRF also has monitored the state's failure to punish private, religiously-motivated violence in Afghanistan, Eritrea, India, Iran, Iraq, and Pakistan. The absence of accountability breeds lawlessness, which encourages individuals to attack, and even kill, others who dissent from or fail to embrace their own religious views, including members of minority religious communities. This often leads to endless cycles of sectarian violence. Countering impunity is among the greatest challenges the United States government faces as it develops policies to effectively promote and protect freedom of religion or belief around the world.

Nigeria is a tragic case in point. Having visited Nigeria three times over the past year, USCIRF has observed how unchecked waves of sectarian violence—for which no perpetrator has yet been brought to justice—have engulfed this key nation in a conflagration of impunity. Since 1999, as many as 12,000 Nigerians have been killed in a dozen incidents. One religious community is pitted against another in repeated acts of retributive violence. Victims and perpetrators have included both Muslims and Christians. Most recently, in early 2010, 500 persons in a Christian village near the northern city of Jos were killed in such sectarian clashes. In this incident, men, women, and children were hacked to death with machetes and then dumped into wells. Not a single criminal, Muslim or Christian, has been convicted and sentenced in Nigeria's ten years of religious violence. Therein lies the problem. The Nigerian government and judicial system have so far been unwilling or unable to protect either side. Until this changes, we can only expect more violence. Already we are seeing the creation of conditions for the proliferation of extremist ideology and terrorism.

Of course, there are other disturbing trends that threaten freedom of religion across the globe. There is the exportation of extremist ideology, which USCIRF has observed in Saudi Arabia's dissemination of educational materials that instill hate and incite violence throughout the world. In Iran, the government persecutes many of its political opponents in the name of religion under blasphemy and apostasy laws, and denies all rights to one disfavored religious group, the Baha'is. There are also countless instances of state-sponsored repression of religion: Vietnam imprisons individuals for reasons related to their exercise or advocacy of freedom of religion or belief; the Egyptian government fails to provide Baha'is, Coptic Christians and other religious minorities the very basic benefits and privileges that others enjoy; North Korea bans virtually all worship and imprisons in its infamous labor camps even the grandchildren of those caught praying; and China seriously restricts religious activities, church governance, and places of worship.

Even in the most demoralizing of conditions, where repression seems to have all but smothered the human spirit, USCIRF has drawn inspiration and determination from people of faith who stand up for their freedom and human rights. In December 2009, USCIRF witnessed firsthand a group of irrepressible Sudanese political reformers in Khartoum who, only hours before, had been beaten and arrested for calling for faithful implementation of the Comprehensive Peace Agreement – implementation that is essential to preventing another bloody civil war that could result in the deaths of additional millions of people from the predominantly Christian and traditional-believing South. In Egypt, USCIRF visited Baha'is and Koranists whose co-religionists, because they refuse to compromise their religious principles,

have been imprisoned for apostasy and blasphemy, and, in some cases, dismissed from jobs, expelled from universities, prevented from receiving inheritance, and denied rights, among others, to open bank accounts, buy cars, or obtain marriage certificates, birth certificates, or driver's licenses, all as a consequence of religious discrimination.

The photo on the cover of this report captures this spirit well: a lone Uighur Muslim woman facing down a column of armed Chinese security forces, defiant with her fist raised, declaring that her hope and courage will prevail over repressive state policies that seek to crush Uighur rights to religious education and to appoint their own religious leaders. With these and other profiles in courage, can there be any doubt that it is right and just for the preservation of freedom of religion to be among the fundamental principles of our nation's foreign policy, national security, and economic development agendas?

Created by the International Religious Freedom Act of 1998 (IRFA), USCIRF is an independent U.S. government commission that monitors religious freedom worldwide and makes policy recommendations to the President, Secretary of State, and Congress. Separate from the State Department, USCIRF is the only government commission in the world with the sole mission of reviewing and making policy recommendations on the facts and circumstances of violations of religious freedom globally. The creation of USCIRF is one tangible example of the historic commitment of the United States to religious freedom for all. This 2010 Annual Report represents the culmination of a year's work to expose, counter and correct religious freedom abuses.

The Annual Report covers 28 countries from the period of April 2009 through March 2010. Country chapters provide a one-page overview of USCIRF's findings, the justification for the country's designation by USCIRF, and priority recommendations for action. Each chapter then more fully reports on events that took place over the reporting period, emphasizes important elements of the bilateral relationship, and details recommendations that would promote freedom of religion or belief as a more integral part of U.S. policy. The report is divided into five sections: the first section highlights countries which USCIRF has recommended that the State Department designate as "countries of particular concern" (CPCs) for severe violations of religious freedom; the second focuses on countries USCIRF has placed on a Watch List for violations of religious freedom not meeting the CPC threshold but requiring very close attention; the third on other countries USCIRF is closely monitoring; the fourth on multilateral organizations; and the fifth on U.S. policy on expedited removal of asylum seekers.

Over the past year, USCIRF has placed particular emphasis on eight priority countries—China, Egypt, Iran, Nigeria, Pakistan, Saudi Arabia, Sudan, and Vietnam—while continuing to monitor violations of religious freedom in other countries and recommending actions to address and to end these violations.

To carry out its work on priority countries, USCIRF has undertaken delegations to Nigeria, Sudan, Egypt, and Vietnam, in addition to consultations at the European Union, the Holy See, the OSCE, and the Philippines. USCIRF has also convened civil society roundtables to monitor progress in Sudan; held press events focused on religious freedom and the rule of law in China and made detailed recommendations to the State Department on ways to improve human rights diplomacy with China; highlighted to President Obama needed U.S. engagement with Saudi Arabia; organized Congressional and NGO action before Vietnam's May 2009 Universal Periodic Review session at the UN; met with Secretary of State Hillary Clinton and Deputy Secretary James Steinberg on separate occasions to raise concerns about severe religious freedom abuses in Iran and Pakistan, among other countries; and testified on the status of human rights and religious freedom in China, Iran, and Vietnam, stressing the need to improve U.S. engagement on religious freedom. USCIRF also has advocated on behalf of a diverse array of religious communities: Uighur Muslims in China; Shi'a and Ismaili Muslims in Saudi Arabia; Ahmadi Muslims in Pakistan and Indonesia; Baha'is, Christians and dissident Muslims in Iran; Buddhists in

Vietnam and China; and a range of indigenous faiths and spiritual movements in China, Egypt, Iraq, and Vietnam.

Additionally, USCIRF played a leading role in mobilizing Congress to engage key countries on the problematic “defamation of religions” resolutions when they came before the UN Human Rights Council and General Assembly. These are just some of the Commission’s activities over the past 12 months, but they fairly represent the nature and breadth of its work.

In fulfilling its mandate and in response to the many abuses of religious freedom around the world, USCIRF repeatedly engaged the Obama administration on ways to promote religious freedom on issues critical to U.S. foreign policy. There have been a number of meetings with high-ranking officials from the State Department and National Security Council, as well as U.S. ambassadors to key countries. To create an “echo chamber” for having the U.S. government more fully address freedom of religion issues, Commissioners and staff met with representatives of religious communities and institutions, human rights groups, and academics, as well as other non-governmental organizations and policy experts. USCIRF advised members of Congress and their staffs, met with high-ranking officials from foreign governments and international organizations, participated with U.S. delegations to international meetings and conferences, and helped provide training to Foreign Service officers and other U.S. officials. USCIRF also held hearings and published op-eds in the *Wall Street Journal*, the *Miami Herald*, the *Atlanta Journal-Constitution*, the *Washington Times*, and the *Huffington Post*.

USCIRF’s work is accomplished through the leadership of its Commissioners and engagement of its professional staff. Three Commissioners are appointed by the President, while six are appointed by the leadership of both parties in the House and Senate. This formula provides that four Commissioners are appointed by the Congressional leaders of the party that is not the President’s party, and the party in the White House appoints five. (One Commissioner seat was vacant during the reporting period.) The Ambassador-at-Large for International Religious Freedom, a position at the State Department also created by IRFA, serves as a non-voting *ex officio* member. (To date, the position has not been filled by the Obama administration.)

On June 30, 2009, Felice D. Gaer completed her term as Chair, which included the first quarter of this reporting period, and Michael Cromartie and Dr. Elizabeth H. Prodromou were Vice Chairs. On July 1, 2010, Leonard Leo was elected as Chair, and Michael Cromartie and Dr. Elizabeth H. Prodromou were again elected Vice Chairs.

In the end, USCIRF’s mandate is to delve into the human rights “hot spots” of the world where freedom of religion is being obstructed and trampled, and to offer policy solutions to improve conditions in that small but critically important point of intersection of foreign policy, national security, and international religious freedom standards. Regrettably, that small point seems to shrink year-after-year for the White House and the State Department. This is a deepening problem despite the fact that religious freedom should be increasingly more important as one of the core considerations in foreign policy and national security. Neither prior Democratic and Republican administrations, nor the current administration, have been sufficiently engaged in promoting the freedom of religion or belief abroad. The United States must redouble its efforts to raise these concerns at the highest levels of the world community. Anything less betrays our history and values, and fails to leverage the extraordinary capacity we have as a nation to promote religious freedom and related human rights for all.

## REPORT OVERVIEW AND IRFA IMPLEMENTATION

### Countries of Particular Concern and the Watch List

*In May 2009, for the first time, the U.S. Commission on International Religious Freedom (USCIRF or the Commission) recommended that Nigeria be designated a “country of particular concern” (CPC). This determination was based on the fact that after years of Muslim-Christian clashes resulting in over 12,000 deaths and many more displaced, not a single perpetrator had been brought to justice. The Commission warned that this climate of impunity could fuel further violent extremism. Just two months later, the radical Islamic sect Boko Haram ignited a wave of violence resulting in about 900 deaths in the name of having a stricter version of sharia law imposed in northern Nigeria. In December 2009, Nigerian Umar Farouk Abdulmutallab attempted to destroy a Northwest Airline flight on approach to Detroit. USCIRF visited Nigeria again in March 2010 and found federal government officials, who previously did not meet with USCIRF, attentive and even grateful for its concerns and willing to work closely with the U.S. government in finding a solution to the breakdown in justice. Indeed, during this visit, the Ministry of Justice filed 41 prosecutions in the courts of Jos in response to the latest Christian-Muslim clashes. The State Department is now redoubling its efforts to work with Christian and Muslim leaders alike in northern Nigeria. Much more needs to be done, but it seems a process toward reform has at least started.*

USCIRF’s work relating to Nigeria over the past 12 months, Vietnam’s release of religious prisoner Father Ly, and the elimination by Saudi Arabia of some schoolbook passages that promote intolerance and incite violence, along with other developments described in this 2010 Annual Report, illustrate why the Commission is uniquely positioned to provide advice to the President, the Secretary of State, and the Congress as to which countries should be designated as “countries of particular concern,” or CPCs. USCIRF provides for each country detailed policy recommendations for improving religious freedom conditions. USCIRF missions abroad give a focus to USCIRF’s mandate: to identify “hot spots” where freedom of religion is obstructed and related human rights are trampled, and develop and recommend U.S. policy solutions at the critical convergence of foreign policy, national security, and international human rights. Advice and recommendations are based on USCIRF’s ongoing review of the facts and circumstances of violations of religious freedom through its contacts with non-governmental organizations (NGOs), religious groups, U.S. government agencies, and foreign governments, and its missions.<sup>1</sup>

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<sup>1</sup> A note on sources: In addition to information gathered from USCIRF’s trips and meetings, this report is based on information from a variety of news sources; reports by the U.S. government and international organizations; written communications from foreign governments and embassies; communications from individuals abroad who are victims of religious freedom abuses; and reports by numerous U.S. and international non-governmental organizations. Non-governmental sources include, but are not limited to, the following: African Centre for Justice and Peace Studies, Ahmadiyya Movement in Islam USA, the Almaty Helsinki Committee, American Enterprise Institute, the American Islamic Congress, American Jewish Committee, Amnesty International, the Anti-Defamation League, Baha’i International Community, the Bangladesh Hindu, Buddhist and Christian Unity Council USA, Boat People SOS, Brookings Institution, Cardinal Kung Foundation, Carnegie Endowment for International Peace, Center “Demos,” Center for the Study of Islam and Democracy, Center for Strategic and International Studies, Chatham House, Christian Solidarity International, Christian Solidarity Worldwide, Citizen’s Alliance for Human Rights in North Korea, Committee for Religious Freedom in Vietnam, Compass Direct, Coptic Assembly of America, Council on Foreign Relations, CubaNet, Democracy Network Against NK Gulag, the Enough Project, Falun Dafa Information Center, Farsi Christian News Network, Forum 18, Religious News Service, Free North Korea Radio, Freedom House, the Friends of St. Elizabeth’s Church, the Hindu American Foundation, Holy Spirit Study Center, the Hudson Institute Center for Religious Freedom, Human Rights First, Human Rights Watch, the Initiative Group

USCIRF is one of several mechanisms established by the International Religious Freedom Act of 1998 (IRFA), along with the Office of International Religious Freedom at the Department of State, headed by an Ambassador-at-Large for International Religious Freedom. IRFA also mandated that the State Department review religious freedom conditions worldwide, by collecting information through its embassies and consulates abroad, and issue annually a global report on religious freedom (the *Annual Report on International Religious Freedom*). Based on that review, IRFA's provisions require the President, who has delegated this authority to the Secretary of State, to designate "countries of particular concern" (CPCs) whose governments have engaged in or tolerated "particularly severe" violations of religious freedom. IRFA defines "particularly severe" violations as ones that are "systematic, ongoing, and egregious," including acts such as torture, prolonged detention without charges, disappearances, or "other flagrant denial[s] of the right to life, liberty, or the security of persons." After a country is designated a CPC, the President is required by law to take one or more of the actions specified in IRFA, or to invoke a waiver if circumstances warrant.

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

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

USCIRF also names countries to a Watch List, based on the need to closely monitor serious violations of religious freedom engaged in or tolerated by the governments of countries that do not meet the CPC threshold. The Watch List provides advance warning of negative trends that could develop into severe violations of religious freedom, thereby providing policymakers with the opportunity to engage early and

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of Independent Human Rights Defenders of Uzbekistan, the Institute for Gulf Affairs, Institute for Security Studies, InterAmerican Dialogue, Internal Displacement Monitoring Centre, International Campaign for Tibet, International Christian Concern, the International Crisis Group, the International Rescue Committee, Iran Human Rights Documentation Center, the Jehovah's Witnesses USA, Jubilee Campaign USA, Justice Africa, the Kazakhstan International Bureau on Human Rights and the Rule of Law, the Mandaean Human Rights Group, the Middle East Institute, Minority Rights Group International, the Moscow Helsinki Group, the Najot Human Rights Group, the National Conference on Soviet Jewry, National Democratic Institute for International Affairs, the National Endowment for Democracy, the National Spiritual Assembly of the Baha'is of the United States, North Korea Freedom Coalition, Open Doors USA, the Open Society Institute, Project on Middle East Democracy, Public International Law and Policy Group, Que Me, Redress, Reporters Without Borders, the Russian-Chechen Friendship Society, SETARA Institute for Democracy and Peace, the Slavic Center for Law and Justice, the SOVA Center, the Turkish Economic and Social Studies Foundation, the Turkmen Initiative for Human Rights, the Union of Councils for Jews in the Former Soviet Union, United Sikhs, U.S. Campaign for Burma, U.S. Committee for Human Rights in North Korea, the U.S. Conference of Catholic Bishops, the United States Institute of Peace, Uyghur-American Conference, Vietnam Committee for Human Rights, Voices for a Democratic Egypt, Voices for Sudan, Wahid Institute, the Washington Institute for Near East Policy.

<sup>2</sup> While joining the Commission's report on Iraq, Commissioners Cromartie, Eid, and Land dissented from the CPC recommendation, concluding that Iraq should be placed on the Commission's Watch List.

increasing the likelihood of preventing or diminishing the violations. USCIRF’s Watch List in this reporting period consists of Afghanistan, Belarus, Cuba, Egypt, India<sup>3</sup>, Indonesia, Laos, Russia, Somalia, Tajikistan, Turkey<sup>4</sup>, and Venezuela.

<b>Current CPC and Watch List Countries</b>		
<b>Countries Designated as CPCs by the Department of State</b>	<b>USCIRF Recommendations for CPC Designation</b>	<b>USCIRF Watch List Countries</b>
Burma	Burma	Afghanistan
China	China	Belarus
Eritrea	Eritrea	Cuba
Iran	Iran	Egypt
North Korea	North Korea	India
Saudi Arabia	Saudi Arabia	Indonesia
Sudan	Sudan	Laos
Uzbekistan	Uzbekistan	Russia
	Iraq	Somalia
	Nigeria	Tajikistan
	Pakistan	Turkey
	Turkmenistan	Venezuela
	Vietnam	

Designating a country as a CPC provides the Secretary of State with a range of flexible and specific policy options to address serious violations of religious freedom. Sanctions (referred to as Presidential actions in IRFA) are not automatically imposed. Rather, the Secretary of State is empowered to enter into direct consultations with a government to find ways to bring about improvements in religious freedom. While sanctions are a possible policy outcome, IRFA provides the Secretary with other options. For instance, IRFA permits the development of a binding agreement with the CPC-designated government on specific actions that it will take to end the violations that gave rise to the designation or the taking of a

<sup>3</sup> Commissioner Gaer dissented from the placement of India on the Commission’s Watch List. The full dissent can be found in the India chapter.

<sup>4</sup> Commissioner Eid abstained from the Watch List recommendation, concluding that the situation in Turkey is not as serious as in Greece, which is not on USCIRF’s Watch List.

“commensurate action.” Also, the Secretary may determine that pre-existing sanctions are adequate or waive the requirement of taking action in furtherance of the Act.

However, in practice the flexibility provided in IRFA has been underutilized and, as a result, the statute has not been employed to bring about real progress. The U.S. government generally has not implemented new Presidential actions pursuant to CPC designations, but rather has relied on pre-existing sanctions. Of the eight countries designated as CPCs by the State Department, only one—Eritrea—faces sanctions specifically imposed under IRFA for religious freedom violations. While relying on pre-existing sanctions is technically correct under the statute, the practice of “double-hatting” has provided little incentive for the other CPC-designated governments to reduce or end egregious violations of religious freedom. For these mechanisms to have any real impact on promoting religious freedom, the designation of an egregious religious freedom violator as a CPC must be followed by the implementation of a clear, direct, and specific Presidential action.

<b>Actions Taken Under IRFA</b>	
<b>Burma</b>	22 CFR 126.1: prohibition on exports or other transfers of defense articles and defense services pursuant to §§ 2, 38 and 42 of the Arms Export Control Act
<b>China</b>	Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, P.L. 101-246: restriction of exports of crime control and detection instruments and equipment
<b>Eritrea</b>	International Religious Freedom Act of 1998, 405(a)(13)(B): Denial of commercial export to Eritrea of defense articles and services covered by the Arms Control Export Act, with some items exempted
<b>Iran</b>	Arms Export Control Act, §40: restrictions on United States security assistance.
<b>North Korea</b>	Trade Act of 1974, §§402 and 409 (the Jackson-Vanik Amendment): restrictions on normal trade relations and other trade benefits
<b>Saudi Arabia</b>	Indefinite waiver of Presidential actions under section 407(a)(2) of IRFA to further the purposes of the Act
<b>Sudan</b>	International Financial Institutions Act, §1621: use of the voice and vote of the United States to oppose any loan or other use of the funds of the International Financial Institutions to or for Sudan
<b>Uzbekistan</b>	180-day waiver of Presidential actions under section 407(a)(2) of IRFA to further the purposes of the Act

In addition to implementing specific Presidential actions, the U.S. government should designate CPCs in a timely manner. While IRFA does not set a specific deadline, it indicates that CPC designations should take place soon after the State Department releases its *Annual Report on International Religious Freedom*, as decisions are to be based on that review.

As of the end of the reporting period, the Obama administration has yet to make its CPC designations, although the *Annual Report on International Religious Freedom* was released on October 26, 2009. USCIRF had expressed concern about the lack of any CPC designations by the Bush State Department between November 2006 and January 2009. It is important that the Obama administration issue designations soon, so as to bring the timing of these deliberations into closer proximity to the issuance of the *Annual Report*, upon which such decisions are to be based.

### **Overview of CPC Recommendations and Watch List**

In accordance with the Commission's statutory obligations, USCIRF recommends to the Secretary of State that 13 countries be designated as CPC's. In addition, the Commission offers a detailed list of specific policy recommendations in order to seek to improve conditions for freedom of religion for each CPC. Indeed, there are more than a hundred policy recommendations spanning dozens of pages that could be implemented by the State Department, Congress, or other component parts of the Federal government.

This Overview section provides highlights of some of the conditions that justify CPC status, as well as a sampling of some of USCIRF's policy recommendations. It is important to note, however, that the enumeration of CPC justifications and proposed policies in the Overview section is by no means exhaustive, and is not intended to, nor does it, prioritize recommendations. Each chapter should be consulted for a thorough treatment of in-country conditions that justify CPC status as well as a complete list of policy recommendations.

The Overview section also contains a similar review and summary of the Commission's Watch List designations and policy recommendations for those countries. The Watch List includes countries to be closely monitored for serious violations of religious freedom that do not meet the CPC threshold. The Watch List provides advance warning of negative trends that could develop into severe violations of religious freedom, thereby providing policymakers with the opportunity to engage early and increasing the likelihood of preventing or diminishing the violations.

#### *Justification of Commission Recommendations for CPC Designation and Highlights of Policy Recommendations*

- The State Peace and Development Council (SPDC), the military junta governing **Burma**, has one of the world's worst human rights records. In the past year, religious freedom conditions continued to deteriorate, as they have since the violent suppression of peacefully demonstrating Buddhist monks in September 2007. Burma's military regime continued its policy of severely restricting religious practice, monitoring the activity of all religious organizations, and perpetuating or tolerating violence against religious leaders and their communities. The government launched a massive and violent crackdown, including the killing, arrest, torture, and disappearances of monks and others who participated in large scale, non-violent demonstrations calling for the release of political prisoners and greater democracy in late September 2007. The junta continues to target monasteries viewed as epicenters of the protests, severely restricting religious practice and detaining monks who commemorate the demonstration. The SPDC has taken steps to legally ban unregistered Protestant activity and continues to destroy religious sites and forcibly promote conversion to Buddhism in ethnic minority areas. The SPDC's campaign to create "Muslim Free Zones" in parts of Burma has created an estimated 300,000 Rohingya Muslim refugees in Southeast Asia. Both Bangladesh and Thailand have repatriated or forcibly removed Rohingya Muslims in the past year. Among other actions, the United States should use its engagement with the SPDC to ensure a peaceful and complete transition to democracy. In

addition, the U.S. should maintain targeted sanctions until the SPDC takes active steps to meet benchmarks established in UN resolutions and U.S. law, as well as coordinate with regional allies, particularly the democracies of Southeast and South Asia, about supporting such sanctions.

- In **China**, the government continues to engage in systematic and egregious violations of the freedom of religion or belief. There was a marked deterioration in the past year, particularly in Tibetan Buddhist and Uighur Muslim areas. The government continues its campaign to “transform” unregistered Christian groups and “strike hard” against “evil cults,” leading to the arrest, imprisonment, and mistreatment of religious adherents. Thousands of “house church” Protestants have been detained in the past two years. Forty Catholic bishops remain imprisoned or disappeared. There also is credible evidence of the systematic torture and mistreatment of Falun Gong practitioners in detention. Though China has expanded the “zone of toleration” that allows millions of Chinese citizens the ability to worship, it continues to systematically deny the ability of religious communities to freely exercise their religion without severe restrictions. All religious activities are subject to a strict political and legal framework that represses many activities protected under international human rights law, including in treaties China has signed or ratified. Among its numerous policy recommendations, USCIRF recommends that the Secretary of State impose a new sanction targeting officials who perpetuate religious freedom abuses or provinces where religious freedom conditions are most egregious. In addition, USCIRF recommends that the United States raise religious freedom concerns in multilateral forums where the United States and China are members, coordinate potential sources of leverage within the U.S. government and with allies to build a consistent human rights diplomacy with China, develop and distribute proven technologies to counter internet censorship and protect Chinese activists from arrest and harassment, and raise religious freedom and negotiate binding human rights agreements at the U.S.-China Strategic Dialogue.
- The government of **Eritrea** continues to engage in systematic, ongoing, and egregious violations of religious freedom. Arbitrary arrests for peaceful religious activities continue, along with reports of prolonged detention and harsh treatment of religious prisoners, including the deaths of certain religious prisoners due to ill treatment, denial of medical care, or torture. Other serious concerns include the continued ban on public religious activities by unofficial religious groups as well as government closure of their places of worship; an onerous and lengthy registration process for religious groups that has never resulted in the government’s approving a registration application since the requirement was instituted in 2002; disruption by the security forces of private religious and even social gatherings of unregistered religious groups; denial of government services and civil and political rights to Jehovah’s Witnesses; and government interference in the internal affairs of some of the religious faiths that are recognized by the government, particularly the Orthodox Church of Eritrea, the country’s largest Christian community. In addition to maintaining existing sanctions against Eritrea, the United States should impose targeted sanctions against individuals and institutions identified as responsible for, or complicit in, serious human rights abuses.
- The government of **Iran** continues to engage in systematic, ongoing, and egregious violations of religious freedom, including prolonged detention, torture, and executions based primarily or entirely upon the religion of the accused. During the past year, and particularly since the June 2009 elections, the Iranian government’s poor religious freedom record deteriorated, especially for religious minorities, in particular Baha’is as well as Christians and Sufi Muslims, including intensified physical attacks, harassment, detention, arrests, and imprisonment. Dissident Muslims were increasingly subject to abuse and several were sentenced to death and even executed for the capital crime of *moharebeh*, or “waging war against God.” A revised penal code that would codify serious punishments, including the death penalty, on converts from Islam remains under

consideration by the Iranian parliament. Heightened anti-Semitism and repeated Holocaust denial by senior government officials have increased fear among Iran's Jewish community. Since the 1979 Iranian revolution, members of minority religious communities have fled Iran in significant numbers for fear of persecution. USCIRF recommends that the U.S. government fulfill IRFA's statutory requirements by identifying those Iranian officials and entities responsible for severe religious freedom violations and imposing travel bans and asset freezes on them, while pressing our European allies to do the same.

- In **Iraq**, the government continues to commit and tolerate severe abuses of freedom of religion or belief, particularly against the members of Iraq's smallest, most vulnerable religious minorities – Chaldo-Assyrian and other Christians, Sabeen Mandaeans, and Yazidis. Members of these groups continue to suffer from targeted violence, threats, and intimidation, against which they receive insufficient government protection. They also experience a pattern of official discrimination, marginalization, and neglect. In addition, there continue to be attacks and tense relations between Shi'a and Sunni Iraqis. Other egregious, religiously motivated violence against women and girls, homosexuals, and Muslims who reject certain strict interpretations of Islam also continues. To alleviate the plight of religious minorities, USCIRF has recommended that the United States emphasize, with both the new Iraqi government and the KRG, the urgent need, among other actions, to protect vulnerable religious minority communities and ensure them justice.
- The government of **Nigeria** continues to respond inadequately and ineffectually to persistent religious freedom violations and violent sectarian and communal conflicts along religious lines. The toleration by Nigeria's federal, state and local governments of systematic, ongoing, and egregious violations of religious freedom has created a climate of impunity, resulting in thousands of deaths. In 2010, several hundred people were killed in gruesome attacks in and around the city of Jos when ethnic and sectarian violence again erupted in that city. In July 2009, an Islamic sect wanting to impose a stricter version of sharia law, *Boko Haram*, fought Nigerian security forces and approximately 900 people were killed, including the sect's leader and at least three Christian pastors. Other concerns include the expansion of sharia (Islamic law) into the criminal codes of several northern Nigerian states and discrimination against minority communities of Christians and Muslims. USCIRF urges that the United States press the Nigerian government to prevent and contain recurring sectarian violence by bringing perpetrators to justice, and ensure that these issues are an important part of discussions in the context of the newly established U.S.-Nigeria Bi-National Commission.
- **North Korea** continues to be one the world's most repressive regimes. Dissent is not tolerated and few protections exist for fundamental freedoms, including the freedom of thought, conscience, and religion. Existing religious institutions and activity are tightly controlled and employed primarily to gain the government foreign assistance from overseas religious groups and NGOs. New security measures are used to stop new religious activity from spreading from China. Churches, temples, and pagodas built for the government-approved organizations are directly controlled and operated by the National Security Agency. Other public and private religious activity is prohibited and anyone discovered engaging in clandestine religious practice faces official discrimination, arrest, imprisonment, and possibly execution. North Korean refugees attest that those viewed to have religious beliefs or to have extensive contact with South Korean religious groups are treated more harshly than other inmates. Among other recommendations, USCIRF has urged the United States to work with regional allies at the Six-Party Talks to raise human rights concerns, including religious freedom, and link future economic, political, and diplomatic assistance to progress in these areas, and to fully implement

the provisions of the North Korea Human Rights Act, including support for NGOs working to build democracy and protect human rights in North Korea.

- Serious religious freedom concerns persist in **Pakistan**, where religiously discriminatory legislation has fostered an atmosphere of intolerance. Positive steps taken by the current government have failed to reverse the resulting erosion in the social and legal status of members of religious minority communities and the ability of members of the majority Muslim community to discuss freely sensitive religious and social issues. A number of Pakistan's laws abridge freedom of religion or belief. Anti-Ahmadi legislation results in discrimination against individual Ahmadis and effectively criminalizes various practices of their faith. Blasphemy laws have been used to silence members of religious minorities and dissenters within the majority Muslim community, and frequently result in imprisonment on account of religion or belief and/or vigilante violence. The Hudood Ordinances, Islamic decrees predominantly affecting women that are enforced alongside Pakistan's secular legal system, provide harsh punishments for alleged violations of Islamic law. Anti-government insurgents espousing an intolerant interpretation of Islam continue to impose a harsh, Taliban-style rule in areas under their control. The government's response to sectarian and religiously motivated violence continues to be inadequate, despite increased security operations against extremists. The government of Pakistan also continues to promote the flawed "defamation of religions" concept at the United Nations that would violate the freedoms of religion and expression. USCIRF deems elimination of Pakistan's blasphemy law as a priority, and urges the U.S. government to pursue this objective and to support interfaith dialogue efforts undertaken by the Ministry of Minorities Affairs.
- Systematic, egregious, and ongoing religious freedom violations continue in **Saudi Arabia**. Despite King Abdullah undertaking some limited reform measures and promoting inter-religious dialogue in international fora in recent years, the Saudi government persists in banning all forms of public religious expression other than that of the government's own interpretation of one school of Sunni Islam, and interferes with private religious practice of both Muslims and non-Muslim expatriate workers. Ismaili Muslims continue to suffer severe discrimination and abuse on account of their religious identity. There is an ongoing crackdown on Shi'a Muslim dissidents, which has resulted in numerous arrests and detentions. Members and volunteers of the Commission to Promote Virtue and Prevent Vice (CPVPV), or religious police, regularly overstep its authority with impunity and are not subject to judicial review. Moreover, the government continues to be involved in supporting activities globally that promote an extremist ideology, and in some cases, violence toward non-Muslims and disfavored Muslims. Because of these conditions, USCIRF urges the United States to lift the indefinite waiver of action, or at a minimum extend a limited 180-day waiver, during which time the Saudi government should complete reforms on textbooks and rein in the CPVPV.
- The government of **Sudan** commits egregious and systematic violations of freedom of religion or belief in those areas under its control. Christians, Muslims who do not follow the government's extreme interpretation of Islam, and those who follow traditional African religions are particularly targeted. Since the Comprehensive Peace Agreement (CPA) ended the North-South civil war in January 2005, conditions for religious freedom have improved in Southern Sudan and in contested areas in central Sudan. The Government of National Unity instituted by the CPA has officially operated under an Interim National Constitution with provisions guaranteeing universal human rights, including freedom of religion or belief. Despite these provisions, severe human rights violations continue against both non-Muslims and Muslims in government-controlled areas, as well as in Darfur where the State Department has determined that acts of genocide have taken place and still may be ongoing. The greatest danger to religious freedom and other human rights in Sudan is the collapse of the fragile peace brought about by the CPA. The ruling party in

Khartoum often has demonstrated a lack of will in seeing the peace agreement brought to a successful conclusion. In view of this situation, USCIRF urges the United States to, among other actions, insist on full CPA implementation, assist the parties in preparing for a successful 2011 referendum on the South's political future, and work with the parties to advance discussions on post-2011 issues.

- Significant religious freedom problems and official harassment of religious adherents persist in **Turkmenistan**. Police raids and other forms of harassment of registered and unregistered religious groups continue more than three years after the death of longtime dictator Saparmurat Niyazov. The repressive 2003 religion law remains in force, imposing major difficulties for the legal functioning of religious groups. Despite decreased emphasis, the Turkmen government still maintains the former president's personality cult through the *Ruhnama* as a mandatory feature of elementary public education. Although the new president has taken some isolated positive steps, including the release of the country's former chief mufti, promised systemic legal reforms directly related to religious freedom and other human rights have not been made. Among other recommendations, USCIRF encourages the State Department to continue to press the Turkmen government to bring its human rights record into compliance with international standards, including on freedom of religion or belief, and establish regular bilateral meetings in that regard.
- The government of **Uzbekistan** continues to systematically abuse religious freedom and related human rights throughout the country. The government exercises tight control over all religious practice, and continues to arrest Muslims and close mosques that do not conform to government-prescribed practices or that it alleges are associated with extremist political programs. As of 2009, at least 4,500 non-conforming Muslims, including an increasing numbers of women, were estimated to be in prison, many of whom reportedly are denied the right to due process and subjected to torture. Official repression has extended to members of the country's small Protestant and Jehovah's Witnesses communities that until recently had been somewhat shielded from the government's anti-religious campaign. Uzbekistan has a highly restrictive law on religion that severely limits the ability of religious communities to function, leaving more than 100 religious groups currently denied registration. USCIRF recommends that the United States again designate Uzbekistan as a CPC. Upon re-designation, no waiver should be given and sanctions should be imposed, including a ban on visits to the United States by high-level Uzbek officials.
- The government of **Vietnam** continues to impose major restrictions on, and commit egregious abuses of, religious freedom. While Vietnam did engage with the U.S. government after it was designated a CPC between 2004 and 2006, and that process led to some positive developments for religious communities and the release of many prisoners of concern, serious problems remain. Individuals continue to be imprisoned or detained for their peaceful religious activity or religious freedom advocacy; police and government officials are not held fully accountable for abuses; and independent religious activity remains illegal. In addition, improvements experienced by some religious communities are not experienced by others, including the Unified Buddhist Church of Vietnam, independent Hoa Hao, Cao Dai, and Protestant groups, and some ethnic minority Protestants and Buddhists. Property disputes between the government and the Catholic Church in Hanoi over the past year have led to detentions, threats, harassment, and violence by "contract thugs" against peaceful prayer vigils and religious leaders. In the past year, the Vietnamese government has detained dozens of ethnic minority Protestants for "independent" religious activity and tolerated societal violence. It also forcibly disbanded the Buddhist order associated with Thich Nhat Hanh. In addition, the government harassed, intimidated, and imprisoned human rights defenders who peacefully spoke about legal reform, human rights, and religious freedom. Human rights defender Le Thi Cong Nhan was released from prison after completing her 2007 sentence; she is currently serving house detention. Religious freedom advocate Fr. Nguyen Van

Ly was granted temporary humanitarian parole in early 2010 after suffering two strokes while in prison. Vietnam, in short, illustrates the problem of lifting a CPC designation prematurely. USCIRF continues to urge the Obama administration to re-evaluate its diplomatic and political resources available to advance religious freedom and related human rights in its relations with Vietnam. The Administration should view CPC designation as a flexible tool in light of its previous success in spurring serious diplomatic engagement and achieving measurable improvements, while not hampering progress on other areas in the U.S.-Vietnam relationship.

*The Commission's Watch List*

- In **Afghanistan**, conditions for religious freedom remain problematic, despite gains in freedom of religion or belief since the ouster of the Taliban regime in late 2001. The lack of effective government authority outside of Kabul and major provincial centers contributes to a deteriorating situation for religious freedom and other related human rights in many areas of the country. During the reporting period, a student journalist went into exile following a Presidential pardon on a charge of blasphemy. He had originally been sentenced to death, later commuted to 20 years in prison, for disseminating materials on women's rights in Islam. The publishers of an independent translation of the Koran, who also had been sentenced to 20 years in prison in 2008, were released as part of a Nowruz amnesty. A government ministry announced that it had seized and destroyed a shipment of Shi'a religious books from Iran, apparently because they contained interpretations of Islam deemed offensive to the majority Sunni community. The government's inclination to accommodate traditional, restrictive views of human rights, specifically regarding women, was demonstrated in the controversy over a new family or personal status law for Shi'a Muslims. Nascent efforts at national reconciliation could potentially return Taliban or other insurgents hostile to international human rights standards to positions of influence. Among a range of recommended actions needed to improve respect for freedom of religion, USCIRF urges the U.S. government to clearly state its concern for religious freedom as an essential element in U.S. policy in Afghanistan and use its influence to support those who advocate respect for human rights, including freedom of religion or belief.
- Harsh religious freedom conditions in **Belarus** continued during the reporting period. The Belarusian government still restricts religious freedom under its 2002 religion law. Authorities harassed and fined members of certain religious groups, particularly Protestants. Foreign missionaries, clergy, and humanitarian workers affiliated with churches faced increased restrictions, including deportation and visa refusal or cancellation. Close supervision of religious life is state policy under the religion law, and an extensive government apparatus has stepped up efforts to limit the influence of religion and the activities of foreign religious workers. The U.S. government should ensure that promotion of freedom of religion or belief is a significant factor in its overall engagement to promote democracy and human rights.
- In **Cuba**, religious belief and practice continue to be tightly controlled. While there have been some minor and inconsistent improvements, the government also has expanded efforts to crack down on religious leaders whose churches operate outside of the government-recognized umbrella organization for Protestant denominations. In this reporting period, several religious leaders were imprisoned and dozens were arrested. The government's main interaction with, and control over, religious denominations is through the regular surveillance, infiltration, and/or harassment of religious professionals and laypersons and administrative mechanisms. The government continues to hinder the ability of religious organizations to build new or repair existing houses of worship. President Raul Castro and the government also have yet to institute or indicate plans for major improvements in freedom of religion or belief. Among other actions, USCIRF recommends that the United States set objectives for the Cuban government to meet

regarding the protection of freedom of religion or belief in Cuba before considering the resumption of full diplomatic relations with the island.

- Serious problems of discrimination, intolerance, and other human rights violations against members of religious minorities, as well as disfavored Muslims, remain widespread in **Egypt**. Over the past year, there was an upsurge in violence targeting Coptic Orthodox Christians. The government has not taken sufficient steps to halt the repression of and discrimination against Christian and other religious believers or, in many cases, punish those responsible for violence or other severe violations of religious freedom. This increase in violence and the failure to prosecute those responsible fosters a growing climate of impunity. The government also has not responded adequately to combat widespread and virulent anti-Semitism in the government-controlled media. Implementation of previous court rulings related to granting official identity documents to Baha'is and Christian converts has been limited and subject to onerous delays. Disfavored Muslims continue to face discrimination and repression. On a positive note, there continued to be public space to discuss and debate a wide range of religious freedom concerns, including sectarian violence, in the media and other public fora, which Egyptian authorities in the past had discouraged and prevented. To more effectively promote religious freedom in Egypt, the U.S. government should, *inter alia*, establish a timetable with Cairo for implementation of human rights and religious freedom reforms. If deadlines are not met, the U.S. government should reconsider the allocation of its assistance to the Egyptian government.
- **India** is the world's largest democracy and its multitude of religious communities has historically coexisted peacefully. However, India's progress in protecting and promoting religious freedom during the past year was mixed. The Indian government at various levels recognized the problem of communal violence and created some structures to address these issues. However, justice for victims of communal violence was slow and often ineffective, thereby perpetuating a climate of impunity. While there was no large-scale communal violence against religious minorities during the reporting period, attacks on Christians and Muslims and their places of worship continued, along with incidences of intolerance against both. Among its numerous policy recommendations, USCIRF urges the U.S. government to integrate concern for religious freedom and related human rights into all bilateral contacts with India, and for the U.S. ambassador to India to speak out against, and seek to visit sites of, communal violence.
- In **Indonesia**, the vast majority of the nation's diverse religious communities worship with few restrictions, but some religious minorities face extensive governmental restrictions and societal violence perpetuated by extremist groups. Segments of the Indonesian government sometimes tolerated these acts. The Indonesian government also has made important progress in addressing past sectarian violence and arresting suspected terrorists. Concerns remain, however, about new government decrees that are used to severely restrict, and in some provinces even ban, the activities of the Ahmadiyya community; the forced closures and vandalism of places of worship belonging to Christian, Hindu, and Ahmadiyya groups in some localities; the growth and political influence of religious extremists; the deepening sectarian divisions in Papua due to human rights abuses perpetuated by the military and police; and the harassment and arrest of individuals considered "deviant" under Indonesian law. USCIRF policy recommendations include urging the Obama administration to deal with pressing social, political, and economic concerns by supporting government offices, religious groups, and civil society organizations in Indonesia working to promote religious freedom, counter extremism, teach tolerance and human rights, pursue legal reform, and build interfaith alliances.
- In **Laos**, the central government appears unable or unwilling to address serious religious freedom abuses that target members of ethnic minority Protestant groups in provincial areas. Although

religious freedom conditions remained stable and even improved in the major urban areas, particularly for the majority Buddhist communities, corruption and lack of transparency at the provincial level led to increased abuses of religious freedom in the past year. Reports increased of local authorities surveilling, detaining, harassing, arresting, and confiscating property in order to stop the spread of Protestantism among ethnic minority populations. Reports of forced renunciations of faith and forced relocations of religious groups also rose. USCIRF recommends that the U.S. government continue to sponsor training for Lao officials on international religious freedom and the protection of religious minorities in practice and law.

- The status of religious freedom in **Russia** continued to deteriorate due to several negative new policies and trends, particularly government use of anti-extremist legislation against religious groups that are not known to use or advocate violence. National and local government officials increasingly violate the religious freedoms of Muslims and groups they view as non-traditional by enforcing other laws, including those on religious organizations and non-governmental organizations. Russian officials continue to describe certain religious and other groups as alien to Russian culture and society, thereby contributing to a climate of intolerance. Continued high levels of xenophobia and intolerance, including anti-Semitism, have resulted in violent, sometimes lethal, hate crimes. The Russian government has chronically failed to address these serious problems adequately, consistently, or effectively. The U.S. government should urge Russia to reform its overly broad law on extremism and other laws negatively affecting human rights and freedom of religion or belief, so as to ensure that they are not used to limit the fundamental freedoms of peaceful religious groups.
- **Somalia's** internationally recognized Transitional Federal Government (TFG) controls only a small area of the capital and does not have the capacity to enforce religious freedom protections or address religious freedom violations. In the absence of the rule of law due to the ongoing conflict with a strong sectarian nature, freedom of religion or belief, like all other human rights, is circumscribed by insurgents, warlords, self-appointed officials, local authorities, and prevailing societal attitudes. The U.S.-designated foreign terrorist organization al-Shabaab solidified its control over central and southern Somalia, killed Sufi clerics and followers of other religions, desecrated Sufi religious sites, forcibly implemented a strict interpretation of Islamic law reminiscent of the Taliban, and suppressed practices it deemed “un-Islamic.” USCIRF recommends, among other actions, that the U.S. government increase efforts to promote freedom of religion or belief in Somalia through support of civil society organizations and engagement with Somali government officials, clerics, elders, and diaspora communities and increase assistance to education programs and rule of law programs in Somalia.
- Religious freedom conditions in **Tajikistan** have deteriorated significantly over the past several years, as Tajik law and government policies place major restrictions on religious freedom. These restrictions primarily affect Muslims, but also single out minority religious communities. In 2009, the Tajik government passed a new religion law that codified some restrictions that had been informally implemented and introduced a framework for further restrictions. Also in 2009, a court ordered a Protestant church to vacate its building and its property was expropriated by the Dushanbe city government. Tajik authorities demolished several mosques in 2007, and in 2008 one church and the nation's only synagogue were bulldozed. Bans imposed in 2007 continued on Jehovah's Witnesses and two Protestant churches. The U.S. government should work with Tajik officials and civil society in adopting human rights reforms, including the amendment of the new Tajik religion law, to bring it into conformity with international commitments.

- In **Turkey**, serious limitations on the freedom of religion or belief continue to occur. The state's attempt to control religion and exclude it from the public sphere based on its interpretation of secularism result in significant restrictions on religious freedom for the majority Sunni Muslim community, the minority Alevites, as well as Christian and other minority communities, such as the Greek, Armenian, and Syriac Orthodox Churches and others. Significant restrictions on religious freedom for minority communities, including state policies and actions that effectively deny non-Muslim communities the right to own and maintain property, train religious clergy, obtain and renew visas for religious personnel working for these communities, and offer religious education, have led to the decline—and in some cases virtual disappearance—of these communities. The government has not legally recognized minority religious communities, such as the Ecumenical Patriarchate of the Greek Orthodox Church, as independent entities with full legal status. Among other recommendations, USCIRF urges the United States to place greater emphasis on Turkey's compliance with its international commitments regarding freedom of religion or belief, and *inter alia*, encourage the Turkish government to address the long-standing lack of full legal recognition for religious minorities.
- Since Hugo Chavez became president of **Venezuela** in 1998, there has been a steady increase in government rhetoric, and in some cases government actions, against the Venezuelan Jewish and Catholic communities and U.S.-based Protestant groups. While there are no official restrictions on religious practice, actions by President Chavez and other government officials have created an environment in which Jewish and Catholic religious leaders and institutions face the risk of attack. Furthermore, the Venezuelan government has failed to take adequate measures to hold accountable perpetrators of attacks on Jewish and Catholic religious leaders and institutions. Recently passed legislation could, if fully implemented, negatively impact religious communities. USCIRF recommends that the U.S. government continue its policy of speaking out against attacks on religious leaders and institutions, and work with regional governments that may have influence with Caracas to encourage Venezuela to end its anti-Semitic statements, fully investigate attacks on religious communities, institutions, and leaders, and hold perpetrators accountable.

### **Implementation of IRFA**

After more than ten years since the enactment of IRFA, the State Department either has not implemented or has underutilized key provisions of the law, leaving central aspects of the act unfulfilled. This is the case for both Democratic and Republican Administrations. While President Obama has emphasized religious freedom in major policy speeches abroad, the Administration to date has not demonstrated the intent to break from the practice of previous administrations.

#### *“Freedom of Religion” as a Priority*

IRFA established as the policy of the United States that the U.S. government would “condemn violations of religious freedom” and would work to “promote, and to assist other governments in the promotion of, the fundamental right to freedom of religion.” During his first year in office, President Obama emphasized religious freedom during high-profile speeches in Ankara and Cairo. In April 2009 in Ankara, he noted “freedom of religion and expression lead to a strong and vibrant civil society that only strengthens the state, which is why steps like reopening Halki Seminary will send such an important signal inside Turkey and beyond.”

On June 4, 2009, in Cairo, the President directly addressed the issue of religious freedom in his speech to the Muslim world. He said in part:

The fifth issue that we must address together is religious freedom. Islam has a proud tradition of tolerance. We see it in the history of Andalusia and Cordoba during the Inquisition. I saw it firsthand as a child in Indonesia, where devout Christians worshiped freely in an overwhelmingly Muslim country. That is the spirit we need today. People in every country should be free to choose and live their faith based upon the persuasion of the mind and the heart and the soul. This tolerance is essential for religion to thrive, but it's being challenged in many different ways. . . . Freedom of religion is central to the ability of peoples to live together. We must always examine the ways in which we protect it.

However, since the Cairo speech presidential references to religious freedom have become rare, often replaced at most with references to “freedom of worship.” This change in phraseology could well be viewed by human rights defenders and officials in other countries as having concrete policy implications. Freedom of worship is only one aspect of religious freedom, and a purposeful change in language could signify a much narrower view of the right, ignoring for example, the components of religiously motivated expression and religious education. This is not the message our nation should be sending to the world’s religious freedom abusers.

This change in phraseology was evident during the President’s November 2009 trip to Asia, when he referred to “freedom of worship” in Japan on November 14, as well as in his town hall meeting with Chinese students two days later. In China, he said, “We do not seek to impose any system of government on any other nation, but we also don’t believe that the principles that we stand for are unique to our nation. These freedoms of expression and worship—of access to information and political participation—we believe are universal rights.” The President never referred to “freedom of religion” during speeches in either country. Moreover, by declaring that the basis for designating these rights as universal is because they stem from American “beliefs,” the President’s speech undercuts decades of unanimous affirmation and reaffirmation of their universal character in international instruments and conventions.

Secretary Clinton’s remarks also have embodied this rhetorical shift. She referred to “freedom of worship” in her December 14, 2009 address on human rights at Georgetown University. In that speech, she said, “To fulfill their potential, people must be . . . free to worship, associate, and to love in the way that they choose.” She also called for “for the rights to express oneself and worship freely” in China. In her January 21, 2010 Internet freedom speech, she referred to religious freedom once, in a quote from President Obama’s Cairo speech, but repeatedly referred to “freedom of worship.” For example, she said, “We must work to advance the freedom of worship online just as we do in other areas of life.”

Because of the policy implications of using “freedom of worship” language, USCIRF urges President Obama, Secretary Clinton and other high-ranking U.S. government officials to return to invoking or embracing “freedom of religion or belief” or similar language in all public statements and stress the universal nature of these and other rights. In doing so, they should also explicitly affirm their commitment to broad protection of the freedom of thought, conscience, religion or belief in all its manifestations.

#### *Appointment of the Ambassador-at-Large*

At the end of the reporting period, the Obama administration had not nominated or put forward for confirmation an individual as the State Department’s Ambassador-at-Large for International Religious Freedom, the highest-ranking U.S. official on religious freedom. In contrast, the Obama administration has appointed the Special Envoy to Monitor and Combat Anti-Semitism, the Special Representative to Muslim Communities, and the Special Envoy to the Organization of the Islamic Conference, none of which require Senate confirmation. The Ambassador-at-Large is a key official for the coordination and

development of U.S. policy regarding freedom of religion or belief and serves as an *ex officio* member of USCIRF. The lack of an appointment leaves vacant an important policy position.

Congress intended the Ambassador-at-Large to be a “principal adviser to the President and the Secretary of State regarding matters affecting religious freedom abroad,” but USCIRF is concerned that the position may have been diminished within the State Department hierarchy. Since the establishment of the position, both the Clinton and Bush administrations situated the Ambassador-at-Large in the Bureau of Democracy, Human Rights, and Labor (DRL) and therefore under its Assistant Secretary. Reportedly, the next Ambassador-at-Large will be similarly situated, although other Ambassadors-at-Large, such as for Global Women’s Issues, Counterterrorism, and War Crime Issues, have direct access to the Secretary of State. The Ambassador-at-Large for International Religious Freedom is the only such ambassador not situated in the Secretary’s office; instead, he or she reports through four intermediate officials: the DRL Assistant Secretary, the Undersecretary for Global Affairs, the Undersecretary for Political Affairs, and the Deputy Secretary. Further, some in Congress have stated that DRL is considering structural changes that may result in the Ambassador-at-Large losing direct supervisory control over the staff of the Office of International Religious Freedom, a change that would break with the practice established over the past 10 years.

USCIRF encourages the Obama administration to fill this position promptly, fulfill IRFA’s intent that the Ambassador-at-Large be “a principal adviser,” and ensure that he or she is provided with all necessary resources, including direct oversight of the Office of International Religious Freedom.

#### *Other U.S. Government Activities*

Although the Ambassador-at-Large position remains vacant, the Administration has moved ahead with numerous follow-up activities to President Obama’s Cairo speech, establishing working groups on many of the issues raised. For the religious freedom component, no specific working group has been established, but several U.S. government offices and agencies have focused on inter-religious dialogue and engagement. Problematically, these efforts make only passing reference to religious freedom, if at all, thus ignoring the priority IRFA gave to the issue and the practical fact that religious freedom provides the foundation for any successful interreligious dialogue or engagement of religious actors.

Some recent activities include:

- At the White House, the President’s Advisory Council on Faith-Based and Neighborhood Partnerships has paid specific attention to interfaith dialogue at an international level. The Advisory Council, comprised of individuals representing an array of religious communities and civil society groups, established six task forces to report on a variety of issues, including Interreligious Cooperation. In March 2010, the Advisory Council issued a report with a specific chapter on ways the U.S. government could partner with faith groups internationally and formulated 11 recommendations. Only one recommendation focused on religious freedom: it urged the U.S. government to work with faith communities across religious lines to “expand respect for religious pluralism and freedom of religion or belief.” The remaining recommendations focused on initiatives to foster multi-religious partnerships both domestically and internationally.
- At the State Department, the Office of International Religious Freedom and the Office of Policy Planning undertook new initiatives to promote interreligious dialogue abroad. These culminated in the Indonesia-U.S. Interfaith Cooperation Forum, “Building Collaborative Communities: Enhancing Cooperation among People of Different Faiths,” that was held in Jakarta in January 2010. Billed as a follow-up to President Obama’s Cairo speech, the goals of the meeting were to

promote and foster multi-religious cooperation and discuss what role governments can play in this process.

- On March 21-24, USAID hosted a regional conference in Bangladesh that focused on development and the role of religious and community leaders. This conference was centered around USAID's new programming guide on "Religion, Conflict, & Peacebuilding." Developed by USAID's Bureau for Democracy, Conflict and Humanitarian Assistance, Office of Conflict Management and Mitigation, the guide explains how to evaluate whether to engage religious actors and institutions in USAID development plans and provides examples of appropriate and legal engagement. Additional meetings are planned in other regional capitals.
- Distinct from Cairo follow up, but on the same theme, the Pentagon issued new regulations expanding the chaplaincy corps' role into religious engagement. Under Joint Publication 1-05 issued on November 13, 2009, commanders now have the option of deploying chaplains beyond their traditional pastoral roles to serve as religious leader liaisons in theaters of operation. Mindful of their noncombatant status, chaplains can engage religious leaders in humanitarian efforts and advise commanders about the concerns of the local religious community. As the chaplaincy corps is in the early stages of setting up their training, it is unclear whether personnel will be trained, and if so by whom, about the importance of religious freedom in the countries where they will be serving.

The recognition by key U.S. government agencies of the need to enhance interaction with religious actors is a positive development. However, human rights and religious freedom are not central components of these efforts and are only tangentially considered, if at all, thereby implying that these activities can be conducted without due attention to either the universal norms of freedom of religion or the requirements of IRFA. Religious freedom considerations should be fully integrated into the process by which government policy is formulated, thereby strengthening all of these initiatives through a more tightly coordinated effort.

#### *Funding for Religious Freedom Programs*

IRFA also envisaged the funding of religious freedom programs, authorizing foreign assistance to promote and develop "legal protections and cultural respect for religious freedom." This authorization was unfunded until fiscal year 2008, when \$4 million was appropriated for specific DRL grants on religious freedom programming under the Human Rights Democracy Fund (HRDF). As of 2009, seven religious freedom-specific programs with grants lasting up to three years were funded, a first since IRFA's 1998 passage.

While the fiscal year 2009 budget did not include a specific earmark for additional DRL grants on religious freedom, the Human Rights Bureau set aside \$4 million from its HRDF funds. As of May 1, 2010, the bureau was in the process of vetting proposals. Considering the statutory recognition of these programs and the demonstrated interest and capacity of human rights and religious freedom organizations, Congress should consider revising this appropriation in the fiscal year 2011 budget or provide a specific carve-out of HRDF funds for religious freedom programming.

#### *Monitoring Mechanisms*

IRFA also mandated that the Secretary of State establish monitoring mechanisms "consisting of lists of persons believed to be imprisoned, detained, or placed under house arrest for their religious faith, together with brief evaluations and critiques of the policies of the respective country restricting religious freedom." In compiling this list, the State Department was directed to use the resources of the various bureaus and

embassies and to consult with NGOs and religious groups. USCIRF is not aware that the State Department has established or maintained a comprehensive list of such prisoners. However, USCIRF has compiled an informal list of prisoners (see below) that reflects only a small number of those detained, jailed, or disappeared. The Congressional-Executive Commission on China maintains a comprehensive database of prisoners in China. The ability of both commissions, operating with substantially fewer resources and access to international information than does the State Department, to track prisoners demonstrates that the State Department can fulfill this statutory mandate.

<b>Individuals Referenced in the Annual Report as Detained, Jailed or Disappeared on Account of Religious Beliefs and/or Activities</b> (Individuals listed below reflect only a small number of those detained, jailed, or disappeared)
<b>China:</b> Gao Zhisheng, Xu Na, Fr. Zhang Li, Chen Zhenping, Bishop Jia Zhiguo, Shi Weihai, Alimjan Himat, Yang Maodong, Osman Imin, Abdukadir Mahsum, Imam Adil Qarim, Fr. Zhang Jianlin, Bishop Su Zhimin, and Gedhun Choekyi Nyima
<b>Cuba:</b> Reverend Robert Rodriguez, Pastor Omar Gude Pérez, Pastor Bernardo de Quesada Saloman and his wife Damaris Marin, and Alexi Perez
<b>Egypt:</b> Abdel Karim Suleiman, Hassan Shehata Moussa, Hani Nazeer
<b>Eritrea:</b> Deposed Orthodox Patriarch Abune Antonios under house arrest
<b>Iran:</b> Ayatollah Mohammad Kazemini Boroujerdi, Fariba Kamalabadi, Jamaloddin Khanjani, Afif Naemi, Saeid Rezaie, Mahvash Sabet, Behrouz Tavakkoli, Vahid Tizfahm, Hamid Shafiee, Reyhaneh Aghajari, Vahik Abrahamian, Atiey Youseffi, Somayeh Rashidi, and Mansourreh Shojaeie
<b>Saudi Arabia:</b> Hadi Al-Mutif, Munir Jassas, Ali Sabat
<b>Turkmenistan:</b> Sakhetmurad and Mukhammedmurad Annamamedov, Shadurdi Ushotov, Akmurat Egendurdiev, Navruz Nasyrlaev, Zafar Abdullaev and Dovran Kushmanov
<b>Uzbekistan:</b> Dmitri Shestakov, Sergei Ivanov, Irfan Hamidov, Olim Turayev, Hairulla Hamidov; Hasan Karimov, Bahtiyor Fattaev, Nasratulla Ibadullaev, Bahodir Hamraev, Bahrom Aminov, Yusuf Jumaev
<b>Vietnam:</b> Nguyen Van Dai, Li Thi Cong Nhan, Fr. Phan Van Loi, Thich Quang Do

*Admissibility to the U.S. of Severe Violators of Religious Freedom*

Another IRFA issue of relevance to both the State Department and the Department of Homeland Security (DHS) relates to the admission to the United States of aliens who were “responsible for or directly carried out...particularly severe violations of religious freedom.” IRFA bars the entry of such individuals. This provision has been invoked only once: in March 2005, it was used to exclude Chief Minister Narendra Modi of Gujarat state in India due to his complicity in the 2002 riots that resulted in the deaths of an estimated 1,100 to 2,000 Muslims. USCIRF had urged such an action. The Commission also continues to urge the Departments of State and Homeland Security to develop a lookout list of aliens who are inadmissible to the United States on this basis. Directly related to identifying and barring from entry such

severe religious freedom violators, IRFA also requires the President to determine the specific officials responsible for violations of religious freedom engaged in or tolerated by governments of CPCs, and, “when applicable and to the extent practicable,” publish the identities of these officials in the Federal Register. Despite these requirements, no individual officials from any CPC countries responsible for particularly severe religious freedom violations have been identified to date.

#### *Treatment of Asylum Seekers in Expedited Removal*

IRFA authorized USCIRF to conduct a study into whether asylum seekers subject to Expedited Removal are being detained under inappropriate conditions and returned to countries where they might face persecution. Expedited Removal is a process established by the 1996 Illegal Immigration Reform and Immigration Responsibility Act that allows for the identification and removal to their countries of origin of aliens who arrive in the United States with improper documentation. USCIRF issued its *Report on Asylum Seekers in Expedited Removal* (hereafter referred to as the Study) in 2005. The Study identified major implementation flaws that place asylum seekers at risk of being returned to countries where they may face persecution, as well as serious flaws in the treatment of refugees and asylum seekers in detention. To address these concerns, USCIRF made a series of recommendations, none of which required Congressional action, to the responsible agencies in the Departments of Homeland Security and Justice. In 2007, two years after the Study’s release, USCIRF released a “report card” grading the agencies on their implementation of the report’s recommendations. In 2009, DHS announced efforts to reform its immigration detention policies which, if fully implemented, would address several of USCIRF’s recommendations. In addition, two bills were introduced in the Senate during the 111<sup>th</sup> Congress that, if enacted, would significantly reform the system by which asylum seekers are detained and implement several of USCIRF’s recommendations related to the treatment of asylum seekers in detention.

### **Assessing the Status of Religious Freedom Firsthand**

Each year, USCIRF delegations visit a number of foreign countries to examine the facts and circumstances on the ground for religious freedom and formulate recommendations for potential U.S. policy responses. During the current reporting period, USCIRF delegations made trips to Egypt, Nigeria, Sudan, the Philippines, and Vietnam. USCIRF delegations also visited Brussels to raise religious freedom issues with the European Union and traveled to Rome to meet with officials at the Holy See responsible for foreign relations. USCIRF participated in OSCE meetings in Vienna and Warsaw, and USCIRF staff visited Kazakhstan, Bahrain, Qatar, Azerbaijan, and Somali refugee camps in Kenya. The Commission attempted to visit India, but no visas were granted. USCIRF made two attempts to visit Turkmenistan, and while visas were issued both times, government meetings were canceled at the last moment and the trips postponed. USCIRF was also not provided visas by Cuba for a fact-finding trip to that country.

*Egypt:* In January 2010, a USCIRF delegation traveled to Cairo on a fact-finding visit to assess religious freedom conditions throughout Egypt. The delegation’s visit took place just weeks after the Naga Hammadi incident in Upper Egypt in which six Copts and one Muslim were killed. The USCIRF delegation had planned to visit Upper Egypt to meet with victims of the violence, but the Egyptian government threatened to cancel the trip unless USCIRF confined its visit to Cairo. Meetings with high-ranking Egyptian officials also were canceled. Despite these restrictions, USCIRF met with a wide range of civil society actors and religious leaders, as well as the Minister of Islamic Endowments, the Grand Sheikh of Al-Azhar, and human rights officials at the Ministry of Foreign Affairs.

*Nigeria:* In October 2009 and March 2010, a USCIRF delegation traveled to Nigeria to investigate sectarian violence in Nigeria and its impact on religious freedom. During these trips, Commissioners engaged high-level federal and state officials on the government's failure to prevent sectarian violence and discussed USCIRF's previous recommendation that Nigeria be named a CPC. USCIRF delegations met several cabinet ministers whose agencies have jurisdiction in these matters, as well as Nigerian Senators and Assembly representatives who exercise oversight over these agencies.

*Sudan:* USCIRF travelled to Sudan in December 2009 and January 2010. During the December 2009 trip, Commissioners assessed progress on the implementation of provisions of the Comprehensive Peace Agreement (CPA) relating to freedom of religion and gathered information on current religious freedom conditions and relevant U.S. policies and programs. The delegation witnessed firsthand a crackdown in Khartoum in reaction to a call by several members of the parliament for adoption of reformed national security and criminal procedure laws in accordance with the CPA. During the January 2010 trip, the USCIRF delegation visited Juba, the regional capital of Southern Sudan, and met with senior officials of the Government of Southern Sudan and the governing Sudan People's Liberation Movement, the Human Rights Commission of Southern Sudan, and representatives of civil society and religious communities. U.S. personnel also briefed the delegation on U.S. programs to assist Southern Sudan in building institutions and protecting human rights.

*Vietnam:* A USCIRF delegation traveled to Vietnam in May 2009 to discuss religious freedom concerns, the fourth USCIRF delegation to the country since 2004. Commissioners and staff met with top government officials, including Deputy Prime Minister and Foreign Minister Pham Gia Khiem, as well as Buddhist, Catholic, Protestant, Hoa Hao, and Muslim religious leaders. The delegation was granted access to dissidents and individuals detained for religious activity or religious freedom advocacy, including the Most Venerable Thich Quang Do, Father Nguyen Van Ly, and Nguyen Van Dai. The delegation traveled to Hanoi, Ho Chi Minh City, and the northwest provinces of Dien Bien and Son La.

*OSCE Meetings:* USCIRF participated in the official U.S. delegation to a special meeting on religious freedom of the Organization for Security and Cooperation in Europe (OSCE) held in Vienna, Austria in July 2009. Chair Leonard Leo presented one of the official U.S. interventions. Commissioners also engaged in bilateral discussions on religious freedom issues with representatives of Turkey, Belarus, and Tajikistan, as well as with OSCE expert bodies, such as the OSCE Panel of Experts on Freedom of Religion or Belief and the Personal Representatives on combating anti-Semitism and on discrimination against Muslims. Later in 2009, USCIRF was part of the official U.S. delegation to the annual OSCE Human Dimension Implementation Meeting in Warsaw, Poland. At Europe's largest human rights conferences, attended by some 350 NGOs and delegations from the 56 OSCE participating States, Commissioners held bilateral meetings with representatives of the Russian, Kazakh, Uzbek, and Tajik delegations.

*EU and Vatican Meetings:* In late 2009, between trips from Nigeria and to Sudan, USCIRF held meetings with European Union (EU) officials and Members of the European Parliament in Brussels to discuss religious freedom issues, the UN "defamation of religions" resolutions, and areas in which the EU can enhance its work on promoting international religious freedom and related human rights. At the EU, USCIRF met with the office of the EU Special Representative for Sudan, and in Rome with high-ranking Vatican officials in Rome to discuss the Vatican's approach to the issue of "defamation of religions" and the promotion of religious freedom. USCIRF also met with nearly a dozen African bishops gathered for the Vatican's second African synod to learn more about religious freedom problems in various African countries that are on the Commission's lists.

*Philippines:* USCIRF Commissioners and staff traveled to Manila, Philippines, in February 2010 and participated in an interfaith conference on religious freedom in Asia. The Philippine government's

President's Committee on Interfaith Initiatives hosted the conference during which Commissioners discussed the importance of religious freedom in U.S. foreign policy and explored ways Southeast Asian countries could better incorporate religious freedom initiatives into their policies. Commissioners also met with Philippine President Gloria Macapagal-Arroyo and urged her government to vote against "defamation of religions" resolutions at the UN.

*Commission Staff Travel:* USCIRF staff made country visits to gain information about the status of freedom of religion or belief. In May 2009, USCIRF staff traveled to Bahrain and Qatar and met with government officials and a wide range of civil society representatives, including religious leaders, human rights groups, lawyers, academics, and other NGOs. USCIRF staff in May 2009 also visited Tajikistan, a country that USCIRF put on its Watch List for the first time in 2009. In June 2009, USCIRF staff visited Kazakhstan to better understand the country's human rights situation in light of Kazakhstan's upcoming chairmanship of the OSCE in 2010. In December 2009, staff visited Azerbaijan in order to ascertain the trends surrounding the new religion law. In January 2010, USCIRF staff traveled to Kenya to meet with Somali, U.S., and UN officials to explore religious freedom and human rights conditions in Somalia, particularly in the areas under militia control. Also in January 2010, staff travelled to Indonesia to learn more about the status of religious freedom in the world's most populous Muslim country.

### **Engaging the U.S. Executive Branch and Foreign Governments on Religious Freedom**

During the reporting period, USCIRF played an active role in working to raise awareness of religious freedom concerns to the executive branch of the U.S. governments. Engagement occurred through face-to-face meetings and letters to U.S. officials, including but not limited to President Obama and Secretary of State Hillary Clinton. USCIRF also engaged representatives of foreign governments in Washington, DC, and, in preparation for this Annual Report, USCIRF wrote to the Washington, DC embassies of all 28 countries covered to request information relevant to their laws and policies affecting freedom of religion or belief.

#### *Raising Religious Freedom Concerns in Meetings with the Executive Branch and Foreign Governments*

*Presentation of 2009 Annual Report:* In June 2009, Commissioners met with Secretary of State Hillary Clinton and presented USCIRF's Annual Report. During this meeting, Commissioners discussed issues including President Obama's Cairo speech and the "defamation of religions" campaign at the UN. Commissioners also focused on religious freedom problems in countries including Pakistan, Saudi Arabia, Russia, and Vietnam.

*"Country of Particular Concern" Recommendations:* In March 2010, USCIRF met with Deputy Secretary James B. Steinberg, the second highest-ranking official at the State Department, to discuss Commission recommendations for the designation of "countries of particular concern." Specifically, Commissioners raised Vietnam, Saudi Arabia, Iran, and China.

*Egypt:* In March 2010, a USCIRF delegation met with Egyptian Ambassador to the United States, Sameh Shoukry, in Washington to discuss the possibility of an expanded follow-up visit to Egypt and raise religious freedom concerns. Regrettably, the Egyptian Ambassador reacted in an inflammatory manner and rejected every USCIRF concern raised.

*Nigeria:* USCIRF met with Assistant Secretary of State for African Affairs Ambassador Johnnie Carson in February 2010 to discuss religious tensions as a source of instability in Nigeria and support for continued USCIRF engagement with Nigerian officials, as well as the continued need for high-level U.S. leadership on Sudan.

*Pakistan:* In September 2009, USCIRF briefly met with the Special Envoy for Afghanistan and Pakistan, Ambassador Richard C. Holbrooke, and had an extended meeting with the Deputy Assistant Secretary for Afghanistan and Pakistan, Paul Jones. USCIRF also met with Scott Busby, Director for Human Rights in the National Security Council's Office of Multilateral Affairs and Human Rights. In these meetings, USCIRF emphasized the correlation between the persecution of religious minorities and the rise of religious extremism in Pakistan and the importance of U.S. support for the efforts of the Pakistani Minister for Minorities Affairs, Shahbaz Bhatti, to promote religious tolerance and greater respect for the rights of members of religious minority communities. That same day, USCIRF also met briefly with Under Secretary of State for Public Diplomacy and Public Affairs Judith McHale to introduce her to Federal Minister Bhatti and discuss his initiatives in support of religious minorities in Pakistan.

*Saudi Arabia:* In September 2009, USCIRF briefed the new U.S. Ambassador to Saudi Arabia, James Smith, on ongoing religious freedom concerns. Commissioners urged him to make promotion of religious freedom a priority and address the creation and exportation of extremist literature.

*Sudan:* USCIRF met with Presidential Special Envoy for Sudan General J. Scott Gration in May and September 2009. The meetings focused on the current human rights situation in Sudan, the upcoming elections and referendum, and the importance of engaging international support to help ensure full implementation of the Comprehensive Peace Agreement (CPA). USCIRF also had two meetings on Sudan with key officials at the National Security Council. In October, Commissioners and staff met with Michelle Gavin, the NSC Senior Director for Africa, to discuss USCIRF's work. In December, Commissioners and staff met with the NSC Senior Director for International Organizations and Human Rights, Samantha Power, to brief her on a recent trip to Sudan and provide her with recommendations for U.S. government action.

*Detention of Asylum Seekers:* USCIRF met Department of Homeland Security Deputy Assistant Secretary of Policy Esther Olavarria and Brandon Prelogar, Special Advisor for Refugee & Asylum Affairs, in June 2009 to discuss the agency's views on expedited removal and the detention of asylum seekers. In October 2009, USCIRF met with Dora Schriro, Special Advisor on Detention and Removal for the U.S. Immigration and Customs Enforcement (ICE), to discuss detention issues generally and reforming the asylum detention system specifically. These meetings helped facilitate an October meeting with Beth Gibson, Senior Counselor to John Morton, the ICE Assistant Secretary to discuss ICE's detention policy and views on parole.

*Written Advocacy with U.S. Officials and Foreign Governments*

*Bangladesh:* In June 2009, USCIRF wrote the Prime Minister of Bangladesh, Sheikh Hasina, to raise key areas of concern regarding religious freedom.

*China:* USCIRF wrote President Obama in November 2009 to urge him to raise religious freedom and the rule of law with Chinese officials and seek meetings with prominent human rights defenders

*Egypt and Saudi Arabia:* In May 2009, USCIRF wrote President Obama urging him to raise concerns about religious freedom and related human rights during his meetings with King Abdullah of Saudi Arabia and President Mubarak of Egypt. USCIRF urged the President to request that King Abdullah spearhead Saudi government efforts to halt the exportation of extremist ideology. USCIRF also urged the President to raise concerns with President Mubarak about serious religious freedom violations affecting members of minority Muslim communities and Muslim dissidents.

*Egypt:* In September 2009, USCIRF urged the U.S. government, through a letter to Secretary Hillary Clinton, to vigorously oppose the candidacy of Farouk Hosni of Egypt to be Director General of the United Nations Educational, Scientific, and Cultural Organization (UNESCO), citing his public commitment to personally burn Israeli books if he found them in Egyptian libraries. Additionally, USCIRF wrote to President Obama in August 2009 urging the Administration to establish a timetable with the Egyptian government for implementation of specific political and human rights reforms.

*India:* In November 2009, USCIRF wrote President Obama urging him to raise religious freedom concerns when meeting Prime Minister Manmohan Singh. The letter, while noting the stated commitment of the Prime Minister's Congress Party to religious tolerance, called attention to the Indian government's inadequate responses to violence against religious minority communities, including Christians in Orissa in 2008 and Muslims in Gujarat in 2002.

*Iran:* In October 2009, USCIRF wrote Secretary of State Clinton expressing the need for religious freedom and human rights to be an element of ongoing negotiations with the government of Iran.

*Iraq:* In a July 2009 letter to Vice President Biden, USCIRF highlighted the deteriorating conditions for religious freedom and related human rights in Iraq, especially for the country's smallest religious minorities. USCIRF also sent letters to General Raymond Odierno and U.S. Ambassador to Iraq Christopher Hill in early February 2010 regarding the March election in Iraq, urging the U.S. to assist the Iraqi government in ensuring that the election was safe, fair, and free of intimidation and violence and that all Iraqi citizens, including religious minorities, could fully participate.

*Kazakhstan:* USCIRF wrote the Ambassador of the Republic of Kazakhstan in August 2009 requesting information regarding the then upcoming trial of Evgeny Zhovtis, a leading Kazakh human rights lawyer and activist whom USCIRF had brought to the U.S., and asking for clarification of legal issues raised by his trial.

*Libya:* In February 2010, USCIRF wrote the Libyan ambassador to the United States requesting information about reports of Eritrean refugees in Libya being forcibly returned to Eritrea.

*Nigeria and Somalia:* In July 2009, USCIRF urged Secretary of State Clinton to raise religious freedom concerns with officials of Nigeria and Somalia during an upcoming visit to Africa. Regarding Nigeria, the letter drew the Secretary's attention to recurrent communal and sectarian violence, discrimination against minority communities, and the use of violence by extremists to promote the expansion of a stricter form of Islamic law throughout the country. Regarding Somalia, USCIRF advised the Secretary that religious extremism and lack of rule of law must be addressed as well as piracy, terrorism, and the security situation.

*Pakistan:* In August 2009 USCIRF wrote to the Special Envoy for Afghanistan and Pakistan, Ambassador Richard C. Holbrooke, urging him to support efforts underway within Pakistan to remove the blasphemy laws and other discriminatory legislation that have had a negative impact on freedom of religion or belief and other universal human rights of Pakistan's citizens, particularly members of religious minorities. Removing these laws would promote U.S. national security interests and human rights.

*Russia:* In July 2009, USCIRF urged President Obama to raise human rights issues including freedom of religion or belief, in his meeting with Russian President Dmitri Medvedev.

*Sudan:* USCIRF sent an August 2009 letter to Special Envoy Gration that focused on recent developments in U.S.-Sudan policy. In a January letter to Secretary of State Clinton, USCIRF offered an analysis of the

situation in Sudan and made recommendations for consideration during the upcoming interagency quarterly review of U.S. Sudan policy.

*Turkmenistan*: In October, USCIRF wrote the Ambassador of the Republic of Turkmenistan requesting information regarding the case of a jailed Turkmen civil society activist Andrei Zatoka.

*Uzbekistan*: In December 2009, USCIRF wrote Secretary Clinton urging her to raise religious freedom concerns during her meeting with the Uzbek Foreign Minister, noting the significance of Uzbekistan being designated a “country of particular concern” and the need for U.S. government action.

*Vietnam*: In January 2010, USCIRF wrote President Obama urging him to review current policy towards Vietnam and to consider designating the country as a CPC.

*Country of Particular Concern Recommendations*: In a January 2010 letter to Secretary Clinton, USCIRF urged the Secretary to name additional countries as CPCs and to take additional actions towards countries previously designated as CPCs.

*Human Rights Council UPR Review*: USCIRF wrote Secretary of State Clinton in January 2010 urging U.S. representatives to the United Nations office in Geneva to raise questions about violations of religious freedom and related human rights in Iran, Iraq, and Egypt during the Human Rights Council’s Universal Periodic Review.

### **Convening Public Hearings, Testifying before Congress, Briefing Congressional Staff, and other Public Events**

In 2009-2010, USCIRF organized and participated in numerous public hearings and events, including the following:

*Iran Hearing – February 25, 2010*: USCIRF Chair Leonard Leo testified before the Tom Lantos Human Rights Commission on *The Current Status of Human Rights and Religious Freedom in Iran*. In his testimony, Mr. Leo noted that the Iranian government has imposed harsh prison sentences on prominent reformers from the Shi’a majority community, many of whom have been tried on criminal charges of “insulting Islam,” and that systematic repression extends to religious minorities, particularly Baha’is, as well as Christians and Sufi Muslims. He also expressed concern about heightened anti-Semitism and repeated Holocaust denial by senior Iranian government officials. Mr. Leo urged Congress to impose sanctions against Iran due to the government’s violations of religious freedom.

*Pakistan’s Federal Minister for Minorities Affairs Shahbaz Bhatti, Briefings – February 2010 and September 2009*: USCIRF facilitated a series of briefings by Federal Minister Bhatti for Members of Congress and their staff and Obama Administration officials, academic experts, and representatives of non-governmental organizations. These briefings focused on the current situation of Pakistan’s religious minority communities and the Pakistan government’s response to an upsurge in religiously motivated violence.

*Human Rights Day Briefing – December 11, 2009*: The Dutch Embassy and USCIRF held a briefing in Congress to celebrate human rights day and mark the anniversary of the adoption of the Universal Declaration of Human Rights. The event comprised a panel discussion on religious freedom. Panelists included Ambassador Jones-Bos of the Netherlands; Mr. Michael Cromartie, Vice-Chair of USCIRF; Ms. Lynne Davidson, Senior Adviser to the Assistant Secretary of State for Democracy, Human Rights and

Labor; Professor Thomas Melia, Deputy Executive Director of Freedom House; and Mr. William Davis, director of the United Nations Information Center in Washington. The discussion was moderated by USCIRF Director of Policy and Research, Mr. Knox Thames.

*Detention of Asylum Seekers Staff Briefing – November 16, 2009:* Along with staff from Human Rights First and the Hebrew Immigrant Aid Society, USCIRF briefed Congressional staff on problems with the current detention system, the key provisions in S. 1594, the Secure and Safe Detention and Asylum Act, and the Department of Homeland Security’s reform plans.

*Congressional Muslim Staffers Association (CMSA) Briefing – November 13, 2009:* USCIRF briefed CMSA members on USCIRF’s work to engage domestic and international Muslim communities.

*“Defamation of Religions” Hearing – October 21, 2009:* USCIRF Chair Leonard Leo testified before the Tom Lantos Human Rights Commission on *Implications of the Promotion of “Defamation of Religions.”* During his testimony, Mr. Leo noted that the “defamation of religions” concept promotes intolerance and human rights violations, creating wide latitude for governments to restrict free expression and religious freedom. This testimony was part of a USCIRF effort to alert Congressional offices to the problems with the defamation concept.

*Sudan Discussions – September - November 2009:* USCIRF held three roundtable discussions, on September 11, October 21, and November 17, 2009 with non-governmental organizations and Congressional staff concerned with U.S. policy toward Sudan. The discussions focused on U.S. policies in support of the full implementation of Sudan’s CPA, particularly those dealing with the upcoming elections and the January 2011 referendum on self-determination for Southern Sudan and the Obama Administration’s Sudan strategy that was announced on October 19, 2009.

*Nigeria Hearing – September 24, 2009:* USCIRF Chair Leonard Leo testified before the congressional International Religious Freedom Caucus on *Prospects for Justice in Northern and Central Nigeria: Government Responses to Religious Extremism and Root Causes.* Mr. Leo discussed a USCIRF delegation trip to Abuja, Kaduna, Kano, and Bauchi city, and meetings with government officials and Muslim and Christian religious leaders. Mr. Leo conveyed the Commissioners’ views that the government of Nigeria had done little to prevent sectarian violence and made no serious efforts to investigate or prosecute the perpetrators of sectarian killings.

*Council on Foreign Relations (CFR) Conference Call – September 24, 2009:* As part of CFR’s Religion and Foreign Policy conference call series for foreign policy analysts and religious leaders, USCIRF Chair Leonard Leo and Vice-Chair Elizabeth Prodromou led a discussion on religious freedom and U.S. foreign policy. Commissioners discussed USCIRF’s work and highlighted concerns in China, Saudi Arabia, Vietnam, and Nigeria and with the “defamation of religions” concept being promoted at the UN.

*Iran Staff Briefing – September 14, 2009:* USCIRF briefed House staff on *Human Rights and Religious Freedom Violations in Iran: What Can Congress Do to Raise Awareness and Advocate for Accountability?* The briefing focused on human rights and religious freedom in Iran, especially after the June 12 elections, and suggested actions that Congress could take. Dr. Payam Akhavan, Professor of Law at McGill University and Co-Founder of the Iran Human Rights Documentation Centre, also participated.

*“Defamation of Religions” Staff Briefings – August 13 and May 28, 2009:* USCIRF briefed Congressional staff on the campaign by some members of the United Nations to create a new international standard that would limit the freedoms of religion and expression by protecting religions, rather than individuals, from alleged “defamation.” Such a standard would violate key human rights principles, promote intolerance and human rights violations, and subvert international human rights law.

*Vietnam Hearing – July 23, 2009:* USCIRF Vice-Chair Michael Cromartie testified before the Tom Lantos Human Rights Commission on *The Status of Human Rights and Religious Freedom in Vietnam*. He reported on USCIRF’s fourth trip to Vietnam during which the delegation visited Hanoi, Ho Chi Minh City, and the Northwest provinces of Son La and Dien Bien. He noted that many religious communities and religious freedom advocates face harassment, restrictions, fines, detentions, property destruction, discrimination, and police intimidation, and that USCIRF continues to recommend that Vietnam be designated a CPC under IRFA for its severe violations of the freedom of thought, conscience, and religion.

*Somalia Staff Briefing – July 14, 2009:* USCIRF organized a roundtable of Congressional staff, other government representatives, and experts to discuss conditions in Somalia and developing a U.S.-Somali policy that would address a range of issues including security, terrorism, governance, and human rights in that country.

*Uighurs Hearing – June 10, 2009:* USCIRF Chair Felice Gaer testified during a hearing before the House International Organizations, Human Rights, and Oversight Subcommittee of the House Foreign Affairs Committee on *Uighurs: A History of Persecution*. The hearing examined the persecution of the Uighur Muslim community in China. Other witnesses were the President of the World Uighur Congress Rebiya Kadeer, Uighur refugee Nury Turkel, and Georgetown University Professor James Millward.

*International Religious Freedom, Member Briefing – June 9, 2009:* USCIRF Commissioners Felice Gaer and Elizabeth Prodromou briefed members of the House Democratic Faith Working Group on the *Importance of Religious Freedom: Nexus between Religious Extremism, Poverty, Instability and Threats to National Security*, and presented case studies on Pakistan, Afghanistan, and Sudan.

*Nigeria Briefing – April 22, 2009:* Two of Nigeria’s most important religious leaders, Muhammad Sa’ad Abubakar III, the Sultan of Sokoto, and Rev. Dr. John Onaiyekan, Roman Catholic Archbishop of Abuja and president of the Christian Association of Nigeria, spoke on Capitol Hill about the opportunities and challenges for stemming Nigeria’s religious violence. They highlighted the challenges they face in addressing Nigeria’s recurring inter-religious and ethnic violence and met with members of Congress.

## **Working with Congress**

USCIRF’s work with Congressional offices on both sides of the aisle has resulted in the incorporation of its findings and policy recommendations into many bills, resolutions, and letters from Members of Congress. USCIRF also is a regular source of information, counsel, and insight for many committees and Members of Congress. Highlights of USCIRF’s work with Congressional offices include:

*“Defamation of Religions” Letter Campaign – February 2010 and November and March 2009:* In February 2010 and March 2009, USCIRF worked with House staff to send letters from House members to heads of state of 20 countries to urge opposition to the “defamation of religions” resolution in the UN Human Rights Council. In November 2009, a similar effort led to 35 Representatives sending letters to the foreign ministers of 188 countries prior to the vote in the UN General Assembly on the “defamation of religions” resolution. One version of the letter was sent to 44 countries that previously had opposed the “defamation” resolution, urging their continued opposition, and another version to 144 countries that had abstained or supported the resolution, urging them to vote “no.”

*Iraq Religious Minorities Resolutions (S. Res. 322 and H. Res. 944) – December 3 and October 26, 2009:* USCIRF worked with House and Senate staff on these resolutions, which call on the U.S. government to

urge the Iraqi government to protect religious minorities by encouraging free and fair elections, training Iraqi security forces, and providing safe places to worship. They also seek investigations into human rights violations, and call for the U.S. to work with the Iraqi government to ensure the physical and economic safety of those wishing to remain in Iraq. The House passed H. Res 944 in February 2010.

Iran Sanctions Senate Legislation – November 19, 2009: The Senate-passed Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009 (S. 2799) that was introduced by Senators Chris Dodd (D-CT) and Richard Shelby (R-AL) includes language that reflects USCIRF recommendations. More specifically, the bill includes sense of Congress language that the President should: press the Iranian government to respect its citizens' human rights and religious freedoms; identify Iranian officials responsible for violating these rights; and respond appropriately, including prohibiting their entry into the U.S. and freezing their assets. The bill also calls for additional funds for the Secretary of State to collect and share information on human rights abuses.

Engaging UN Ambassadors in New York – November 16, 2009: Commissioners and Representative Christopher H. Smith (R-NJ), a Congressional member of the U.S. General Assembly delegation, hosted a meeting for selected UN ambassadors in New York to urge them to vote against the “defamation of religions” concept.

Pakistan House Resolution H. Res. 764 – September 23, 2009: USCIRF worked with House offices on this bipartisan resolution that expressed the sense of the House of Representatives on the importance of inter-religious dialogue and the protection of religious freedom and related human rights for persons of all faiths in Pakistan.

Saudi Arabia – Letter to Secretary of State Clinton, August 12, 2009: USCIRF worked with Senate offices on a letter to Secretary of State Clinton signed by ten Senators. The letter expressed concern about Saudi Arabia's lack of progress in curbing the promotion of intolerance and extremism, given that three years had passed since the Saudi government agreed to take concrete steps to halt the dissemination of hatred toward non-Muslims. In the letter, the Senators urged the Administration to undertake a public assessment of these efforts. USCIRF also worked with House offices on a July 21 letter signed by 26 Members of Congress sent to the Secretary expressing concern about the lack of progress toward removing passages from Saudi Arabian textbooks that promote hatred of Jews, Christians, and other non-Muslims, expound historical inaccuracies, and propagate the subjugation of women.

Detention of Asylum Seekers Senate Legislation – August 6, 2009: Senator Lieberman (D-CT), along with Senators Kennedy (D-MA), Leahy (D-VT), and Akaka (D-HI), introduced the Secure and Safe Detention and Asylum Act (S. 1594) that would reform the U.S. system by which asylum seekers are detained, and help ensure that asylum seekers are treated in accordance with U.S. law. S. 1594 would address many problems that USCIRF identified in a 2005 report and a 2007 follow-up report on the treatment of asylum seekers in expedited removal. In addition to working on the bill, USCIRF organized a Senate staff briefing that focused on S. 1594, reforms announced by the Department of Homeland Security, and problems in the current detention system.

Vietnam – April 1, 2009: The Congressional Caucus on Vietnam, co-chaired by Representatives Lofgren (D-CA), Smith (R-NJ), Sanchez (D-CA), and Cao (R-LA), worked with USCIRF to organize a meeting with non-governmental organizations in advance of the UN Human Rights Council's review of Vietnam during the Universal Periodic Review (UPR). From this meeting, participants developed a list of suggested questions for the UPR, which the Representatives sent to the U.S. Mission to the United Nations in Geneva, along with urging the Obama Administration to actively participate in the review. U.S. officials cited individual cases in their questions, setting a new precedent at the UPR and demonstrating U.S. leadership can help improve the procedure.

## Raising Public Awareness through the Media

During the reporting period, USCIRF released more than seventy-five press releases regarding international religious freedom violations throughout the world. USCIRF's work was cited thousands of times in prominent domestic and international media outlets, including in the *Washington Post*, *the Economist*, *the Wall Street Journal*, *the Boston Globe*, *the New York Times*, *Salt Lake Tribune*, *Politico*, *the Associated Press*, *Reuters*, *Time*, *Agence France Press*, and *McClatchy News Service*. USCIRF press releases focused on a wide range of religious groups and issues, including the plight of Uighurs, Tibetans and Christians in China, Bahai's in Iran, Buddhists in Vietnam, and Copts in Egypt; ensuring full implementation of the Comprehensive Peace Agreement in Sudan as a means of preserving freedom of religion; and the flawed concept of "defamation of religions" resolutions at the United Nations.

USCIRF Commissioners have been interviewed numerous times on major networks, including CNN, BBC, CBN, and Fox. They also have authored opinion articles that were published in *the Wall Street Journal*, *the Miami Herald*, *the Huffington Post*, *the Washington Times*, and *the Atlanta Journal-Constitution* on U.S. immigration policy, Turkey's treatment of religious minorities, Saudi Arabia's extremist textbooks, and India's treatment of its religious minorities, respectively.

USCIRF press activity includes reaching out to the foreign press. In a recent month's sampling, USCIRF Commissioners were quoted in *Radio Free Asia*, *VOA*, *RFE/RL*, *The (Canada) Whig*, *Calcutta Telegraph*, *Times of India*, *Nigeria Guardian News*, *Pakistan Daily*, *Sudan Tribune*, *Irish Times*, *Sudan News Daily*, *Wall Street Journal Asia*, *Outlook India*, *India Journal*, *The Hindu*, *Hindustan Times*, *Vietnam Net*, *Varlden Idag*, *al-Jazeera*, *Al Arabiya*, *Asia News*, and many others.

As a means of building support of new U.S. policies promoting freedom of religion abroad, USCIRF press outreach also includes engaging the religious media. USCIRF Commissioners and press releases have been quoted in *Baptist Standard*, *Christian Post*, *Epoch Times*, *Compass Direct*, *Crosswalk*, *Catholic Culture*, *Organizer*, *Zenit*, *Christianity Today*, *Christian Today India*, *Christian Telegraph*, *U.S. Copts Association*, *Anglican Media Melbourne*, *Catholic News Agency*, and *Pakistan Christian TV*.

USCIRF's website—[www.uscirtf.gov](http://www.uscirtf.gov)—is a resource containing these and other documents and materials, as well as information about its activities.

## **Country Chapters: Countries of Particular Concern Burma**

**FINDINGS:** The State Peace, and Development Council (SPDC), the military junta governing Burma, remains one of the world’s worst human rights violators. The SPDC severely restricts religious practice, monitors the activity of all religious organizations, and perpetrates violence against religious leaders and communities, particularly in ethnic minority areas. In the past year, the SPDC has engaged in severe violations of the freedom of religion and belief including: the arrest, mistreatment, and harassment of Buddhist monks who participated in peaceful demonstrations in 2007 or are suspected of anti-government activity; the severe repression and forced relocation of the Rohingya Muslim minority; the banning of independent Protestant “house church” activities; and the abuses, including forced labor, relocations, and destruction of religious sites, against ethnic minority Protestants.

In light of these systematic, egregious and ongoing violations, USCIRF again recommends in 2010 that Burma be designated as a “country of particular concern” (CPC). The State Department has designated Burma as a CPC since 1999.

Religious freedom violations affect every religious group in Burma. Buddhist monks who participated in the 2007 peaceful demonstrations were killed, beaten, arrested, forced to do hard labor in prison, and defrocked. Buddhist monasteries viewed as epicenters of the demonstrations continue to face severe restrictions on religious practice. Monks suspected of anti-government activities have been detained in the past year. Muslims routinely experience strict controls on a wide range of religious activities, as well as government-sponsored societal violence. The Rohingya minority in particular are subject to pervasive discrimination and a relocation program that has produced thousands of refugees in Southeast Asia. In ethnic minority areas, where low-intensity conflict has been waged for decades, the Burmese military forcibly promotes Buddhism and seeks to control the growth of Protestantism by intimidating and harassing adherents. A 2009 law essentially bans independent “house church” religious venues and Protestant religious leaders in Rangoon have been pressured to sign pledges to stop meeting.

**PRIORITY RECOMMENDATIONS:** After a policy review in 2009, the Obama administration retained wide-ranging sanctions targeting the SPDC yet also started a “pragmatic dialogue” with senior SPDC leaders and expanded humanitarian aid. Administration officials have said that sanctions will not be lifted without concrete results on concerns such as nonproliferation assistance, free and fair elections, release of political prisoners, and humanitarian aid delivery. In USCIRF’s view, religious freedom improvements and democratization are closely linked in Burma. In addition, the SPDC’s human rights violations are regional security concerns, requiring U.S. leadership and coordination with regional and European allies and the UN. USCIRF recommends that the U.S. government use its engagement with the SPDC to ensure a peaceful and complete transition to democracy. Targeted sanctions should remain until the SPDC takes active steps to meet benchmarks established in UN resolutions and U.S. law. The United States should continue to build support for the implementation of targeted sanctions while coordinating the diplomatic actions of regional allies, particularly the democracies of Southeast and South Asia. Additional recommendations for U.S. policy towards Burma can be found at the end of this chapter.

## **Religious Freedom Conditions**

### *Crackdown on Buddhism after the 2007 “Saffron Revolution”*

Burma has experienced ongoing conflict since its independence in 1948. The SPDC deals harshly with any group it perceives as a threat to its hold on power, including and especially ethnic minority groups whose religious affiliation is an identifying feature. The government infiltrates and monitors the activities of all organizations, including religious groups. Religious groups are also subject to broad government restrictions on freedom of expression and association. The SPDC controls all media, including religious publications and sermons which are occasionally subject to censorship.

While ethnic minority Christians and Muslims have encountered the most long-term difficulties, in the aftermath of the 2007 peaceful anti-government demonstrations, the regime also began systematically to repress Burmese Buddhists, closing monasteries, arresting and defrocking monks, and curtailing their public religious activities. Despite this crackdown on Buddhist monks and monasteries, the SPDC generally promotes Theravada Buddhism, particularly in the ethnic minority areas, sometimes pressuring or offering economic inducements to encourage conversion. Throughout Burma’s history, patronage of the Buddhist community was necessary to legitimize a government’s hold on power. SPDC leaders have continued this practice, publicly participating in Buddhist rituals. Buddhist doctrine is an optional course taught in all government run schools and daily prayer is required of all students; in some schools, children are reportedly allowed to leave the room during this time if they are not Buddhist, but in others they are compelled to recite the prayer. In addition, the Burmese military builds pagodas and has destroyed religious venues and other structures in Christian and Muslim areas.

Nevertheless, government interference in Buddhist affairs predated the 2007 crackdown. Members of the Buddhist sangha are subject to a strict code of conduct that is reportedly enforced through criminal penalties. Monks are not allowed to preach political sermons or make public statements, or produce literature with views critical of SPDC policies. Monks are also prohibited from associating with or joining political parties. Military commanders retain jurisdiction to try Buddhist monks in military courts. In several instances between 1988 and 2009, monks and nuns were defrocked or detained, and an estimated 100 monks and novices remain imprisoned as prisoners of conscience for activities that occurred prior to the September 2007 events, according to the State Department’s 2009 *Annual Report on International Religious Freedom*.

The importance of Buddhism in Burma’s life and culture is critical to understanding the significance of the September 2007 protests. Following the arrest, detention, and beating of activists who organized the initial protests against government increases in fuel prices, Buddhist monks took over the leadership of growing demonstrations. The monks broadened the scope of the protests and began calling for the release of all political prisoners and the initiation of a process leading to democratization in the country. In the ensuing weeks, Buddhist monks organized peaceful demonstrations in most of Burma’s major cities. After the SPDC ordered the military to crack down on the monk-led demonstrations, there were reports of at least 30 deaths, although some experts estimate that the actual number was much higher. Journalists and activists in Burma state that at least 4,000 people, an unknown portion of whom were monks, were arrested during the crackdown, with estimates that between 500 and 1,000 remained in detention months later. Many of the detained reportedly have been mistreated or tortured. Given the lack of transparency in Burma, it is difficult to determine how many people remain in prison or are missing. A September 2009 Human Rights Watch report claims that, at that time, 240 monks were still in prison for their roles in the 2007 protests. In addition, since the crackdown, hundreds of Buddhist monks have fled to Thailand seeking asylum. They have reported torture, forced defrocking, hard labor, and other deprivations during detention.

*Recent Repression of Buddhism*

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

Government authorities continue closely to monitor monasteries viewed as focal points of the protest and have restricted usual religious practices in these areas. Monks perceived to be protest organizers have been charged under vague national security provisions, including "creating public alarm;" "engaging in activities inconsistent with and detrimental to Buddhism;" "the deliberate and malicious...outraging of religious feelings;" and "engaging in prohibited "acts of speech intended for religious beliefs."

In April 2009, authorities arrested two monks, U Chit Phay and U Aung Soe Wai, after they led a prayer meeting for the release of the democratic political activist leader Aung San Suu Kyi. Also in April, a group of approximately 50 members of the opposition National League for Democracy were arrested after assembling for prayer at the Zee Phyu Village pagoda in Rakhine province. In March 2009, two monks were arrested and sentenced to five years imprisonment with hard labor for allegedly planning to hold a ceremony to support the All Burma Monk's Association.

In August 2008, authorities arrested monks U Damathara and U Nandara, both from the Thardu monastery in Rangoon. Their current whereabouts are unknown.

During a February 2009 general amnesty of 6,313 prisoners, nine monks were released including U Kaytharam U Ingura, U Thireina, U Marlaina, U Ardatesa, U Takekanateya, U Damitika, U Nandathiri, and U Sandima.

*Active Repression of Religious Minorities*

In the past year, minority religious groups, especially Muslims and Christians, continued to face serious abuses of religious freedom and other human rights by the military. In some localities, military commanders have conscripted members of ethnic and religious minorities against their will for forced labor. Those who refuse conscription are threatened with criminal prosecution or fined. Those who do not carry out their tasks have been shot or beaten to death. Christians and Muslims have been forced to engage in the destruction of mosques, churches, and graveyards and to serve as military porters. They reportedly have also been forced to "donate" labor to build and maintain Buddhist pagodas and monasteries. There are reports from NGOs and international media that two Muslim activists seeking to document religious freedom and related human rights violations were arrested. Their whereabouts are unknown.

*Burmese and Rohingya Muslims*

Tensions between the Buddhist and Muslim communities have resulted in outbreaks of societal violence over the past several years, some of it instigated by Burmese security forces. Muslims in Rakhine state, on the western coast, and particularly those of the Rohingya minority group, continued to experience the most severe forms of legal, economic, religious, educational, and social discrimination. The government

denies citizenship status to Rohingyas because their ancestors allegedly did not reside in the country at the start of British colonial rule. In 2007, five UN Special Rapporteurs called on the SPDC to repeal or amend its 1982 Citizenship Law to insure compliance with international human rights obligations. Without citizenship status, Rohingyas do not have access to secondary education in state-run schools, cannot be issued government identification cards (essential to receive government benefits), and face restrictions on freedoms of religion, association, and movement. Approximately 800,000 Rohingya live in Burma, primarily in Rakhine state. Refugees living in Bangladesh report that some Rohingya are prevented from owning property, residing in certain townships, or serving as government officials. Since 1988, the government reportedly has permitted only three Muslim marriages per year in certain villages of Rakhine state. Efforts to lift this restriction have failed. Muslims also report difficulties in obtaining birth certificates for newborns, particularly in the city of Sittwe.

Enforcement of discrimination policies targeting Muslims widened in the past year. Police and border guards also continue inspections of Muslim mosques in Rakhine state; if a mosque cannot show a valid building permit, the venue is ordered destroyed. Nine mosques were closed in the previous year. The government also permitted the destruction of religious centers and schools. During the reporting period, the Burmese government maintained a campaign to create “Muslim Free Areas” in parts of Rakhine state. Military commanders have closed mosques and *madrassas*, stoked ethnic violence, and built pagodas in areas without a Buddhist presence, often with forced labor. Refugees report that the military continues to entice conversion to Buddhism by offering charity, bribes, or promises of jobs or schooling for Muslim children. The Burmese military has stepped up its presence in Rakhine state recently, reportedly in advance of planned 2010 elections.

An estimated 300,000 Muslim Rohingya live in refugee camps in Bangladesh, Thailand, and other Southeast Asian countries. They often live in squalid conditions and face discrimination, trafficking, and other hardships. In April 2009, 800 additional Rohingyas fled to Bangladesh, complicating an already dire refugee situation. In July 2009, Bangladeshi security forces destroyed the dwellings of Rohingya refugees and began repatriating them to Burma. In December 2009, 9000 Rohingyas were repatriated, reportedly as part of a new energy agreement between Bangladesh and Burma. In 2008, the Thai military began pushing back out to sea the boats of Rohingya asylum seekers.

In 2004, the UN Committee on the Rights of the Child expressed concern over the plight of Rohingya children, particularly with regard to the denial of their right to food, health care, and education, as well as to their ability to survive, develop, and enjoy their own culture and be protected from discrimination. In 2007, a panel of UN experts, including the UN Special Rapporteur on Human Rights in Myanmar and the UN Special Rapporteur on Racism, Racial Discrimination, and Xenophobia, declared that the Burmese government’s denial of citizenship to Rohingya Muslims “has seriously curtailed the full exercise of their civil political, economic, social and cultural rights and led to various discriminatory practices.” In March 2010, the UN Special Rapporteur on Human Rights in Burma reported to the UN Human Rights Council that he was “deeply concerned about the systematic and endemic discrimination faced by the Muslim community... [which] lead[s] to [their] basic and fundamental human rights being denied.” The specific concerns he identified included “restrictions of movement; limitations on permission to marry; various forms of extortion and arbitrary taxation; land confiscation and forced evictions; restricted access to medical care, food and adequate housing; forced labor; and restrictions on Muslim marriages.”

#### *Forced Closure of Protestant “House Churches”*

Christian groups in Burma continue regularly to experience difficulties in obtaining permission to build new churches, hold public ceremonies or festivals without permission, and import religious literature. A government regulation promulgated in early 2008 bans religious meetings in unregistered venues, such as homes, hotels, or restaurants. Burmese Christians claim that 80 percent of the country’s religious venues

could be closed by the regulation. “House churches” proliferated in the past decade because the government regularly denied permissions to build new churches.

In January 2009, the SDPC took steps to enforce the regulation, ordering 100 churches and religious meeting places in Rangoon to stop holding services and forcing Protestant leaders to sign pledges to that effect. There are additional reports of church closings in Mandalay. Burmese Christians believe that enforcement of the government’s ban came in response to humanitarian aid they provided to Cyclone Nargis victims in May 2008. In the aftermath of the cyclone, the SPDC forcibly closed some religious charities providing humanitarian support, particularly those channeling foreign assistance.

#### *Abuses Targeting Ethnic Minorities*

Christian groups in ethnic minority regions, where low-intensity conflicts have been waged for decades, face particularly severe and ongoing religious freedom abuses. The Burmese military has destroyed religious venues, actively promoted conversion to Buddhism, confiscated land, and mandated forced labor. The Chin, Naga, Kachin, Shan, Karen, and Karenni peoples, each with sizable Christian populations, have been the primary targets of these abuses. In the past year, for instance, authorities in Kachin state halted attempts by the Shatapru Baptist Church to build a Christian orphanage. In late 2007, a military general in Shan state confiscated land from a Catholic diocese and destroyed the home of the bishop. No compensation has been awarded. In ethnic minority areas, Christians are required to obtain a permit for any gathering of more than five people outside of a Sunday service. Permission is regularly denied, or secured only through bribes.

There are credible reports that government and military authorities continue efforts actively to promote Buddhism among the Chin and Naga ethnic minorities as part of its pacification program. Although forced conversions reportedly have decreased in recent years, refugees continue to claim that government officials encourage conversion through promises of economic assistance or denial of government services. Chin families who agree to convert to Buddhism were offered monetary and material incentives, as well as exemption from forced labor. Chin women are particularly vulnerable, as there are a growing number of credible reports that the Burmese military encourages or condones rape by its soldiers as an instrument of war. Burmese Buddhist soldiers are also offered financial and career incentives to marry and convert Chin Christian women.

Chin Christians claim that the government operated a high school that only Buddhist students could attend; students were guaranteed jobs upon graduation. Also, NGOs reported that Christian students in the Kachin state are not only forced to learn the Burmese language, but to become Buddhist, without their parents’ knowledge or consent.

In 2007, a Christian pastor was arrested for writing a letter to General Than Shwe, the chief of the military junta, urging an end to the persecution of Christians. Naga Christian refugees leaving Burma report that members of the army, together with Buddhist monks, closed churches in their villages and attempted to force adherents to convert to Buddhism.

Over the past five years, the Burmese military has expanded operations against ethnic minority militias in parts of eastern Burma, reportedly destroying schools, hospitals, religious sites, and homes, killing civilians, and raping women. New refugees have entered India and Thailand, where they face squalid conditions and possible forced relocation. According to international media and NGO reports, an estimated 100,000 Chin Christians fled to India during the past year, in hopes of escaping persecution. In early January 2010, international NGOs reported that more than 2000 Karen villagers were forced to flee following attacks by the Burmese Army.

*United Nations Efforts*

Burma has been a focus of the UN over the past few years. The European Union has annually introduced a resolution at the UN General Assembly critical of Burma's human rights record, which the United States has always cosponsored. This resolution was adopted most recently in December 2009. The UN Human Rights Council also issued similar condemnations in 2008 and 2009, and extended the mandate of the Special Rapporteur on the situation of human rights in Burma in 2010.

The UN Secretary General also has had a Special Envoy for Burma, Ibrahim Gambari, who made seven trips to the country since 2006, most recently in 2009. Critics assert that the Special Envoy has been too solicitous of the SPDC and has achieved only a few symbolic prisoner releases, however. In December 2009, Mr. Gambari was appointed to a different UN position; his replacement as Special Envoy for Burma has yet to be named.

The UN Special Rapporteur on the situation of human rights in Burma recently called on the UN to set up a commission of inquiry to investigate possible "gross and systematic" violations by the SPDC that may entail crimes against humanity under the terms of the Statute of the International Criminal Court (ICC). Since Burma is not a member of the ICC, a successful referral to the ICC would require a UN Security Council resolution. However, future U.S. diplomatic options in the UN Security Council appear limited.

**U.S. Policy**

The United States has diplomatic relations with Burma but has not had an ambassador to the country since 1992. In February 2009, Secretary of State Hillary Clinton stated that neither economic sanctions nor "constructive engagement" was working to halt egregious human rights abuses or expand democracy in Burma. After a policy review, the Obama administration announced the beginning of a "pragmatic dialogue" with Burmese authorities. Secretary Clinton stated that the United States was committed to engaging Burma's generals in dialogue "without setting or dictating any conditions." Since then, State Department officials have reportedly held numerous meetings with SPDC officials. However, Assistant Secretary of State Kurt Campbell has stated that the United States will not lift existing sanctions until the SPDC makes progress on a number of issues including nonproliferation, release of political prisoners, and progress toward free and fair elections. The Obama administration has also publicly expressed concern over growing Burma-North Korea relations.

The United States has imposed a number of targeted sanctions on Burma, including a suspension of aid, opposition to new loans to Burma by international financial institutions, and prohibitions on U.S. private investments in Burma. In 2003, Congress passed the Burmese Freedom and Democracy Act (P.L. 108-61) banning imports to the United States from Burma. This ban was extended in 2006 by the U.S. JADE Act. Most members of Congress and Burmese exiles favor maintaining the full range of U.S. sanctions until the Burmese regime terminates major human rights abuses and makes fundamental political concessions to Aung San Suu Kyi in a comprehensive agreement for a democratic system. This is unlikely to happen anytime soon, as the SPDC has banned Aung San Suu Kyi from participating in planned 2010 elections and her party, the National League for Democracy (NLD), unanimously decided to boycott the elections. By not agreeing to participate, the NLD has to disband.

Burma was a priority of the Bush administration in 2005-2007. The United States successfully pressed Association of South East Asian Nations (ASEAN) governments to deny Burma leadership of ASEAN, and urged regional allies, as well as China, to step up bilateral pressure on the SPDC. The Bush administration's major initiative was to place Burma on the agenda of the UN Security Council. In 2007, the United States proposed a formal resolution at the Security Council listing benchmarks for progress

and possible sanctions. However, despite U.S. diplomatic efforts, China and Russia vetoed the resolution, and Indonesia abstained on the vote.

USCIRF believes that U.S. leadership is essential to bringing democratic change and an end to human rights violations in Burma, including religious freedom. The United States should continue to build support for targeted sanctions and full access to the country by various UN mechanisms, while also coordinating the diplomatic actions of regional allies, particularly the democracies of Southeast and South Asia. Engagement with the SPDC should focus on issues that will lead directly to the expansion of democracy and protection of vulnerable ethnic and religious minorities, an end to human rights and religious freedom violations, the release of all prisoners, including Aung San Sui Kyi, and the equal and transparent distribution of humanitarian assistance.

## **Recommendations**

In addition to continuing to designate Burma as a CPC, the U.S. government should take the following policy actions towards Burma:

### **I. Strengthening the Coordination of U.S. Policy on Burma, both within the U.S Government and with U.S. Allies**

The U.S. government should:

- appoint a Special Envoy on Burma, with the rank of Ambassador, to coordinate multilateral and bilateral diplomatic efforts and serve as the Administration's point person to bring about political reconciliation and democratic reform in Burma; coordinate with regional and European allies on sanctions, humanitarian aid, counternarcotics, nonproliferation, trafficking in persons, and other policy objectives, including religious freedom and related human rights; and
- organize a coalition of democratic nations in Asia to replace the moribund Bangkok Process in order to construct a roadmap outlining concrete steps Burma needs to take in order to end economic and political sanctions and engage with Burma's top leader on issues of concern, including addressing humanitarian and human rights abuses, the release of all political and religious prisoners, a durable solution for refugees, and the peaceful transition to civilian rule.

### **II. Pressing for Immediate Improvements to End Religious Freedom Abuses**

The U.S. government should use its engagement with the government of Burma and with Burma's closest allies to urge the government of Burma to address the following issues of concern:

- release all persons detained or arrested for the peaceful exercise of religious freedom and related human rights, and reveal the whereabouts of people who are still detained and missing, including the Buddhist monks and others who led or participated in peaceful protests;
- release NLD Chair Aung San Suu Kyi and other political prisoners and directly engage with the NLD and leaders of the country's ethnic minority groups in a dialogue leading to a peaceful, time-bound, and monitored transition to democratic civilian rule;
- end the forced closures of churches and mosques, the destruction of religious shrines and symbols, the instigation of communal violence against Muslims, the forced promotion of Buddhism and the

renunciation of other religions among ethnic minorities, and discrimination against non-Buddhist minorities;

- lift all restrictions on the construction and renovation of churches and mosques and on the printing of religious literature, consistent with international standards, and end policies of forced eviction from, and the confiscation and destruction of, Muslim and Christian properties, including mosques, churches, religious meeting points, schools, and cultural centers;
- end the use of forced labor and the use of children and members of religious minorities as porters or military labor, and adhere to its own Order 1/99 (May 1999) and Order Supplementing 1/99 (November 2000), which instruct SPDC officials and military commanders to refrain from employing forced labor of civilians, except in emergencies;
- end policies that discriminate on the basis of religion in land use, education, allocation of land, job promotion, marriage, access to government services, citizenship, freedom of movement, and marriage, and invite international technical assistance to help draft laws that conform to international legal standards on these matters;
- allow religious groups and civil society organizations to provide humanitarian and reconstruction assistance to the victims of natural disasters, including those still afflicted by the aftermath of Cyclone Nargis, and to work openly with the UN, the Tri-Partite Core Group, and other international donors;
- grant unimpeded access to the country by relevant UN mechanisms including the UN Secretary General's Special Envoy on Burma, the UN Special Rapporteur on Burma, and the UN Special Rapporteur on Freedom of Religion or Belief; and
- ratify core international human rights instruments, including the International Covenant on Civil and Political Rights.

### **III. Assisting and Supporting UN and Other Multilateral Diplomatic Efforts**

The U.S. government should:

- initiate action on a new UN Security Council resolution on Burma that offers the UN Secretary General a clear mandate for his interactions with Burmese authorities, including full and unimpeded access for the UN Special Envoy on Burma and the UN Special Rapporteur on Burma; a clear timetable, with repercussions, for the Burmese government if it does not immediately and unconditionally release all political prisoners, including Aung San Suu Kyi; the establishment of a UN monitoring mission of the UN High Commissioner for Human Rights inside Burma; and the taking of steps to ensure a peaceful and orderly transition to civilian rule;
- seek access to Burma by the UN Special Rapporteur on Freedom of Religion and Belief for an immediate visit with unrestricted access to religious communities and to regions where religious freedom abuses are reported; and
- urge ASEAN to expand the Tri-Partite Core Group to discuss other issues of concern with Burma, including protections for ethnic minorities and refugee issues, particularly a durable solution for Rohingya Muslims.

**IV. Supporting Local Democracy Efforts through U.S. Programs**

The U.S. government should:

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

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

**FINDINGS:** The Democratic People's Republic of North Korea (DPRK or North Korea) is one of the world's most repressive regimes. Severe religious freedom abuses occur regularly, including: surveillance, discrimination, and harassment of both authorized and unauthorized religious activity; the arrest, torture, and possible execution of those conducting clandestine religious activity; and the mistreatment and imprisonment of asylum-seekers repatriated from China, particularly those suspected of engaging in religious activities or having religious affiliations.

Based on these violations, USCIRF again recommends in 2010 that North Korea be designated as a "country of particular concern," or CPC. The State Department has designated North Korea as a CPC since 2001.

The North Korean government continues to have a deplorable human rights and religious freedom record. Dissent is not tolerated and few legal or political protections exist for universally recognized rights. The government controls most aspects of daily life, including religious activity, which is allowed only in government-operated religious "federations" or a small number of government-approved "house churches." Other public and private religious activity is prohibited. Anyone discovered engaging in clandestine religious activity is subject to discrimination, arrest, arbitrary detention, disappearance, torture, and public execution. A large number of religious believers are incarcerated in *kwon-li-so* (North Korea's infamous penal labor camps), though the exact number is difficult to verify given the government's control over information. The situation for North Korean refugees remains acute. Asylum-seekers repatriated from China are interrogated about their religious belief and affiliations, and those suspected of distributing religious literature or having ongoing connections with South Korean religious groups are mistreated and imprisoned as security threats. Testimony from former North Korean refugees indicates that clandestine religious activity in North Korea is increasing, as are the government's attempts to halt its spread. In recent years, police and security agency offices have infiltrated Protestant churches in China, started training police and soldiers about the dangers of religion, and set up fake prayer meetings to catch worshippers. There was one reported case of a public execution in the past year. A woman was executed for distributing Bibles and her entire family was sent to prison.

**PRIORITY RECOMMENDATIONS:** U.S. officials have publicly supported the inclusion of human rights concerns within the structure of the Six-Party Talks on nuclear non-proliferation on the Korean peninsula, but these issues have been sidelined until North Korea agrees to verification of denuclearization. USCIRF believes that negotiations with North Korea will not succeed unless rooted in a broader security framework that includes agreements on humanitarian and human rights concerns. USCIRF urges the administration to work with regional allies at the Six-Party Talks to raise human rights concerns, including religious freedom, and link future economic, political, and diplomatic assistance to progress in these areas. The Commission also continues to recommend that the U.S. government implement fully the North Korea Human Rights Act of 2008, including its provisions to support NGOs working to build democracy and protect human rights in North Korea and to create a security cooperation regime in northeast Asia similar to the Organization for Security and Cooperation in Europe (OSCE). Additional recommendations for U.S. policy toward North Korea can be found at the end of this chapter.

## **Religious Freedom Conditions**

### *The Government-Imposed Cult of Personality*

Since 1945, North Korea's once diverse and vibrant religious community has, for the most part, disappeared. This community once included Buddhists, Catholics, Protestants, and Chondokoyists (followers of Chondokyo, or "Eastern Learning," a syncretic belief system largely based on Confucianism but which also incorporates elements of Taoism, Shamanism, Buddhism, and Catholicism). An untold number of religious leaders and practitioners were killed, jailed, disappeared, or have fled to South Korea after World War II. The government forcefully propagates a nationalist ideology based upon the cult of personality surrounding both Kim Il Sung and his son, Kim Jong Il. All citizens are required to adhere to this belief system, often called *Juche*, or face onerous fines and penalties. Pictures of the "Great Leader" (Kim Il Sung) and the "Dear Leader" (Kim Jong Il) must be displayed on the walls of homes, schools, and workplaces. Every North Korean wears a lapel pin of the Great Leader, and students are required to study and memorize the "Ten Principles for the Establishment of the One-Ideology System of the Party." *Juche's* ideological education takes precedence over all other academic subjects in the nation's schools. Each North Korean community reportedly maintains a "Kim Il Sung Research Center" or similar institution where local citizens are required to attend weekly meetings to watch propaganda films, listen to educational sessions on the principles of *Juche*, and engage in public self-criticism sessions. Any functioning religious belief or practice outside of *Juche* is viewed by the government as a challenge to the cult of personality surrounding the Kim family, and their subsequent authority.

Religious activity is either tightly controlled or repressed. In an attempt to blunt international criticism of North Korea's religious freedom record, in 1988 the government created "religious federations" for Buddhists, Chondokoyists, Protestants, and Catholics. These federations were intended to represent religious communities that had been long repressed by directing the building of churches and temples as well as negotiating development assistance from international humanitarian organizations. However, former refugees and defectors testify that the federations are led by political operatives whose goals are to substantiate the government's policy of control over religious activity. These federations exist to conceal from international attention the government's repression of religious activity, to maintain religious venues as both cultural relics and tourist attractions, and to direct assistance programs from foreign donors.

### *Government Control of Buddhism*

Accounts provided by former North Korean refugees claim that Buddhist temples and shrines are maintained as cultural heritage sites by *gwalliwon* (caretaker monks) who do not perform religious functions. Instead, these monks are employed by the government and their activities are limited to giving lectures, leading tours, and meeting foreign dignitaries. The preservation of Buddhist temples, including the government's ongoing refurbishment of an existing site at Anbul, South Hamgyeong Province and the rebuilding of the Shingye Temple, is mainly a testament to North Korea's Buddhist material culture. Still, refugee testimony provides little evidence of an underground Buddhist presence.

### *Government Control and Repression of Christianity*

The DPRK authorized the building of some Christian churches beginning in 1998. The capitol city of Pyongyang contains one Catholic and two Protestant churches. Services have reportedly been held in these churches since the mid-1990's, when foreign humanitarian aid workers came to Pyongyang during North Korea's famine. In 2006, the government authorized the construction of a Russian Orthodox church in Pyongyang. Nonetheless, defectors and refugees assert that these churches are heavily monitored and that the sites exist primarily as showpieces for foreign visitors. North Koreans who attend

services in the churches are not allowed to interact with foreign visitors. There is no Catholic clergy in North Korea.

The government also claims that there are 500 approved “house churches” in the country. There are credible reports that participants are individuals whose families were Christians before 1950 and as such, are allowed to gather for worship without leaders or religious materials. Most of the “house churches” are in urban areas, and the families who are allowed to use them reportedly are segregated in separate housing units.

There continue to be credible reports of clandestine religious activity in North Korea, though its scope remains difficult to verify. Refugee reports continue to confirm that illegal religious materials are available and secret religious meetings occur, spurred by cross-border contact with China. The North Korean government has always repressed clandestine religious activity; and this activity in the border regions is viewed as an additional threat to national security. The North Korean government sees new religious growth as spurred by South Korea humanitarian and missionary groups in China. Police and border security units are trained to halt the spread of religious ideas and root out clandestine religious activity. Anyone caught engaging in the distribution of religious materials, holding secret religious gatherings, or having ongoing contact with overseas religious groups is subject to severe punishment ranging from imprisonment in labor camps to execution. In March 2006, Son Jong Nam was sentenced to death for spying based on evidence that he converted to Protestantism. He has been severely tortured in prison and it is unclear, at this time, whether he has been executed. Reports from South Korean NGOs indicate that in June 2009 Ri Hyon Ok was publicly executed for distributing Bibles in the city of Ryongchon. Her family, including her parents, husband, and three children, were reportedly sent to a political prison camp the day after her execution. She was later accused of spying and organizing dissidents. However, these claims could not be verified.

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

Imprisoning religious believers remains a common practice, according to reports of former North Korean refugees. It is difficult to document the exact number of prisoners in *kwan-li-so*. North Korea researchers in South Korea recently estimated that 6,000 Christians are incarcerated in “Prison No. 15” in the northern part of the country. Reportedly, there may be as many as 40,000 religious prisoners in North Korea. Testimony from former prison inmates and prison guards confirms that religious prisoners are typically treated worse than other inmates. They are generally given the most dangerous tasks in the labor camps and are victims of constant abuse to force them to renounce their faith. There are also corroborated reports on forced abortions and cases of infanticide in the prison camps.

#### *North Korean Refugees in China*

Prolonged famine, food shortage, and repression in North Korea have created a cross-border refugee problem in northern China. Over the past decade, hundreds of thousands of refugees have fled across the border to neighboring China and South Korea escaping repeated persecution and famine conditions. It is estimated that 17,000 North Korean refugees currently live in South Korea. With the number of North Korean refugees rising in China, the issue of repatriation and general refugee conditions remains a vital international concern. The Chinese government continually labels North Korean refugees as “illegal” economic migrants and routinely repatriates them, despite the international obligation to offer protection to asylum-seekers and the documented proof that repatriated refugees suffer mistreatment and imprisonment. According to the concluding observations of the UN Committee on Torture’s (CAT) 2009 review of China, repatriation of North Koreans may violate Article 3 of the Convention against Torture,

to which China is a party. Article 3 provides that no “State should expel, return or extradite” anyone to another country where there is “substantial grounds for believing” that they would be subjected to torture. The CAT urged China to halt forced repatriations and to adopt legislation to protect asylum seekers consistent with Article 3. However, though North Korean asylum-seekers continue to flow into China, no such actions have been taken.

North Korean law criminalizes leaving the country without state permission. Due to the large number of citizens seeking food in China, the government has been forced to reduce punishments of those leaving in search of food or employment in China, sentencing those repatriated to short periods of detention and forced labor. However, over the past few years, refugees report that the government is returning to its harsher penalties for repatriated North Koreans, regardless of their reasons for fleeing. The harshest treatment is reserved for refugees suspected of having become Christian, distributing illegal religious materials, or having ongoing contact with either South Korean humanitarian or religious organizations working in China. Increasingly, the North Korean government views refugees with religious beliefs or contacts as potential security threats. Refugees continue to provide evidence that security forces use torture during interrogation sessions. Those suspected of religious conversation or contacts are sent to hard labor facilities designated for political prisoners. The government reportedly offers rewards to its citizens for providing information that leads to the arrest of individuals suspected of involvement in cross-border missionary activities or the distribution of Bibles or other religious literature.

### **U.S. Policy**

The United States does not have diplomatic relations with North Korea and has no official presence within the country. The United States raises religious freedom and related human rights concerns in various multilateral fora, as well as through other governments who have diplomatic missions in North Korea. U.S. Special Envoy for North Korea Stephen Bosworth has held talks with North Korean counterparts over the past year. North Korea has expressed a desire to directly negotiate with the United States on a treaty formally to end the Korean War, before re-engaging in denuclearization talks. Ambassador Bosworth has stated publicly that the United States will not accept a nuclear North Korea and will only negotiate through the Six-Party Talks with regional allies. U.S. diplomatic efforts have focused on pressing Pyongyang and regional allies to restart denuclearization talks.

After North Korea reportedly tested a second nuclear device in May 2009, the United States pushed for the implementation of tougher sanctions. In June 2009, the U.N. Security Council unanimously passed Resolution 1874, which was co-sponsored by the United States, France, Japan, South Korea, and the United Kingdom. The measure calls on North Korea to suspend its missile program, directs all UN Members States to inspect cargo to and from North Korea, directs international financial and credit institutions to prevent financial services to North Korea (grants, assistance, loans) except for humanitarian and developmental purposes, and calls on North Korea to return immediately to the Six Party Talks without precondition.

The 2008 North Korea Human Rights Act provides the agenda and tools to conduct human rights diplomacy with North Korea. The Act provides funds to support human rights and democracy programs, expands public diplomacy resources, sets guidelines for monitoring and reporting on U.S. humanitarian programs, and establishes the position of Special Envoy for Human Rights in North Korea. The Act seeks to facilitate resettlement to the United States of North Korea refugees. It also expresses the sense of Congress that a Northeast Asia Security and Cooperation regime should be created, following the model of the OSCE, a long-standing USCIRF recommendation. At this time, many of the Act’s provisions have not been fully implemented. In addition, human rights concerns have not been fully integrated into the full range of security discussions with North Korea. USCIRF contends that funds from the Act should be used to expand access to information and new media to counter government propaganda within North

Korea and to support NGOs doing democracy and human rights training among the North Korean diaspora.

Ambassador Robert King, the newly appointed Special Envoy for North Korean Human Rights, has stated recently that human rights will have a significant impact on the prospects for improved U.S.-North Korea relations, and that specific improvements will be required before there is a full normalization of relations. USCIRF believes that negotiations with North Korea will not succeed unless rooted in a broader security framework that includes agreements on humanitarian and human rights concerns. USCIRF urges the administration to work with regional allies, including those at the Six-Party Talks, to raise human rights concerns, including religious freedom, and link future economic, political, and diplomatic assistance to progress in these areas.

According to the State Department's 2009 Report *Advancing Freedom and Democracy*, the United States seeks to continue to improve North Korean citizens' access to outside sources of information and provide opportunities for exposure to the outside world, mainly by supporting radio broadcasts into the country.

## **Recommendations**

### **I. Linking Human Rights and Human Security in Negotiations on Northeast Asian Security Concerns**

In addition to continuing to designate North Korea as a CPC, the U.S. government should:

- work with regional and European allies to fashion a comprehensive plan for security concerns on the Korean Peninsula that includes agreements on human rights and humanitarian concerns—modeled after the Helsinki Final Act of 1975 and the Organization for Security and Cooperation in Europe—as suggested by the Commission and set forth in Sec. 106 of the North Korean Human Rights Act of 2008 (P.L. 108-333; 22 U.S.C. 7801);
- in negotiations both on nuclear security and stability on the Korean Peninsula, including at the Six-Party Talks, work with regional allies to reach agreements on pressing human rights and human security concerns, including monitoring of humanitarian aid, resettlement of refugees, family reunifications, abductions, and other pressing human rights issues, including religious freedom, and linking future economic assistance and diplomatic recognition to concrete progress in these areas; and
- initiate, within the formal structure of the Six-Party Talks, targeted working groups on issues of regional and international concern, including monitoring of humanitarian aid, refugees, and abductions, fully integrate these issues into the agenda of the Six-Party Talks at the earliest possible date, and link future economic, political, and diplomatic assistance to progress in these areas.

### **II. Fully Implementing the North Korean Human Rights Act of 2008**

The U.S. government should:

- ensure that all funds authorized under the North Korean Human Rights Act of 2008 are requested and used to fulfill the purposes of the Act, including assistance to expand public diplomacy, expand the capacity of NGOs working to promote democracy and human rights, protect and resettle refugees, monitor humanitarian aid, and support the mandate and diplomatic missions of the Special Envoy on Human Rights in North Korea.

### **III. Protecting and Aiding North Korean Refugees**

The U.S. government should:

- urge the Chinese government to uphold its international obligations to protect asylum seekers by: working with the UN High Commissioner for Refugees (UNHCR) to establish a mechanism to confer temporary asylum on those seeking such protection and to permit safe transport to countries of final asylum; providing the UNHCR with unrestricted access to interview North Korean nationals in China; and ensuring that the return of any refugees pursuant to any bilateral agreement does not violate China's obligations under the 1951 Refugee Convention and its 1967 Protocol or under Article 3 of the Convention Against Torture;
- urge the Chinese government to allow international humanitarian organizations greater access to North Koreans in China, to address growing social problems, abuses, and exploitation experienced by this vulnerable population, and work with regional and European allies to articulate a consistent and clear message about China's need to protect North Korean refugees;
- in bilateral relations with China, Russia, Mongolia, Vietnam, Thailand, Cambodia, and other countries in East Asia, continue to stress U.S. and international concerns about providing safe haven, secure transit, quick processing, and clear resettlement procedures for North Koreans; and
- continue coordination among the Department of State, the Department of Homeland Security, and regional allies, including South Korea, to facilitate the resolution of any remaining technical, legal, or diplomatic issues that hinder additional resettlement of North Koreans in the United States.

### **IV. Pursuing Multilateral Diplomacy and Human Rights in North Korea**

The U.S. government should:

- encourage the UN Secretary General to develop a coordinated plan of action to achieve access to North Korea and to carry out the recommendations of various UN bodies and special procedures, particularly those of the Special Rapporteur on North Korea;
- urge the Office of the UN High Commissioner on Human Rights to open an office in Seoul, South Korea for the purpose of initiating technical assistance programs addressing regional and transnational issues including, but not limited to, abductions, human trafficking, police and border guard training, legal reform, political prisoners, and abuses of freedom of thought, conscience, and religion or belief; and
- work with regional allies and appropriate international bodies to guarantee that future economic, energy, or humanitarian assistance to North Korea will be effectively monitored to ensure that aid reaches the most vulnerable populations and is not diverted to military use.

### **V. Congressional Action to Advance Religious Freedom and Related Rights on the Korean Peninsula**

The U.S. Congress should:

- work to build an international coalition of parliamentarians, experts, diplomats, and other opinion-makers to ensure that human rights and human security concerns are an integral part of future security

arrangements in Northeast Asia, including support for creating a new economic, human rights, and security zone in Asia similar to the OSCE;

- continue to appropriate all the funds authorized in the North Korea Human Rights Act of 2008 for public diplomacy, refugee assistance, democratization programs, and relevant travel by the Special Envoy on North Korea; and
- raise religious freedom and related human rights as a prominent concern in appropriate congressional or congressional staff visits to North Korea and China, including distributing Korean language reports of the Commission, and reiterate requests seeking access for international monitors to North Korean prisons as promised by North Korean officials to the visiting Senate Foreign Relations Committee delegation in August 2003.

## **Eritrea**

**FINDINGS:** Systematic, ongoing, and egregious religious freedom violations continue in Eritrea. These violations include: arbitrary arrests and detentions without charge of members of unregistered religious groups; torture or other ill-treatment of religious prisoners, sometimes resulting in death; a prolonged ban on public religious activities by all unrecognized religious groups; closure by the authorities of the places of worship of these groups; inordinate delays on registration applications from religious groups; and the disruption of private religious gatherings and social events of members of unregistered groups.

In light of these violations, USCIRF again recommends in 2010 that Eritrea be designated as a “country of particular,” or CPC. Since 2004, Eritrea has been recommended for CPC status by the Commission and designated as such by the State Department. In September 2005, when renewing the CPC designation, the State Department announced the denial of commercial export to Eritrea of defense articles and services covered by the Arms Export Control Act. This was the first, and so far only, unique presidential action under the International Religious Freedom Act of 1998 (IRFA) in response to a CPC designation.

The religious freedom situation in Eritrea remains grave, particularly for Jehovah’s Witnesses, members of other smaller, non-traditional religious groups such as Evangelical and Pentecostal Christians, and dissident Muslims. The government continues to intervene in the internal affairs of the Orthodox Church of Eritrea, the country’s largest Christian denomination, and to suppress Muslim religious activities or groups viewed as radical or simply as opposed to the government-appointed head of the Muslim community. Despite these well documented reports, Eritrean officials continue to deny that there is religious repression in Eritrea, claiming that their actions are necessary to maintain social harmony.

**PRIORITY RECOMMENDATIONS:** USCIRF recommends that, in addition to continuing the existing IRFA sanction on Eritrea, the U.S. government should impose targeted sanctions against individuals and institutions identified as responsible for, or complicit in, serious human rights abuses, as well prohibit any foreign company’s raising capital or listing its securities in the United States while engaged in developing Eritrea’s mineral resources. USCIRF further recommends that the U.S. government engage in vigorous advocacy of religious freedom at all levels of involvement with the government of Eritrea, draw international attention to religious freedom abuses in Eritrea, encourage unofficial dialogue with Eritreans on religious freedom issues, condition any resumption of development assistance to Eritrea on measurable improvements in religious freedom, and intensify international efforts to resolve the current political impasse between Eritrea and Ethiopia. Additional recommendations for U.S. policy toward Eritrea can be found at the end of this chapter.

## **Religious Freedom Conditions**

### *Government Policies toward Religious Groups and Activities*

Eritrea has been ruled by the Popular Front for Democracy and Justice (PFDJ) since the country gained independence from Ethiopia in 1993, following a lengthy war (1961-1991). The former leader of the successful national liberation movement and the current head of the PFDJ, Isaias Afwerki, was chosen President in 1993 by the Transitional National Assembly. After an initially promising start toward democratization, the PFDJ government has become increasingly repressive, with power concentrated in the hands of the President and a small cadre of associates who fought in the liberation struggle. In 2001, following a second war with Ethiopia (1998-2000), the government suspended implementation of a democratic constitution, canceled elections, curtailed press freedom, began a crackdown on political opponents, and restricted religious groups it perceived as undermining national unity. The government maintains the country on a near-war footing, reportedly anticipating renewed hostilities with Ethiopia.

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

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

The government's concerns regarding religious activities appear to be linked to real or perceived security threats, and government spokespersons have cited Pentecostals, along with Muslim extremists, as threats to national security. None of the accused Christian groups are known to have engaged in or advocated violence.

In 2002, the government imposed a registration requirement on religious groups other than the four "sanctioned" religions, requiring detailed financial and membership information as well as background on their presence in Eritrea. Among those affected were Protestant Evangelical and Pentecostal Christian denominations, as well as the Baha'is. Some of these faith communities have operated in Eritrea for several decades. Jehovah's Witnesses were not offered the opportunity to register. By stipulating that there could be no public religious activities until registration has been approved by the government, the decree effectively closed places of worship and prohibited public religious activities, including worship services, of all unregistered religious communities. Although some groups submitted the required applications, none have been approved during the past eight years since the imposition of the requirement. As a result of the registration requirement and of the government's inaction on registration applications, all of Eritrea's religious communities, except the four government-sanctioned ones, lack a legal basis on which to practice their faiths publicly.

*The Situation of Evangelical and Pentecostal Christians*

As part of the campaign against the religious activities of those persons not belonging to officially recognized religious denominations, Eritrean security forces continue to disrupt private worship, conduct mass arrests of participants at religious weddings, prayer meetings, and other gatherings, and detain those arrested without charge for indefinite periods of time. Evangelical and Pentecostal Christians frequently have been targeted.

Because of government restrictions and the fact that releases sometimes go unreported, it is difficult to determine the precise number of persons imprisoned for their membership in or activities with unregistered religious groups. International human rights and Christian advocacy groups estimate those imprisoned on religious grounds as numbering 2,000 to 3,000, with the number reportedly declining toward the end of the reporting period. According to the State Department, Eritrean “authorities continued to detain, harass, and abuse hundreds of followers of various unregistered churches (mostly Protestant) during [2009].” For example, in December 2009 a group of 30 women, many described as “elderly” members of the Faith Mission Church, were arrested during a private prayer meeting at a home in Asmara. Although all were subsequently released, this mass arrest continued a pattern of disruption by the security forces of private religious and social gatherings of unregistered religious groups, thus denying these individuals the opportunity of even private worship.

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

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

*The Situation of Dissident Muslims*

In addition to Evangelical and Pentecostal Christians, scores of members of Eritrea’s large Sunni Muslim community are reportedly imprisoned, some for over 15 years. In January 2009, the security forces arrested 30 individuals described by the government as “radical Muslims.” They were subsequently released with warnings to cease their alleged radical activities and to keep their beards shaved. Eritrea has legitimate concerns regarding violent Islamists. Before Eritrea and Sudan normalized relations in 2006, Islamists operating out of Sudan engaged in a low-level insurgency against the Eritrean government, occasionally employing terrorism in their campaign to establish an Islamic state. International human rights organizations report, however, that many of the Muslims detained without charge are non-violent critics of the government-imposed leadership of the Muslim community or policies that discriminate against independent Muslims. Ironically, during the reporting period, Eritrea has faced

mounting international pressure over its support of Islamist groups in Somalia opposed to Somalia's Transitional Federal Government, which is recognized by Ethiopia.

*The Situation of the Jehovah's Witnesses*

Since 1994, the government of Eritrea has denied a range of government services and civil and political rights to members of the country's small community of Jehovah's Witnesses. Many Jehovah's Witnesses refused on religious grounds to participate in the 1993 referendum on independence or to accept the national military service required of all citizens, both male and female. The government chose to interpret these actions as a rejection of Eritrean citizenship. In accordance with a decree issued in October 1994 by Eritrea's current President, Jehovah's Witnesses are barred from obtaining government jobs, business licenses, and government-issued identity and travel documents. Without Eritrean identity cards Jehovah's Witnesses are prevented from obtaining legal recognition of marriages and land purchases.

Due to their beliefs on conscientious objection to military service, the requirement of a military training component for secondary school graduation without a non-military alternative service option effectively denies educational and employment opportunities to young Jehovah's Witnesses, causing many to flee the country. Some children of Jehovah's Witnesses have been expelled from school because of their refusal to salute the flag or to pay for membership in the officially sanctioned national organization for youth and students.

There are 60 Jehovah's Witnesses currently detained in Eritrea without trial, or administrative appeal, in violation of minimal rights to due process. Although the maximum legal penalty for refusing to perform national service is two years, some Jehovah's Witnesses who have refused to serve in the military have been detained without trial for more than 15 years. Other Jehovah's Witnesses have been arrested and imprisoned for meeting together for worship or for expressing their faith to others. Some of those arrested have been quickly released, while others have been held indefinitely without charge. On June 28, 2009, 23 members of one congregation of Jehovah's Witnesses in Asmara were arrested when gathered for private worship. No reason was given for their arrests. In contrast to arrests of draft-age individuals made because of alleged refusal to participate in national service, a third of the Jehovah's Witnesses currently detained are reported to be over 60 years of age.

Jehovah's Witnesses released from detention have reported being kept for months in a 20-foot metal shipping container holding over 20 individuals, most of whom were Jehovah's Witnesses but including several Pentecostals. Prisoners were permitted to leave the container for limited periods twice a day. Prisoners were urged to renounce their faith in writing, to return to their "previous faith" (understood to be the Coptic Orthodox Church), and ordered not to pray aloud, sing, or preach. No books were allowed. The punishment for disobedience was to be chained outdoors for a day and a night.

*The Situation of the Coptic Orthodox Community*

Since 2005, the government has intervened in the internal affairs of the Orthodox Church of Eritrea, the country's largest Christian denomination and the institutional expression of the country's traditionally-dominant Coptic form of Christianity. Security forces targeted reformist elements in the Orthodox Church, arresting religious activists and preventing their meetings. In July 2005, the government revoked the exemption of Orthodox priests, monks, and deacons from mandatory national service, reportedly resulting in a shortage of clergy, particularly in smaller, rural churches. Patriarch Abune Antonios reportedly opposed the government's actions. In 2006, Patriarch Antonios was deposed and placed under a strict form of house arrest, prevented from communicating with the outside world, and reportedly denied medical care. In May 2007, a new, more compliant Orthodox Patriarch was installed under

government pressure. A government-appointed administrator who is not a member of the Orthodox clergy manages the Church's affairs and controls the Church's finances. However unlike previous years, there were no reports of new arrests of reformist members of the Orthodox clergy in 2009.

## **U.S. Policy**

According to the State Department, U.S. interests in Eritrea include encouraging the government of Eritrea to contribute to regional stability, consolidating the peace with Ethiopia and Djibouti, encouraging progress toward establishing a democratic political culture, supporting Eritrean efforts to become involved constructively in solving regional problems, assisting Eritrean efforts in dealing with its humanitarian and development needs, and promoting economic reform. The United States closed its USAID Mission in December 2005, however, after the Eritrean government requested the termination of U.S. development assistance.

U.S. relations with Eritrea have been heavily influenced, often adversely, by strong U.S. ties with Ethiopia. The United States opposed self-determination for Eritrea in the early 1950's, favoring a union with Ethiopia. In 1961, Eritrean resistance to Ethiopian rule escalated into a 30-year old liberation struggle. During the first half of the conflict, Ethiopia received U.S. support; during the second, the Soviet Bloc intervened unsuccessfully by supporting the Ethiopian Mengistu regime against the Eritrean insurgents.

After independence in 1993, Eritrea fought a costly border war with Ethiopia in 1998-2000. The United States, the UN, the European Union, and the now-defunct Organization of African Unity were formal witnesses to the 2000 accord ending that conflict. However, Eritrean-Ethiopian relations remain tense due to Ethiopia's refusal to permit demarcation of the boundary according to the 2002 decision of an independent commission based at the International Court of Justice. The U.S. government views the commission's decision as "final and binding" and expects both parties to comply. The United States was the largest financial contributor to the now-defunct UN peacekeeping force—the UN Mission in Ethiopia and Eritrea (UNMEE)—separating the two armies. The UN Security Council terminated the mandate of UNMEE in July 2008 "in response to crippling restrictions imposed by Eritrea on UNMEE."

The State Department designated Eritrea a CPC under IRFA in September 2004. When renewing the CPC designation in September 2005, the State Department announced the denial of commercial export to Eritrea of defense articles and services covered by the Arms Export Control Act, with some items exempted. This represents the only unique presidential action to be undertaken via the IRFA regime in response to a CPC designation. The Eritrean government subsequently intensified its repression of unregistered religious groups with a series of arrests and detentions of clergy and ordinary members of the affected groups.

On December 23, 2009, the United States joined in a 13-member majority on the UN Security Council in adopting Resolution 1907, sanctioning Eritrea for having "provided support to armed groups undermining peace and reconciliation in Somalia" as well as for not having withdrawn its forces following clashes with its smaller neighbor Djibouti. There was only one vote against the measure (Libya), with China, a Permanent Member of the Security Council, abstaining. The sanctions include an arms embargo, travel restrictions, and asset freezes for the Eritrean government's political and military leaders and other individuals designated by the Security Council's Committee on Somalia Sanctions. The sanctions, which had been called for by the African Union, are in response to Eritrea's refusal to withdraw troops from a border dispute with Djibouti and its arming, training, and equipping of armed opposition groups in Somalia, particularly the Islamist insurgent group Al-Shabaab, which is designated by the U.S. government as a "foreign terrorist organization."

## **Recommendations**

### **I. Advancing Religious Freedom through IRFA Mechanisms**

In addition to continuing to designate Eritrea as a CPC, the U.S. government should:

- maintain the denial of commercial export to Eritrea of defense articles and services covered by the Arms Control Export Act, with some items exempted, as announced by the Secretary of State in September 2005;
- impose targeted sanctions, such as asset freezes and travel bans, against individuals and institutions identified as responsible for, or complicit in, serious human rights abuses, including, as appropriate, the President, the government-appointed administrator of the Orthodox Church of Eritrea, the security forces and their officers, and the ruling party and ruling party officials; and
- prohibit any foreign company's raising capital or listing its securities in U.S. markets if it is engaged in the development of Eritrea's mineral resources or involved with ventures with the government or government-controlled entities.

### **II. Pressing for Immediate Improvements to End Religious Freedom Violations**

The U.S. government should urge the government of Eritrea to undertake immediately the following actions to improve respect for religious freedom in that country:

- release detainees held solely on account of their peaceful religious activities, and release the deposed Orthodox Patriarch Abune Antonios from house arrest and permit him to receive needed medical attention;
- implement the constitution's existing guarantees of freedom of thought, conscience, and religion, including the freedom to practice any religion and to manifest such practice, regardless of registration status;
- institute a registration process for religious groups that is transparent, non-discriminatory, not overly burdensome, and otherwise in accordance with international standards;
- promptly register those religious groups that comply with the requirements issued in 2002, and not require religious groups to provide identifying information on individual members;
- take official, public action to permit religious groups to resume their public religious activities pending registration, including reopening of places of worship closed by the ban in 2002;
- issue a public order to the security forces reminding them that religious practice is not to be interfered with, except in those circumstances permitted by international law; and
- extend an official invitation for visits by the UN Special Rapporteur on Freedom of Religion or Belief and the UN Working Group on Arbitrary Detention.

### **III. Advancing Religious Freedom through Other Bilateral and Multilateral Efforts**

The U.S. government should:

- engage in vigorous advocacy of religious freedom and other universal human rights at all levels of involvement with the government of Eritrea and draw international attention to religious freedom abuses there, including in multilateral fora such as the UN;
- seek the creation by the UN Human Rights Council of a Special Rapporteur position for Eritrea or, failing that, a visit to Eritrea by a team of thematic Special Rapporteurs, including the Special Rapporteurs on Freedom of Religion or Belief and Freedom of Opinion and Expression;
- condition any resumption of development assistance to Eritrea on measurable improvements in religious freedom and, if such assistance is to be resumed, ensure that it is directed to programs that contribute directly to democracy, human rights, and the rule of law;
- encourage unofficial dialogue with Eritreans on religious freedom issues, specifically by:
  - promoting a visit to Eritrea by U.S. leaders concerned with freedom of thought, conscience, and religion or belief to meet with Eritrean authorities and other opinion-makers and to facilitate dialogue among all of Eritrea's religious communities;
  - expanding the use of educational and cultural exchanges, such as the Fulbright Program, the International Visitor Program, and lectures by visiting American scholars and experts, to introduce more Eritreans to the workings and benefits of societies in which religious freedom and other human rights are respected;
- seek the cooperation of other countries in promoting greater understanding by Eritreans of international standards regarding freedom of religion or belief;
- intensify international efforts to resolve the current impasse between Eritrea and Ethiopia regarding implementation of the boundary demarcation as determined by the "final and binding" decision of the International Boundary Commission that was established following the 1998-2000 war; and
- in the event of the future creation, as previously recommended by USCIRF, of an independent national human rights commission in Eritrea, work to ensure that such a commission receives appropriate technical training in human rights and the law, operates according to due process and international human rights standards, and is established in accordance with the Paris Principles<sup>5</sup> for such organizations, including independence, adequate funding, a representative character, and a broad mandate that includes freedom of thought, conscience, and religion or belief.

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<sup>5</sup> *Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights*, found in the Annex to *Fact Sheet No. 19, National Institutions for the Promotion and Protection of Human Rights*, Office of the High Commissioner for Human Rights (<http://www.unhcr.ch/html/menu6/2/fs19.htm>).

## Iran

**FINDINGS:** The government of Iran continues to engage in systematic, ongoing, and egregious violations of religious freedom, including prolonged detention, torture, and executions based primarily or entirely upon the religion of the accused. Iran is a constitutional, theocratic republic that discriminates against its citizens on the basis of religion or belief. During the past year, the Iranian government's poor religious freedom record deteriorated, especially for religious minorities such as Baha'is, Christians and Sufi Muslims, and physical attacks, harassment, detention, arrests, and imprisonment intensified. Even the recognized non-Muslim religious minorities – Jews, Armenian and Assyrian Christians, and Zoroastrians – protected under Iran's constitution faced increasing discrimination and repression. Dissident Muslims were increasingly subject to abuse and several were sentenced to death and even executed for the capital crime of *moharebeh* ("waging war against God)." A revised penal code that would codify serious punishments, including the death penalty, for converts from Islam remains under consideration by the Iranian parliament. Heightened anti-Semitism and repeated Holocaust denials by senior government officials have increased fear among Iran's Jewish community. Since the 1979 Iranian revolution, members of minority religious communities have fled Iran in significant numbers for fear of persecution.

Since 1999, the State Department has designated Iran as a "country of particular concern," or CPC, under the International Religious Freedom Act (IRFA). The Commission recommends in 2010 that Iran again be designated as a CPC.

Since the disputed June 12, 2009 elections, human rights and religious freedom conditions in Iran have regressed to a point not seen since the early days of the Islamic revolution. Killings, arrests, and physical abuse of detainees have increased, including for religious minorities and Muslims who dissent or express views perceived as threatening the legitimacy of the government. The Iranian government has repressed its citizens on the basis of religious identity for years. However, in recent months it has increasingly manipulated the reach of its religious laws to silence, and in some cases put to death, Shi'a Muslims simply for exercising their internationally protected rights to freedom of expression and freedom of thought, conscience, and religion or belief.

**PRIORITY RECOMMENDATIONS:** The U.S. government should invoke IRFA's statutory provisions by identifying those Iranian officials and entities responsible for severe religious freedom violations and imposing travel bans and asset freezes on those individuals. The U.S. government should also work with its European allies to do the same. Current U.S. policy on human rights in Iran has primarily relied on the issuance of statements or reports, and USCIRF concludes that it is now time to go further and take concrete policy action against human rights violations in Iran. USCIRF urges the U.S. government to continue to vigorously speak out, including during P5+1 talks and in any other formal or informal bilateral or multilateral fora, about deteriorating human rights and religious freedom conditions, and to demand the release of all prisoners of conscience. In addition, the U.S. government should use appropriated funds to advance Internet freedom and protect Iranian activists from harassment and arrest by developing new technologies and immediately distributing proven and field-tested programs to counter censorship. Additional recommendations for U.S. policy toward Iran can be found at the end of this chapter.

## **Religious Freedom Conditions**

### *Heightened Concerns after the June 12 Disputed Elections*

Since the June 12, 2009 disputed elections, human rights and religious freedom conditions have regressed to a point not seen since the early days of the Islamic revolution 30 years ago. In the weeks and months following the elections, hundreds of thousands of Iranians demonstrated and protested in the streets. Security and paramilitary forces violently suppressed these demonstrations. Dozens of Iranians were killed and approximately 4,000-5,000 were arrested. Hundreds remain in detention. More than 100 prominent activists and demonstrators were tried in a mass “show trial” which started in August. Human rights groups reported that at least 20 of these defendants were sentenced to six months to 15 years in prison. At least three were sentenced to death and executed on a variety of charges, including baseless religious crimes, such as “waging war against God,” “spreading corruption on earth,” and “moral corruption.” Since the election, the Iranian government has leveled unsubstantiated charges against members of religious minority communities and others of crimes such as “confronting the regime” and apostasy and has followed the same trial procedures as in other national security cases.

### *Government Structure*

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

### *Majority and Minority Muslims*

Over the past few years, and especially after the contested June 2009 presidential election, the Iranian government has imposed harsh prison sentences on prominent reformers from the Shi’a majority community, many of whom have been tried on criminal charges of “insulting Islam,” criticizing the Islamic Republic, and publishing materials that allegedly deviate from Islamic standards. The Iranian government has been repressing its citizens on the basis of religious identity for years, but in recent months it increasingly manipulated the reach of its religious laws to silence, and in some cases put to death, Shi’a Muslims simply for exercising their internationally protected rights of freedom of expression and freedom of thought, conscience, religion, or belief.

In early 2010, the Iranian government started convicting and executing reformers and peaceful protestors on the charge of *moharebeh*. Reportedly, more than 10 individuals have been charged, convicted, and sentenced to death for *moharebeh*. At least three are known to have been executed during the past year.

Iranian authorities regularly detain and harass bloggers who write anything critical of the Islamic revolution or the Iranian government. The government requires bloggers to register their Web sites with the Ministry of Art and Culture. Government officials reportedly claim to have blocked millions of Web sites, particularly since the June 2009 elections. Pending legislation would make the creation of blogs promoting “corruption, prostitution, and apostasy” punishable by death. In November 2008, well-known Iranian-Canadian blogger Hossein Derakhshan was arrested in Tehran while visiting the country and remains in the notorious Evin prison in northwestern Iran. According to human rights groups, Derakhshan has been physically and psychologically abused while in prison. Although no formal charges have been filed, some groups have reported that Derakhshan may be charged with “insulting religion.” In March 2009, Iranian blogger Omid Mirsayafi died in prison while serving a 30-month sentence imposed by a revolutionary court in Tehran for “propaganda against the state” and criticism of religious leaders; Iranian authorities claim his death was a suicide, but his lawyer and family have demanded an investigation.

A number of senior Shi’a religious leaders who have opposed various religious and political tenets and practices of the Iranian government also have been targets of state repression, including house arrest, detention without charge, trial without due process, torture, and other forms of ill treatment. Since the June 2009 elections, the government has cracked down on clerics, prohibiting them from questioning the election results and from criticizing the government’s response to protests. In December 2009, Grand Ayatollah Hussein-Ali Montazeri, once the designated successor to Ayatollah Ruhollah Khomeini, died after years of imprisonment, harassment, and house arrest because of his strong criticism of clerical rule in Iran. Authorities even prevented supporters and mourners from attending Ayatollah Montazeri’s funeral in Qom by blocking streets leading to the funeral site. During demonstrations in late December just after Ayatollah Montazeri’s death, nearly 1,000 people were arrested by authorities. Approximately 200 remain in detention.

In 2006, Ayatollah Mohammad Kazemini Boroujerdi, a senior Shi’a cleric who advocates the separation of religion and state, was arrested and imprisoned. He and 17 of his followers were initially sentenced to death for *moharebeh*, but the death sentences were later withdrawn on appeal. Ayatollah Boroujerdi is serving an 11-year prison term and is reportedly in poor health. Some of his supporters have claimed that Ayatollah Boroujerdi has suffered physical abuse while in prison. He remains in jail.

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

During the past year, arrests and harassment of Sufi Muslims increased significantly. If the religious identity of a Sufi Muslim student was made known, the university generally expelled him or her. According to human rights groups, in July 2009 riot police and security forces arrested 20 Sufi practitioners in the northeastern city of Gonabad. They were among more than 200 Sufi dervishes who gathered to protest the arrest of Hossein Zareya, a local leader. The police reportedly injured several protesters with the use of force and tear gas. In February 2009, at least 40 Sufis in the central city of Isfahan were arrested after protesting the destruction of a Sufi place of worship; all were released within days.

In January 2009, Jamshid Lak, a Gonabadi Dervish from the Nematollahi Sufi order, one of the country's largest Sufi sects, was flogged 74 times after being convicted in 2006 of "slander" based on his public allegation of ill-treatment by a Ministry of Intelligence official. In late December 2008, after the closure of a Sufi Muslim place of worship, authorities arrested without charge at least six members of the Gonabadi Dervishes on Kish Island and confiscated their books and computer equipment; their status is unknown. In November 2008, Amir Ali Mohammad Labaf was sentenced to a five-year prison term, 74 lashes, and internal exile to the southeastern town of Babak for "spreading lies," based on his membership in the Nematollahi Gonabadi Sufi order. In October 2008, at least seven Sufi Muslims in Isfahan, and five others in Karaj, were arrested because of their affiliation with the Nematollahi Gonabadi Sufi order; they remain in detention.

### *Non-Muslim Religious Minorities*

The constitution of Iran formally recognizes Christians, Jews, and Zoroastrians as protected religious minorities who may worship freely and have autonomy over their own matters of personal status (e.g. marriage, divorce, and inheritance). Nevertheless, the primacy of Islam and Islamic laws and institutions adversely affects the rights and status of non-Muslims and the recognized religious minorities live, in effect, as second class citizens. Members of these groups are subject to legal and other forms of discrimination, particularly in education, government jobs and services, and the armed services. In addition, their places of worship are frequently defaced with graffiti and photos of the religious leadership. Their private schools are administered by Iran's Ministry of Education, which imposes a state-approved religious curriculum.

Non-Muslims may not engage with Muslims in public religious expression or persuasion; some also face restrictions on publishing religious material in Persian. In 2004, the Expediency Council authorized collection of equal blood money for the death of Muslim and non-Muslim men. Baha'is, Sabean Mandaean men, and all women remain excluded from the revised ruling. According to Iranian law, Baha'i blood is *mobah*, which means members of the Baha'i faith can be killed with impunity. Beginning in August 2005, and particularly since the June 2009 elections, the Iranian government has intensified its campaign against non-Muslim religious minorities. A consistent stream of virulent and inflammatory statements by political and religious leaders and an increase in harassment and imprisonment of, and physical attacks against, these groups has led to a renewal of the kind of oppression seen in the years immediately following the Iranian revolution in the early 1980s. Ayatollah Ahmad Jannati, head of the Guardian Council, has publicly attacked non-Muslims and referred to them as "sinful animals" and "corrupt." In early 2008, the Iranian parliament began considering a new law that would impose serious punishments, including the death penalty, on converts from Islam. In September 2008, a committee in the *Majlis* approved advancing the amended language on apostasy, which could be passed by the full *Majlis* in the near future. Although the Iranian government has in the past applied the death penalty for apostasy under Islamic law, it has not been explicitly codified. If the proposed law is passed, it would further endanger the lives of all converts from Islam, particularly members of the Baha'i faith, who are already considered apostates, even if they are fourth- or fifth-generation Baha'i adherents.

### *Baha'is*

The Baha'i community has long been subject to particularly severe religious freedom violations in Iran. Baha'is, who number at least 300,000, are viewed as "heretics" by Iranian authorities and may face repression on the grounds of apostasy. Since 1979, Iranian government authorities have executed more than 200 Baha'i leaders in Iran, and more than 10,000 have been dismissed from government and university jobs. Baha'is may not establish places of worship, schools, or any independent religious associations in Iran. In addition, Baha'is are barred from the military and denied government jobs and

pensions as well as the right to inherit property. Their marriages and divorces also are not recognized, and they have difficulty obtaining death certificates. Baha'i cemeteries, holy places, and community properties are often seized or desecrated and many important religious sites have been destroyed. In recent years, Baha'is in Iran have faced increasingly harsh treatment, including increasing numbers of arrests and detentions and violent attacks on private homes and personal property. Baha'i property has been confiscated or destroyed and dozens of Baha'is have been harassed, interrogated, detained, imprisoned, or physically attacked.

Nearly 300 Baha'is have been arbitrarily arrested since early 2005 and, at present, at least 45 Baha'is remain in prison on account of their religious identity. In March and May 2008, seven Baha'i leaders – Fariba Kamalabadi, Jamaloddin Khanjani, Afif Naemi, Saeid Rezaie, Mahvash Sabet, Behrouz Tavakkoli, and Vahid Tizfahm – were arrested and taken to the notorious Evin prison in Tehran, where they remain today. After numerous postponements, the trial for the five men and two women started in January and is still ongoing. They were formally charged with espionage, propaganda activities against the Islamic order, the establishment of an illegal administration, cooperation with Israel, sending secret documents outside the country, acting against the security of the country, and “corruption on earth.” Attorneys for the seven Baha'is, who have had extremely limited access to their clients and files, say that the charges against them have no merit and are baseless.

Since January 1, 2010, at least 50 Baha'is have been arbitrarily arrested. At least 14 Baha'is were arrested in March in several different cities throughout the country, including Marvdasht, Mashhad, Semnan, Isfahan, Shiraz, Kermanshah, and Sari. Approximately 13 Baha'is were detained in February, several of whom remain in jail. Another 13 Baha'is were arrested in early January and 10 remain in detention. Other arrests in 2010 occurred in several other cities, including Tehran, Babolsar, Karaj, Nazarabad, and Shahrekord. Most of the detentions followed the similar pattern of Ministry of Intelligence officials appearing at the homes of Baha'is, searching the premises and confiscating computers, books and other materials, and then making arrests. No charges have been filed. According to human rights groups, between October 2009 and mid-February 2010, there were 47 new cases of arbitrary detention of Baha'is. In addition, throughout 2009, Baha'is in several cities across the country were targets of arson attacks; in all cases, police said nothing could be done to find the perpetrators. Dozens of Baha'is are awaiting trial while others were sentenced to prison terms ranging from 90 days to several years in 2009 and 2010. All of those convicted are reportedly in the process of appealing the verdicts. In March 2010, at least 50 young Baha'is, some of whom received prison sentences ranging from one to four years for teaching underprivileged children in southeastern Iran in 2006, were banned from travel outside the country.

In the past year, Baha'i cemeteries in various parts of the country, including Tehran, Ghaemshahr, Marvdasht, Semnan, Sari, and Isfahan, have been desecrated, defaced, or in some way blocked to the Baha'i community. In February 2009, a Baha'i cemetery in Semnan in northern Iran was desecrated, and in January, another Baha'i cemetery was destroyed in Ghaemshahr. Baha'i cemeteries also have been destroyed in Yazd and outside of Najafabad in central Iran. In the past several years, several articles in the government-controlled newspaper *Kayhan*, whose managing editor is appointed by Supreme Leader Ayatollah Khamenei, have vilified and demonized the Baha'i faith and its community in Iran. Iranian authorities also have gone to great lengths in recent years to collect information on all members of the Baha'i community in Iran and to monitor their activities.

In the past, Baha'is in Iran have not been allowed to attend university. Although the Iranian government maintains publicly that Baha'is are free to attend university, reports over the past year indicate that the *de facto* policy of preventing Baha'is from obtaining higher education remains in effect. Of the very few Baha'is who are enrolled in universities, several were expelled during the past year once their religious beliefs became known. Furthermore, during the past few years, young Baha'i schoolchildren in primary

and high schools increasingly have been vilified, pressured to convert to Islam, and in some cases expelled on account of their religion.

### *Christians*

During the reporting period, there has been a significant increase in the number of incidents of Iranian authorities raiding church services, detaining worshippers and church leaders, and harassing and threatening church members. Christians, particularly Evangelical and other Protestants, continue to be subject to harassment, arrests, close surveillance, and imprisonment; many are reported to have fled the country. Indigenous Assyrian and Armenian Christian religious leaders also have been targeted. Since becoming president, Iranian President Mahmoud Ahmadinejad has called for an end to the development of Christianity in Iran. The government requires Evangelical Christian groups to submit congregation membership lists.

In February 2010, Hamid Shafiee, a Christian priest, and his wife, Reyhaneh Aghajari, were arrested in the central city of Isfahan. Security agents seized their personal belongings, including books, telephones, CDs, and a number of Bibles in Persian. Their whereabouts and the charges against them are unknown. The same month, nine Christians, including Assyrian pastor Wilson Issavi, were arrested in Isfahan. Issavi was released in late March, but the whereabouts of the others are unknown and no charges have been filed. Also in February, an Armenian Christian pastor, Vahik Abrahamian, was arrested in Tehran; reportedly, he is being held in Evin prison. In January, Reverend Issavi's Assyrian Evangelical Church in Kermanshah, western Iran, was shut down by authorities. Also in January, in the southwestern city of Shiraz, seven Christians were detained, and, according to the Farsi Christian News Network, most face charges of apostasy; their status is unknown. In late December 2009, at least 15 Christians were arrested in Tehran; 12 were released in January while three – Maryam Jalili, Mitra Zahmati, and Farzan Matin – were released in March after almost three months in prison.

Between June and August 2009, there were at least 30 cases of Christians arrested and detained across the country, mostly during church gatherings. All were released by September. In March 2009, two women, Marzieh Esmailabad and Maryam Rustampoor, were arrested for practicing Christianity after authorities raided and confiscated materials from their home. Iranian officials reportedly claimed the two women were engaging in “anti-government” activities, although the charges were never substantiated. In October, the women reportedly were brought before the court and charged with additional crimes: propagation of the Christian faith and apostasy. However, in November, both women were released without bail, although they could still face charges of proselytization and/or apostasy. It is a common practice, particularly in cases involving offenses based on religious belief, for Iranian authorities to release prisoners but to leave the charges against them or their convictions in place in order to be able to threaten them with re-imprisonment at any future time.

In January 2009, three Christian converts, Jamal Ghalishorani, Nadereh Jamali and Hamik Khachikian, were arrested in Tehran for engaging in underground house church activity. No formal charges were made and all were released within one to two weeks, although Ghalishorani and Jamali have an open case against them. In August 2008, five Christian converts were arrested, including Ramtin Soodmand, the son of Assemblies of God pastor Hossein Soodmand, who was executed in 1990. All were released by October, although Soodmand continues to await trial on charges of “promoting propaganda against the Islamic Republic.”

### *Sabean Mandaean*

During the past few years, the unrecognized Sabean Mandaean religious community, numbering between 5,000 and 10,000 people, has been facing intensifying harassment and repression by authorities. There

were reports that members of the Sabeen Mandaean community experienced societal discrimination and pressure to convert to Islam, and they were often denied access to higher education.

### *Jews and Anti-Semitism*

In recent years, official policies promoting anti-Semitism have risen sharply in Iran, and members of the Jewish community have been targeted on the basis of “ties to Israel,” whether real or perceived. President Ahmadinejad and other top political and clerical leaders have made public remarks during the reporting period denying the Holocaust and calling for the elimination of the state of Israel. In 2009, there was an increase in this officially sanctioned, anti-Semitic propaganda, involving official statements, media outlets, publications, and books. In recent years, in line with a stepped-up state-sponsored campaign, numerous programs broadcast on state-run television advanced anti-Semitic messages, a prominent newspaper held a Holocaust denial editorial cartoon contest, and the Iranian government sponsored a Holocaust denial conference. Anti-Semitic editorial cartoons depicting demonic and stereotypical images of Jews, along with Jewish symbols, were also published in the past year.

Official government discrimination against Jews continues to be pervasive, fostering a threatening atmosphere for the approximately 25,000-30,000 member Jewish community. According to the State Department, despite minimal restrictions on Jewish religious practice education of Jewish children has become increasingly difficult in recent years, and distribution of Hebrew religious texts is strongly discouraged.

### *Women*

The government’s enforcement of its official interpretation of Islam negatively affects the human rights of women in Iran, including their freedom of movement, association, and thought, conscience, and religion or belief, as well as freedom from coercion in matters of religion or belief. The Iranian justice system does not grant women the same legal status as men. For example, testimony by a man is equivalent to the testimony of two women. Provisions from both the Civil and Penal Codes, in particular those sections dealing with family and property law, discriminate against women.

Over the past few years, several women’s rights activists have been arrested, and some remain in prison, for their involvement in collecting signatures for the Campaign for Equality aimed at ending discrimination against women in the application of Islamic law in Iran. Some of the activists’ demands included: that women’s testimony in court carry the same weight as men’s; equal inheritance rights for men and women; eliminating polygamy; and equal compensation payments for women and men in the event of wrongful death. In March 2009, 10 members of the Campaign for Equality’s One Million Signatures Campaign were detained, along with two other women’s rights activists; all were released within days or weeks. However, in December 2009, authorities arrested three Campaign members – Atiey Youseffi, Somayeh Rashidi, and Mansourreh Shojaaei. All three remain in prison, and some reports indicate that Rashidi is being held in solitary confinement.

### *Human Rights Defenders and Internet Freedom*

During the past year, the Iranian government also cracked down on and arbitrarily arrested approximately 30 human rights defenders and activists in the country who reported on human rights violations, including violations of freedom of religion or belief. The crackdown included cyber attacks on Persian and English language Web sites of several human rights groups, which limited the ability of these groups to send reports on human rights and religious freedom abuses outside the country. In addition, the Iranian government took measures to prevent its citizens from freely communicating and receiving information

through television, radio satellite broadcasting, and the Internet, including information related to violations of freedom of religion or belief.

#### *Government Rejection of UN Recommendations*

In February 2010, at the Universal Periodic Review (UPR) of Iran at the UN Human Rights Council (HRC) in Geneva, the government of Iran rejected a number of recommendations from countries urging it to comply with its international human rights responsibilities, including those related to freedom of religion or belief. The U.S. delegation, headed by Assistant Secretary for Democracy, Human Rights, and Labor Michael Posner, issued a strong written statement, which included several religious freedom concerns and recommendations. The United States was the first country to deliver an oral statement at the Iran UPR, although the statement as delivered did not adequately address the plight of the Baha'i community. The Iranian government agreed to a few recommendations that, if fully implemented in practice, would advance religious freedom in the country. Such recommendations include upholding constitutional provisions guaranteeing freedom of worship, respecting freedom of religion, protecting religious minorities, and ensuring a fair and transparent trial for the seven Baha'i leaders as guaranteed under international human rights treaties to which Iran is a party.

During the UPR, Iran's head of delegation, Secretary General of the High Council for Human Rights of the Judiciary, Mohammad Javad Larijani, and other delegation members claimed that religious minorities in Iran are protected under Iran's constitution and allowed to engage in religious activity freely. However, these claims are contrary to the facts on the ground. In addition, Larijani specifically responded to a question about the status of Baha'is in Iran by saying that no Baha'i had ever been prosecuted because of his or her faith, but only because of "cult-like activity." USCIRF is concerned that the U.S. government and the international community did not vigorously refute these fabricated assertions at the session.

In October 2009, UN Secretary General Ban Ki-Moon issued a report on the situation of human rights in Iran, which included details of abuses, including arbitrary detentions and false imprisonment, against religious minorities, particularly Baha'is. The report also documented arbitrary arrests and abuse of Sufi and Sunni Muslims. In December 2009, the UN General Assembly adopted a resolution condemning the Iranian government's poor human rights record, including its continued abuses targeting religious minorities and the escalation and increasing frequency of violations against Baha'is, Christians, Jews, and Sufi and Sunni Muslims.

#### **U.S. Policy**

The U.S. government has not had diplomatic relations with the government of Iran for 30 years, and U.S. law prohibits nearly all trade with Iran. Sanctions have been imposed on Iran because of its sponsorship of terrorism and its refusal to comply with International Atomic Energy Agency (IAEA) regulations regarding its nuclear program. According to the State Department, these sanctions target the Iranian government, not the people of Iran. As a result, there are a number of exemptions, including exports of U.S. agricultural and medical products to Iran, U.S. donations of humanitarian articles, and U.S. imports of Iranian carpets and certain food items.

During the past year, in multilateral fora and through public statements, the United States has urged the Iranian government to respect its citizens' human rights, including the right to religious freedom. It also has drawn attention to the country's human rights abuses and encouraged the government to uphold its international human rights obligations. In December 2009, for the seventh year in a row, the U.S. government co-sponsored and supported a successful UN General Assembly resolution – which passed 74-48, with 59 abstentions – condemning Iran's ongoing and severe human rights abuses.

The Obama administration shares the goals of previous U.S. administrations to contain Iran's strategic capabilities and regional influence and views Iran as a "profound threat to U.S. national security interests." Unlike previous administrations, however, the Obama administration has sought direct diplomatic engagement with the Iranian government. In October 2009, the U.S. government and other world powers (Britain, France, Russia, China, Germany, a group referred to with the United States as the P5+1), began talks in Geneva with the Iranian government over its nuclear program. Reportedly, the U.S. delegation privately raised some human rights issues on the sidelines of those negotiations. However, by late 2009 and early 2010 the lack of progress on a tentative agreement related to Iran's nuclear program resulted in a shift in policy, and the U.S. government began to express support for reformers in Iran and to issue more frequent public statements highlighting the Iranian government's human rights and religious freedom abuses.

In February 2010, the United States and the European Union condemned ongoing human rights violations in Iran and called on the Iranian government to fulfill its international human rights obligations. Also in February, the U.S. government sent its top human rights official, Assistant Secretary Michael Posner, as the head of delegation to the UPR of Iran. However, the U.S. government did not introduce a resolution on Iran at the UN HRC in March 2010. The Obama administration is currently pursuing a fourth round of UN Security Council sanctions targeting Iran's nuclear ambitions. Three previous Security Council resolutions have been passed since 2006, each imposing sanctions related to Iran's nuclear program.

In January 2010, the U.S. Senate passed a bill (S. 2799) that would impose targeted sanctions on Iran due to its nuclear program. The bill also includes sense of Congress provisions reflecting USCIRF's recommendations to urge the President to: press the Iranian government to respect its citizens' human rights and religious freedoms; identify Iranian officials responsible for violating these rights; and prohibit their entry into the U.S. and freeze their assets. Senator John McCain (R-AZ) is pressing to ensure that a provision that would impose sanctions on human rights violators is included in the bill that emerges from conference with the House-passed measure (H.R. 2194).

According to the State Department's 2009 *Advancing Freedom and Democracy Report*, the U.S. government seeks to increase Iranian citizens' access to information about international human rights standards and to publicize the Iranian government's human rights abuses through Voice of America radio and television broadcasts, the Persian-language version of the America.gov Web site, and the Persian-language radio station Radio Farda, which broadcasts to Iran. Additionally, since 2004, the U.S. government has funded a wide range of programs to support civil society, human rights, and rule of law in Iran, as well as to expand the free flow of information and the documentation of human rights abuses in Iran. However, in 2009, a number of civil society groups that previously received State Department funding were informed they will no longer receive such support. U.S. government officials have stated that this is due to the funding origination shifting from the State Department's Near East Bureau to the U.S. Agency for International Development (USAID). According to USAID, in 2010 funding will "continue to include support for civil society and advocacy, promoting the rule of law and human rights, and increasing access to alternative sources of information" in Iran.

In Fiscal Year (FY) 2009, \$65 million in Economic Support Funds was requested "to support the aspirations of the Iranian people for a democratic and open society by promoting civil society, civic participation, media freedom, and freedom of information." In FY 2010 and 2011, no request was made for specific democracy or human rights programming, although some portion of the \$40 million requested for Near East democracy programs likely will be used to support continued human rights and public diplomacy programming in Iran.

IRFA requires that the President take at least one of an array of specified punitive actions, including economic sanctions, against those countries that are designated as "countries of particular concern," or

CPCs, for their particularly severe religious freedom violations. Iran has been designated as a CPC for 10 years, but no IRFA-related sanction has been ever been imposed. Instead, the U.S. government has relied merely on existing sanctions. USCIRF concludes that, in light of the rapidly deteriorating conditions for religious freedom in Iran over the past year, the time has come for the U.S. government to impose specific, additional sanctions under IRFA (see Recommendations, section II, below). The U.S. government should also work with its European allies so that they do the same.

### **USCIRF Activities**

USCIRF spoke out on numerous occasions in 2009-10 about deteriorating religious freedom conditions in Iran. In February 2010, USCIRF chair Leonard Leo testified at a Tom Lantos Human Rights Commission hearing on *The Current Status of Human Rights and Religious Freedom in Iran*. Also in February, on the occasion of the 31st anniversary of the Islamic revolution in Iran, USCIRF released a statement condemning years of religious abuse, with a particular focus on recent Iranian government efforts to convict and execute peaceful activists and reformers on the charge of waging war against God. In January 2010, USCIRF issued a public statement condemning the start of the trial against seven Baha'i leaders and called for their immediate release. In October 2009, USCIRF wrote to Secretary of State Hillary Clinton urging the U.S. government to include human rights and religious freedom issues as part of the P5+1 negotiations with Iran, as well as to impose religious freedom-specific sanctions on Iran. In July 2009, Roxana Saberi, the Iranian-American journalist held in Iran for nearly four months in early 2009, wrote to USCIRF urging increased U.S. attention to the situation of the seven imprisoned Baha'i leaders. She shared a prison cell with two of the Baha'i leaders in Evin prison in Tehran. In response, USCIRF called for the immediate release of the seven Baha'is.

In September 2008, Commissioners Felice D. Gaer and Michael Cromartie published an op-ed on the *Washington Post* website called "Don't Lend Despots the Veneer of Peace," which expressed concern about American religious groups inviting President Mahmoud Ahmadinejad to be the guest of honor at an event they were sponsoring during his visit to the United Nations that month. The article also detailed a number of religious freedom violations in Iran. In March 2008, Commissioner Nina Shea briefed members of Congress on religious freedom conditions in Iran at a congressional Iran Working Group briefing titled "Assessing the Human Rights Situation of Ethnic Religious Groups in Iran." In February 2008, the Commission held a hearing chaired by Commissioner Michael Cromartie on Capitol Hill entitled "Advancing Religious Freedom and Related Human Rights in Iran: Strategies for an Effective U.S. Policy," at which policy officials and Iran experts explored current U.S. policy toward Iran and highlighted the deteriorating religious freedom conditions and other human rights abuses taking place there.

In addition, during the past year Commission staff met with members of non-governmental organizations representing various religious communities in Iran, as well as Iran experts, human rights groups, and U.S. government officials and policymakers. USCIRF staff also made presentations at various events and venues related to human rights and religious freedom conditions in Iran.

### **Recommendations**

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

In addition to continuing to designate Iran as a CPC, the U.S. government should:

- at the highest levels, more frequently and vigorously speak out publicly about the severe religious freedom abuses in Iran, and draw attention to the need for the international community to hold Iranian authorities accountable in specific cases, including by calling on the Iranian government to:
  - release the seven Baha'i leaders—Fariba Kamalabadi, Jamaloddin Khanjani, Afif Naemi, Saeid Rezaie, Mahvash Sabet, Behrouz Tavakkoli, and Vahid Tizfahm—and other Baha'is in prison on account of their religion or belief, as well as drop all charges against those Baha'is who have cases pending against them;
  - permit the Baha'i community to practice their faith in Iran, rescind laws that permit members of the Baha'i faith to be killed with impunity, and allow full access for Baha'is to study in public universities without discrimination;
  - release all Christians, including Hamid Shafiee, Reyhaneh Aghajari, Maryam Jalili, Mitra Zahmati, Farzan Matin and Vahik Abrahamian, in prison on account of their religion or belief, and drop all pending charges against Christian converts, including Marzieh Esmaeilabad, Maryam Rustampoor Jamal Ghalishorani, Nadereh Jamali, and Ramtin Soodmand;
  - release Shi'a cleric Ayatollah Mohammad Kazemini Boroujerdi and other dissident Muslims, including Sufi Muslims, in prison on account of their religion or belief;
  - halt state-sponsored acts of anti-Semitism and Holocaust denial promotion campaigns, and, while vigorously protecting freedom of expression, counteract anti-Semitic rhetoric and other organized anti-Semitic activities by the President and other high-level government officials;
- work within its current overall policy framework to ensure that violations of freedom of religion or belief and related human rights are part of all formal and informal multilateral or bilateral discussions, including the P5+1 talks, with representatives of the Iranian government, including by pressing the Iranian government to:
  - release all prisoners of conscience, including members of Muslim and non-Muslim religious minority communities identified above;
  - ensure that the Penal Code is not amended to codify the death penalty for apostasy;
  - release from prison women's rights activists, including Atiey Youseffi, Somayeh Rashidi, and Mansourreh Shojaaei, who advocate for ending discrimination against women in the application of Islamic law in Iran;
  - release from prison human rights defenders and activists targeted for reporting human rights and religious freedom abuses in Iran on Persian and English language Web sites;
  - cease all messages of hatred and intolerance, particularly toward Jews and Baha'is, in the government-controlled media and remove the government-appointed editor of *Kayhan*;
  - cease the jamming of satellite broadcasting and Internet censorship and ensure the right to freedom of expression as set out in the International Covenant on Civil and Political Rights, to which Iran is a party;
- use appropriated Internet freedom funds to develop free, secure email access for use in Iran; facilitate the provision of high-speed internet access via satellite; and distribute immediately proven and field-

tested counter-censorship programs in order to prevent the arrest and harassment of religious freedom and human rights activists and help them maintain their freedom of expression and legitimate expectations of privacy;

- award funds appropriated by Congress to counter censorship in Iran, including from the FY10 Consolidated Appropriations Act, through a competitive and merit-based process;
- ensure that funding budgeted to promote democracy and human rights in Iran includes support for effective initiatives advancing freedom of religion or belief, as well as ways to promote rule of law and human rights defenders programs that specifically seek to protect religious minorities in Iran; and
- adequately fund U.S. public diplomacy entities, such as Voice of America and Radio Farda, and expand and develop new programming focusing solely on the situation of human rights—including the freedom of thought, conscience, and religion or belief—in Iran.

## **II. Fulfilling IRFA's Requirements and Imposing Targeted Sanctions**

The U.S. government should:

- invoke the statutory provisions of IRFA by identifying Iranian government agencies and officials responsible for particularly severe violations of religious freedom, including but not limited to:
  - General Mohammad Ali Jafari, Head of Iran's Revolutionary Guard Corps;
  - Mostafa Mohammad-Najjar, Minister of Interior;
  - Heydar Moslehi, Minister of Intelligence;
  - Sadegh Ardeshir Larijani, Head of the Judiciary;
  - Gholam-Hossein Mohseni-Ejei, Prosecutor General and former Minister of Intelligence;
  - Hossein Taeb, Head of the Intelligence Unit of the Revolutionary Guard Corps and former head of the Basij militia;
  - Mohammad Reza Naghdi, Head of the Basij militia;
  - Saeed Mortazavi, Deputy Prosecutor General and former Prosecutor General of the Islamic Revolutionary Court; and
  - Esmail Ahmadi-Moqaddam, Head of the National Police.
- bar from entry into the United States and freeze the assets of Iranian government officials identified as having engaged in particularly severe religious freedom violations, including but not limited to those listed above, and, where appropriate, immediate family members, and press our European allies to do the same.

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

The U.S. government should:

- oppose, and encourage other UN Member States to oppose, Iran's candidacy for membership to the UN HRC at the May 13, 2010 election;
- call on the UN HRC to follow up vigorously on Iran's compliance with the recommendations from the February 2010 UPR, including those related to freedom of religion or belief;
- continue to support an annual UN General Assembly resolution condemning severe violations of human rights, including freedom of religion or belief, in Iran, and calling for officials responsible for such violations to be held accountable;
- press for a resolution condemning severe violations of human rights in Iran, including freedom of religion or belief, at the UN General Assembly and at the UN Human Rights Council;
- call on the UN HRC to restore the position of UN Special Rapporteur on the situation of human rights in Iran with the task of investigating and reporting on human rights abuses in Iran;
- call on the UN HRC to monitor carefully and demand Iran's compliance with the recommendations of the representatives of those UN special representatives that have already visited Iran, particularly the Special Rapporteur on Freedom of Religion or Belief (1995), the Working Group on Arbitrary Detention (2003), the Special Rapporteur on the Right to Freedom of Opinion and Expression (2003), and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context (2005); and
- encourage the UN HRC to continue to use its existing procedures to maintain oversight of conditions for freedom of religion or belief in Iran, including continued visits and reporting by the Special Rapporteur on Freedom of Religion or Belief, the Special Rapporteur on Freedom of Opinion and Expression, and other relevant special rapporteurs and working groups, to which Iran has issued a standing invitation.

## **Iraq**

**FINDINGS:** Systematic, ongoing, and egregious religious freedom violations continue in Iraq. Members of the country's smallest religious minorities still suffer from targeted violence, threats, and intimidation, against which they receive insufficient government protection. Perpetrators of such attacks are rarely identified, investigated, or punished, creating a climate of impunity. The small communities also experience a pattern of official discrimination, marginalization, and neglect. In addition, there continue to be sectarian attacks, often with impunity, and tense relations between Shi'a and Sunni Iraqis, and other egregious, religiously-motivated violence also continues.

Based on these concerns, USCIRF again recommends in 2010 that Iraq be designated as a "country of particular concern," or CPC.\* The Commission recommended that Iraq be designated as a CPC in 2008 and 2009, and placed Iraq on its Watch List in 2007.

The religious freedom situation in Iraq remains grave, particularly for the country's smallest, most vulnerable religious minorities. The violence, forced displacement, discrimination, marginalization, and neglect suffered by members of these groups threaten these ancient communities' very existence in Iraq. These minorities, which include Chaldo-Assyrians and other Christians, Sabean Mandaeans, and Yazidis, continue to experience targeted violence, receive inadequate official protection or justice, and suffer discrimination. Since 2003, many have fled to neighboring countries, where they represent a disproportionately high percentage of registered Iraqi refugees. The diminished numbers remaining in the country are now concentrated in areas in the highly dangerous Nineveh governorate over which the Kurdish Regional Government (KRG) is seeking to extend its control, and they suffer abuses and discrimination as a result. Although the Iraqi government has publicly condemned violence against these groups, it continues to fall short in investigating the continuing attacks and bringing perpetrators to justice, and its efforts to increase security to minority areas are not adequate. In addition, though greatly reduced from 2006-07 levels, violence between Shi'a and Sunni Iraqis continues. Significant tensions between these groups remain, including tensions due to the ongoing government formation process. Finally, other religiously-motivated violence and abuse continues.

**PRIORITY RECOMMENDATIONS:** For Iraq to become a secure, diverse, and stable democracy, the United States must pay greater attention to helping ensure that the human rights of all Iraqis are guaranteed and enforced both in law and practice. With U.S. forces drawing down and a new Iraqi government being formed in the wake of the March 7 elections, the United States should emphasize, with both the new Iraqi government and the KRG, the urgent need to protect vulnerable religious minority communities and ensure them justice. USCIRF also recommends that the U.S. government appoint a special envoy for human rights in Iraq, create an inter-agency task force on Iraqi minority issues, and prioritize funding for projects that foster religious tolerance. Additional recommendations for U.S. policy towards Iraq can be found at the end of this chapter.

\*Commissioners Cromartie, Eid, and Land dissent from the CPC recommendation, believing that Iraq should be on the Watch List.

## **Religious Freedom Conditions**

### *The Smallest Religious Minorities*

Recent years in Iraq have seen alarming numbers of religiously-motivated killings, abductions, beatings, rapes, threats, intimidation, forced displacements, forced conversions, and attacks on religious leaders and holy sites. Many Iraqis—Muslim and non-Muslim alike—have suffered in this violence, but those from the country’s smallest, non-Muslim religious minorities have been particularly vulnerable. Members of these small groups continue to experience targeted violence and intimidation, do not have militia or tribal structures to defend themselves, and do not receive adequate official protection or justice. Many have fled to neighboring countries, and are not returning to Iraq. Those who remain in the country are now concentrated in the violent Nineveh governorate, where Kurdish and Arab parties dispute control.

Today, only half of the pre-2003 Iraqi Christian community is believed to remain in the country, with Christian leaders warning that the result of this flight may be “the end of Christianity in Iraq.”<sup>6</sup> In 2003, there were approximately 1.4 million Chaldean Catholics, Assyrian Orthodox, Assyrian Church of the East members, Syriac Orthodox, Armenians (Catholic and Orthodox), Protestants, and Evangelicals in Iraq. Today, that number is estimated to be only 500,000.

Sabeen Mandaean report that almost 90 percent of their small community either has fled Iraq or been killed, leaving some 3,500 to 5,000 Mandaeans in the country. This includes 150 families in Baghdad and only five Mandaean religious leaders. In 2003, the Mandaean community in Iraq reportedly numbered some 50,000 to 60,000. The Mandaean Associations Union and Mandaean leaders, refugees, and asylum seekers have told USCIRF that they do not see any future for Mandaeans in Iraq and have asked that the group be collectively resettled to a third country so that their religion, language, and culture can survive.

The Yazidi community reportedly now numbers approximately 500,000, down from some 700,000 in 2005. The Mandaean and Yazidi communities are particularly vulnerable because a person must be born into these religions, not convert or marry into them, and they do not proselytize or seek new adherents. Additionally, Mandaeans, followers of John the Baptist, are prohibited under their religion from using weapons and therefore cannot defend themselves.

Little is known about Iraq’s tiny Baha’i and Jewish communities. The Baha’i faith, estimated to have only 2,000 adherents in Iraq, remains banned under a 1970 law. Iraq’s ancient and once large Jewish community now numbers fewer than 10, who essentially live in hiding. Many Jews left Iraq in the years following the founding of the state of Israel, and a 2006 law precludes Jews who emigrated from regaining Iraqi citizenship.

Despite the overall drop in violence in the country, violence against religious minorities and their religious sites continued in 2009 and 2010, particularly in the northern disputed areas. As noted by the State Department in its 2009 *Annual Report on International Religious Freedom*, “the ‘surge’ by the Multinational Forces in Iraq, in coordination with Iraqi Security Force operations, reduced the overall level of violence in the country; however, significant effects were slow to trickle down to the country’s minority communities.” As discussed below, the few official attempts in the past year to improve security in minority areas and for minority religious sites were largely ineffective. Moreover, perpetrators of attacks on minorities were rarely identified, investigated, or punished. As the State Department reported,

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<sup>6</sup> Simon Caldwell, “Bishop Asks: Is it the ‘End of Christianity in Iraq?’”, *Catholic News Service*, December 1, 2007.

“very few of the perpetrators of violence committed against Christians and other religious minorities in the country have been punished; arrests following a murder or other crime are rare.”

The vast majority of the non-Muslim minorities displaced by violence within Iraq in recent years have gone to the north, mainly to Nineveh governorate and the three governorates controlled by the KRG. Northern Iraq, particularly the Nineveh Plains area of Nineveh governorate, is the historic homeland of Iraq’s Christian community, and the Yazidi community is indigenous to Nineveh and the KRG governorate of Dahuk. Although the three KRG governorates are relatively secure, Nineveh governorate, particularly in and around Mosul, remains one of Iraq’s most dangerous and unstable areas, as both insurgent and extremist groups continue to be active there. Moreover, control of this ethnically and religiously mixed area is disputed between the KRG and the central Iraqi government. The minorities are caught in the middle of this struggle for control and have been targeted for abuses and discrimination as a result, allegedly by both sides.

The dispute stems from Kurdish efforts to annex into the KRG additional territories—including parts of the governorates of Nineveh, Kirkuk (Tamim), Salah al-Din, Diyala, and Waset—on the basis of their claim that these areas are historically Kurdish. Since 2003, Kurdish *peshmerga* (armed fighters) security forces and political parties have moved into these territories, effectively establishing *de facto* control over many of the contested areas. Religious and ethnic minorities in these areas, including non-Muslims and ethnic Shabak and Turkomen, have accused Kurdish *peshmerga* and officials of engaging in systemic abuses and discrimination against them to further Kurdish territorial claims. Their accusations include interfering with minorities’ voting rights; encroaching on, seizing, and refusing to return minority land; conditioning the provision of services and assistance to minority communities on support for Kurdish expansion; forcing minorities to identify themselves as either Arabs or Kurds; and impeding the formation of local minority police forces. The minorities also accuse both Arab and Kurdish officials of ignoring these vulnerable communities as they focus on their fight for territorial control. The Arab-Kurdish dispute also has paralyzed Nineveh’s provincial government, resulting in its failure to spend any of the 2009 provisional budget to provide services and benefits to Nineveh residents, including minorities.

In recent years, there has been a pattern of violence targeting minorities in Nineveh governorate prior to important political events. This pattern continued in this reporting period. However, the provincial and national governments continued to fail to provide preventive security measures to protect the smallest religious minorities in this dangerous area. This is notable, given the preventive security measures that are put in place (although not always successful) during Shi’a religious pilgrimages, which in recent years have also attracted attacks.

During a two-week period beginning on February 14, 2010, less than one month before the March 7 national elections, 10 Christians were targeted and killed in Mosul, prompting some 4,300 Christians to flee the city, most to Christian villages in the Nineveh Plains area and some to the KRG region and Syria. This exodus was reminiscent of October 2008 when, over a 10-day period in the lead-up to the January 2009 provincial elections, 14 Christians were targeted and killed in Mosul and more than 12,000 fled the city.

In the wake of the February 2010 violence, both Iraqi and Kurdish government officials condemned the attacks, the government of Iraq said it had established an investigative committee, and the governor of Nineveh ordered increased security and called for an international investigation. To date, however, no perpetrators are known to have been identified or arrested. Moreover, as noted above, given that similar violence had occurred before previous elections, it is notable, if not negligent, that the governing authorities in Nineveh only reacted after the fact and did not provide advance, proactive security precautions for Mosul’s Christian population. After the October 2008 attacks, the Iraqi government also

said that it had established an investigative commission, although the results of its investigation, if any, are not publicly known. No individuals are known to have been arrested for involvement in those attacks.

In August 2009, a series of bombings in Nineveh targeted religious and ethnic minorities. On August 7, a Shi'a Turkoman mosque in Mosul was bombed, destroying the mosque, killing at least 44, and wounding more than 200. On August 10, Khazna—a village outside Mosul inhabited by the Shabak ethnic, and predominantly Shi'a, minority—was leveled by two large truck bombs, killing at least 28 and injuring at least 150. Three days later, a café in the Yazidi town of Sinjar was attacked by two suicide bombers, killing at least 21 and injuring at least 30. On August 28, a market in Sinjar was bombed, killing four and injuring 28. In the wake of these attacks, the U.S. military proposed joint U.S.-Iraqi-Kurdish security patrols and other cooperative measures aimed at improving security in disputed areas in Nineveh. However, due to the difficult Arab-Kurdish relationship, it took almost six months, until January 2010, for these measures to become operational. Given that the security patrols were proposed by the United States, not the KRG or central Iraqi government, and the protracted delay in beginning them, serious questions remain as to both the Iraqi government's and the KRG's commitment to address violence against minorities.

A number of churches in Iraq were attacked during 2009. On July 12, seven churches in Baghdad were bombed, killing four and injuring 18. After these attacks, provincial security officials in Nineveh decided to dig trenches around several Christian towns, and the Iraqi interior ministry announced the creation of a committee to oversee security at churches nationwide. Nevertheless, in November-December 2009, there was another series of church attacks. On November 26, a church and a convent in Mosul were bombed, causing damage but no casualties. On December 15, two churches in Mosul were bombed, killing four and injuring 40, and on December 23, two more churches in Mosul were bombed, killing three. In the wake of these bombings and additional threats, the Iraqi government increased security at churches in both Baghdad and Mosul for Christmas 2009. The Chaldean Archdiocese of Kirkuk canceled Christmas Masses. In Basra, the Chaldean Bishop called on Christians in southern Iraq to refrain from public Christmas celebrations, out of respect for the Shi'a holiday of *Ashura* (the commemoration of the death of the Prophet Mohammed's grandson, Imam Hussein), which was taking place at the same time.

On Christmas Day 2009, Christians and Shi'a Shabak clashed outside a church in the northern town of Bartala, near Mosul. Iraqi and Kurdish security forces reportedly intervened to restore order. Reports on what caused the clash differed: some said the Christians had torn down a poster of Imam Hussein; others said the Shabak had torn down Christmas decorations in the Assyrian market and demanded to perform their self-flagellation ritual in the church.

To address their lack of security and political and economic marginalization, some Iraqi minority groups, both inside and outside Iraq, have been seeking what is variously described as a protected, semi-autonomous, or autonomous area for Christians, and some say for other minorities as well, in the Nineveh Plains area. These options are proposed to give effect to Article 125 of the Iraqi Constitution, which “guarantee[s] the administrative, political, cultural and educational rights of the various nationalities, such as Turkomen, Chaldeans, Assyrians, and all other constituents,” and provides that this “shall be regulated by” a future law. However, the specifics of what such a law would entail, including the territory that such an area would cover, its religious and ethnic make-up, how it would be secured, what governance and economic powers it would have, and how it would relate to the KRG and the central government remain disputed even among those who say that they favor autonomy. Many members of the smallest minorities also have urged reforms to provisions in Article 2 of the Iraqi constitution that give Islam a preferred status, which provides a potential justification for discrimination against non-Muslims. As far as is known, the Iraqi government has made no serious efforts to consider or address any of these proposals.

Additionally, some evangelical Christian groups urged less onerous requirements for government registration. To register, a church must have 500 members and must obtain approval from the Council of Iraqi Christian Church Leaders, which consists of representatives from the 14 officially-recognized churches.

### *Sunnis and Shi'a*

In past years, many serious sectarian abuses were attributed to actors from the Shi'a-dominated Ministries of Interior and Defense and by armed Shi'a groups with ties to the Iraqi government or elements within it. Since 2007, such sectarian violence has markedly diminished. In its most recent *Annual Report on International Religious Freedom*, the State Department reported that during 2008-09, the Iraqi government "became increasingly successful in restoring security, in a generally non-sectarian manner, throughout the country." Nevertheless, the State Department still noted that the "sectarian misappropriation of official authority within the security apparatus" remained a concern.

Sunni-Shi'a mistrust and tensions continue. Among other issues, the Shi'a-led government's promised integration of Sunni Sons of Iraq members, which was supposed to occur by the end of 2009, is still far from complete.<sup>7</sup> In addition, a controversial Shi'a-led government commission barred hundreds of candidates in early 2010, including prominent Sunni and secular politicians, from competing in the March 7 elections due to alleged Baathist ties. While this raised sectarian tensions in the run-up to the election, it did not result in a return to widespread sectarian violence or a Sunni boycott on participating in the election. However, it could lessen the chances of a political accommodation between these groups in the future.

Serious sectarian abuses continue to be committed by organized groups outside of the government, notably the Sunni-dominated insurgency and foreign and indigenous extremist groups. Shi'a pilgrims and worshipers have been frequent targets, particularly around important holidays. In early February 2010, despite heavy security, there was a series of bombing attacks against Shi'a pilgrims traveling to Karbala to celebrate *Arbaeen* (the religious observance occurring forty days after *Ashura*). These attacks included two major bombings that killed at least 59 and injured more than 100, as well as several smaller bombings. In late December 2009, during the 10-day *Ashura* holiday, multiple bombings targeted Shi'a pilgrims and worshippers in Karbala, Baghdad, Hilla, and near Kirkuk. At least 30 were killed in these attacks, and at least 160 injured. As in past years, the Iraqi government provided heavy security on pilgrimage routes and at holy sites for *Ashura*.

July and August 2009 also saw a wave of bombings, including against multiple Shi'a mosques in Baghdad during Friday prayers, Shi'a pilgrims returning from Karbala, and predominantly Shi'a areas in Baghdad, as well the attacks on the Shi'a Turkoman mosque and the Shi'a Shabak village in Nineveh mentioned above. Additionally, on June 20, a large suicide truck bomb exploded near a mosque in the Shi'a Turkoman town of Taza, near Kirkuk, killing 85 people, injuring 170, and destroying or damaging nearly 200 homes.

There also was a series of bombings against Shi'a areas, sites and pilgrims in late April 2009, for which the extremist group the Islamic State of Iraq claimed responsibility. On April 23, a suicide bomber targeted Iranian pilgrims passing through a town in Diyala governorate, killing more than 50; another targeted women and children waiting to receive food aid in a predominately Shi'a neighborhood of Baghdad, killing at least 28. On April 24, as worshippers were arriving for Friday mid-day prayers at an

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<sup>7</sup> The Sons of Iraq are local security groups that include former insurgents who switched sides in exchange for U.S.-paid salaries. The Iraqi government is now responsible for paying these groups, and agreed to give them jobs in the police, security forces, or public sector.

important Shi'a shrine in Baghdad, two suicide bombers killed at least 60 people and injured at least 125. According to press reports, Prime Minister al-Maliki promptly created a special committee to investigate this attack and ordered the detention of the police commanders responsible for security in the area around the shrine.

Some attacks also targeted Sunnis. During summer and early fall 2009, several Sunni clerics who had spoken out against al-Qaeda in Iraq were killed, including in Baghdad and Mosul. Additionally, a suicide bombing on October 16 at a Sunni Turkoman mosque in Tal Afar, Nineveh province killed at least 9, including the imam, and injured at least 30. On April 22, 2009, a suicide bombing inside a Sunni mosque in the central Iraqi town of Dhuluiya killed at least 5 people and wounded 15. According to the Iraqi police, 52 Sunni political, religious, and community leaders were killed in a series of attacks in Anbar province between mid-October 2009 and January 2010.

### *Women and Other Vulnerable Groups*

In recent years in Iraq, women and girls have suffered religiously-motivated violence and abuses, including killings, abductions, forced conversions, restrictions on movement, forced marriages, and reportedly other violence including rape. Women considered to have violated Islamic teachings and politically active females have been targeted by Sunni and Shi'a extremists alike. So-called "honor crimes" against women by family members, particularly in the KRG region, also have been a problem.

The United Nations Assistance Mission for Iraq (UNAMI) continues to express concern about violence against women in Iraq, including honor killings in the KRG region. According to its most recent human rights report, in the first half of 2009 UNAMI "did not see any significant changes regarding the scale and patterns of violence and abuse targeting women" in the country. During the Commission's March 2008 visit to Erbil, the KRG Minister for Human Rights stated that the incidence of so-called honor crimes had increased in the KRG since 2005. In July 2007, the KRG created a commission to try to reduce such crimes and made changes to its laws to help ensure the prosecution and punishment of perpetrators. This commission subsequently established a board to monitor implementation of the new laws. However, according to UNAMI, prosecution is often hampered by insufficient evidence, witnesses' reluctance to testify, and courts granting leniency in the punishment of such crimes.

Governmental and societal actors continued to attempt to enforce strict interpretations of Islamic religious norms, and radical groups continued to exert "tremendous pressure on individuals and groups to conform to extremist interpretations of Islamic precepts," according to the State Department. The State Department's 2009 religious freedom report gives details on how the education department of Salah ah Din governorate banned female teachers from wearing trousers, instead mandating "long and conservative clothing." The State Department also reported that in some schools and other public places, non-Muslims and secular Muslims still felt pressured to comply with certain Islamic norms, such as veiling, though less so than in past years. In addition, the Iraqi parliament debated banning alcohol, but did not introduce legislation. In August 2009, the Basra provincial council banned alcohol in that governorate, but it lifted the ban four months later.

Targeted, religiously-motivated violence against homosexuals also continued to be reported. During the first half of 2009, at least 25 homosexuals or individuals perceived to be homosexual were killed, and many others threatened, according to UNAMI, Human Rights Watch, and Amnesty International. The Mahdi Army, the militia of the Shi'a cleric Moqtada al-Sadr, was suspected of perpetrating these attacks, most of which occurred in Baghdad's Sadr City neighborhood. There were reports that the violence was being called for by some imams in Sadrism mosques.

*Iraqi Refugees and Internally Displaced Persons*

There have been few developments related to the situation of Iraqi refugees and internally displaced persons (IDPs) since the Commission last reported on Iraq in May 2009. Significant new displacements have not been reported in 2009-10, although by most estimates, more than 4 million Iraqis, or approximately 20 percent of the population, remain displaced in neighboring countries or other areas of Iraq. Many of these individuals fled religious-based persecution. Members of Iraq's smallest religious minorities continue to make up a disproportionately high percentage of the refugees registered with the UN High Commissioner for Refugees (UNHCR) in neighboring countries—nearly 20 percent, though they comprise only approximately three percent of Iraq's pre-2003 population.<sup>8</sup> For the most part, these minorities are not returning to Iraq.

Iraqi refugees and IDPs continue to need significant humanitarian assistance. Despite some efforts by the Iraqi government to promote returns, the UN reports that fewer than 15 percent of all displaced persons have returned to their areas of origin. The government's policies to promote return, which include three months' cash assistance and a procedure to evict squatters and return properties to returning displaced persons, have been haphazardly implemented. In addition, these policies fail to address other concerns, such as insecurity and lack of livelihood opportunities, which continue to make displaced individuals reluctant to return to their former homes.

Nevertheless, some voluntary returns continued in 2009, particularly IDPs returning to Baghdad. UNHCR reported that between January and November 2009, about 189,000 Iraqis who fled their homes returned (155,000 IDPs and 34,000 refugees). In 2008, UNHCR reported 220,000 returnees. However, there are few reports of members of the small religious minorities being among the returnees. UNHCR remains concerned about continuing threats to the smallest religious minorities in Iraq and continues to recommend they be given *prima facie* refugee status. It also continues to recommend that Iraqis should not be forcibly returned to certain governorates in Iraq, including Nineveh, Kirkuk, and Baghdad, due to continuing insecurity, or to regions that are not their areas of origin, such as the KRG.

**U.S. Policy**

The United States is in the process of withdrawing its military forces from Iraq, with all but 50,000 troops scheduled to be out of the country by August 31, 2010 and the remainder by the end of 2011. Bilateral relations between the United States and Iraq are now governed by a "Strategic Framework Agreement" which emphasizes friendship, mutual respect, and cooperation in specified areas (political and diplomatic, defense and security, cultural, economic and energy, health and environmental, information technology and communications, and law enforcement and judicial).

According to the State Department's 2009 *Advancing Freedom and Democracy Report*, the United States seeks to assist Iraq "to develop just, representative, and accountable government institutions that secure the country's inhabitants and their national infrastructure, deliver essential services, and govern in an equitable, nonsectarian manner." To these ends, U.S. diplomacy and programs support "political and economic reform; political party development; respect for the rule of law and human rights; increased government capacity at the national, provincial, and local levels; and an engaged civil society and citizenry...." A number of the programs that are described include efforts to protect and promote the rights of women and ethnic and religious minorities. In its 2009 *Annual Report on International Religious Freedom*, the State Department stated that in 2008-09, it and U.S. Embassy Baghdad had

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<sup>8</sup> Registration with UNHCR is voluntary and is often of interest mainly to those refugees who wish to be resettled to a third country.

“increased [their] attention to the country’s minority communities.” USCIRF welcomes this increase and hopes that it continues.

The United States’ foreign assistance to Iraq includes funding for democracy, development, and human rights programs. For fiscal year (FY) 2010, Congress appropriated \$382.5 million for Economic Support Fund (ESF) programs to support good governance, civic engagement, and economic growth in Iraq. In FY 2009, \$551.5 million was appropriated for such programs. In 2008, Congress earmarked \$10 million in unobligated ESF funds for projects benefiting minorities in the Nineveh Plains, which the Nineveh Provincial Reconstruction Team used during 2008-09 to fund education, microfinance, and infrastructure projects in that area. In December 2009, Congress again earmarked up to \$10 million of ESF funding to continue programs for minorities in the Nineveh Plains during FY 2010.

The United States also contributes to various UN and non-governmental organizations assisting Iraqi refugees and IDPs, including \$303.4 million for these purposes in FY 2009. In addition, beginning in FY 2007 the U.S. government increased its efforts to resettle Iraqi refugees to the United States. Since that time, more than 37,000 Iraqi refugees have been resettled to this country, including 18,838 in fiscal year 2009. The United States is now the largest recipient of both UNHCR referrals of Iraqis and of resettled Iraqi refugees.

In February 2008, the State Department increased direct access for certain Iraqis to the U.S. Refugee Admissions Program, as required by the Refugee Crisis in Iraq Act of 2007. That Act created a new Priority 2 (P2) category for Iraqis from “religious or minority” communities with close family members in the United States, and authorized the Secretary of State to create additional P2 categories for other vulnerable Iraqis.<sup>9</sup> (A P2 category allows those covered to apply directly to the United States for resettlement, without first having to be referred by UNHCR.<sup>10</sup>) The new State Department policy covers Iraqis in Egypt or Jordan “who are the spouses, sons, daughters, parents, brothers or sisters of a citizen of the United States, or ... the spouses or unmarried sons or daughters of a Permanent Resident Alien of the United States....”

### **USCIRF Activities**

Since 2003, USCIRF has advocated for universal human rights protections, including religious freedom, for all persons in Iraq, calling for constitutional and legal reforms to ensure that these rights are guaranteed and enforced. The Commission also has drawn attention to the serious religious freedom problems there, including alarming levels of religiously-motivated violence and human rights abuses and the extreme vulnerability of the smallest religious minorities. The Commission repeatedly has urged the U.S. and Iraqi governments to take action to reduce violence and protect all Iraqis. Over the years, USCIRF has recommended numerous specific security, legal, human rights, humanitarian, development, and reconciliation measures. The Commission also repeatedly has called attention to the plight of Iraqi refugees and IDPs and urged the U.S. government to increase humanitarian assistance and to expand and expedite its refugee and asylum programs for Iraqis fleeing religious persecution.

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<sup>9</sup> The Act was an amendment sponsored by Senator Edward Kennedy (D-MA) to the FY 2008 National Defense Authorization Act. The relevant language is found in the sections 1243(a)(4) and 1243(b).

<sup>10</sup> A P2 designation does not guarantee resettlement of all individuals from that category who apply. Each applicant still must undergo the refugee status determination interviews and background security and medical screenings required for all asylum-seekers by U.S. law. The P2 designation does, however, speed up the process for those applicants by bypassing the UNHCR referral process, and it also allows UNHCR to focus on other vulnerable groups.

In May 2007, citing escalating unchecked sectarian violence, mounting evidence of collusion between Shi'a militias and Iraqi government ministries, and the grave conditions affecting the country's smallest religious minorities, USCIRF placed Iraq on its Watch List. Three Commissioners dissented, believing that Iraq should be designated as a "country of particular concern," or CPC. In December 2008, USCIRF issued an extensive report on religious freedom conditions in Iraq, based on travel to Syria, Jordan, and northern Iraq, as well as hearings, briefings, meetings, and other activities undertaken in 2007 and 2008. In that report, and again in May 2009, the Commission recommended Iraq for CPC designation, based on the government's toleration of ongoing, severe religious freedom abuses, particularly against the smallest religious minorities. Four Commissioners dissented, concluding that, although the Iraqi government had not done enough to address the alarming plight of these minorities, it had not committed recurrent, affirmative, intentional acts of abuse and therefore the country should remain on the Watch List.

## **Recommendations**

### **I. Ensuring Security and Justice for All Iraqis**

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

- undertake prompt, transparent, and effective investigations of all human rights abuses, including those stemming from sectarian, religiously-motivated, or other violence by Iraqi security forces, political factions, militias, or any other para-state actors affiliated with or otherwise linked to the Iraqi government or regional or local governments, and bring the perpetrators to justice;
- ensure that Iraqi government revenues neither are directed to nor indirectly support any militia, para-state actor, or other organization credibly charged with involvement in severe human rights abuses;
- continue the process of ensuring a greater sectarian integration into the government and security forces so that they better reflect the diversity of the country;
- urgently establish, fund, train, and deploy police units for vulnerable minority communities that are as representative as possible of those communities, ensure that minority recruits are not excluded from nor discriminated against in the recruitment process, in promotion and command leadership opportunities, or in the terms and conditions of their employment, and ensure to the maximum extent possible that such police units remain in their locations of origin and are not transferred to other cities as has been done in the past;
- promptly develop and issue new national identification cards that do not list religious or ethnic identity;
- take steps to enhance security at places of worship, particularly in areas where religious minorities are known to be at risk;
- direct the Ministry of Human Rights to investigate and issue a public report on the abuses against and marginalization of Iraq's small minority communities and make recommendations to address these problems;
- create and fully fund the independent national Human Rights Commission provided for in the Constitution and ensure that this Commission is non-sectarian, that it has a mandate to investigate individual complaints, and that its functions and operations are based on the UN's Paris Principles; and

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

## **II. Ensuring Legal Protections for All Iraqis**

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

- enact constitutional amendments to strengthen the Iraqi Constitution’s human rights guarantees, including by:
  - clarifying sub-clause (B) in Article 2 that no law may contradict “the rights and basic freedoms stipulated in this constitution” to make clear that these rights and freedoms include the principles of equality and nondiscrimination and the human rights guaranteed under international agreements to which Iraq is a State party;
  - deleting sub-clause (A) in Article 2 that no law may contradict “the established provisions of Islam” because it heightens sectarian tensions over which interpretation of Islam prevails and improperly turns theological interpretations into constitutional questions;
  - revising Article 2’s guarantee of “the Islamic identity of the majority” to make certain that this identity is not used to justify violations of the individual right to freedom of thought, conscience, religion, or belief under international law;
  - ensuring that minority identity is also guaranteed, including the rights of all individual members of ethnic, religious or linguistic minorities to enjoy and develop their culture and language and practice their religion;
  - making clear that the default system for personal status cases in Iraq is civil law, that the free and informed consent of both parties is required to move a personal status case to the religious law system, that religious court rulings are subject to final review under civil law, and that the appointment of judges to courts adjudicating personal status matters, including any religious courts, should meet international standards for judicial training;
  - removing the ability of making appointments to the Federal Supreme Court based on training in Islamic jurisprudence alone, and requiring that, at a minimum, all judges have training in civil law, including a law degree;
- work with minority communities and their representatives to develop measures to implement Article 125 of the Constitution, which guarantees “the administrative, political, cultural, and educational rights of the various nationalities, such as Turkomen, Chaldeans, Assyrians, and all the other constituents,” in Nineveh and other areas where these groups are concentrated; and
- reduce onerous registration requirements, so that smaller religious groups are not disadvantaged in registering.

**III. Prioritizing Human Rights, including Freedom of Religion or Belief, in U.S. Bilateral and Multilateral Diplomacy**

The U.S. government should:

- ensure that all U.S.-Iraqi cooperation under the Strategic Framework Agreement to “promote Iraq’s efforts in the field of ... human rights” places a high priority on the intertwined rights to freedom of thought, conscience, and religion or belief and freedom of opinion and expression;
- ensure that human rights issues, including freedom of religion or belief, are raised in the context of negotiations on Iraq’s accession to the World Trade Organization;
- ensure that human rights issues, including freedom of religion or belief and minority rights, are raised in the context of negotiations between the Iraqi central government and the Kurdistan Regional Government (KRG) concerning disputed internal boundaries;
- appoint and immediately dispatch a Special Envoy for Human Rights to Embassy Baghdad, reporting directly to the Secretary of State, to serve as the United States’ lead human rights official in Iraq, to lead an Embassy human rights working group, and to coordinate U.S. efforts to promote and protect human rights in Iraq; and
- revive the U.S. government’s internal Inter-Agency Task Force on Iraqi Minority Issues and direct it to consider and recommend policies for the U.S. government to address the needs of Iraq’s vulnerable minority communities.

**IV. Prioritizing Human Rights, including Freedom of Religion or Belief, in the U.S. Relationship with the KRG**

The U.S. government should:

- press the KRG and Kurdish officials in neighboring governorates to cease any interference with the creation, training, and deployment of representative police forces for minority communities, and link progress on representative policing to U.S. financial assistance and other forms of interaction with the KRG;
- demand immediate investigations into and accounting for allegations of human rights abuses by Kurdish regional and local officials against minority communities, including reports of attacks on minorities and expropriation of minority property, and make clear that decisions on U.S. financial and other assistance will take into account whether perpetrators are being investigated and held accountable; and
- work with Iraqi and KRG officials to establish a mechanism to examine and resolve outstanding real property claims involving religious and ethnic minorities in the KRG region and neighboring governorates.

**V. Promoting Human Rights, including Freedom of Religion or Belief, through U.S. Programs**

The U.S. government should:

- fund programs to: train Iraqi Ministry of Defense and Ministry of Interior personnel on international human rights standards; build capacity in the Ministry of Human Rights, the independent national

Human Rights Commission, and a minorities committee whose membership is selected by the communities themselves; and deploy human rights experts to assist the Council of Representatives' constitutional amendment committee in strengthening the Constitution's human rights provisions;

- fund workshops and training on religion/state issues for Iraqi officials, policymakers, legal professionals, representatives of non-governmental organizations (NGOs), religious leaders, and other members of key sectors of society, including expanding the State Department's International Visitors Program for Iraqis to focus on exchange and educational opportunities related to religious freedom and tolerance;
- give clear directives to U.S. officials and recipients of U.S. grants to assign greater priority to projects that promote multi-religious and multi-ethnic efforts to encourage religious tolerance and understanding, foster knowledge of and respect for universal human rights standards, build judicial capacity to foster the rule of law, and develop the political ability of ethnic and religious minorities to organize themselves and effectively convey their concerns to the government;
- declare and establish a fair allocation of U.S. financial assistance for Chaldo-Assyrian Christian, Sabeian Mandaean, Yazidi, and other small religious and ethnic minority communities, ensure that the use of these funds is determined by independent minority national and town representatives, and establish direct lines of communication between such independent structures and U.S. Provincial Reconstruction Team Nineveh, in order to ensure that U.S. assistance fairly benefits all religious and ethnic minority groups; and
- require that the U.S. Government Accountability Office, the Special Inspector General for Iraq Reconstruction, or another appropriate entity conduct an independent audit of past and current U.S. and Iraqi government reconstruction and development assistance to religious and ethnic minority areas, and provide recommendations for future assistance.

## **VI. Addressing the Situation of Internally Displaced Persons and Refugees**

The U.S. government should:

- increase assistance, and encourage the Iraqi government and U.S. allies to do likewise, to the UN, humanitarian organizations, host nations, and host communities providing necessary aid to vulnerable Iraqi internally displaced persons (IDPs) and refugees, including funding programs to provide medical care, psychosocial care, educational opportunities, direct financial assistance, basic needs packages, and information campaigns;
- fund capacity-building programs for the Iraqi Ministry of Displacement and Migration to ensure that it can adequately provide assistance and protection to IDPs;
- clearly state that the U.S. government does not encourage the return of Iraqi refugees to Iraq until necessary conditions are met, including security, assistance, legal frameworks, and integration programs;
- encourage and fund information campaigns, including "go and see visits" by religious and/or community leaders selected by the refugees/IDPs themselves, to ensure that displaced Iraqis considering return have the information needed to make informed decisions;

- work with the government of Iraq and international organizations to help the Iraqi government develop a cohesive plan to assist voluntarily returning refugees and IDPs, including addressing property disputes, assistance upon return, livelihood opportunities, and lingering security problems;
- increase the capacity of assistance organizations to provide long-term assistance, including shelter, food, and other essential services, to returning Iraqis;
- continue to process a significant number of Iraqi refugees for resettlement to the United States, taking into account the continued targeted violence against members of Iraq's smallest, most vulnerable religious minorities and the P2 designation in the Refugee Crisis in Iraq Act of 2007; and
- ensure that members of Iraq's smallest, most vulnerable religious minorities scheduled to be resettled to the United States are not delayed unnecessarily by providing adequate personnel to conduct background screening procedures and by enforcing proper application of the existing waiver of the material support bar to those forced to provide support to terrorists under duress.

## **Nigeria**

**FINDINGS:** The government of Nigeria continues to respond inadequately and ineffectively to recurrent communal and sectarian violence. Religion is a driving force in the violence, as a precipitating factor or proxy for political or social issues. Years of inaction by Nigeria’s federal, state and local governments has created a climate of impunity, resulting in thousands of deaths. Other religious freedom concerns in Nigeria include the expansion of sharia (Islamic law) into the criminal codes of several northern Nigerian states and discrimination against minority communities of Christians and Muslims.

Based on these concerns, USCIRF recommends in 2010, for the second year, that Nigeria be designated as a “country of particular concern,” or CPC. Prior to the 2009 CPC recommendation, Nigeria had been on USCIRF’s Watch List since 2002.

Since 1999, a disturbingly large number of Nigerians—12,000, if not more—have been killed in attacks and reprisals between Muslims and Christians. This trend continues: in the past year, two major outbreaks of sectarian violence took place since January 2010 in and around the city of Jos, Plateau State that resulted in as many as 1,000 people being killed. In addition, religiously-motivated violence by an extremist Islamic sect resulted in 900 – 2,000 deaths in several northern states in July 2009. The Jos violence was the most recent in a long line of violent incidents resulting in death and destruction, and instilling a sense of fear within Northern and Central Nigerian communities. The government of Nigeria has done little, if anything, to address sectarian and communal violence, making no serious effort to investigate or prosecute the perpetrators of the numerous killings and other crimes. Government leaders have failed to heed warning signs of violence, and the federal police have failed to respond effectively and appropriately—or even at all—when violence has erupted. The national legislature has exercised no discernible oversight over either the Ministry of Justice or the National Human Rights Commission to ensure adequate investigation and resolution of religious violence and intolerance. The Human Rights Commission, both by design and in effect, lacks the independence and resources to address these issues.

**PRIORITY RECOMMENDATIONS:** Religion is a driving force in the sectarian violence, as a precipitating factor or a proxy for political or social issues. This, combined with the Nigerian government’s toleration of criminal acts, has created a permissive environment for continued sectarian and communal violence, leading to a culture of impunity. The culture of impunity must be broken by the top levels of Nigerian government, including the highest ranking state and federal officials. USCIRF has concluded that Nigeria could, if it wished, muster the resources and capacity necessary to address communal, sectarian, and religious violence and intolerance. It must do so for the country to realize lasting progress, security, stability, and prosperity as a democracy. The United States should urge Nigeria to prevent and contain recurring sectarian violence by bringing perpetrators to justice, and should ensure that these issues are an important component of discussions of the newly established U.S.-Nigeria Bi-National Commission. Additional recommendations for U.S. policy towards Nigeria can be found at the end of this chapter.

## **Religious Freedom Conditions**

### *Recurrent Sectarian Violence in Jos*

Since 1999, acts of violence in Nigeria in which religion was a significant factor have resulted in more than 12,000 people killed and thousands displaced, with numerous churches, mosques, businesses, vehicles, private homes and other structures burned and destroyed. Fatalities include members of warring factions, security forces, and innocent bystanders, but no one to date has been prosecuted for their role in perpetrating violence. The most severe clashes have occurred in Jos, Plateau state (September 2001, November 2008, January 2010, March 2010); Kaduna state (February and May 2000 and November 2002); Kano state and Yelwa, Plateau state (February-May 2004); and northern and southeastern Nigeria (February 2006).

Most recently, in January and March 2010, the city of Jos and several surrounding villages in Plateau State experienced horrific sectarian clashes with close to 1,000 people killed. Religion became a driving force in the violence, although it is unclear whether religion was the precipitating or a proxy issue to the violence.

In January 2010, more than 300 people were killed and thousands displaced in sectarian violence in Jos. Many of those killed reportedly were from the predominantly Muslim Hausa-Fulani community, with the attackers coming from the predominantly Christian Berom tribe. Although many Christian representatives contest this account, most Muslim representatives the USCIRF delegation met with in March 2010 believe it to be true. This difference in perception is part of the dynamic that exists between the communities and cannot be ignored.

The violence reportedly was sparked by the re-building of a home owned by a Muslim Hausa-Fulani resident of Jos. Simmering communal tensions from previous violence in the area and the lack of accountability for perpetrators also were contributing factors. The federal government reportedly arraigned approximately 200 people and transported them to Abuja for their involvement in the violence. However, federal-state jurisdictional disputes appear to be hampering prosecutions. At the time of writing, there was no clear resolution to these jurisdictional issues indicating when or by whom those arrested will be prosecuted.

In March 2010, in a so-called ricochet attack against the Christian Berom villages of Dogo-Nahawa, Zot, and Rassat, approximately 500 people were killed, including many women and children, and thousands displaced. According a March 2010 *New York Times* interview with detained perpetrators, as well as USCIRF's interlocutors in Abuja in March 2010, the perpetrators were from the predominantly Muslim Hausa-Fulani community and were carrying out reprisal attacks for the January 2010 violence. Several hundred people had been killed by the time the Nigerian police and army responded. The Nigerian military surrounded the city of Jos and nearby areas and imposed a dawn to dusk curfew, which continued at the end of the reporting period. Despite these measures, approximately twelve people were killed outside Jos in the predominantly Christian, ethnic Berom village of Byei less than a week after the initial attacks. As of this writing, no additional large-scale incidents have occurred, but news accounts indicate that individual reprisal murders are continuing, such as when a person enters a neighborhood and is identified as being of a different religious background.

Nigerian authorities reportedly have arrested approximately 160 people for their participation in the March 2010 violence. Nigerian officials told a visiting USCIRF delegation in March 2010 that charges were being filed in federal courts against several perpetrators of the violence. Subsequent news reports indicate that charges were filed against several suspects. However, questions remain as to who has jurisdiction to prosecute -- federal or state authorities. Jurisdictional disputes aside, the prosecution of

perpetrators of sectarian violence is a matter of political will, and the USCIRF delegation heard reports that neither state nor federal officials have ever prosecuted individuals for these crimes.

The fact that two large-scale, separate incidents occurred in the same area within two months of each other has led to fears that religious and ethnic tensions could spiral out of control in Plateau State and further divide Nigerians along religious lines. USCIRF urges federal and state officials to initiate prosecutions that result in fair and just convictions so as to begin to end the culture of impunity.

Following the January and March 2010 violence, the Acting President of Nigeria, Goodluck Jonathan, formed a presidential advisory committee on the Jos crisis. The committee reportedly submitted an interim report to the Acting President in late March, with a more complete report possibly to be submitted later this year. However, the details of the March report have not been made public. There has been a pattern in Nigeria, after outbreaks of sectarian violence, of government entities initiating public hearings or creating advisory bodies to review the causes of the violence and develop recommendations to prevent recurrences. The March 2009 public hearings initiated by the Nigerian House of Representatives regarding the 2008 violence in Jos were openly critical of state governments and political parties for their negligence in preventing and igniting the violence. However, most federal or state level commission reports are never released to the public and the Nigerian government does not implement the recommendations.

During its October 2009 visit to Nigeria, the USCIRF delegation met with then Attorney General and Minister of Justice Michael Aondoaka (who was replaced in February 2010; his successor, in turn, was replaced in April). USCIRF expressed concern at the years of impunity and failure to prosecute perpetrators of sectarian violence. Mr. Aondoaka responded that prosecution was the responsibility of the state attorneys general. He asked USCIRF to write him a letter of inquiry regarding the status of prosecutions for sectarian violence that he could then send to the various state attorneys general. On October 16, 2009, U.S. Ambassador Robin Sanders sent a letter on USCIRF's behalf asking Mr. Aondoaka to "provide, in concert with state attorneys general, any information on the investigations and prosecutions" on the major violent sectarian incidents since 1999." Neither the U.S. Embassy nor USCIRF has received any response from Minister Aondoaka or his successors, which suggests that the Nigerian government remains unwilling or unable to address these issues.

USCIRF is hopeful that the Acting President and his administration will show the necessary political will to prosecute perpetrators of the January and March 2010 violence and end the longstanding culture of impunity surrounding sectarian conflicts in Nigeria. However, USCIRF is concerned that Nigeria now has its third Attorney General and Minister of Justice in three months and that prosecutions may be hampered by new personnel unfamiliar with the pending cases. The Nigerian government must hold accountable for their crimes the perpetrators of both outbreaks of violence; prosecuting individuals from only one side of the ethnic and religious divide will only exacerbate communal tensions.

#### *Other Incidents of Sectarian Violence*

There were other violent clashes between Christians and Muslims in Nigeria in 2009-10, predominantly in the northern states. According to the State Department's *Annual Report on International Religious Freedom*, a June 17, 2009 incident in Niger State resulted in the death of a Christian pastor and an April 20, 2009 unverified incident in Kano resulted in Christians being attacked and their property being burned.

In addition, in February 2009, Muslim-Christian clashes in Bauchi state resulted in at least 11 deaths, although some reports indicated as many as 20 people were killed, and 1,500 individuals were displaced. In addition, 14 churches, eight parsonages, one mosque and approximately 150 homes and businesses

were burned and/or destroyed. The causes of the violence reportedly included a dispute between Christians and Muslims in a church parking lot, reprisal for the burning of two mosques in the state capital, and retaliation for events in Jos in November 2008 when rioting Muslims were shot for defying a government imposed curfew. In an April 2009 incident, a group of Muslims in central Niger state reportedly attacked a procession of Christians celebrating Easter in two separate towns. Clashes ensued and dozens of Christians were injured and at least two churches and one mosque were burned.

#### *Intra-Islamic sectarian violence*

In December 2009 in Bauchi State, an extremist Islamist sect called *Kalo Kato* engaged in intra-sect violence in which at least 38 people, mostly co-religionists, were killed. The apparent cause of the violence was rivalry and suspicion between the leader of the *Kalo Kato* group and his followers.

In July 2009, between 900 and 2,000 people were killed in the northern Nigerian states of Bauchi, Borno, Kano, and Yobe when a Muslim sect calling itself *Boko Haram* (“Western education is sacrilege” in the Hausa language) attacked police after several members of the sect were arrested. The group seeks the implementation of a harsh form of sharia law in Nigeria. In addition to attacking police, numerous churches were burned, and reports indicate at least three Christian pastors were murdered. Over 100 individuals reportedly were arrested for their role in the violence or for membership in the group, but it is unclear how many, if any, prosecutions followed. The situation ended when the Nigerian military responded to the attacks, killing or capturing many *Boko Haram* members. Recently released photos and videos implicate Nigerian police in extrajudicial killings of members of the sect, including the group’s leader, while they were in custody. The government of Acting President Jonathan reportedly has made inquiries into these reports, but the status of those investigations is unknown.

Concerning Shi’a Muslims, according to the State Department’s 2009 *Annual Report on International Religious Freedom*, “state officials in Sokoto State allegedly continue to engage in a coordinated campaign of persecution of Shi’a Muslims...detaining large numbers of Shi’a and their religious leaders.” The State Department report also notes that, based on NGO information, Shi’a homes and business were destroyed, with little to no response from state officials, and Shi’a were fired from jobs on account of their faith.

#### *The Sharia Controversy*

Since October 1999, 12 northern Nigerian states have established, or announced plans to establish, sharia law in their criminal code. However, there have not been further enactments in the past year. Despite differences between them, each of the 12 states are working to extend the jurisdiction of sharia courts beyond personal status matters to include sharia crimes and punishments for Muslims alone. Punishments include amputation, flogging, or death by stoning. Trials in the sharia courts often fall short of basic international legal standards, and defendants have limited rights of appeal and sometimes have no opportunity to seek legal representation. Women face discrimination under these provisions, especially in adultery cases where pregnancy alone has been used as adequate evidence of guilt. Allegations of rape and sexual violence rarely are investigated.

In addition to changing the criminal code so that it purportedly would apply only to Muslims, some states in recent years have instituted or tolerated discriminatory practices based on religious precepts. These include banning the sale and consumption of alcohol and disadvantaging women in education, health care, and public transportation. These practices affect Muslims and non-Muslims alike. The *Hisbah*, or religious police, funded and supported by state governments in Zamfara, Niger, Kaduna, and Kano, enforce sharia statutes in their respective states. In some areas, the *Hisbah* primarily worked as traffic wardens and marketplace regulators.

A debate has arisen in recent years over whether sharia punishments, such as death by stoning and amputation, constitute torture or inhumane or degrading treatment under international law or the Nigerian Constitution. The UN Committee against Torture and the UN Special Rapporteur on Torture have stated that flogging, stoning, and amputation do breach the prohibition against inhuman or degrading treatment contained in international human rights standards and treaties. On this issue, the UN Special Rapporteur stated that the Nigerian government should ensure that practices and codes of all states are in compliance with international human rights conventions, and it should conduct an “assessment of all the laws in force and analyze their compatibility with international human rights law.” The government has not yet done so. However, in recent years a number of stoning cases have been reversed on appeal in Nigerian courts, and there have been no floggings or amputations carried out during the reporting period.

### *Discrimination and Extremism*

Christians in northern Nigerian states complain of what they view as discrimination at the hands of Muslim-controlled governments and describe their communities as being “second-class citizens.” Most complaints predate the sharia initiatives discussed above, and include allegations of official discrimination through the denial of applications to build or repair places of worship, access to education and state-run media, representation in government bodies, and government employment. Reports indicate that in certain northern states, it is very difficult to obtain permits to repair or build a non-Muslim place of worship, and that some Christian churches have been torn down because they lacked appropriate government permits, and specific zoning laws are invoked to justify action or inaction by state authorities.

Muslim communities in southeastern Nigeria echo some of the complaints of minority Christian communities in northern Nigeria. Southern Muslim leaders report official or officially sanctioned discrimination in the media, education, and representation in government institutions. Although the Nigerian constitution permits proselytizing, several northern states continue to ban some public religious activities under the guise of public safety and security.

Several observers inside and outside of Nigeria have reported that financial support from Libya, Saudi Arabia, and Sudan has been used to build mosques and Islamic religious schools in northern Nigeria. Some have suggested that the extreme interpretation of Islam being preached in these mosques and religious schools is a nontraditional form of Islam in Nigeria. Also, there are reports that an increasing number of Nigerian Islamic scholars and clerics are being trained in Saudi Arabia or Pakistan, and return with a politico-religious ideology that explicitly promotes hatred of, and violence against, non-Muslims.

Similarly, there continue to be reports of foreign sources of funding and support for Islamist extremist activities in northern Nigeria. The July 2009 *Boko Haram* incident demonstrated that violent Islamist groups can gain a foothold in certain areas in Northern Nigeria. There have been a number of small, vocal Muslim groups in northern Nigeria that advocate strict application of sharia and which, some argue, are helping create a haven for radical Islamist militants from both inside and outside Nigeria. After the large-scale violence exhibited against the Nigerian government by members of the *Boko Haram*, Nigerian and American authorities could place a high priority on addressing the possible alignment of these groups with international terrorist groups.

### *Other Developments*

Over the past year, some state governors, including those from northern states, actively encouraged interfaith and inter-communal discussions in an attempt to prevent further violence and tension along religious lines. However, implementation of such efforts is limited and varies from state to state. The two co-chairs of the Nigerian Inter-Religious Council (NIREC) -- the President of the Supreme Council for

Islamic Affairs, the Sultan of Sokoto Muhammad Sa'ad Abubakar and Archbishop John Onaiyekan, the Catholic Archbishop of Abuja and President of the Christian Association of Nigeria -- continue to jointly issue statements and conduct appearances around the country in an attempt to reduce inter-religious tension and promote inter-religious cooperation. Since assuming leadership of the NIREC which is composed of 25 Muslim and 25 Christian leaders, both co-chairs have made the Council more active and visible around the country. The Nigerian government continues to publicly support NIREC and other non-governmental organizations that promote reconciliation and inter-religious understanding.

## **U.S. Policy**

The United States and Nigeria have a strong relationship. The most populous country in Africa and with a population evenly split between Christians and Muslims, Nigeria is important to U.S. foreign policy for a number of reasons. Having had its first transition of power since independence from one civilian government to another in 2003, democratic institutions remain underdeveloped. A large Nigerian diaspora community resides in the United States and significant trade relations exist between the two countries. The United States is Nigeria's largest trading partner and Nigeria is, by some estimates, the fourth largest supplier of imported oil to the United States. Nigeria's contribution to international peacekeeping missions has supported stability and peace in Africa and has generally been in concert with U.S. interests in promoting peace and stability on the continent.

In April 2010, the two countries established a U.S.-Nigeria Bi-National Commission. Its purpose, in the words of Secretary Clinton, is to help the two countries "work together on issues of common concern and shared responsibility" and to "support the aspirations of the Nigerian people for a peaceful, prosperous, stable, democratic future." The Bi-National Commission will have four working groups on: 1) good governance and transparency, focusing on the upcoming 2011 elections, corruption, and strengthening Nigeria's democratic institutions and civil society; 2) regional cooperation and collaboration on security, terrorism, and the Niger Delta; 3) energy reform and investment; and 4) food security and agricultural development. USCIRF notes that the issue of recurrent sectarian violence and the culture of impunity surrounding the failure to prosecute perpetrators is not specifically addressed in any of the four working groups and strongly encourages Secretary Clinton and the Nigerian government to include this important issue in both the good governance and security groups.

The administration requested over \$480 million in foreign assistance to Nigeria for Fiscal Year 2009. By far the largest component of U.S. assistance is the Global HIV/AIDS Initiative, but U.S. assistance also has focused on democratic governance, professionalization of the security services, economic and agricultural support and assistance, and improving health and education services. Nigeria is a participant in the Trans Sahara Counterterrorism Partnership, a regional U.S. security partnership, and according to the Congressional Research Service, also receives other security assistance through Department of Defense funds.

With national elections scheduled to occur sometime in 2011, election assistance and related programming is a priority for U.S. assistance in FY 2010. According to the Department of State's 2009 *Advancing Freedom and Democracy Report*, the U.S. human rights and democracy strategy in the country "aims to help build an accountable and transparent democracy that respects human rights and rule of law, demonstrates good governance, and includes a robust civil society and conflict resolution mechanisms. U.S. priorities are focused on the need for the government to improve the political environment, to hold free and fair elections, and to strengthen the rule of law. Electoral reform, anticorruption efforts, mitigating ethnic and religious violence, improving judicial and legislative independence, and strengthening media freedom are important components of this strategy."

Specific to religious freedom and sectarian violence issues, the report indicates that the United States works with the Nigerian government to provide human rights training to troops engaged in international peacekeeping and address issues of domestic conflict, has implemented a capacity building program at a mediation center in Kaduna to better address ethnic and religious violence, and works with state officials and Muslim and Christian leaders to promote peace and end religious discrimination. For example, a U.S. program operating in five states (Delta, Kaduna, Kano, Plateau, and Rivers) promotes local conflict mitigation by educating community and opinion leaders, youth groups, and faith-based organizations about the benefits of peaceful coexistence.

### **USCIRF Activities**

Nigeria has been a high priority in the Commission's work in 2009-10. USCIRF delegations traveled to Nigeria in March-April 2009, October 2009, and March 2010 to investigate reports of sectarian violence and its impact on religious freedom. During these three trips, Commissioners engaged high-level federal and state officials on the government's failure to prevent sectarian violence and discussed USCIRF's recommendation that Nigeria be designated a CPC. USCIRF delegations met several cabinet ministers whose agencies have jurisdiction in these matters, as well as Nigerian Senators and Assembly representatives who exercise oversight over these agencies.

During the past year, Commissioners and staff also met with a broad range of U.S. government officials to discuss USCIRF's recommendations and concerns regarding Nigeria, including officials from the National Security Council, Department of State, Congress and other officials. USCIRF also has raised the issue of sectarian violence in correspondence with Secretary of State Hilary Clinton.

In September 2009, USCIRF Chair Leonard Leo testified before the congressional International Religious Freedom Caucus on *Prospects for Justice in Northern and Central Nigeria: Government Responses to Religious Extremism and Root Causes*. Mr. Leo discussed USCIRF's trip to Abuja, Kaduna, Kano, and Bauchi city, and its meetings with government officials and Muslim and Christian religious leaders. Mr. Leo conveyed the Commissioners' views that the government of Nigeria has done little to prevent sectarian violence and has made no serious efforts to investigate or prosecute the perpetrators of the numerous sectarian killings.

In April 2009, USCIRF hosted a public briefing on Capitol Hill with Muhammad Sa'ad Abubakar III, the Sultan of Sokoto, and Rev. Dr. John Onaiyekan, Roman Catholic Archbishop of Abuja and president of the Christian Association of Nigeria. They discussed the causes of and challenges in addressing Nigeria's recurring inter-religious and ethnic violence. In addition, throughout the past year, USCIRF staff met with members of non-governmental organizations representing various religious communities in Nigeria, human rights organizations, academics, and other Nigeria experts.

USCIRF is encouraged that some of its long-standing recommendations regarding Nigeria are being implemented, such as the gradual expansion of the Nigeria Inter Religious Council to some regional levels and the planned establishment by the Department of State of a consulate or other official presence in the city of Kano, Kano State.

## **Recommendations**

### **I. CPC Designation and Next Steps**

The U.S. government should:

- designate the government of Nigeria as a “country of particular concern,” or CPC, under the International Religious Freedom Act of 1998 (IRFA), for tolerating particularly severe violations of religious freedom;
- enter into a binding agreement with the Nigerian government, as defined in section 405(c) of the International Religious Freedom Act, that obligates the government to cease or take substantial steps to address policies leading to violations of religious freedom, or take an appropriate commensurate action;
- ensure that the following benchmarks are part of any such binding agreement with the Nigerian government, including, but not limited to:
  - vigorously investigating and prosecuting perpetrators of sectarian and communal violence, including the March 2010, January 2010, and November 2008 Jos incidents, as well as other past instances where communal and sectarian violence has taken place;
  - developing effective conflict prevention and early warning system mechanisms at the local, state, and federal levels using practical and implementable criteria;
  - developing the capability to rapidly deploy specialized police and army units to prevent and combat sectarian violence in cities around the country where there has been a history of sectarian violence in central and northern Nigeria, including Jos, Kaduna, Kano, and Bauchi states, among others;
  - taking steps to professionalize its police and military forces in its investigative, community policing, crowd control, and conflict prevention capacities;
  - conducting specialized training for its military and security forces to be more adequately trained in human rights standards, as well as non-lethal responses to crowd control and in quelling mob or communal violence;
- include the issue of Nigeria’s recurrent sectarian violence and failure to prosecute perpetrators in the discussions of the working groups of good governance and security of the newly formed U.S. – Nigeria Bi-National Commission;
- urge the Nigerian government to carry out its responsibility to prevent and contain acts of sectarian and communal violence, prevent reprisal attacks, and bring those responsible for such violence to justice;
- urge the Nigerian House of Representatives and Senate to conduct more rigorous oversight of executive branch agencies, including the Ministry of Justice, that are responsible for preventing sectarian violence, prosecuting perpetrators of sectarian violence, and responding to the various crises;

- call on UN Secretary-General Ban Ki Moon to report on the January and March 2010 Jos violence to the Security Council, and urge Secretary-General Ban's Special Adviser for the Prevention of Genocide, Francis Deng, whom Ban tasked with examining the March 2010 violence in Jos, to visit Nigeria and issue an extensive report of his findings; and
- call on the UN Human Rights Council to monitor carefully and demand Nigeria's compliance with the recommendations of the representatives of those UN special procedures that have already visited Nigeria, particularly the UN Special Rapporteur on Freedom of Religion or Belief (2005) and the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (2005).

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

The U.S. government should ensure sufficient funding for technical and programmatic assistance, while insisting that such assistance is consistent with all U.S. laws restricting foreign support and is otherwise not provided to individuals or units whom the Secretary of State deems to have engaged in serious violations of human rights or religious freedom, by:

- increasing funding, training, and assistance to the Nigerian federal police force through the U.S. Department of State's Bureau of International Narcotics and Law Enforcement Affairs;
- increasing funds for the expansion of specialized training for Nigerian military and federal and state police forces so that they are more adequately trained in non-lethal responses to crowd control and in quelling mob or sectarian violence, and increase their investigative, community policing, crowd control, and conflict prevention capacities, including providing on-the-ground technical advisors;
- providing technical assistance and engaging with federal and state government officials, including the National Assembly, on whether state governments should be allowed to have state level police forces, instead of the current system of having only a national federal police force;
- providing technical assistance to help the Nigerian police and military procure and operate communications equipment and improve response mechanisms and coordination capacity to enhance the prevention of sectarian violence and increase emergency response times;
- offering technical assistance to the office of the Federal Attorney General and Minister of Justice, and to the state attorneys general, to increase their capacity to prosecute perpetrators of sectarian violence, including training and retraining state and police prosecutors and assisting in the development of computer/electronic file and case storage;
- analyzing and reporting to the Congress on ways U.S. assistance can be better utilized to promote reconciliation and prevent sectarian violence in Nigeria;
- engaging existing social institutions, including indigenous religious bodies, and strengthening civil society organizations that have special expertise and a demonstrated commitment in the areas of inter-religious and inter-ethnic reconciliation and conflict prevention, to promote a peaceful civil society;
- supporting the expansion of NIREC, which was formed to promote dialogue between Christians and Muslims, and replicate NIREC at the regional, state, and local levels by providing technical advisors to help the institution better initiate and implement NIREC at all levels;

- increase USAID funding for conflict mitigation work with Nigerian NGOs engaging on communal conflict prevention, emphasizing capacity-building at the local level;
- assisting human rights defenders, including legal aid groups that defend the constitutional and internationally recognized rights of individuals, especially women, who are impacted by sharia-based criminal codes;
- assisting human rights defenders responding to credible allegations of religious discrimination in any part of Nigeria; and
- creating programs and institutions, particularly in areas where communal violence has occurred, that promote objective, unbiased, and non-inflammatory reporting, consistent with the right to freedom of expression.

### **III. Urging the Nigerian Government to Oppose Religious Extremism**

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

- enhance the use of legal and law enforcement mechanisms and intelligence capabilities to prevent the formation of religiously based violent groups;
- ensure that sharia codes, as applied, uphold the principle of equality under the law between men and women and between Muslims and non-Muslims, and do not result in violations of international human rights standards with regard to freedom of religion or belief, due process of law, equal treatment before the law, freedom of expression, and discriminatory practices against women;
- ensure that sharia criminal codes do not apply to non-Muslims or to individual Muslims who do not wish to go before sharia courts, and prevent law enforcement activities in northern states by any quasi-official or private corps of sharia enforcers; and
- cease any official, state-level support for the *Hisbah*, or religious police, by dissolving the *Hisbah* and entrusting law enforcement to professionals in law enforcement agencies with a precise jurisdiction and subject to judicial review.

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

The U.S. government should:

- continue to proceed with plans to open a consulate or other official presence in Kano, and Congress should fully fund this effort in the current appropriations cycle;
- provide Embassy and Consulate staff with appropriate local language skills, and require political and public affairs officers to regularly travel throughout Nigeria;
- increase the capacity of the Hausa Service of the Voice of America to report fair and balanced views on communal conflict and human rights issues;
- sponsor several exchange programs each year on the topics of freedom of religion or belief, religious tolerance, and Islamic law and human rights that target religious leaders, human rights advocates, government officials, and northern Nigerians;

- continue to support and adequately fund the Trans-Sahara Counterterrorism Initiative, a regional U.S. security partnership, succeeding the previous Pan-Sahel Initiative and comprised of African and Maghreb countries, including Nigeria, which helps to identify, publicize, and counter foreign sources of terrorism and religious extremism; and
- increase the Embassy's profile and understanding by dedicating one foreign service officer to coordinate outreach and relationships with, and conduct analysis of, Nigeria's diverse religious communities.

## **Pakistan**

**FINDINGS:** Systematic, ongoing, and egregious violations of freedom of religion or belief continue in Pakistan. Religiously discriminatory legislation, such as the anti-Ahmadi laws and blasphemy laws, foster an atmosphere of intolerance. Sectarian and religiously-motivated violence is chronic, and the government has failed to protect members of religious minorities from such violence and to bring perpetrators to justice. Growing religious extremism threatens the freedoms of expression and religion or belief, as well as other human rights, for everyone in Pakistan, particularly women, members of religious minorities, and those in the majority Muslim community who hold views deemed un-Islamic by extremists.

In light of these severe violations, USCIRF again recommends in 2010 that Pakistan be designated a “country of particular concern,” or CPC. Since 2002, USCIRF has recommended Pakistan be named a CPC, but the U.S. State Department has not followed that recommendation.

The religious freedom situation in Pakistan remains deeply troubling, with further deterioration possible due to the actions of religiously-motivated extremists, some of whom have ties to Al-Qaeda or to the Afghan Taliban. The current Zardari government has taken positive actions to promote religious tolerance. However, the government has failed to reverse the continuing erosion in the social and legal status of members of religious minority communities and in the ability of members of the majority Muslim community to discuss sensitive religious and social issues freely. A number of Pakistan’s laws abridge freedom of religion or belief. Anti-Ahmadi laws discriminate against individual Ahmadis and effectively criminalize various practices of their faith. Blasphemy laws have been used against members of religious minorities and dissenters within the majority Muslim community, and frequently result in imprisonment on account of religion or belief and/or vigilante violence. The Hudood Ordinances— Islamic decrees predominantly affecting women that are enforced alongside Pakistan’s secular legal system—provide for harsh punishments for alleged violations of Islamic law by both Muslims and non-Muslims. Anti-government insurgents espousing an intolerant interpretation of Islam continue to impose a harsh, Taliban-style rule in areas under their control. The government’s response to religiously-motivated extremism remains inadequate, despite increased security operations. Pakistan also continues to promote the flawed “defamation of religions” concept at the UN, which would undermine the freedoms of religion and expression internationally.

**PRIORITY RECOMMENDATIONS:** Promoting respect for freedom of religion or belief must be an integral part of U.S. strategy in Pakistan. The forces that threaten Pakistani and U.S. security interests are largely motivated by a violent extremist ideology that rejects international human rights standards, including freedom of religion or belief, for both Pakistan’s non-Muslims citizens and members of the majority Muslim community. The U.S. government should clearly state its concern for religious freedom as an essential element in U.S. policy in Pakistan; urge Pakistan to reinforce the rule of law and to bring its laws, particularly those regarding blasphemy and the Ahmadis, in accordance with international human rights standards; urge Pakistan to halt its international promotion of the flawed “defamation of religions” concept; and urge Pakistani authorities, including at the provincial level, to promote respect for human rights and religious tolerance in public education. Additional recommendations for U.S. policy toward Pakistan can be found at the end of this chapter.

## **Religious Freedom Conditions**

### *Government Policies toward Religious Groups and Activities*

The political landscape in Pakistan has changed significantly since the country's return to constitutional, civilian government in 2008. Democratic parliamentary elections took place in February 2008. The winning coalition selected Syed Yousuf Raza Gilani as Prime Minister in March 2008, and Pervez Musharraf, a former general who had come to power through a military coup d'etat, was replaced by Asif Ali Zardari as President of Pakistan in September 2008. Both Zardari and Gilani are civilian politicians and leaders of the Pakistan People's Party (PPP). Zardari is also the widower of Benazir Bhutto, a popular political leader of the PPP and former Prime Minister who was assassinated in December 2007, reportedly by Sunni militants linked to Al-Qaeda. The Bhutto and Zardari families are Shi'a Muslims from the province of Sindh in a country traditionally dominated by Sunnis from Punjab.

The political power of President Zardari and of the office of the Presidency, previously dominant under past military rulers, has eroded in the past year. In March 2009, under pressure from opposition parties and many of the country's lawyers, President Zardari was forced to reinstate Supreme Court Chief Justice Chaudhury and other judges whom President Musharraf had suspended. President Zardari also was forced to accept the reinstatement of the opposition-led provincial government in Punjab, Pakistan's most populous province. By the end of the reporting period, President Zardari's official powers appeared certain to be further limited by proposed constitutional reforms effectively restoring a parliamentary form of government. The Pakistani military and intelligence services continued to be influential, particularly in regard to national security issues.

Despite continuing political and security challenges, the Pakistani government under President Zardari and Prime Minister Gilani has taken positive steps regarding religious freedom. Both the President and the Prime Minister publicly committed to combating religious extremism and to protecting the rights of members of Pakistan's religious minority communities (with the evident exception of the Ahmadis, who are viewed as a special case in Pakistan). In November 2008, the government appointed prominent minority-rights advocate Shahbaz Bhatti as Federal Minister for Minorities with cabinet rank. Mr. Bhatti has used his position as Federal Minister to obtain government assistance for victims of the worst instances of religiously-motivated mob violence, to advocate publicly for reform or repeal of the blasphemy laws, to gain increased public attention to the concerns of the religious minorities, to secure increased employment opportunities in public service for members of religious minority communities, and to promote religious tolerance through the creation of what are termed "District Interfaith Harmony Committees." In addition, in March 2009 the government appointed a Christian jurist as a judge in the Lahore High Court (at the time of the appointment there were no other Christians serving as judges in Pakistan). In May 2009, the federal government announced a five percent quota in federal employment for members of religious minority communities. On May 28, 2009, "Minorities' Solidarity Day" was first officially celebrated as a federal holiday in Pakistan, and the government designated August 11 as annual "Minorities' Day."

Nevertheless, discriminatory laws, promulgated in previous decades and persistently enforced, have fostered an atmosphere of religious intolerance and eroded the social and legal status of members of religious minorities, including Shi'a Muslims, Ahmadis, Hindus, and Christians. Government officials do not provide adequate protections from societal violence to members of these religious minority communities, and perpetrators of attacks on minorities seldom are brought to justice. This impunity is partly due to the fact that Pakistan's democratic institutions, particularly the judiciary and the police, have been weakened by endemic corruption, ineffectiveness, and a general lack of accountability.

*Religious Freedom Concerns in Pakistani Education*

A significant minority of Pakistan's thousands of religious schools, or *madrassas*, reportedly continue to provide ongoing ideological training and motivation to those who take part in violence targeting religious minorities in Pakistan and abroad. In mid-2005, the Pakistani central government renewed its effort to require all *madrassas* to register with the government and to expel all foreign students. By that year's end, despite an outcry from some violent extremist groups, most of the religious schools had registered. However, the registration process reportedly has had little if any effect on the curricula, which in many of these schools remains intolerant and includes exhortations to violence. The government also still lacks controls on the *madrassas'* sources of funding. It remains doubtful whether these efforts to curb extremism through reform of the country's Islamic religious schools will be accompanied by other measures that would make them effective. Moreover, these efforts do not adequately address the much wider problem of religious extremism in Pakistan and the continued and unwarranted influence of militant groups on the rights and freedoms of others.

Religious freedom concerns are also evident in Pakistan's public schools. Pakistani primary and secondary schools continue to use textbooks that foster prejudice and intolerance of religious minorities. Social Studies and Pakistan Studies textbooks frequently recount historically inaccurate events that paint Hindus and Christians in a negative light. Fifth-grade students read official textbooks claiming that "Hindus and Muslims are not one nation but two different nations. The Hindus could never become sincere in their dealings with the Muslims." Hindu beliefs and practices are contrasted negatively with those of Islam. Bangladesh's struggle for independence from Pakistan is blamed in part on the influence of Hindus in the education sector of the former East Pakistan. India is portrayed as Pakistan's enemy. Israel is characterized as not being a legitimate state. Such materials are not restricted to Islamic studies textbooks but occur in both early elementary and more advanced social studies texts that are used by all public school students, including non-Muslims. Moreover, the subjects in textbooks are heavy on stories, biographies, and poems having an Islamic religious character.

Efforts to improve curriculum guidelines and to produce and publish new public school textbooks have been delayed by practical and ideological hurdles. Although "The New Education Policy 2009" is being implemented predominantly to raise the literacy rate in Pakistan, the new policy maintains Islamic Studies as a compulsory subject. One positive change allows minorities the option of taking an ethics course from third grade onwards, whereas the previous policy offered this option only in grades 9 and 10. However, Pakistani non-governmental organizations argue that this option means little in practice because current ethics textbooks are based on previous curriculum guidelines which contain Islamic biases. Moreover, critics argue, minority students still tend to avoid opting out of Islamic Studies for fear of being isolated from the rest of the class. Some students also fear that if they take ethics and it becomes known that they belong to a religious minority their grades may be negatively impacted.

*Sectarian or Religiously-motivated Violence*

Over at least the past decade, Pakistan has suffered from sectarian and religiously-motivated violence, much of it committed against Shi'a Muslims by Sunni extremists, but also against Ahmadis, Christians, and Hindus. Beginning in early 2008, armed extremists, some of whom have ties to Al-Qaeda or to the Afghan Taliban, intensified their attacks, including bombings. The following examples of sectarian or religiously-motivated violence should be seen as illustrative rather than a comprehensive listing of the numerous and often fatal attacks perpetrated on innocent Pakistanis by extremists who claim religious justification for their crimes.

By early 2009, Sunni extremists gained effective control in large portions of rural northwestern Pakistan, where they killed hundreds of Shi'a civilians, imposed a harsh, Taliban-style of justice, and displaced

Shi'a, Sikh, Hindu, and other minority populations. *Jizya* (the traditional tax on non-Muslims under Islamic law) was imposed on Sikhs and Hindus and violence was threatened for non-compliance. Sunni extremists destroyed shrines and tombs with religious or cultural significance to other Muslims, notably the shrine of revered Pashtun poet and Sufi mystic Rahman Baba, which was bombed in March 2009. This act, compared by some observers to the destruction by the Afghan Taliban of the monumental Buddhas of Bamiyan, appeared intended to erase visible expressions of other belief systems, in this case an inclusive, tolerant form of Islam. Also, as in Afghanistan, the extremists severely restricted women's access to education, health care, and employment outside the home.

The Pakistani government initially responded by attempting to accommodate the Pakistani Taliban. In April 2009, the central government accepted a locally-negotiated "peace plan" for the Malakand division, including the scenic Swat Valley, that permitted the imposition of sharia law in exchange for an end of hostilities with government forces. Under both international and domestic pressure, the government subsequently reversed course and launched military offensives that met with some success, although many internally displaced persons, particularly members of religious minority communities, including the Sikhs, feared to return. At the end of the reporting period, despite the Pakistani military maintaining a large presence in the division, insurgents remained in effective control of some areas.

Sectarian or religiously-motivated violence reached beyond Pakistan's tribal northwest. Two separate suicide attacks on Shi'a religious processions in December 2009 killed over 40 people in Karachi and eight in Muzaffarabad, the capital of Pakistani-controlled Kashmir. Scores were injured in both instances. In June and September 2009, two prominent leaders of Pakistan's large Barelvi Sunni Muslim community were assassinated, including Pakistan's Minister for Religious Affairs. The first assassination was by suicide bomber, a tactic largely restricted to Sunni extremists. Barelvis are condemned by Sunni extremists for certain of their beliefs and practices, including the use of music for religious purposes and the veneration of living and dead religious figures. Both Barelvi leaders had publicly condemned the Pakistani Taliban and supported the government's military campaign against Sunni insurgents. In March 2010, a leading cleric and member of another Sunni group, Ahl-e-Sunna-wal-Jama'a, previously the banned group Sipah-i-Sahaba Pakistan, was wounded and his son killed in a shooting in Karachi. Sipah-i-Sahaba had been implicated in attacks on Shi'a Muslims. Also in Karachi later the same day, another Sunni cleric identified as a prominent member of the Deobandi community and the head of an anti-Ahmadi organization was shot and killed along with his son and two associates.

Sunni extremists have also targeted Ahmadis and Christians. 14 Ahmadis were murdered during the 2009-2010 reporting period in attacks which appear to have been religiously-motivated (e.g., in attacks in which robbery does not appear to have been a motive). In the most recent case, three Ahmadi businessmen were shot to death on April 1, 2010 on the streets of Faisalabad, Punjab, the scene of previous anti-Ahmadi violence. None of the perpetrators have been brought to justice. From June to August 2009, a series of mob attacks took place against Christian communities in Punjab, most notably in Gojra, where in late July/early August, eight Christians were killed and 18 injured, and two churches and almost 75 houses burned, following an accusation that Christians had desecrated the Koran. A fact-finding team by the independent, non-governmental Human Rights Commission of Pakistan reported that the violence in Gojra had been planned in advance.

Due to their minority status, Pakistan's Hindus, Christians, and Sikhs may be more vulnerable to crime, including robbery and kidnapping for ransom. Hindu temples, due to their visibility, were particular targets for robbery. Hindu businessmen in Sindh have been increasingly subject to extortion or kidnappings for ransom. Hindus have also been targeted in the province of Balochistan, where they are the largest religious minority and where the security situation is problematic due to a long-running ethnic insurgency. Ransom, even of exorbitant amounts, is sometimes characterized as *jizya*, thus claiming an Islamic sanction for its imposition on non-Muslims. In February 2010, a kidnapped Sikh businessman

from Peshawar was beheaded by insurgents belonging to the Pakistani Taliban in a remote location on the border between Khyber and Orakzai Agencies. Two other Sikhs were rescued by the Pakistani military.

There are persistent reports of kidnappings, rapes, and forced conversions to Islam of Hindu and Christian women, including minors. In March 2010, a Karachi-based Hindu attorney associated with the non-governmental National Human Rights Commission of Pakistan was quoted as estimating that 20-25 young Hindu women are abducted and forcibly converted every month. The attorney claimed that the victims' families often fail to register cases with the police out of fear of violent retaliation. The Asian Human Rights Commission has highlighted the case of a 15-year-old Hindu domestic servant abducted in Punjab in October 2009. When, through the intervention of the National Peace Committee for Interfaith Harmony, she was later found to be in the custody of her and her parents' employer, a Muslim landlord, at a village 130 kilometers away, the parents were told that she had converted to Islam. They were denied the opportunity to meet with her alone and have not been able to return her home. A Hindu advocacy group, the Hare Rama Foundation, reported that it was aware of ten similar cases in 2009 of apparent abductions and forced conversions of Hindu girls. In some such cases, certificates of conversion from Muslim clerics have been presented to legitimize the conversions. Marginalization and poverty also make the Christian community in Pakistan vulnerable. The most recent and notorious instance is the rape/murder in Lahore in January 2010 of a 12-year-old Christian girl, allegedly by her Muslim employer, a prominent attorney and former Lahore Bar Association president.

#### *The Ahmadi Minority and Anti-Ahmadi Legislation*

Among Pakistan's religious minorities, Ahmadis are subject to the most severe legal restrictions and officially-sanctioned discrimination. Ahmadis, who may number between three and four million in Pakistan, are prevented by law from engaging in the full practice of their faith and may face criminal charges for a range of religious practices, including the use of religious terminology. Pakistan's constitution declares members of the Ahmadi religious community to be "non-Muslims," despite their insistence to the contrary. Barred by law from "posing" as Muslims, Ahmadis may not call their places of worship "mosques," worship in non-Ahmadi mosques or public prayer rooms which are otherwise open to all Muslims, perform the Muslim call to prayer, use the traditional Islamic greeting in public, publicly quote from the Koran, or display the basic affirmation of the Muslim faith. It is also illegal for Ahmadis to preach in public, to seek converts, or to produce, publish, or disseminate their religious materials. Ahmadis also are restricted in building new houses of worship, holding public conferences or other gatherings, and traveling to Saudi Arabia for religious purposes, including the *hajj* (the pilgrimage to Mecca required of all able-bodied Muslims). According to the State Department's annual Human Rights Report issued in March 2010, 94 Ahmadis faced criminal charges in Pakistan for religious offenses during the past year: 37 under the blasphemy laws and 57 under Ahmadi-specific laws.

Obtaining a Pakistani national identity card or a passport requires a religious affirmation denouncing the founder of the Ahmadi faith as a false prophet. Moreover, because Ahmadis are required to register to vote as non-Muslims and national identity cards identify Ahmadis as non-Muslims, those who refuse to disavow their claim to being Muslims are effectively disenfranchised from participating in elections at any level. Since Ahmadis were declared non-Muslim in 1974, no Pakistani government has attempted to reform the anti-Ahmadi laws and regulations, with the sole exception of an abortive attempt in late 2004 to remove the religious identification column in Pakistani passports, which would have enabled Ahmadis to participate in the *hajj*. This initiative was reversed in March 2005 when the government restored the column, reportedly in response to pressure from Islamist political parties.

*Widespread Abuse of the Blasphemy Laws*

Prescribed criminal penalties for what is deemed to be blasphemy include life imprisonment and the death penalty. Blasphemy allegations, which are often false, result in the lengthy detention of, and sometimes violence against, Ahmadis, Christians, Hindus, and members of other religious minorities, as well as Muslims. Because the laws require neither proof of intent nor evidence to be presented after allegations are made, and include no penalties for leveling false allegations, they are commonly used by extremists to intimidate members of religious minorities and others with whom they disagree. Accusers also often use these laws to carry out a vendetta or gain an advantage over another. Minor procedural changes have not diminished the misuse of these laws. The negative impact of the blasphemy laws is further compounded by the absence of due process in the proceedings, and during blasphemy trials, Islamic militants often pack the courtroom and publicly threaten violence if there is an acquittal. Such threats have proven credible, since violence has sometimes followed an acquittal. Although no one has yet been executed by the state under the blasphemy laws, individuals have been sentenced to death. Several of those accused under the blasphemy laws have been attacked, even killed, by violent extremists, including while in police custody. Those who escape official punishment or attacks by extremists are sometimes forced to flee the country.

Scores of arrests on blasphemy charges are reported each year in Pakistan. Among notable recent cases are the following. Five Ahmadi teenagers were released on bail in July 2009 after six months' imprisonment following a blasphemy charge. They had been accused of writing the Prophet Muhammad's name on the walls of a toilet in a Sunni mosque. No physical evidence of this existed. In September 2009, a 20-year old Christian man was found dead in his jail cell in Sialkot, Punjab two days after having been arrested on charges of desecrating the Koran. Family and friends alleged that his only "offense" had been to admire the daughter of Muslim neighbors. Pakistani human rights activists alleged that he had been murdered, although police maintained that the death was suicide. In January 2010, a young Christian man was sentenced to 10 years in prison for allegedly burning pages of the Koran. A Muslim neighbor had reportedly seen him disposing of trash. Despite calls by senior officials, including Prime Minister Gilani, for review of Pakistan's blasphemy laws following the anti-Christian violence in Gojra, no action has yet taken place.

*Other Religiously-based Laws Negatively Affecting Human Rights, especially of Women*

Under the Hudood Ordinances, rape victims run a high risk of being charged with adultery, for which death by stoning remains a possible sentence. In October 2003, the National Commission on the Status of Women in Pakistan reported that as many as 88 percent of women prisoners, many of them rape victims, are serving time in prison for allegedly violating these decrees, which criminalize extramarital sex. The Hudood laws apply to Muslims and non-Muslims alike. The UN Committee against Torture and the UN Special Rapporteur on Torture have stated that the punishments of stoning and amputation breach the obligation to prevent torture or cruel, inhuman, and degrading treatment or punishment under international human rights standards and treaties. Although these extreme corporal punishments may not have been carried out in practice in Pakistan, lesser punishments such as jail terms or fines have been imposed. In a positive development correcting one of the most heavily criticized aspects of these ordinances, in December 2006 then-President Musharraf signed into law a bill curtailing the scope of the Hudood Ordinances regarding rape charges. The new law removed the crime of rape from the sphere of the Hudood laws and put it under the penal code, thereby doing away with the requirement that a rape victim produce four male witnesses to prove the crime. Under the new legislation, convictions for rape must be based on forensic and circumstantial evidence. This change followed another amendment to the Ordinances enacted in July 2006 allowing women convicted of purported sexual transgressions to be released on bail rather than having to remain in prison—sometimes for lengthy periods—waiting for their cases to come to trial.

*International Terrorism Linked to Religious Extremism*

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

*Leadership in Seeking a Global Blasphemy Law*

The government of Pakistan also has been active in the international arena in promoting limitations on freedom of religion or belief. As it has done in UN bodies since 1999, in March 2010 Pakistan once again presented a resolution to the UN Human Rights Council in Geneva supporting measures to halt the so-called "defamation of religions." The backers of the resolution claim that their aim is to promote religious tolerance, but in practice such laws routinely criminalize and prosecute what is often deemed—capriciously by local officials in countries where such laws exist—to be "offensive" or "unacceptable" speech about a particular, favored religion or sect. Defamation of religion laws clearly violate principles outlined in international human rights instruments, which guarantee the right to freedom of thought, conscience, and religion, as well as freedom of expression. Moreover, they appear to grant rights to entire religions rather than to individuals. Regrettably, the resolution again passed the Council March 2010, although by the smallest margin ever. Seventeen countries voted against the resolution and 8 abstained. (For more information, see the discussion of the UN in this report's chapter *Promoting International Religious Freedom through Multilateral Institutions*.)

**U.S. Policy**

The U.S. government has viewed Pakistan as a strategic country and, at least during some periods, as an important regional partner. During the Soviet occupation of Afghanistan, Pakistan was of crucial importance in U.S. efforts to bolster the anti-Soviet resistance. Following the September 11, 2001 terrorist attacks against the U.S. homeland, Pakistan was again crucial to U.S. efforts in Afghanistan and to the global campaign against al-Qaeda. The relationship has often been marked, however, by strain, disappointment, and mistrust. Many Pakistanis view the United States as untrustworthy because of what they see as a lack of U.S. support in Pakistan's conflicts with India, the cancellation of U.S. assistance over Pakistan's acquiring of nuclear weapons, and the sharp drop-off in U.S. engagement with Pakistan following the Soviet withdrawal from Afghanistan in 1989 and the end of the Cold War. Many in Pakistani civil society also view the United States as prone to focus on the security component of the relationship, providing at times massive assistance to Pakistan's powerful military establishment, excusing past military rule and downplaying attendant human rights abuses when this suits U.S. interests, and failing to support those elements of Pakistani society that espouse democracy and respect for human rights. Anti-Americanism is a popular sentiment in Pakistan, feeding off nationalist concerns over Pakistani sovereignty and the conviction of many religious conservatives that U.S. policy and values are hostile to Islam.

The Obama administration has actively engaged with Pakistan, viewing Afghanistan and Pakistan as a single theater in the on-going conflict with al-Qaeda and the Afghan Taliban. On January 22, 2009, only two days after President Obama's inauguration, he joined Vice President Biden and Secretary of State Clinton at the State Department for the announcement of Ambassador Richard Holbrooke as U.S. Special Representative for Afghanistan and Pakistan. In making the announcement, Secretary Clinton stated that "It has become clear that dealing with the situation in Afghanistan requires an integrated strategy that works with both Afghanistan and Pakistan as a whole, as well as engaging NATO and other key friends, allies, and those around the world who are interested in supporting these efforts."

In March 2009, following a two-month-long interagency policy review, the Administration announced "a comprehensive, new strategy for Afghanistan and Pakistan," with an increased focus on Pakistan. The White Paper outlining this new strategy defined the core U.S. goal to be "to disrupt, dismantle, and defeat al Qaeda and its safe havens in Pakistan, and to prevent their return to Pakistan or Afghanistan." The new strategy viewed the security of the two South Asian neighbors to be interrelated, seeing Pakistan-based insurgents as undermining Afghanistan while the "insurgency in Afghanistan feeds instability in Pakistan." Among the announced objectives to achieving this goal was "assisting efforts to enhance civilian control and stable constitutional government in Pakistan and a vibrant economy that provides opportunity for the people of Pakistan." Enhancing human rights, including freedom of religion or belief, was not among the announced objectives or the major recommendations in the new strategy.

In October 2009, President Obama signed the Enhanced Partnership with Pakistan Act of 2009 (also known as the Kerry-Lugar Bill) authorizing an additional \$7.5 billion in mostly non-military assistance to Pakistan (\$1.5 billion annually over five years). The assistance is to support democratic institutions and to promote rule of law, to promote economic development, to build Pakistan's human resources, with particular emphasis on women and children; and to strengthen U.S. public diplomacy efforts to combat extremism and to promote a better understanding of the United States among the Pakistani people. Particularly controversial in Pakistan, however, were provisions intended to lend U.S. support to effective civilian control of the powerful Pakistani military by the elected government. Many Pakistanis viewed these provisions, which include a reporting requirement to the U.S. Congress to describe civilian oversight of the Pakistani military, the process for determining Pakistan's defense budget, and even the promotion process for senior military officers, as intrusive and as an alleged affront to Pakistani sovereignty.

In March 2010, a session of the U.S.-Pakistan Strategic Dialogue was held in Washington, DC at the Secretary of State/Foreign Minister level. According to the joint statement issued after the talks, the "core foundations of [U.S.-Pakistani] partnership are shared democratic values, mutual trust and mutual respect." Human rights was once again absent from the list of bilateral concerns worthy of dialogue, which included "economy and trade; energy; security; strategic stability and non-proliferation; law enforcement and counter-terrorism; science and technology, education; agriculture; water; health; and communications and public diplomacy."

### **USCIRF Activities**

USCIRF has long been concerned with the serious religious freedom abuses taking place in Pakistan, some of which the government of Pakistan condones. Since 2002, USCIRF has recommended annually that Pakistan be designated a CPC. The Commission has highlighted religious freedom problems in Pakistan through public hearings, meetings with the Administration and the Congress, letters to senior U.S. government officials, and press statements.

In March 2009, USCIRF held a hearing on Capitol Hill entitled, "Pakistan: The Threat of Religious Extremism to Religious Freedom and Security." Experts discussed legal restrictions on religious freedom

in Pakistan; the threat, particularly to women and religious minorities, of religiously-motivated violence and intolerance; strategies for promoting tolerance in Pakistan's educational system, including Islamic schools; and how U.S. policy toward Pakistan could better support the institutions that promote respect for human rights, including freedom of religion or belief. USCIRF welcomed the Administration's March 27, 2009 announcement of "a comprehensive, new strategy" that "focuses more intensively on Pakistan than in the past, calling for more significant increases in U.S. and international support, both economic and military, linked to Pakistani performance against terror."

During a July 2009 meeting with a visiting delegation from Pakistan's Council of Islamic Ideology, an advisory body sponsored by the Pakistani government, USCIRF raised concerns about religious freedom in Pakistan, including Pakistan's laws on blasphemy and those restricting the rights of members of the Ahmadi religious community. In August 2009, USCIRF wrote the U.S. Special Envoy for Afghanistan and Pakistan, Ambassador Richard C. Holbrooke, urging him to support efforts underway within Pakistan to remove the blasphemy laws and other discriminatory legislation that have had a negative impact on freedom of religion or belief and other universal human rights of Pakistan's citizens, particularly members of religious minorities.

In September 2009 and again in February 2010, USCIRF facilitated a series of briefings by Pakistan's Federal Minister for Minorities Affairs for members of Congress and their staff, National Security Council and State Department officials, academic experts, and representatives of non-governmental organizations. These briefings focused on the current situation of Pakistan's religious minority communities and the Pakistan government's response to an upsurge in religiously-motivated violence. USCIRF also worked with House staff to develop H.Res. 764 that expressed the sense of the House of Representatives on the importance of inter-religious dialogue in Pakistan and of religious freedom and related human rights for Pakistanis of all religious faiths.

Based on these contacts and USCIRF's own research, the Commission concludes that the contest with religious extremists now taking place in Pakistan, and in neighboring Afghanistan, requires that the United States bolster the position of those elements within Pakistani society that respect democratic values, the rule of law, and international standards of human rights, including freedom of religion or belief. To this end, the Commission has the following recommendations.

## **Recommendations**

### **I. Advancing Religious Freedom through U.S. Programs and Policies**

In addition to designating Pakistan as a CPC, the U.S. government should:

- clearly articulate upholding religious freedom and related human rights as an essential element of the U.S. strategy toward Pakistan, and support Pakistani civil society institutions that work to uphold and guarantee these rights;
- have Special Representative Richard Holbrooke increase his engagement on religious freedom and related human rights, as well as designate a member of his team to report to the Special Representative exclusively on human rights in Pakistan, specifically including religious freedom and sectarian violence;
- from the funds provided through the Enhanced Partnership with Pakistan Act of 2009, make allocations in the Pakistan assistance package for fiscal years 2010-2014 to strengthen the promotion and protection of religious freedom and tolerance by:

--ensuring that assistance for government capacity development that goes to the Pakistani executive, legislative and judicial branches also addresses religious freedom and related human rights, such as the programs developed by the Federal Ministry of Minorities Affairs that promote pluralism and tolerance;

--ensuring that assistance focusing on improving security and legal institutions through police training addresses religious freedom and related human rights; and

--implementing programming that works to ensure the promotion of the rights and full participation of women and girls in Pakistan's social and political life.

- as the number of U.S.-based implementing partners declines, ensure that USAID engages Pakistani government offices and qualified Pakistani organizations to promote religious freedom and tolerance, including by:
  - supporting the work of religious communities and civil society groups to provide advocacy training and empowerment for minorities;
  - supporting the work of the Federal Ministry of Minorities Affairs to promote inter-religious respect and tolerance at the national and local levels, including by print, broadcast, and web-based media, to respond to the challenge of religious extremism and religiously-motivated or sectarian violence;
  - supporting the work of the Pakistan federal government's District Interfaith Harmony Committees and similar efforts at the local level to promote conflict resolution and more effective responses by Pakistani authorities and civil society to instances of religiously-motivated discrimination, intimidation, or violence;
- expand U.S. government contacts beyond the Pakistani government to include substantially more open and public dialogue with a variety of civil society representatives, including groups and political parties that may be critical of the government or represent diverse viewpoints; and
- recognizing that lasting stability in Pakistan will come from a vibrant civil society, expand programs leading to the sustained engagement of the United States with the Pakistani people, such as the Fulbright Program, the International Visitor Program, and other exchanges for professionals, students, and religious and civil society leaders from all of Pakistan's diverse religious and ethnic communities.

## **II. Ending Violations of Religious Freedom in Pakistan**

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

- decriminalize blasphemy and, in the interim period until that action is completed, immediately implement procedural changes to the blasphemy laws that will reduce and ultimately end their abuse, and ensure that those who are accused of blasphemy and their defenders are given adequate protection, including by investigating death threats and other actions carried out by militants, and that full due process is followed;
- reinforce the rule of law, including by strengthening protections for the freedoms of religion, speech, association, assembly, and the media, and by strengthening an independent judiciary;

- prioritize the prevention of religiously-motivated and sectarian violence and the punishment of its perpetrators, including by:
  - making greater efforts to disarm violent extremist groups and provide the necessary security to Shi'a, Sufis, Christians, Ahmadis, Hindus, Sikhs, and other minority religious communities in their places of worship and other minority religious sites of public congregation;
  - investigating acts of religiously-motivated and sectarian violence, and punishing perpetrators in a timely manner;
  - constituting a government commission that is transparent, adequately funded, inclusive of women and minorities, and defined by a mandate to study and produce recommendations on ways that the Pakistani government can proactively diminish religiously-motivated and sectarian violence, particularly in areas with a heavy concentration of members of religious minority communities;
- rescind the laws targeting Ahmadis, which effectively criminalize the public practice of their faith and violate their right to freedom of religion guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;
- cease toleration or support of the Taliban or other terrorist groups by any element of the Pakistani government, including the intelligence services;
- confront and work to address the consequences of the political alliances maintained by past military-dominated governments with Islamist political parties, which afforded an excessive amount of influence to these groups, and which, in turn, had a strong negative impact on religious freedom in Pakistan; and
- halt its practice at the UN Human Rights Council, General Assembly, and other international fora of promoting and supporting the problematic concept of “defamation of religions,” which seeks to undermine the international human rights guarantees of freedom of religion and freedom of expression.

The U.S. government should urge the government of Pakistan, and provincial authorities, as appropriate, to:

- investigate and close any religious schools that provide weapons or illegal arms training in perpetrating acts of violence;
- set national textbook and curricula standards that actively promote tolerance towards all religions, and establish appropriate review and enforcement mechanisms to guarantee that such standards are being met in government (public) schools;
- initiate efforts through existing regional and international institutions to establish mechanisms for mutual review of textbook guidelines, textbook content, curricula, and teacher-training programs in order to promote positive concepts of tolerance and respect for the rights of others and to exclude material promoting intolerance, hatred, or violence against any group of persons based on religious or other differences;

- move quickly to implement improved guidelines for textbooks used in public schools and to replace current public school textbooks with ones that exclude messages of intolerance, hatred, or violence against any group of persons based on religious or other differences;
- open the Federal Ministry of Education's current process of development of textbook guidelines to participation by civil society and by representatives of religious minority communities in cooperation with the Federal Ministry of Minorities Affairs; and
- ensure that a *madrassa* oversight board is empowered to develop, implement, and train teachers in human rights standards, and to provide oversight of *madrassa* curricula and teaching standards.

## **People's Republic of China**

**FINDINGS:** The Chinese government strictly controls all religious practice and represses religious activity outside state-approved organizations. Some Chinese citizens can assemble to worship and conduct charitable projects within government-approved parameters. Unregistered religious groups, or those deemed by the government to threaten national security or social harmony, face severe violations, including fines, confiscation of property, imprisonment, and the destruction of religious sites. Religious freedom conditions for Tibetan Buddhists and Uighur Muslims are the worst they have been in the past ten years. After demonstrations and riots in 2008 and 2009, the Chinese government increased efforts to weaken religious devotion, discredit and imprison religious leaders, and ban religious gatherings and “illegal religious literature” in Tibetan and Uighur areas. Almost four hundred unregistered Protestants were detained in the past year and the Chinese government stepped up efforts to destroy churches and close “illegal” meeting points. Unregistered Catholic clergy and Falun Gong adherents remain in detention, in home confinement, under surveillance, or have disappeared. Detained Falun Gong adherents are tortured and mistreated. In addition, Chinese officials harassed, detained, physically abused, and in the prominent case of Gao Zhisheng, forcibly “disappeared” attorneys who defended Falun Gong, Tibetans, Uighurs, and unregistered Protestants.

Because of these systematic, ongoing, and egregious violations of religious freedom, USCIRF recommends in 2010 that China again be designated as a “country of particular concern”, or CPC. The State Department has designated China as a CPC since 1999.

Religious adherence continues to grow rapidly in China. Hundreds of millions of Chinese manifest their belief openly. Senior-level government officials, including President Hu Jintao, have praised the positive role of religious communities and articulated a desire for religious groups to promote “economic and social development.” At the same time, the government has issued directives warning against foreign groups “using religion” to “interfere” in Chinese affairs, supported an extralegal security force to suppress the activities of so-called cult organizations, and severely restricted online access to religious information and the rights of parents to teach their children religion. Chinese officials are increasingly adept at employing the language of human rights and the rule of law to defend repression of religious communities, citing purported national security concerns or using Chinese law to restrict rather than advance universal freedoms.

**PRIORITY RECOMMENDATIONS:** Religious freedom is a bellwether issue in U.S.-China relations, encompassing issues including the rule of law, freedom of expression, and the well-being of ethnic minorities. Promoting religious freedom in China is a vital U.S. interest that can positively affect the United States’ future security, economic, and political relations with China. As part of China’s CPC designation, USCIRF urges the Secretary of State to impose a new sanction targeting officials who perpetuate religious freedom abuses or provinces where religious freedom conditions are most egregious. In addition, USCIRF recommends that the U.S. raise religious freedom concerns in multilateral fora where the U.S. and China are members, coordinate potential sources of leverage within the U.S. government and with allies to build a consistent human rights diplomacy with China, develop and distribute proven technologies to counter Internet censorship and protect Chinese activists from arrest and harassment, and raise religious freedom and negotiate binding human rights agreements at the U.S.-China Strategic Dialogue.

## **Religious Freedom Conditions**

### *Restrictive Legal Framework*

The National Regulations on Religious Affairs (NRRA), first issued in March 2005 and updated in 2007, require all religious groups and religious venues to affiliate with one of seven government-approved religious associations. The NRRA strengthens governmental management and supervision of religious affairs, offering Party officials extensive control over every aspect of religious practice and related activities. Within the bounds allowed by the Chinese legal system, the NRRA expanded some protections for registered religious communities to carry out religious activities and some charitable work. When registered, religious communities can apply for permission to possess property, provide social services, accept donations from overseas, conduct religious education and training, and host inter-provincial religious meetings. However, those protections are sometimes overridden by political considerations. The NRRA recognizes only “normal religious activity” and contains vague national security provisions that forbid religious groups from disrupting national unity or solidarity. The provisions are used to justify suppression of “unregistered” religious activity or the activity of “cult” organizations.

The NRRA sets specific criminal penalties for religious communities that are not in compliance with registration requirements. Religious leaders or adherents detained or arrested for religious activity or religious freedom advocacy face criminal charges, under provisions of the Criminal Code, most often under vague national security or public morality charges. In addition, the Chinese government continues to use administrative detention, including reeducation through labor, to detain religious believers without trial and outside the formal legal system for up to three years.

Religious and spiritual groups that do not meet registration requirements, or that choose not to register, risk harassment, detention, arrest, and closure of meeting and worship places. Some Catholics, Protestants, Muslims, and members of spiritual movements have refused to join the officially-sanctioned religious organizations because they do not want to, most prominently: provide the names and contact information of their followers; submit leadership decisions to the government or to one of the government-approved religious organizations; and seek advance permission from the government for all major religious activities or theological positions. During the past year, Protestant “house church” groups and underground Catholic priests faced increased pressure to register with government-approved associations.

Repression of unregistered religious activity varies by region, province, politics, and ethnicity. In some localities, officials arbitrarily implement national government policy and allow some unregistered groups to carry out worship activities openly. That some unregistered religious activity is tolerated is not, in itself, evidence that the Chinese government protects the freedom of religion for all.

In Tibetan Buddhist and Uighur Muslim regions, the NRRA includes additional restrictions on peaceful religious expression and leadership decisions. National laws are supplemented with extensive provincial regulations that go well beyond the NRRA’s provisions. During the past year, the Chinese government continued to pursue an intense campaign of “patriotic education” among monks, nuns, and imams. The government has long required Tibetan Buddhist and Uighur Muslim religious leaders to demonstrate political loyalty, but new laws give provincial officials the power to monitor the training, assembly, publications, selection, education, and speeches of Muslim and Tibetan Buddhist leaders. Patriotic education campaigns among religious leaders are intended to quell any activities viewed as political dissent and to promote leaders who are considered “patriotic and devoted.”

In addition to patriotism classes for clergy, the Education Ministry also announced in 2008 that children in both regions will be required to attend courses on “ethnic unity.” These classes are a reaction to the religious and ethnic based uprisings in Tibet and the unrest in Xinjiang province over the past several years. Authorities in Lhasa also warned parents about allowing their children to participate in religious holidays, including activities such as visiting or circumambulating temples and deities or wearing amulet cords. Students failing to comply with the orders were threatened with expulsion from school. There continue to be decrees in Xinjiang requiring extensive monitoring of the religious activities of students, including programs intended to “weaken religious consciousness.”

### *Tibetan Buddhists*

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

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

These regulations are part of the Chinese government’s longstanding campaign to diminish the stature and influence of the Dalai Lama among Tibetans. Zhang Qingli, party secretary of the TAR, during the closing ceremonies of the Olympic Torch rally in June 2008 predicted that China would “smash completely” the Dalai Lama’s “separatist plot.” He then referred to the Dalai Lama as a “wolf in monk’s robes” and “a devil with a human face but the heart of a beast.” He dismissed the exiled leader’s supporters as the “scum of Buddhism” and ordered monks, nuns, students, government workers, and business people throughout Tibet to participate in patriotic education and publicly denounce the Dalai Lama. As part of an “anti-crime” crackdown in early 2009, police searched homes and businesses for “illicit” images, pictures of the Dalai Lama, as another part of their patriotic education campaign.

In the past year, the Chinese Communist Party adopted a policy of increased economic integration for Tibetan areas and attempted to control the traditional norms of Tibetan Buddhism and weaken devotion to the Dalai Lama. The government’s restrictions on religious freedom have nurtured deep resentments among Tibetans.

Chinese government actions and policies to suppress peaceful religious activity in Tibetan areas played a primary role in stoking the 2008 demonstrations that led to violence, the detention of hundreds of Tibetan monks and nuns, and increased restrictions on peaceful religious activity. On March 10, 2008, the anniversary of the failed 1959 uprising against Chinese control of Tibet, monks from Drepung monastery peacefully protested against patriotic education and other religious freedom restrictions. In response, the Chinese government sealed off monasteries and arrested monks, touching off demonstrations in Lhasa that led to property destruction, violence, arrests, and numerous deaths.

There is extensive evidence of arrests, beatings, long prison sentences and torture in detention of monks and nuns whom security officials detained for participating in the 2008 protests. The Chinese government has not provided full details or a credible accounting of those detained, missing, or “disappeared,” trials have not been open, and those accused are not given adequate legal representation.

Since the 2008 demonstrations, the government has intensified restrictions on Tibetan Buddhism. Tibetan monks and nuns continue to be detained and many have been sentenced to long prison terms for their alleged role in the 2008 protests or for subsequent peaceful demonstrations opposing new restrictions on religious life. Some monasteries and other holy sites have been forcibly closed or destroyed. A security presence has remained at some monasteries and nunneries, and local government officials have escalated their campaigns to require monks and nuns to sign statements denouncing the Dalai Lama.

Monks and nuns who refuse to denounce the Dalai Lama or to pledge loyalty to Beijing have been expelled from their monasteries, imprisoned, and tortured. Phurbu Tsering, a prominent Tibetan Buddhist religious teacher, was detained on May 19, 2008 after police arrested more than 50 of his students for staging a peaceful protest against requirements that they denounce the Dalai Lama and their teacher. In December 2009, he was given an eight-year sentence for possessing weapons. His lawyer maintains that he confessed to the charges after being tortured by being deprived of sleep for four days. In October 2008, authorities closed Pangsa Monastery in Lhasa after an increased flow of Tibetans came to pay tribute to a statue that had received a blessing from the Dalai Lama.

There also continue to be severe restrictions and harassment in Tibetan areas outside the TAR, including in areas where monks and nuns staged peaceful demonstrations in 2008. For example, on April 14, 2008 Chinese soldiers fired on several hundred monks and local residents at the Tongkor monastery in Ganzi prefecture, Sichuan province. Witnesses claim that between eight and 15 people were killed and others were arrested. Ganzi has more political and religious prisoners than any other Tibetan region outside of the TAR. Protesters called for the return of the Dalai Lama, the release of the Panchen Lama (Gedun Choekyi Nyima), the end to “patriotic education,” and more religious freedom in general. In Ganzi (Kardze) Prefecture, the local government issued regulations in June 2008 both to punish and remove from Ganzi monks and nuns accused of participating in peaceful protests. Punishments include arrest, re-education, closure of a monastery or nunnery, and the forced removal of a religious teacher (reincarnated trulku) from his position.

USCIRF also has received the following reports from Tibetan researchers and human rights organizations. In July 2009, Jamyang Tenzin, a Tibetan monk from Lithang County, Kardze (Ganzi) Prefecture was sentenced to three years’ imprisonment for opposing a patriotic education campaign at his monastery. In May 2009, monk Tsultrim Gyatso was sentenced to life imprisonment for allegedly “endangering state security” by organizing a peaceful protest opposing religious freedom restrictions. Gonpo Tserang was sentenced in Dechen, TAR to three years in prison for reportedly “inciting separatism” by sending e-mail and text messages about the March 2008 protests. In November 2008, Dorje Kangzhu, a nun from Ganzi Tibetan Autonomous Prefecture, was sentenced to seven years in prison for allegedly “inciting secession” after being arrested for distributing Tibetan independence leaflets and shouting support for the Dalai Lama in May 2008. In March 2009, Public Security Bureau (PSB) personnel beat to death a monk from Drango Monastery in Kardze, Sichuan province after he passed out leaflets supporting the Dalai Lama on PSB property. In the same month, two nuns were arrested and beaten after staging a protest in the Kardze County market square.

The Chinese government continues to deny repeated international requests for access to the disappeared 19-year-old Gedhun Choekyi Nyima, whom the Dalai Lama designated as the 11th Panchen Lama when he was six years old. No one has seen him since, nor have any independent or transparent interviews taken place. Government officials claim that he is in fact alive and well and being “held for his own

safety.” The Chinese government insists that another boy, Gyaltzen Norbu, is the “true” Panchen Lama, one of the most revered positions in Tibetan Buddhism and a religious figure who will play an important role in selecting the next Dalai Lama. In recent years, Chinese authorities have, on several occasions, featured Norbu in public ceremonies where he stresses the importance of loyalty to the Communist government and endorses the government’s official version of Tibetan history. The government continues to take active steps to pressure Tibetans to accept Norbu as Panchen Lama,

### *Uighur Muslims*

In the Xinjiang Uighur Autonomous Region (XUAR) and other areas of Xinjiang province, religious freedom conditions continue to deteriorate. The Chinese government severely and illegitimately represses peaceful religious activity, invoking security-related campaigns that exaggerate the threat of separatism and domestic terrorism. Over the past decade, China similarly has overplayed the global war on terror as a pretext to crack down on even non-violent forms of dissent or religious activity. Both Muslims and Protestants in the XUAR have experienced increased harassment, arrests, and efforts to weaken religious adherence. Ethnic tensions in China’s western provinces have a long history. The government’s various campaigns to curtail potential secessionist and terrorist activity are a major source of Uighur resentment and may lead to the very type of extremism Beijing’s policies are trying to forestall.

Uighur Muslim clerics and students have been detained for various “illegal” religious activities, “illegal religious centers” have been closed, and police continue to confiscate large quantities of “illegal religious publications.” XUAR Party Secretary Wang Lequan stated that the government would use “preemptive attacks” and institute “anti-separatist reeducation” in the XUAR to ensure national safety. In September 2008, XUAR chairperson Nur Bekri gave details of new measures to “strike hard” against the threats of, among other things, “illegal religious activity” and “religious extremism” and called for new efforts to curtail “underground [religious] activities to teach religion and sermonize.” A new February 2010 XUAR “Social Order” decree outlines additional security controls to battle the “three forces of terrorism, separatism, and religious extremism.”

The new “Social Order” decree comes in the aftermath of July 2009 protests of the killing of a Uighur worker at the Guangdong toy factory. The protests became violent, leading to an unknown number of deaths and arrests. Hundreds of Uighurs reportedly have been sentenced for allegedly taking part in the violence. According to NGO and press reports, at least 15 Uighurs have been executed. The Chinese government has actively sought to punish those allegedly involved in the 2009 protests, including successfully pressuring Cambodia to return 20 Uighurs seeking asylum.

The 2009 demonstrations and violence intensified long-standing “security” campaigns to control religious activity and “weaken religious consciousness” among Uighurs. The XUAR government continues to limit access to mosques, including by women, children, communist party members, and government employees. All imams in Xinjiang are required to undergo annual political training seminars to retain their licenses, and local security forces monitor imams and other religious leaders. Imams at Uighur mosques are reportedly required to meet monthly with officials from the Religious Affairs Bureau and the Public Security Bureau to receive “advice” on the content of their sermons. Failure to report to such meetings can result in the imam’s expulsion or detention.

During the last few years, XUAR officials have issued new orders to extend governmental control over religion. For example, in August 2008 authorities in Kashgar called for increased surveillance and management of religious activity. In June 2008, officials in Kazakh Autonomous Prefecture called for increased inspections of mosques and religious venues to prevent “illegal reading of scriptures” and for the “infiltration” of religious groups. In June 2008, a mosque near Aksu city was demolished reportedly for “illegal renovations,” for having “illegal copies” of the Koran, and for engaging in “illegal religious

activities.” In February 2009, officials in Hotan started a campaign to halt “illegal” religious schools. According to reports, armed security personnel conducted nighttime searches, closing seven schools and detaining 39 people. In March 2009, according to a Radio Free Asia (RFA) report, Hotan officials stated that anyone engaged in “cross-village worship” will be charged with a “social crime” and subject to detention or fines. Also in March, according to RFA, the Ili Intermediate People’s Court in Kazakh Autonomous Prefecture sentenced 12 men for “splittism,” for teaching religion to children.

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

Officials in the XUAR prohibit teaching Islam outside the home to minors, and police have stepped up attempts to halt private religious education programs in some parts of Xinjiang province. Teachers and organizers can be charged with conducting an “illegal religious gathering,” a criminal offense. During USCIRF’s 2005 visit to China, local government officials confirmed that minors were prohibited from participating in any religious activity or instruction before finishing nine years of compulsory public education. This policy contradicted statements made by officials in the central government who claimed that there are no restrictions prohibiting the religious activities of minors. In March 2009, authorities in Hotan, XUAR closed seven religious schools and conducted house-to-house searches. Officials arrested 39 people and claimed to have seized books, propaganda material, and weapons.

In several localities in Xinjiang, plainclothes police are reportedly stationed outside mosques to enforce rules forbidding children and government employees from attending services. There are also reports that in some areas, individuals under the age of 30 are prohibited from attending a mosque. Throughout Xinjiang, teachers, professors, university students, and other government employees are prohibited from engaging in religious activities, such as reciting daily prayers, distributing religious materials, observing Ramadan, and wearing head coverings; they are reportedly subject to fines if they attempt to do so. These standards are enforced more strictly in southern Xinjiang and other areas where Uighurs account for a higher percentage of the population. In March 2009, 600 protestors, mostly women, marched in Hotan to protest a proposed ban on headscarves and other restrictions on religious freedom.

The XUAR is reportedly considering regulations to further prohibit the rights of children to receive religious instruction or attend religious activities. Similar decrees are in place in other part of Xinjiang province. In the spring of 2009, Hotan district strengthened oversight of students during vacation periods. In February 2009, Yining City, Ili Kazakh Autonomous Prefecture started a propaganda campaign targeting women, teenagers, and juveniles in order to “weaken religious consciousness.”

Regulations in the XUAR ensure that all *hajj* pilgrimages (the pilgrimage to Mecca required of all able-bodied Muslims) are controlled by the government-approved Chinese Patriotic Islamic Association. To enforce these regulations, XUAR authorities require Muslims to surrender their passports to local government offices for registration. To retrieve their passports, they must provide detailed information regarding their *hajj* travel plans to ensure their foreign visa is authorized. Uighur human rights activists outside of China are concerned that this policy will be used to identify and punish Uighurs who travel outside of the XUAR. Their worries may have been proved justified when the government confiscated

the passports of more than 2,000 Uighur Muslims in 2007 and arbitrarily detained men between the ages of 50 to 70 for participating in the *hajj*.

The State Department estimates that over 1,000 people were arrested in the XUAR on charges related to state security over the past year, a large increase from the previous year. Such charges have been used to detain religious adherents and other dissidents in the past. Due to the lack of judicial transparency, and the government's equation of peaceful religious activity with religious extremism and promotion of terrorism, it is difficult to determine how many prisoners are being held for peaceful religious activity or for peacefully protesting restrictions on the freedom of thought, conscience, and religion.

Three family members of Rebiya Kadeer, one of the most prominent Uighur human rights and religious freedom advocates, remain in prison. Kadeer's three sons, Kahar, Alim, and Ablikim, were arrested in June 2006 to prevent them from meeting with a visiting U.S. congressional delegation. The following October, Kahar and Alim were tried for tax evasion, and Alim was sentenced to seven years imprisonment. The two were also fined a total of over \$75,000. In February 2007, Ablikim was tried in secret on charges of "subversion of state power" and later sentenced to nine years imprisonment. In December 2007, family members were allowed to visit Ablikim for the first time in a year. Both Alim and Ablikim remain in prison, where they are reported to have been tortured and abused. Ablikim is reported to be in poor physical health without adequate medical care.

### *Catholics*

The officially-sanctioned Catholic Patriotic Association (CPA) does not allow its members or clergy to have official relations or communication with the Vatican or other foreign Catholic organizations. This prohibition continues to strain relations between the CPA and the unregistered Catholic Church in China and between the Chinese government and the Holy See.

Despite official policy, an estimated 90 percent of CPA bishops and priests are secretly ordained by the Vatican and in many provinces CPA and unregistered Catholic clergy and congregations work closely together. In some cases, the Vatican and the Chinese government have worked together to select bishops. For example, in September 2007 bishops were ordained in Beijing, Guizhou, and three other dioceses with the approval of both the government and the Vatican. These ordinations reversed a trend of the government appointing bishops without Vatican approval. Nonetheless, the Chinese government took active steps to halt distribution of Pope Benedict's 2007 open letter to Chinese Catholics. In the 2007 papal letter, the Pope recognized that, although there have been some improvements, "grave limitations" on religious freedom in China remain, which the church cannot accept. Nevertheless, the Pope called on Chinese Catholics to adopt the approach of "respectful and constructive dialogue." Despite the Chinese government's efforts to undermine reconciliation efforts already underway in China, Pope Benedict renewed his call last year for continued reconciliation efforts between registered and unregistered bishops in China.

The Chinese government continues to maintain that normalization of ties with the Holy See will begin only if the Vatican revokes its diplomatic relations with Taiwan and agrees to cease its "use of religion as a means to interfere in China's internal affairs." There has been no noticeable progress made toward establishing formal diplomatic relations in the past year.

Harassment and detention of Catholics in China continued during the reporting period. In the two provinces with the largest Catholic communities, Hebei and Shaanxi, provincial governments have engaged in campaigns to suppress the activities of "underground" Catholic congregations and coerce Catholic clergy to join the CPA. According to the Congressional-Executive Commission on China's 2009 Annual Report, the Shaanxi Ethnic and Religious Affairs Bureau boasted of its efforts to "frighten"

Catholics and engage in a “transformation through reeducation” of 13 Catholic priests and Bishop Li Jingfeng. Shaanxi officials detained Bishop Wu Qinjing of the Zhouzhi diocese in March 2007. His whereabouts remain unknown. Bishop Wu was ordained in 2006 with Vatican approval, but without the approval of the local CPA. Fr. Wang Zhong is still serving the three-year sentence imposed in 2007 for reportedly organizing a ceremony to consecrate a new church registered with the government. Reports from NGOs indicate that Father Gao Jianli, from Fengziang county, Shaanxi province, was invited by the mayor of Xiangong province to discuss a land dispute over confiscated church property. At the meeting the priest was restrained by police and beaten repeatedly, according to reports from NGOs.

Hebei province officials also stepped up efforts to target unregistered priests and strengthen management of Catholicism in the province. Provincial officials reportedly arrested 20 Catholic parishioners and two priests for their protests of the arrest of Bishop Yao Ling in 2008. Bishop Ling was released in January 2009 after serving a two-year sentence. In May 2008, Fr. Zhang Jianlin and Fr. Zhang Li were detained in Hebei province as they travelled to a well-known shrine in Shanghai; they reportedly remain in some sort of detention at this time. In March 2009, provincial officials detained three Catholic clergy, including unregistered priest Ma Shengbao, Bishop Jia Zhiguo, and priest Paul Ma. Bishop Jia was arrested to prevent him from meeting another bishop who had reconciled with the Vatican. Chinese officials objected to the relationship between the two bishops because it was “desired by a foreign power,” and not by the government and the CPA. Father Ma was arrested for reportedly celebrating the sacraments with unregistered Catholics in the city of Donglu. The whereabouts of the three remain unknown.

In the past year, Party and government officials continued to label unregistered Catholics as a threat to “social stability” and called for increased efforts to “transform...underground communities.” In addition to the efforts described above to Shaanxi and Hebei, according to press reports, provincial campaigns to “negate the severe impact” of unregistered Catholics occurred in Jiangxi, Zhejiang, and Henan provinces.

In 2009, at least 40 Roman Catholic bishops remain imprisoned, detained, or disappeared, including the elderly Bishop Su Zhimin, who has been in prison, in detention, under house arrest, or under strict surveillance since the 1970s. In addition, there is still no information on the whereabouts of Bishop Shi Enxiang, who was detained in April 2001.

### *Protestants*

The Chinese government continues to control the religious activities of Protestants affiliated with the government-approved religious organizations. It encourages registered Protestant leaders to emphasize “theological reconstruction,” a doctrine that purges any elements of Christian faith and practice that the Communist Party regards as incompatible with its goals and policies. Registered Protestants have been given more latitude to operate charitable and social welfare programs by the NRRRA. A growing number of Chinese “faith-based” nonprofits run clinics, homes for the elderly, and orphanages. These organizations have an uncertain legal status and limited capacity, but many are apparently allowed to operate because they fill a needed social service gap in some localities and rural areas.

An estimated 10 million Chinese belong to the two approved Protestant organizations. However, even registered Protestant groups and leaders are not safe from harassment, detentions, and arrest due to the arbitrary nature of Chinese law and policy regarding religion. In April 2009, pastor Zhang Xiu-zhi was arrested and sentenced to a year in a labor camp, reportedly because she diverted church funds to aid earthquake relief in Sichuan province. In June 2009 in the Shandong province city of Jinan, local officials forcibly sealed the registered Changchunli Church in order to sell the property to real estate developers. Also in Shandong province during August 2009, authorities raided a religious training session and closed the registered church where the training was being conducted.

The government actively harasses, detains, fines, mistreats, and imprisons members and leaders of unregistered Protestant groups, whose membership may be between 40 and 60 million. According to the NGO China Aid, the number of unregistered Protestants detained fell somewhat in the last year. There were 389 detentions of between one day and a year. Twenty-three individuals were sentenced to terms of imprisonment over one year, including in China's notorious "re-education through labor" system.

Though the total number of arrests and imprisonments declined in the past year, government efforts to suppress the growth and activities of "house church" Protestants continue to be systematic and intense. The State Department estimates that "thousands" of house church members were detained for short periods in the past several years. Members of unregistered Protestant groups that the government deems "evil cults" were the most vulnerable to detention. The extrajudicial security apparatus, called the 6-10 Office, which was started to monitor and suppress Falun Gong activity reportedly has broadened its mandate to include groups that self-identify as Protestant.

China Aid and other NGOs report a significant rise in incidents of harassment, property confiscation and destruction, and intimidation of Protestants since the 2008 Olympic Games in Beijing. The Chinese government took active steps to impede religious groups and human rights defenders from having access to foreigners, including President George W. Bush and visiting members of Congress, destroyed churches and confiscated property, and harassed and mistreated religious leaders.

In the lead-up to the Beijing Olympic Games, the government sought to impede contact between unregistered Protestant leaders and foreign organizations. Pastor Zhang "Bike" Mingxuan, head of the House Church Alliance, was detained several times, forcibly removed from Beijing during the Olympics, fined, and evicted from his apartment, and his sons were beaten by police. In March 2009, Pastor Mingxuan was arrested again in Beijing and sent to Henan Province to be questioned and detained. After intense international attention to his case, the government has reportedly stopped its overt harassment of Pastor Mingxuan in the past year.

Many Protestant leaders reported that they were asked by local public security officials to disband their groups during the Games, especially high-profile congregations that met near Olympic venues. Several prominent Christian leaders were placed under strict surveillance during the Olympic Games. Approximately 100 foreign Christians were detained, interrogated, and eventually expelled from the country during the Olympics on charges of "illegal religious activity."

Pre-Olympic pressure on unregistered Protestants has continued. In the past year, the Chinese government conducted raids and destroyed religious venues, fined and beat religious leaders and confiscated their property, used local zoning laws to seal or close meeting places, and pressured unregistered congregations to affiliate instead with the government-approved religious organization.

Raids on house churches continued in many provinces. In April 2009, security agents forcibly shut down a gathering of 1,000 unregistered Protestants in Chengdu, Sichuan province. In December 2009, authorities in Anhui province raided a Bible school, detaining 21 students and teachers and announcing plans to demolish the building. In Henan province during February 2009, 100 police and governmental officials disrupted a meeting between Chinese and South Korean religious leaders, briefly detaining and interrogating everyone in attendance. In January 2009, local authorities in the city of Muling, Heilongjiang province seized the property of Chang Fengying, a pastor who hosted a large house church gathering. In January 2010, public security officials raided the meeting of the Chinese House Church Alliance in Hanan city, Hebei province. 30 religious leaders were briefly detained and face possible administrative detention charges.

In the past year, Chinese government officials at various levels have forcibly closed large unregistered religious venues that previously had operated openly. In September 2009, government officials and police raised and later demolished the Linfen Church in Shanxi province. Authorities also arrested 10 members of the church and later sentenced them to reeducation through labor detention. The Fushan Church is the second largest underground church in China, with membership totaling 50,000. Government officials stated that they were responding to complaints by local residents that the church had illegally taken land, a charge that church leaders deny. In November 2009, Beijing police raided the Shouwang Church and forced its members to find a new place of worship. Since a 2008 raid, Shouwang Church has repeatedly tried to register but has not been successful. Because it is unregistered, the church has been unable to purchase property in Beijing. In February 2009, Shanghai authorities ordered the landlord of the Wanbang Missionary Church to evict the congregation because the pastor refused to cancel a meeting of urban house church leaders. In March 2010, in the city of Jinan, Shandong province, local officials closed a Seventh-day Adventist church with an estimated 700 members. The church was renting property because it was refused permission to build a permanent structure. Jinan officials reportedly stated that the church would be banned because it was not registered.

Attempts to close unregistered Protestant churches and meeting points and detain religious leaders occurred in at least 17 provinces and two municipalities, with the greatest number of incidents occurring in Shaanxi, Henan, Xinjiang, Shandong, and the municipalities of Shanghai and Beijing. Officials in Sichuan, Heilongjiang, Jiangxi, and Ningxia Hui Autonomous Region announced “bans” on some house church meetings, detentions of Protestant leaders in “transformation through reeducation” programs, and plans to “punish” missionaries and “cult” leaders.

The Chairman of the XUAR, Ismail Tiliwaldi, has urged local police and religious affairs officials to “exercise stronger management” over Protestantism and Catholicism and to guard strictly against foreign infiltration and sabotage. In May 2007, police in the XUAR detained 30 house church leaders who were meeting with foreign religious leaders; those detained were reportedly mistreated and, in some cases, beaten in custody before they were released. In April 2008, XUAR police arrested 46 Christians while they worshipped in a house church. They were forced to pay fines and study government handbooks on religious policy, and were sentenced to 15 days of administrative detention. Osman Imin (also known as Wusimanyiming) was arrested in November 2007 and sentenced to two years of “re-education through labor” on charges that he assisted foreigners in conducting “illegal religious activities” related to public religious expression and persuasion among the Uighur community. Lou Yuanqi, the pastor of a growing house church, was detained on May 17, 2008 on charges of “utilizing superstition to undermine the law.” However, a XUAR court refused to take his case because of insufficient evidence and he was released without charges being filed in April 2009.

In January 2008, Alimjan Himit (Alimujiang Yimiti)—a house church leader in the XUAR who had previously worked for a foreign-owned company shut down for “illegal religious infiltration activities”—was detained and charged with subverting state power and endangering national security. Although a court in Kashgar returned Himit’s case to the procuratorate due to insufficient evidence in May 2008, he remains in detention. In September 2008, the UN Working Group on Arbitrary Detention concluded that Himit had been arbitrarily detained in violation of international standards. In August 2009, Himit was sentenced to 15 years in prison despite his previous detention having been ruled as arbitrary by the UN. This is the harshest sentence given to a Christian in China in the last 10 years.

#### *Falun Gong and the Campaign against “Evil Cults”*

The Chinese government continues to maintain a severe campaign against adherents of the Falun Gong spiritual movement, which it considers an “evil cult” and was banned in 1999. Over the past decade, the government has carried out an unprecedented campaign against the Falun Gong, imprisoning large

numbers of practitioners and abusing them in detention. Practitioners who do not renounce their beliefs in detention are subject to torture. There are recent, credible reports of deaths in custody. The Chinese government's systematic campaign to suppress the Falun Gong and other "evil cults" using extrajudicial means is a severe human rights problem.

Credible first-hand accounts from Falun Gong adherents report, and official Chinese government statements confirm, long-term and arbitrary arrests, forced conversions of faith, and torture and mistreatment in detention. Though it is difficult to determine with specificity the number of Falun Gong practitioners in detention during the past year, some estimates place the number at 8,000, with most arrests having occurred prior to the 2008 Beijing Olympics. In the year before the Olympic Games, police waged a concerted campaign to harass and detain known Falun Gong practitioners and brutally suppressed their activity. An estimated 8,037 Falun Gong were detained between December 2007 and August 2008.

Targeting Falun Gong adherents continues to be a high priority for Chinese government security officials. There remains a nationwide campaign to suppress Falun Gong and "transform" its practitioners. A 2009 directive by the Central Committee on the Comprehensive Management of Public Security urged security officials to "strike hard against hostile forces...[including] the infiltration, subversion, and sabotage by 'Falun Gong.'" Similar security instructions were issued in the provinces of Jiangsu, Hubei, Jilin, Guizhou, Yunnan, Henan, Hunan, Anhui, Sichuan, and Shandong, including recommendations for surveillance, cultivation of paid informants, and propaganda efforts.

Current and former Falun Gong practitioners remain incarcerated in re-education through labor camps (RTL) and mental health institutions. Some international observers claim that Falun Gong adherents may comprise as many as half of the 250,000 Chinese detained in RTL camps over the past decade. Provincial officials reportedly offer sizable rewards to anyone who provides information leading to the arrest of a Falun Gong practitioner.

Two Falun Gong practitioners are known to have died in police custody in 2008. The widow of one, Xu Na, remains jailed, serving a three-year sentence for possessing Falun Gong materials. Also in 2008, Chen Zhenping was sentenced to eight years imprisonment for being a Falun Gong practitioner. She was tried in secret without legal representation. In February 2009, public security officials in one municipality of Sichuan province reported that they had detained 114 Falun Gong practitioners. In April 2009, Zhang Xingwu, a retired physics professor from Shandong province, was sentenced to seven years in prison after police discovered Falun Gong literature in his apartment. In late November 2009, a Shanghai court sentenced Liu Jin to three and a half years in prison for downloading and distributing information about Falun Gong on the Internet.

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

The UN Special Rapporteur on Torture reported that Falun Gong practitioners allegedly make up two-thirds of the alleged victims of torture presented to him in China. Numerous allegations of government-sanctioned organ harvesting from incarcerated practitioners have surfaced within the last several years as well. Independent investigation into the practices of a hospital in Sujiatun, Shenyang proved inconclusive. However, based upon a report from two prominent Canadian human rights activists, international human rights organizations and the Special Rapporteur on Torture have called for an independent investigation and for continued international attention to allegations of organ harvesting from prisoners. The Committee on Torture, a UN treaty-monitoring body, also called on the government

during its 2008 review of China to conduct independent investigations to clarify discrepancies in statistics related to organ transplants and allegations of torture of Falun Gong practitioners.

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

### *Human Rights Defenders*

During the past several years, there has been a continuing crackdown against human rights activists, lawyers, and others who attempted to use the Chinese legal system to defend the rights of Chinese citizens, including those who sought to practice their right to freedom of religion. Lawyers have been harassed, beaten, and threatened, disappeared, or have lost their legal licenses over the past year.

In September 2007, attorney Li Heping, a prominent religious freedom advocate, was beaten with electronic batons for nearly five hours and ordered to stop practicing law. He refused and his legal license was revoked. In November 2007, human rights lawyer Yang Maodong (also known as Guo Feixiong) was sentenced to five years in prison on charges of “illegal business practices.” According to his wife and lawyer, he has been subjected to shocks from electric batons and other mistreatment while in prison. Yang Maodong is the former law partner of Gao Zhisheng, one of China’s best known human rights lawyers, who defended Falun Gong and unregistered Protestants and was a vocal critic of the Chinese government’s human rights record. Gao disappeared in February 2009 and his whereabouts remain unknown, though he was briefly allowed to make contact with friends in March 2010. Before his disappearance, Gao published a report of the torture he endured during a September 2007 interrogation.

In February 2008, police seized lawyer Teng Biao in Beijing for questioning, warned him to stop writing articles criticizing China’s human rights record, and threatened him with jail time and the loss of his university job. After Teng agreed to defend Tibetans arrested following the March 2008 protests, officials refused to renew his legal license. In March 2009, the Chinese government revoked the legal license of Beijing’s Yitong Law Firm, whose lawyers handled human rights cases, including representing unregistered house church Protestants and the Falun Gong. Lawyers Li Subin, Liu Xiaoyuan, Zhang Jianguo, Cheng Hai, Wen Haibo, and Yang Huiwen were singled out for censure because of their human rights work. The government also shut down the legal assistance organization Open Constitution Initiative, or Gongmeng, and detained Xu Zhiyong, one of its cofounders, for alleged tax evasion.

In the past year, authorities contacted nine law firms in Beijing and demanded that they not submit license renewal applications, or that they submit applications that could be turned down on technical grounds, for lawyers whose clients included Falun Gong or unregistered Protestants. In September 2009, the government revoked the licenses of at least 21 human rights lawyers. In December 2009, human rights lawyer Wang Yonghang was detained and sentenced to seven years in prison because of his work representing Falun Gong practitioners.

In March 2010, noted Protestant leader and human rights lawyer Fan Yafeng was detained by security officials in order to stop him from meeting with foreign media. It was the second time in six months he

was detained. In November 2009, he was dismissed from his position at the Chinese Academy of Social Sciences “for political reasons.” Fan Yafeng represented several highly publicized cases in recent years involving unregistered Protestants, including defending pastor Cai Zhouan and representing the Linfen church in Shaanxi province.

Despite experiencing ongoing harassment, arrest, and restrictions, human rights defenders have had some minimal success using the legal system to challenge official abuse or have sentences reduced. For example, in November 2007 house church members in Shandong province successfully filed suit against the local public security bureau and were awarded confiscated Bibles, computers, and other goods taken in a raid. In September 2008, a Chengdu church filed a suit against the local religious affairs bureau (RAB) for closing down the church earlier in the year. The provincial RAB reportedly later issued a decision overturning the local bureau’s decision. In some cases, lawyers for the Falun Gong have also been able to represent their clients without prior approval from the Ministry of Justice. This occasionally has led to reduced or suspended sentences; however, the practice is only allowed in Beijing and not in other parts of China.

#### *Failure to Protect Refugees*

China is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol; however, there is no Chinese law that provides for the protection of asylum seekers. The government does cooperate with the UN High Commissioner for Refugees (UNHCR) regarding some refugee or asylum cases. The UNHCR reported that 100 refugee claims were processed last year, all for non-Koreans. North Korean asylum-seekers continue to face hardship and repatriation. Beijing limits UNHCR access to North Korean asylum-seekers and does not allow UNHCR to operate in China’s border region with North Korea.

The Chinese government considers all North Koreans economic migrants rather than refugees. Without access to a durable solution provided by the UNHCR, North Koreans continue to face repatriation, trafficking, and discrimination. Even North Korean refugees under UNCHR care were subjected to harassment and restrictions by authorities.

North Koreans who are forcibly repatriated face torture, imprisonment in penal labor camps, and possible execution, particularly those suspected of having religious beliefs or affiliations. Since 2008, the Chinese government has intensified its campaign against North Korean refugees, harassing religious communities that assist refugees and offering rewards to those who turn over asylum seekers to authorities. The government also reportedly arrested individuals who organized food, shelter, transportation, and other assistance to North Koreans. In August 2009, a court in Erlianhoate, Inner Mongolia sentenced Protestant house church leaders Li Ming-shun and Zhang Yong-hu to 10 and seven years imprisonment, respectively, and substantial fines for their efforts to assist North Korean refugees.

There also continue to be reports that North Korean agents operate clandestinely in China, infiltrating churches and religious groups assisting refugees.

#### *Restricting Peaceful Religious Expression*

The Chinese government, as part of official policy, continues to restrict peaceful religious expression and the expansion of religious ideas or worship on the Internet. It confiscates or punishes the distribution of unapproved bibles, Muslim books, Falun Gong documents, and interpretations of religious texts. It also blocks access to Internet sites of religious groups or those with “illegal” religious content. According to a study conducted by the Berkman Center for Internet and Society at Harvard University, religious sites

are among the most censored Internet content in China, particularly Falun Gong, Muslim, and Buddhist sites.

Chinese officials continue to use charges of “illegal business activity” to sentence individuals who are involved in the printing and distribution of Bibles and other religious materials and use national security directives to arrest those who use film and the Internet to publicize religious freedom abuses in China. In November 2007, Shi Weihai served 37 days of criminal detention in Beijing for illegally publishing Bibles and Christian literature. He was arrested again in March 2008 and detained until trial in June 2009. At trial he was given a three-year sentence and fined heavily. In May 2008, Pastor Dong Yutao of Beijing was arrested for receiving a shipment of illegally imported Bibles. He remains in detention awaiting trial. In July 2009, a Xining Intermediate People’s Court sentenced Tibetan filmmaker Dhongdup Wangchen to six years in prison on charges of “inciting separatism” for producing the documentary film “Leaving Fear Behind,” which criticized Chinese government policies in Tibet. Kunga Tseyang, a monk from the Amdo Labrang Tashi Kyil Monastery, was sentenced in late November, 2009 to five years in prison on charges of disclosing state secrets in his Internet writings.

### **U.S. Policy**

U.S.-China relations have fluctuated widely in the past year. Attempts in early 2009 to downplay religious freedom and human rights concerns have not yet produced a significant return on the Obama administration’s stated financial, environmental, or security priorities with China. Instead, Beijing reacted with hostility to a long-planned arms deal with Taiwan and the President’s eventual meeting with the Dalai Lama in February 2010. Over the past year, the Administration publicly sketched out three general human rights priorities with China--minority rights, freedom of religion, and freedom of expression. However, the Administration’s success in advancing these three priorities remains difficult to assess.

In a February 2009 statement during a trip to Asia, Secretary of State Clinton claimed that human rights “shouldn’t interfere” with other elements of the U.S.-China bilateral relationship. In subsequent statements, the Secretary has highlighted China as a human rights priority, including mentioning freedom of religion and worship as priority concerns. Nevertheless, the Administration has not articulated a consistent or clear direction for human rights diplomacy with China beyond promising “to engage in tough [human rights] discussions behind closed doors.”

In order to facilitate several bilateral platforms for private discussions, the United States and China renewed the Strategic and Economic Dialogue. The two countries also agreed to reestablish a regular Human Rights Dialogue and reconvene the U.S.-China Legal Experts Dialogue. A new round of the Strategic and Economic Dialogue was held in July 2009. No binding agreements or joint statements emerged from that round of discussion regarding human rights or religious freedom, however. Despite bilateral tension, another round of U.S.-China Human Rights Dialogue will take place on May 13-14, 2010 in Washington, DC.

During a visit to Beijing in November 2009, President Obama expressed publicly his desire for China to lift Internet restrictions and to re-start negotiations with representatives of the Dalai Lama. A meeting between Beijing and the Dalai Lama’s envoys occurred in late January 2010. Additional meetings have been postponed. The Chinese government continues to denounce the Dalai Lama and accuse him of fomenting unrest in Tibetan areas. It also has extended programs to weaken the devotion of Tibetan Buddhist monks and nuns to his leadership.

Secretary Clinton also included freedom of worship as a part of a major speech on Internet freedom in January 2010. The freedom of religion, she stated, includes “advancing the freedom of worship online”

and working to overcome the ways some nations use “the internet to silence religious minorities and people of faith.” The Secretary pledged to hold the Chinese government accountable for its Internet censorship and to work to create and promote technologies to advance the freedom of expression online. Congress has appropriated funds to promote counter-censorship technologies in closed societies, and new legislation is pending in this area. The State Department has not yet awarded currently available funds to distribute technologies that can immediately assist human rights and religious freedom advocates in avoiding censorship online.

According to the State Department, U.S. officials continue to encourage the Chinese government to support the growth of faith-based aid by both registered and unregistered religious groups, as well as to loosen government controls on religious practice and release prisoners detained on political charges.

## **Recommendations**

A stable China that is committed to protecting and advancing its citizens’ fundamental rights is in the interest of the United States. A robust religious freedom agenda should be a critical component of bilateral relations. Religious freedom is directly related to expanding the rule of law, developing civil society, aiding stability and trust-building in ethnic minority areas, expanding the freedom of expression, and bringing China firmly within the international system through assisted implementation of universal human rights obligations.

USCIRF urges the Obama administration, as it continues to pursue various policy approaches, to raise religious freedom concerns in multilateral fora where the United States and China are members, to signal clearly, publicly, and unambiguously that human rights are a vital U.S. interest that effect the flexibility and scope of U.S.-China relations, and to coordinate potential sources of leverage, within the U.S. government and with allies, in order to build a consistent human rights diplomacy with China. In addition to these issues, the Commission makes the following recommendations concerning U.S. policy toward China.

### **I. Ending Human Rights Abuses in China**

The U.S. government should:

- fully employ the tools specified in the International Religious Freedom Act (IRFA) for countries designated as “countries of particular concern” (CPCs), including sanctions or some other commensurate action, and cease the practice of relying on pre-existing sanctions that do not address specific religious freedom abuses, by issuing a new presidential action focusing on either state agencies or actors who perpetuate religious freedom abuses or on provinces or localities where religious freedom conditions are most egregious;
- develop a human rights strategy towards China that engages and utilizes the entire U.S. Government by creating an inter-agency human rights action plan and coordinating its implementation across all U.S. government agencies and entities, including developing targeted talking points and prisoner lists and providing staffing and support for all U.S. delegations visiting China; and
- reinvigorate a process of multilateral cooperation on human rights and technical assistance programs with allies who conduct bilateral human rights dialogues with China.

In addition, during its bilateral human rights discussions with China, the U.S. government should urge the Chinese government to:

- end its current crackdown on religious and spiritual groups throughout China, including harassment, surveillance, arrest, and detention of persons on account of their religion or belief, torture and ill-treatment of persons in prisons, labor camps, psychiatric facilities, and other places of confinement, and the coercion of individuals to renounce or condemn any religion or belief;
- release all those imprisoned, detained, or disappeared on account of their religious belief, activities, or religious freedom advocacy, including, among many others, Gao Zhisheng, Xu Na, Fr. Zhang Li, Chen Zhenping, Bishop Jia Zhiguo, Shi Weihai, Alimjan Himit, Yang Maodong, Osman Imin, Abdukadir Mahsum, Imam Adil Qarim, Fr. Zhang Jianlin, Alim and Ablikim Abdureyim, Phurbu Tsering, Bishop Su Zhimin, and Gedhun Choekyi Nyima;
- provide a full accounting of all those detained, released, tried and sentenced and/or missing following public order disturbances in Tibet or in Xinjiang; allow immediate access for international observers, including the International Committee of the Red Cross, to all acknowledged or unacknowledged detention facilities; and implement all Tibet and Xinjiang related recommendations of the UN High Commissioner for Human Rights, the Committee against Torture, and the Special Rapporteurs on Torture, Freedom of Religion or Belief, Extrajudicial and Summary Executions, and Human Rights Defenders;
- allow faith-based non-governmental organizations to register with the Ministry of Civil Affairs and operate nationally, including in the border regions with North Korea;
- cease the use of torture and implement mechanisms so that alleged incidents are consistently and impartially investigated, evidence procured through torture is excluded at proceeding, mistreatment of Falun Gong is ended, mistreatment of North Korean refugees in detention is halted, and no asylum-seeker in China is returned to a country where he or she faces a real possibility of torture;
- take additional steps to ensure that religious education for minors is not restricted and is fully guaranteed in national and provincial laws, including by directing the State Administration on Religious Affairs (SARA) to make a public statement that religious education for minors is allowable in all religious venues, which would help ensure that domestic audiences, including both citizens and local authorities, understand the meaning of this right and respect its implementation;
- establish a mechanism for reviewing cases of persons, including religious leaders, detained under suspicion of, or charged with, offenses relating to state security, disturbing social order, “counterrevolutionary” or “splittist” activities, or organizing or participating in “illegal” gatherings or religious activities;
- fulfill its commitment to allow individuals serving sentences for counter-revolutionary crimes to be eligible for sentence reduction and parole on the same basis as other prisoners, and publish statistics on the number of individuals still serving sentences for counter-revolutionary crimes and the number of individuals that received sentence reduction or parole;
- end harassment, arrest, detention, and mistreatment of lawyers who take on cases of Falun Gong, unregistered Protestants, Uighur Muslims, and Tibetan Buddhists, re-instate the licenses arbitrarily removed from lawyers who take sensitive human rights cases, and engage in discussions with international legal institutions on new ways to train and license legal advocates; and
- extend an unconditional invitation to visit China to the UN Special Rapporteur on the Independence of Lawyers and Judges, with full access in compliance with the terms of reference required by the

Special Rapporteur, and determine dates for visits to China by both the Special Rapporteur on the Freedom of Religion or Belief, the Special Rapporteur on the Freedom of Opinion and Expression, and the Special Rapporteur on Human Rights Defenders, with full access in compliance with the terms of reference required by the Special Rapporteurs.

### **III. The U.S.-China Strategic Dialogue and Human Rights Protections**

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

- prioritize human rights and religious freedom issues as principal issues in the Strategic Dialogue’s agenda; raise a full range of religious freedom concerns in high-level discussions in each session and seek binding agreements on key religious freedom and human rights concerns at the U.S.-China Strategic Dialogue in ways similar to other economic and security interests; and
- ensure that religious freedom priorities raised in the Strategic Dialogue are implemented through appropriate U.S. government foreign assistance programs on such issues as legal reform, civil society capacity-building, public diplomacy, and cultural and religious preservation and exchanges.

### **III. Improve the Rule of Law in China**

The U.S. government should make promoting the rule of law a greater priority of U.S. human rights diplomacy in China and urge the Chinese government to:

- ratify and implement the International Covenant on Civil and Political Rights (ICCPR), which China signed in 1998, without reservations undermining religious freedom protections, and accept technical legal assistance to help harmonize Chinese law and international human rights obligations;
- amend Article 36 of the Constitution to protect explicitly the right not only to believe but to manifest one’s religious belief without state interference;
- amend or repeal Article 306 of the Criminal Procedure Code, which has been used against attorneys who have vigorously defended the rights of their clients;
- amend or repeal Article 111 of the Criminal Procedure Code, which labels as “state secrets” any published information deemed embarrassing to the government, and raise the issue of China’s use of “state security” as a rationale for suppressing dissent in China;
- repeal the Guiding Opinion on Lawyers Handling Collective Cases and similar local regulations that interfere with the ability of lawyers to represent the interests of their clients in collective cases, including cases involving the defense of religious freedom or related rights or violations on account of religion or belief;
- abolish the system of re-education through labor (RTL) camps and all other administration and extrajudicial detention centers, including the “transformation through reeducation” facilities of the 6-10 office;
- revise the Ministry of Justice’s “Methods for the Management of Lawyers Professional Licenses” and similar local regulations to ensure that a lawyer’s annual registration is not subject to political considerations or other arbitrary factors and make sure that no lawyer should be denied renewal of registration on the basis of the cases he or she has represented or is representing;

- repeal Article 300 of the Criminal Procedure Code, which deals with individuals accused of crimes associated with “evil cults,” and also its associated legislation, the Decision of the Standing Committee of the National People’s Congress on Banning Heretical Cult Organizations, Preventing and Punishing Cult Activities;
- end the use of government filters on Web sites and e-mail and remove official restrictions on Internet message boards, text messaging, and internet access, including the blockage of access to certain Web sites related to religion, belief, or human rights; and
- revise the September 2000 State Council regulations on Internet Content Providers (ICPs) and offer ICPs clear and consistent guidelines for Web site content and usage to ensure that Chinese law and practice in this area conform to international standards on the freedoms of opinion and expression.

#### **IV. Supporting Chinese Dissidents and Rights Defenders**

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

- use appropriated Internet freedom funds to develop free and secure email access for use in China; facilitate the dissemination of high-speed Internet access via satellite; and distribute immediately proven and field-tested counter-censorship programs in order to prevent the arrest and harassment of religious freedom and human rights activists and help them maintain their freedom of expression and legitimate expectations of privacy; and,
- award funds appropriated by Congress to counter censorship in China, including from the FY10 Consolidated Appropriations Act, through a competitive and merit-based process.
- Through the State Department’s Human Rights and Democracy Fund, institute new programs that:
  - build the capacity, training, and networking ability of non-governmental organizations in China that address issues of human rights, including religious freedom and legal reform, as well as the freedoms of expression, association, and assembly;
  - establish consultations between international human rights experts and Chinese officials, judges and lawyers on the compatibility of Chinese laws, regulations, and decrees with international standards on freedom of religion or belief;
  - create a regular religious freedom dialogue between U.S. and international experts and members of the Chinese Academy of Social Sciences;
  - make support available to Chinese human rights defenders and others who defend the internationally recognized rights of individuals and communities targeted because of their religious belief or practice; and
  - financially assist lawyers who take sensitive human rights cases, create a religious freedom handbook to educate religious leaders on their rights under Chinese and international law, and create legal materials and training seminars, accessible online, for Chinese law students, lawyers, and judges.

## **V. Expanding Diplomacy and Human Rights Programs in Tibet and Xinjiang**

The U.S. government should:

- urge the Chinese government to allow a U.S. government presence, such as consulates in Lhasa, Tibet and Urumqi, Xinjiang which could monitor religious freedom and other human rights conditions;
- strengthen efforts to highlight conditions faced by Uighur Muslims and Tibetan Buddhists by:
  - increasing educational opportunities in the United States for religious and other leaders from these regions, in order to enhance their understanding of religious freedom and other human rights according to international standards;
  - creating legal clinics to assist those in areas with high concentrations of Uighur Muslims and Tibetan Buddhists to enforce their human rights under the Chinese Constitution and international law, similar to existing programs that serve other ethnic minority areas in China;
  - giving political and financial support to assist religious groups and organizations address chronic needs, as articulated by the Tibetan and Uighur people, in such areas as education, conflict resolution, language and culture preservation, environmental protection, drug and alcohol abuse prevention, and sustainable development;
  - ensuring continued availability of funds to maintain appropriate Tibetan and Uighur language broadcasting through the Voice of America and Radio Free Asia; and
- publicly offering to facilitate meetings between Chinese officials and envoys of the Dalai Lama and seek to broker trust-building agreements to end religious freedom restrictions in Tibet and Tibetan areas.

## **VI. Protecting and Aiding North Korean Refugees in China**

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

- uphold its international obligations to protect asylum seekers by: working with the UN High Commissioner for Refugees (UNHCR) to establish a mechanism to confer temporary asylum on those seeking such protection and to permit safe transport to countries of final asylum; providing the UNHCR with unrestricted access to interview North Korean nationals in China; and ensuring that the return of any migrants pursuant to any bilateral agreement does not violate China's obligations under the 1951 Refugee Convention and its 1967 Protocol or under Article 3 of the Convention Against Torture;
- allow international humanitarian organizations greater access to North Koreans in China, to address growing social problems, abuses, and exploitation experienced by this vulnerable population, and work with regional and European allies to articulate a consistent and clear message about China's need to protect North Korean refugees;
- allow greater numbers of North Korean migrants who desire resettlement to have safe haven and secure transit until they reach third countries; and grant legal residence to the North Korean spouses of Chinese citizens and their children.

## **VII. Recommendations for U.S. Congress**

The U.S. Congress should:

- ensure that congressional oversight of U.S.-China human rights diplomacy is maintained by requiring the State Department to submit a regular public report (as is required on Vietnam) to the appropriate congressional committees detailing issues of concern discussed during the Strategic Dialogue and any future bilateral human rights dialogues, and describing progress made toward a series of “benchmarks” initiated by Congress;
- authorize and appropriate the funds necessary to implement a comprehensive and integrated human rights strategy towards China, implemented at all levels of government and utilized in all bilateral and multilateral discussions, including creation of an inter-agency human rights strategy and efforts to coordinate human rights diplomacy with allies; and
- ensure that the North Korea Human Rights Act of 2008 is fully implemented, including provisions to provide humanitarian support to asylum-seekers and remove legal obstacles to North Korea refugee resettlement in the United States.

## **Saudi Arabia**

**FINDINGS:** Systematic, ongoing, and egregious violations of religious freedom continue in Saudi Arabia. Almost 10 years since the September 11, 2001 attacks on the United States, the Saudi government has failed to implement a number of promised reforms, including those related to religious practice and tolerance. Despite King Abdullah undertaking some limited reform measures and promoting inter-religious dialogue in international fora in recent years, the Saudi government persists in banning all forms of public religious expression other than that of the government's own interpretation of one school of Sunni Islam and also interferes with private religious practice. Ismaili Muslims continue to suffer severe discrimination and abuse on account of their religious identity and there is an ongoing crackdown on Shi'a Muslim dissidents, which has resulted in numerous arrests and detentions. Members of the Commission to Promote Virtue and Prevent Vice (CPVPV or religious police) continue to commit abuses, overstep their authority with impunity, and are not subject to judicial oversight. Moreover, the government continues to be involved in supporting activities globally that promote an extremist ideology, and in some cases, violence toward non-Muslims and disfavored Muslims.

USCIRF again recommends in 2010 that Saudi Arabia be designated as a "country of particular concern," or CPC. Although so designated by the State Department since 2004, an indefinite waiver on taking any action in consequence of the CPC designation has been in place since 2006.

Little discernible progress has been made nearly four years after the State Department publicly announced that, as a result of bilateral discussions, the Saudi government had confirmed that it would advance specific policies with the aim of improving religious freedom conditions. The Saudi government continues to engage in an array of severe violations of human rights as part of its repression of freedom of religion or belief. Abuses include: torture and cruel and degrading treatment or punishment imposed by judicial, security, and administrative authorities; prolonged detention without charges and often incommunicado; and blatant denials of the right to liberty and security of the person, including through coercive measures aimed at women and the broad jurisdiction and abusive actions of the CPVPV. The full implementation by the Saudi government of the July 2006 policies would diminish some of its institutionalized abusive practices that have resulted in severe violations of freedom of thought, conscience, and religion or belief in Saudi Arabia and worldwide.

**PRIORITY RECOMMENDATIONS:** USCIRF has concluded that U.S. policy in Saudi Arabia does not adequately prioritize issues of human rights, including freedom of religion or belief. The CPC designation and subsequent U.S.-Saudi bilateral discussions have not resulted in substantial reforms by the Saudi government concerning religious freedom. Therefore, the U.S. government should lift the indefinite waiver of action, or at a minimum extend a limited 180 day waiver, during which time the Saudi government should complete reforms on textbooks and rein in the CPVPV. In addition, Congress should fund USCIRF to conduct a study and report on progress by the Saudi government in implementing the religious freedom reforms announced by the State Department in July 2006 following bilateral discussions between the two countries. Additional recommendations for U.S. policy towards Saudi Arabia can be found at the end of this chapter.

## **Religious Freedom Conditions**

### *State Coercion of Religious Conformity*

The Kingdom of Saudi Arabia contains a diversity of peoples and religions, despite decades of Saudi government coercion of religious conformity. The Saudi government persists in severely restricting all forms of public religious expression, other than the government's interpretation of its version of Sunni Islam. This policy violates the human rights of large, indigenous communities of Muslims from a variety of schools of Islam, including significant populations of Sunni Muslims who follow variant schools of thought, Shi'a Muslims, and Ismaili Muslims, as well as both Muslim and non-Muslim expatriate workers. The government enforces its tight controls by heavily restricting the religious activity it does permit—through limits on the building of mosques, the appointment of imams, the regulation of sermons and public celebrations, and the content of religious education in public schools—and suppresses the religious views of Saudi and non-Saudi Muslims who do not conform to official positions. In addition, the Saudi government continues its systematic practices of short-term detentions, without trial, of minority Muslims, particularly Shi'a Muslims, for religious observance not in accordance with the government's interpretation of Islam. Such practices are intended to intimidate and harass these groups.

Conservative Sunni Muslim clerics approved by the government continued to issue *fatwas* (religious edicts) and delivered sermons during the past year that justify committing violent acts against dissident Sunni Muslims, Shi'a Muslims, Jews, and Christians. In February 2010, a senior Sunni Muslim cleric, Sheikh Abdul-Rahman al-Barrak, issued a *fatwa* calling for the death of those who promote gender mixing at workplaces or educational institutions. In the past, Al-Barrak has issued *fatwas* denouncing Shi'a Muslims as infidels and calling for the death of two writers who questioned why Christians and Jews should be considered apostates. The State Department reports that inflammatory sermons have decreased in frequency since the Saudi government began encouraging moderation following a series of domestic terror attacks in 2003. Nevertheless, there were several instances in 2009 where mosque speakers prayed for the death of Jews and Christians.

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

### *Shi'a and Ismaili Muslims*

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

Moreover, in recent years *fatwas* have been issued by conservative Sunni clerics that justify committing violent acts against Shi'a Muslims. Over the past year, the Shi'a community has expressed a desire to see more active government intervention when clerics issue such provocative edicts. Furthermore, in many

cases, application of criminal law includes harsher punishments for Shi'a and Ismaili Muslims. Since many Saudi judges consider Shi'a and Ismaili Muslims to be "non-believers," they are frequently dealt with more severely by the courts.

Over the past few years, Saudi authorities have carried out a series of short-term detentions of members of the Shi'a community, a pattern which continued in 2009-2010. Since early 2007, dozens of members, particularly prayer leaders, of the Shi'a community in the Eastern Province have been detained for up to 30 days and then released for holding small religious gatherings in private homes. None have been charged with any crime, nor have Saudi authorities offered any explanation other than suggesting that the short-term detentions were punishment for holding private religious gatherings. For example, in March 2010 three Shi'a religious leaders were detained for holding private religious services and allegedly for organizing an Ashura observance in December 2009 in Al Khobar in the Eastern Province. Reportedly, they each received a one month prison sentence. In addition, a number of Shi'a mosques were closed in the Eastern Province in the past year, including two in Al Khobar in August 2009 and two others in November. Authorities justified the closures by citing improper zoning and lack of mandated permits. According to press reports, in December 2009, the use of gravestones was officially banned in the Medina Governorate and all existing gravestones were removed. Marking gravestones is a Shi'a practice, whereas Sunni Muslims do not mark graves.

In November 2009, Shi'a Muslim activist Munir Jassas was arrested allegedly after being warned by Saudi authorities to stop blogging on the Internet about the Saudi government's poor treatment of Shi'a Muslims. Reportedly, he has spent at least four months in solitary confinement although no formal charges have been filed and currently he remains in prison.

In February 2009, members of the CPVPV reportedly videotaped female Shi'a Muslim pilgrims in Medina visiting a cemetery containing the graves of revered Shi'a figures. Some of the Shi'a pilgrims demanded the videotape from the religious police, claiming that it infringed the women's privacy and insulted their modesty. Saudi officials accused the Shi'a pilgrims of performing rituals offensive to other non-Shi'a pilgrims. Consequently, Shi'a pilgrims protested outside of CPVPV offices in Medina and nearly 20 were arrested, with some suffering injuries in the clashes; all were released after a week in detention. In March 2009, more than 40 Shi'a Muslims and 20 Sunni Muslims were arrested in Qatif, Safwa, and Awwamiya in the Eastern Province for "disturbing public order" in connection with protests related to the clashes described above in Medina. At least two dozen remained in prison until their release in early July. No charges were ever filed. Also in March 2009, a Shi'a cleric, Nimer Al-Nimer, publicly stated that Shi'a Muslims might one day secede from the country if authorities continue to discriminate against them. Saudi authorities issued an arrest warrant for the cleric, who remains in hiding.

In May 2008, at least 22 Sunni Muslim clerics released a statement accusing the Shi'a community of destabilizing Muslim countries and humiliating Sunni Muslims. According to human rights groups, at least 11 of the signatories were government-appointed clerics. In response, a Shi'a cleric, Sheikh Tawfiq Al-Amer, in Al-Ahsa in the Eastern Province criticized the statement, and within days, was arrested by Saudi authorities. He was released only after spending a week in detention. In September 2008, Sheikh Al-Amer was arrested again, this time for performing prayers according to Shi'a practice. He was released after 11 days in detention.

On a positive note, there have been some improvements for the Shi'a community in the Eastern Province, particularly regarding the public expression of religious practice. Members of the Shi'a community in Qatif, where they represent the majority of the population, have held large public gatherings since 2007 in observance of Ashura without government interference. However, authorities continue to prohibit observance in other areas of the Eastern Province, such as in Al-Ahsa and Dammam. While there has been increased dialogue between the Shi'a community and the Saudi government, there is limited

progress on a number of practical issues, such as the ability to teach Shi'a beliefs to Shi'a children in schools and the inability to re-open mosques and *hussainiyas* (Shi'a community centers) in Al-Ahsa and Dammam that have long been closed by the government.

Ismaili Muslims, a Shi'a sect numbering some 700,000 in Saudi Arabia, continue to suffer severe discrimination and abuse by Saudi authorities, particularly in religious practice, government employment, the justice system, and education. Unlike support for other Muslim houses of worship, the government does not finance the building of mosques for Ismailis and has closed down several Ismaili places of worship in recent years. In 2000, after members of the CPVPV raided and closed down an Ismaili mosque in the Najran region, approximately 100 Ismailis, including clerics, were arrested. Many were released after serving reduced sentences, but dozens remained in prison for several years. In August 2009, King Abdullah ordered the early release of the last group of 17 Ismailis associated with the Najran incident after they served more than nine years of a 10 year sentence.

Another Ismaili Muslim, Hadi Al-Mutif, remains in prison after originally being sentenced to death for apostasy in 1994 for an offhand remark made as a teenager that was deemed blasphemous. In 1996, he was convicted and originally sentenced to death for apostasy, despite the fact that he remains a Muslim. Lawyers and experts familiar with the case have said that the judge was biased against Ismaili Muslims and that Al-Mutif's trial was neither fair nor transparent. Al-Mutif has alleged physical abuse and mistreatment during his 16 years of incarceration. In September 2009, Al-Mutif received an additional five-year prison for criticizing the government's justice system and human rights record on a tape that was smuggled out of prison and later broadcast. During a 2007 visit to Saudi Arabia, USCIRF was told by high-level Saudi government officials that Al-Mutif's case would be resolved soon. Nearly three years after those assurances, Al-Mutif remains in prison, much of the time in solitary confinement. Al-Mutif has attempted to commit suicide, and his psychological and physical health remain a serious concern.

In May 2008, Ahmad Turki al-Saab, an Ismaili activist, was detained in Riyadh after he was summoned from Najran to the capital for organizing a petition campaign demanding the removal from office of Najran's governor, Prince Mishaal bin Saud, for alleged discrimination against Ismaili Muslims. After 18 months in detention, al-Saab was released in September 2009. In November 2008, King Abdullah issued a royal decree relieving Prince Mishaal of his post as governor of Najran; a subsequent statement issued by the Saudi Embassy in Washington, DC said Prince Mishaal himself requested to be relieved of the post. In March 2009, King Abdullah appointed his son, Prince Mashaal bin Abdullah bin Abdulaziz Al-Saud, as the new governor of Najran.

#### *Other Dissident Muslims*

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

In May 2008, Saudi writer and blogger Ra'if Badawi was charged by a Saudi court with "setting up an electronic site that insults Islam" after it became known that he had set up a website to document abuses

by the CPVPV and discuss the Saudi government interpretation of Islam. Facing a potentially lengthy prison sentence and fine, Badawi fled the country.

Several Sunni Muslims remain in prison on alleged sorcery charges. Historically, spurious charges of “sorcery” and “witchcraft” have been used by Saudi authorities against Muslims who do not adhere to the government’s interpretation of Islam. A lower court in Medina sentenced Ali Sabat, a Lebanese citizen, to death in November 2009 for practicing witchcraft. He was arrested by the CPVPV in May 2008 while visiting the country on pilgrimage. The charge was based on a Lebanese satellite television program, in which Sabat offered advice about general life questions as well as forecasts and predictions of the future. Sabat remains on death row. In October 2008, an appeals court confirmed the conviction of a Sudanese woman, who was charged with practicing sorcery and sentenced to three years in prison, 1500 lashes, and deportation.

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

### *Women’s Rights*

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

In February 2008, the UN Special Rapporteur on Violence Against Women, Yakin Ertürk, undertook a formal visit to Saudi Arabia and offered several observations and recommendations. Among them, the Special Rapporteur found that while there has been a “demystification of the taboo around violence against women” in recent years, there still exist “practices surrounding divorce and child custody, the absence of a law criminalizing violence against women and inconsistencies in the application of laws and procedures” that “continue to prevent many women from escaping abusive environments.” She urged the Saudi government to develop “a legal framework based on international human rights standards,” including a law criminalizing violence against women and a family law on marriage and divorce.

Furthermore, the Special Rapporteur found that members of the CPVPV were “responsible for serious human rights abuses in harassing, threatening and arresting women who ‘deviate from accepted norms,’” and she also highlighted the situation facing female migrant domestic workers who continue to suffer serious human rights abuses.

### *State Harassment of Private Worship and Restrictions on Religious Materials*

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

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

In 2009, Saudi officials reiterated the government position that non-Muslim expatriate workers are permitted to worship in private. However, guidelines as to what constitutes "private" worship remain unclear and vague. The Saudi government has said that as long as non-Muslims practice their religion in small groups in private homes, no security entity would interfere, since there is no law that prohibits non-Muslims from practicing in this manner.

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

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

During the past year, a number of people were detained for non-public, non-Muslim worship. Several cases involving non-Muslim detentions were not publicized in order to secure releases, largely as a result of U.S. government intervention. In March 2009, three Indian Christians were detained after their private religious gathering in the Eastern Province was raided by members of the CPVPV. Members of the CPVPV allegedly confiscated religious materials. The three were released within days. In January 2009, Yemane Gebriel, an Eritrean pastor, fled the country to an unknown location after multiple threats from the CPVPV. For 10 years, Gebriel led an underground church of more than 300 foreign-born Christians. In 2008, Saudi officials made several attempts to deport Gebriel and other church members, but each time higher authorities intervened to rescind the orders. In May 2008, government officials arrested 14 Indian Christians in the Qassim Province for conducting their religious worship in private. During the raid, a

CPVPV member reportedly beat the pastor, and Christian songbooks and Bibles were confiscated. All detainees were released after less than 24 hours in custody.

On a positive note, there has been a decrease in recent years in the practice by customs officials of confiscating personal religious materials when expatriate workers or visitors enter the Kingdom. Also, in recent years senior Saudi government officials, including King Abdullah and the Grand Mufti, have made statements with the reported aim of improving the climate of tolerance toward other religions; both also continued publicly to call for moderation. In 2009, press reports confirmed that representatives of the Vatican were in negotiations with the Saudi government about building the first church in Saudi Arabia; the outcome of these discussions is presently unknown.

#### *Abuses by the Religious Police*

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

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

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

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

*Intolerant References in Educational Materials and Textbooks*

The State Department's 2009 *Annual Report on International Religious Freedom* stated that during the past year, Saudi "textbooks continued to contain some overtly intolerant statements against Jews and Christians and subtly intolerant statements against Shi'a and other religious groups, notwithstanding Government efforts to review educational materials to remove or revise such statements." According to the State Department's 2009 human rights report released in March 2010, despite the government's efforts to remove intolerant and extreme language from these books, "prejudiced concepts and expressions remained." A January 26, 2010 op-ed by USCIRF Commissioners Talal Eid and Nina Shea in the *Huffington Post* highlighted the fact that textbooks posted on the Saudi Ministry of Education's website<sup>11</sup> continue to teach hatred toward other religions and, in some cases, promote violence. Furthermore, a 2009 study by a Saudi academic found that Saudi textbooks not only teach hatred and intolerance of non-Muslims, but also promote the "spread of hatred between Muslims."<sup>12</sup>

In July 2006, the State Department stated that the Saudi government had confirmed that it planned to "revise and update textbooks to remove remaining intolerant references that disparage Muslims or non-Muslims or that promote hatred toward other religions or religious groups, a process the Saudi government expects to complete in one to two years [by July 2008]." According to the State Department's 2009 human rights report, the Saudi government started in 2007 a multi-year project "to revise textbooks, curricula, and teaching methods to promote tolerance and remove content disparaging religions other than Islam." As of December 2009, more than 83 school districts in 27 different regions and provinces had participated in the project. The goal of the project is to supplement the religious curriculum with knowledge-based subjects. Nevertheless, there continues to be very little transparency regarding the textbook revision process, curriculum reform, and teacher training efforts.

During and after its visit to Saudi Arabia in 2007, USCIRF requested copies of Ministry of Education textbooks, which to date have not been provided. A July 2007 letter to USCIRF from the Saudi Human Rights Commission stated that textbooks currently were being reviewed and copies would be sent to USCIRF upon completion, although no completion date was given. Despite the promise of several officials to send the books to USCIRF's office in Washington, DC and additional written requests by USCIRF, as of this writing nothing has been received.

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

There continue to be reports that funding originating in Saudi Arabia has been used globally to finance religious schools, mosques, hate literature, and other activities that support religious intolerance and, in some cases, violence toward non-Muslims and disfavored Muslims. In recent years, reports continue to surface about Saudi funding of intolerance in the Middle East, parts of Africa, South, Central and Southeast Asia, and parts of Western and Eastern Europe, including the Balkans.

Over the past few years, the Saudi government has undertaken some measures to combat extremism inside the country, such as a rehabilitation program for convicted extremists and terrorists as well as retraining and/or dismissing imams and school teachers known to espouse extremist views. According to an October 2009 assessment by the U.S. Government Accountability Office, as part of the prevention program's "mindset" component the Saudi government is distributing to its public millions of pamphlets, tracts, messages and ads of religious opinions condemning terror, and warning against the hijacking of airplanes, bombings and assassinations. Significantly, many of these initiatives, implemented through the

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<sup>11</sup> See <http://www2.moe.gov.sa/ebooks/index.htm>.

<sup>12</sup> See <http://www.slate.com/id/2226874/entry/2226875/>.

Saudi Interior Ministry's guidance department, are designed to confront extremism through the propagation of a "more judicious interpretation of religious doctrine."<sup>13</sup> Examples include the dropping of the *takfir* doctrine, accusing another Muslim of being an apostate to justify his murder, and the insistence on strict jurisprudence of recognized authorities. However, these efforts appear to be designed to address security concerns rather than to implement reforms to protect human rights, including religious freedom.

In 2009, the State Department reported that the Saudi government continued to screen and monitor prospective and current teachers who espoused extremist religious views. However, there were reports of teachers who, in defiance of government policy, promoted intolerant views in the classroom and did not face disciplinary measures as pledged in the July 2006 set of policies. The government also continued to screen and monitor government-paid clerics in mosques throughout the country, although a number of some public officials and clerics made discriminatory and intolerant statements.

During the past year, there were continued reports, including from the State Department, of virulently anti-Semitic and anti-Christian sentiments expressed in the official media and in sermons delivered by clerics, who in some cases continue to pray for the death of Jews and Christians, despite having been disciplined for preaching extremist views.

In 2008, the Saudi government announced that the Ministry of Islamic Affairs and the King Abdulaziz National Center for Dialogue would carry out the retraining of 40,000 additional Muslim clerics in the Kingdom as part of a program to promote tolerance and moderation in Saudi society. Imams are reportedly provided special training that exposes them to more moderate views. According to the Saudi government, teachers, imams, or professors who promote hatred and intolerance are dismissed, although such assertions of government dismissals have not been supported by any statistics or details.

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

#### *Empowerment of Officially Sanctioned Human Rights Institutions*

In September 2005, the Council of Ministers, chaired by King Abdullah, approved the establishment of a government-appointed, 24-member Human Rights Commission (HRC) that reports directly to the King. The membership of the HRC was not finalized until early 2007 and does not include any women, although in March 2008, the HRC's then-Chair, Turki Al Sudairy, announced that a new royal decree would allow women to be members. In September, the HRC announced the formation of a women's branch to look into human rights abuses against women and children. In February 2009, former Shura Council member Bandar Al Aiban was appointed by royal decree as the new chair. The HRC is mandated to "protect and promote human rights in conformity with international human rights standards in all fields, to propagate awareness thereof, and to help ensure their application in a manner consistent with the provisions of the Islamic Sharia." In March 2010, the HRC announced it had received more than 4,700 complaints during the past year, 24 per cent of which were domestic violence cases. The HRC continues to engage the Saudi government on a variety of human rights concerns, although evidence of specific actions on religious freedom issues has been limited.

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<sup>13</sup> See USCIRF January 26, 2010 op-ed at: [http://www.huffingtonpost.com/imam-talal-eid/saudi-government-extremis\\_b\\_436786.html](http://www.huffingtonpost.com/imam-talal-eid/saudi-government-extremis_b_436786.html).

In March 2004, the Saudi government approved the formation of a National Society for Human Rights (NSHR), the country's first and only independent, legally recognized human rights body. The NSHR is comprised of 41 members, including 10 women, and is chaired by a member of Saudi Arabia's Consultative Council, or *Shura*, a 150-member advisory body. The NSHR, which was originally endowed by King Fahd, submits its reports and recommendations directly to King Abdullah. At times throughout the year, the NSHR publicly criticized alleged human rights violations committed by the Saudi government. The NSHR released its second annual report in March 2009, detailing abuses in the Kingdom on most international human rights issues and offering numerous recommendations for the Saudi government. While the report praised the government for taking some positive steps in protecting human rights, the NSHR criticized the manner in which the CPVPV operates and the slow pace of judicial reforms, and highlighted wide-ranging restrictions on the rights of women.

*Other Developments Internationally and in the Kingdom*

In February 2009, at the Universal Periodic Review (UPR) of Saudi Arabia at the UN Human Rights Council (UNHRC), there were a number of recommendations from countries related to freedom of religion or belief that the Saudi government agreed to follow up and respond to at the UNHRC's June 2009 session. At the June meeting, Saudi Arabia agreed to accept most of the recommendations contained in the final report. In its response, the Saudi government stated that non-Muslims in the Kingdom have a "fully guaranteed" right to private worship which "in no way detracts from the freedom of religion of non-Muslims in the Kingdom, nor does it indicate any lack of respect for other Faiths," and that "no one has the right to interfere in their individual religious observances or compel them to renounce their beliefs." However, these assertions are contrary to the facts on the ground, as discussed above. In addition, requests from five UN human rights special rapporteurs or working groups for in-country visits have not been answered since 2005.

In July 2008, King Abdullah hosted an interfaith conference in Madrid, Spain which included representatives from Muslim, Christian, Jewish, Hindu and other faith communities. In November of that year, the UN General Assembly hosted a special session on interfaith dialogue, an event initiated by King Abdullah as a follow-up to the Madrid conference. A USCIRF op-ed by Commissioners Don Argue and Leonard Leo was published on November 12, 2008 in the *Christian Science Monitor* outlining the Commission's concerns about the two-day session. A proposed Saudi resolution included language condemning the "mocking of religious symbols;" however, several European countries rejected the text, citing infringement on freedom of speech. The final declaration included no mention of defamation of religions or religious symbols. The most recent international conference on interfaith dialogue initiated by King Abdullah occurred in Geneva in October 2009.

The text of the final declaration is noteworthy for other reasons. The text noted that the General Assembly meeting was convened at the initiative of King Abdullah. The declaration next stated, *inter alia*, that, "[t]he meeting reaffirmed the purposes and principles enshrined in the Charter of the United Nations and in the Universal Declaration of Human Rights". The meeting further "recalled that all States have pledged themselves under the Charter to promote respect for human rights and fundamental freedoms for all, including freedoms of belief and expression, without distinction as to race, sex, language or religion." The affiliation of King Abdullah to the declaration and its references to the Universal Declaration of Human Rights (UDHR) and the "freedoms of belief and expression" are significant, as Saudi Arabia abstained during the vote on the UDHR in 1948. The explicit linkage of religious freedom and freedom of expression to the UN Charter's language on human rights and fundamental freedoms, all under the name of King Abdullah, more directly ties the Kingdom to the international human rights framework. Saudi Arabia has affirmed the UDHR previously in other UN resolutions, instruments, and conferences. However, doing so explicitly at a conference focused on religion is noteworthy.

According to the State Department, as of December 2009, the King Abdulaziz Center for National Dialogue conducted nearly 2,700 training programs in which more than 150,000 people were trained to increase tolerance and encourage moderation and understanding.

In February 2009, King Abdullah announced several changes among senior government officials. Among the King's new appointments are a new head of the CPVPV, a new Minister of Education, a new Minister of Justice, a new head of the Supreme Judicial Council, and a new deputy minister for women's education, the first woman in this post. Some observers have suggested that several of the appointees are known to be reform-minded, replacing some of the more conservative members among senior government leadership. To date, there has not been any clear indication that the new appointees have helped dismantle Saudi government policies that negatively impact religious freedom conditions in the country.

### **U.S. Policy**

U.S.-Saudi relations remain close despite strains following the September 11, 2001 attacks on the United States when it became known that 15 of the 19 hijackers were Saudi nationals. Nevertheless, U.S. efforts to encourage political reform and the protection of human rights, including freedom of religion or belief, in Saudi Arabia continue to face significant obstacles. Many experts agree that Saudi leaders seek to preserve their political authority by maintaining their legitimacy among the conservative religious establishment. For years, the U.S. government's reliance on the Saudi government for cooperation on counterterrorism, regional security, and energy supplies has limited the U.S. government's ability to press for more significant improvement in the Saudi government's poor human rights record.

The United States-Saudi Arabia Strategic Dialogue, inaugurated in November 2005, has constituted a high-level institutionalized forum for coordinating U.S. and Saudi interests. The Strategic Dialogue consists of six working groups focusing on human development, economy, energy, consular affairs, military cooperation, and counterterrorism. The Strategic Dialogue working groups have met periodically to address issues, including human rights and religious freedom, although substantial human rights improvements in the Kingdom have not resulted.

According to the State Department's 2009 *Advancing Freedom and Democracy Report*, the U.S. government works with government and civil society leaders "to encourage reforms that counter extremism and facilitate the development of a stable, responsive, transparent, and accountable state that embodies international human rights standards and welcomes civic participation in the political process." According to the report, the U.S. government regularly raises religious freedom issues with senior government officials and encourages them to protect private religious worship, eliminate discrimination against religious minority communities, and promote tolerance towards non-Muslims and those Muslims who do not adhere to the government's interpretation of Sunni Islam. The U.S. government supports King Abdullah's interfaith and intercultural initiative to promote religious dialogue and tolerance and continues to encourage the government's efforts to revise and update its textbooks and remove intolerant passages advocating violence. Several exchange programs and U.S. speaker programs promote religious tolerance and interfaith understanding.

Since 2000, USCIRF has recommended that Saudi Arabia be designated by the Secretary of State as a CPC for engaging in systematic, ongoing, and egregious violations of the right to freedom of religion or belief. In September 2004, the State Department followed the Commission's recommendation and designated Saudi Arabia a CPC for the first time. In 2005, a temporary waiver was put in place, in lieu of any action as a consequence of CPC designation, to allow for continued diplomatic discussions between the U.S. and Saudi governments and "to further the purposes of the International Religious Freedom Act" (IRFA). In July 2006, the waiver was left in place when the State Department announced that ongoing

bilateral discussions with Saudi Arabia had enabled the U.S. government to identify and confirm a number of policies that the Saudi government “is pursuing and will continue to pursue for the purpose of promoting greater freedom for religious practice and increased tolerance for religious groups.” In January 2009, the State Department re-designated Saudi Arabia a CPC but kept in place a waiver of any action to “further the purposes” of IRFA.

Notwithstanding the CPC designation, many observers contend that, even now, the United States does not want to jeopardize important bilateral security and economic ties by pushing for political and human rights reforms. USCIRF continues to conclude that the CPC designation and subsequent U.S.-Saudi bilateral discussions have not resulted in the Saudi government making substantial reforms concerning religious freedom. In fact, the State Department’s policy has been to address reform issues with the Saudis privately and not make public findings that would demonstrate inadequate progress by the Saudi government. USCIRF urges the U.S. government more actively and publicly to address religious freedom and other human rights issues with the Saudi government and report openly on the success or failure to implement genuine reforms in these areas, in order to ensure that initiatives by the Saudi government will result in substantial, demonstrable progress. Specific recommendations are presented below.

### **USCIRF Activities**

Over the past year, Saudi Arabia has been a high priority in the Commission’s work. USCIRF has spoken out numerous times about religious freedom concerns in Saudi Arabia, raising these issues with U.S. and Saudi officials as well as in the public sphere. In March 2010, USCIRF urged King Abdullah to release Hadi Al-Mutif, an Ismaili Shi’a Muslim who has been in prison for more than 16 years. On January 26, 2010, USCIRF published an op-ed in the *Huffington Post* by Commissioners Talal Eid and Nina Shea on Saudi exportation of extremist ideology and ongoing concerns about intolerance in Saudi textbooks. In November 2009, USCIRF was briefed by the Director of International Affairs and Trade at the Government Accountability Office (GAO) about a recently released report focusing on countering Saudi financing of terrorism. GAO representatives discussed findings about the Saudi rehabilitation program and the efforts to combat extremist ideology within Saudi Arabia. In September, Commissioners met with the new U.S. Ambassador to Saudi Arabia, James Smith, to discuss ongoing religious freedom issues in the Kingdom. In May, USCIRF urged President Obama to raise concerns about religious freedom and related human rights during his meetings with King Abdullah of Saudi Arabia and President Mubarak of Egypt. With regard to Saudi Arabia, one of the world’s worst abusers of religious freedom, USCIRF urged the President to request that King Abdullah spearhead Saudi government efforts to halt the exportation of extremist ideology.

In February 2009, the Commission urged Secretary of State Hillary Clinton to direct U.S. representatives to ask tough and incisive questions about religious freedom and related human rights violations in Saudi Arabia at the UN Human Rights Council’s UPR of that country. In November 2008, an op-ed by Commissioners Don Argue and Leonard Leo was published in the *Christian Science Monitor* outlining the Commission’s concerns about the Saudi-sponsored two-day session on interfaith dialogue at the UN General Assembly. Also in November, the Commission wrote a private letter to then-President Bush urging him to raise some specific religious prisoner cases with Saudi King Abdullah at their meeting at the UN General Assembly event.

In addition, during the past year USCIRF met with members of non-governmental organizations representing various religious communities in Saudi Arabia, as well as Saudi experts, human rights groups, and policymakers. USCIRF also met with religious leaders and educators from Saudi Arabia as part of the State Department’s International Visitors Program.

## Recommendations

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

The U.S. government should:

- continue to designate Saudi Arabia a CPC for engaging in systematic, ongoing, and egregious violations of the right to freedom of religion or belief;
- lift the waiver, in place since 2005, or at a minimum extend a temporary 180-day waiver, as a consequence of CPC designation, during which time the Saudi government should complete the following religious freedom reforms agreed to in the July 2006 confirmed policies:
  - revise and update textbooks to remove remaining intolerant references that disparage Muslims or non-Muslims or that promote hatred toward other religions or religious groups;
  - ensure that members of the CPVPV, or religious police, do not detain or conduct investigations of suspects, implement punishment, violate the sanctity of private homes, conduct surveillance, or confiscate private religious materials;
- at the highest levels, call for the release of Hadi Al-Mutif, Munir Jassas, Ali Sabat, and other religious prisoners, including Shi'a and Ismaili Muslims, who have been convicted and remain in prison on charges of apostasy, blasphemy, sorcery, or criticizing the government;
- press the Saudi government to address incitement to violence and discrimination against disfavored Muslims and non-Muslims by:
  - prosecuting government-funded clerics and other officials who incite violence against Muslim minority communities or individual members of non-Muslim religious minority communities;
  - dismissing or disciplining government-funded clerics who espouse intolerance;
  - publicly and officially refuting incitement to violence and discrimination by clerics, government officials, and the government-controlled media against Muslim minority communities, such as Shi'a and Ismaili Muslims, and members of non-Muslim religious minorities;
  - rescinding *fatwas* issued by government-funded clerics that are discriminatory toward or incite violence against Muslim minority communities or non-Muslim religious minority communities;
- report to Congress, as part of the reporting required under H.R. 1, Section 2043 (c) (1(b)) (“Implementing Recommendations of the 9/11 Commission Act of 2007”), on progress by the Saudi government to implement the July 2006 previously identified and confirmed policies related to religious practice and tolerance; a description of such progress should include Saudi government transparency and any benchmarks and timetables established for implementation of the July 2006 confirmed policies;
- expand the religious educators program—which brings Saudi religious leaders and scholars to the United States through a three-week International Visitor Program to learn about religious freedom in the United States—to include visits to Saudi Arabia by appropriate American leaders and educators,

and increase the numbers and diversity and range of experience of visitors to both countries;

- address the work of the Human Rights Commission (HRC) and National Society for Human Rights (NSHR) by:
  - urging the Saudi government to ensure that all government agencies cooperate fully with the HRC and the NSHR, including by publishing the decree requiring cooperation and abiding by it, including penalties for failure to cooperate;
  - urging the HRC to study the situation of freedom of religion or belief in the Kingdom, based on universal human rights standards, and report its findings publicly;
  - urging the Saudi government to implement recommendations from the NSHR's May 2007 and March 2009 reports, which, if implemented, could be a welcome initial step towards improving overall human rights compliance in the Kingdom; and
- press Saudi Arabia to uphold the human rights norms found in the Universal Declaration of Human Rights, especially the freedoms of religion and expression, which Saudi Arabia affirmed, inter alia, in the declaration of the high-level meeting on the Promotion of Inter-Religious and Inter-Cultural Dialogue, Understanding and Cooperation for Peace in November 2008.

The U.S. Congress should:

- appropriate funds for USCIRF to conduct a study and report on progress by the Saudi government to implement the religious freedom reforms announced by the State Department in July 2006 following bilateral discussions between the two countries.

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

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

- undertake and make public an assessment of the Ministry of Education textbooks used during the current school year in Saudi Arabia to determine if they have been revised to remove passages that teach religious intolerance or hatred, which the Saudi government confirmed in July 2006 that it would do within one to two years;
- request that the Saudi government:
  - make publicly available teacher training manuals used in state primary and secondary schools inside the country;
  - provide an accounting of what kinds of Saudi official support have been and continue to be provided to which religious schools, mosques, centers of learning, and other religious organizations globally, including in the United States;

- make public the content of educational and other materials sent abroad to demonstrate whether such activities promote hatred, intolerance, or justify or encourage other human rights violations;
- establish a transparent public effort to monitor, regulate, and report publicly about the activities of Saudi charitable organizations based outside Saudi Arabia in countries throughout the world;
- cease granting diplomatic status to Islamic clerics and educators teaching outside Saudi Arabia;
- ensure that Islamic affairs sections in Saudi embassies throughout the world remain closed indefinitely in accordance with past promises;
- report publicly to Congress on all the above areas as part of the reporting on progress of Saudi government implementation of the July 2006 confirmation of policies, referred to in the recommendation above; and
- communicate and share information with other concerned governments related to Saudi exportation of hate literature and extremist ideology.

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

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

- comply with the recommendations from the UN Human Rights Council’s February 2009 UPR, including those related to freedom of religion or belief;
- establish genuine safeguards for the freedom to worship in accordance with international standards;
- end state prosecution of individuals charged with apostasy, blasphemy, sorcery, and criticism of the government;
- dissolve the CPVPV and entrust law enforcement to professionals in law enforcement agencies with a precise jurisdiction and subject to judicial review, and immediately ensure that members of the CPVPV are held accountable and prosecuted for abuses; conduct prompt and independent investigations into reported abuses; ensure complainants due process and other rights under international law, including the right to challenge the lawfulness of his/her detention and be released if it is not lawful; and provide the right to a remedy, including an enforceable right to compensation;
- allow foreign clergy to enter the country to carry out worship services;

- review cases and release those who have been detained or imprisoned for violations of human rights including their religious belief or practices;
- permit independent non-governmental organizations to monitor, promote, and protect human rights;
- invite the UN Special Rapporteur on Freedom of Religion or Belief to conduct a visit to Saudi Arabia in accordance with the standard terms for such a UN visit;
- ratify international human rights instruments, including the International Covenant on Civil and Political Rights, and cooperate with UN human rights mechanisms; and
- implement the recommendations made in Section II (“Addressing Exportation of Extremist Ideology and Intolerance in Education Materials in Saudi Arabia and around the World”).

## **Sudan**

**FINDINGS:** Systematic, ongoing, and egregious violations of freedom of religion or belief continue to occur in Sudan. Violations include: the efforts by the Arab Muslim-dominated government in Khartoum to impose sharia on Muslims and non-Muslims alike; governmental promotion of Sudan's identity as being Arab and Muslim, thus effectively relegating non-Arabs and non-Muslims to a secondary status in the society; the criminalization of conversion from Islam, a crime punishable by death, and the intense scrutiny, intimidation, and even torture of suspected converts by government security personnel; the denial of the rights of non-Muslims to public religious expression and persuasion, while allowing Muslims to proselytize; and the difficulty in obtaining permission to build churches, as compared to government funding of mosque construction.

Based on these concerns, USCIRF again recommends in 2010 that Sudan be named a "country of particular concern," or CPC. The State Department designated Sudan as a CPC annually since 1999.

USCIRF identified Sudan as the world's most violent abuser of the right to freedom of religion or belief for acts that took place during the North-South civil war (1983-2005). However, since the Comprehensive Peace Agreement (CPA) ended the North-South civil war in January 2005, conditions for religious freedom have improved in Southern Sudan and in contested areas in central Sudan. The Government of National Unity (GNU) instituted by the CPA has officially operated under an Interim National Constitution with provisions guaranteeing universal human rights, including freedom of religion or belief. Despite these provisions, severe human rights violations continue against both non-Muslims and Muslims in government-controlled areas, as well as in Darfur, where the State Department has determined that acts of genocide have taken place and may still be ongoing. The greatest danger to religious freedom and other human rights in Sudan is the collapse of the fragile peace brought about by the CPA.

**PRIORITY RECOMMENDATIONS:** U.S. involvement was instrumental in ending the North-South civil war, during which civilian victims overwhelmingly were Southern Christians and followers of traditional African religions. As a guarantor of the CPA, the U.S. government has an obligation to work to ensure its robust implementation. In addition to recommending that Sudan continue to be designated a CPC, USCIRF urges the U.S. government to remain engaged at the highest levels to bring about a just and lasting peace for all of Sudan. The U.S. government should insist on full CPA implementation; assist the parties in preparing for a successful 2011 referendum on the South's political future; work with parties to advance discussions on post-2011 issues; insist on strengthened human rights protections in both North and South Sudan; work to prevent violence against civilians and hold perpetrators responsible; and help Southern Sudan build its governing structure and indigenous economy in anticipation of the 2011 referendum. Additional recommendations for U.S. policy towards Sudan can be found at the end of this chapter.

## **Religious Freedom Conditions**

### *The North-South Civil War and the Comprehensive Peace Agreement*

Resistance to Khartoum's policies of Islamization and Arabization was a major factor in the North-South civil war (1983-2005). During the conflict, Northern leaders from the ruling National Congress Party (NCP), including Sudan's current President Omar Hassan Ahmad al-Bashir, exploited religion to mobilize northern Muslim opinion against both non-Muslim Southerners and Muslims who opposed the NCP regime. Appeals to Islam by NCP officials included calls by senior government officials for *jihad*. The civilian victims of the conflict, two million dead and four million driven from their homes, were overwhelmingly Southern Christians and followers of traditional African religions, in contrast to the Arabic-speaking Muslims dominant in Khartoum.

Since the signing of the CPA ending the civil war in January 2005, Sudan has been governed by an unusual power-sharing arrangement between the NCP, which had seized power in Khartoum in 1989 with an Islamist agenda, and the Southern-dominated Sudan People's Liberation Movement (SPLM). Most, but not all, of the SPLM's supporters are Christians or followers of traditional African religions.

The CPA put in place the following arrangements for a six-year interim period, to end in July 2011:

- the 10 Southern states would be exempt from sharia (Islamic law), which would continue to prevail in the North, and special provision would be made to protect the rights of non-Muslims in Khartoum, the national capital;
- the NCP and SPLM would form a GNU under the Interim National Constitution, with the SPLM having a minority share of offices in Khartoum but assuming full responsibility for governing Southern Sudan under the Interim Constitution for Southern Sudan;
- the GNU would move forward on a path of "democratic transformation," including comply[ing] fully with its obligations under the international human rights treaties and holding elections for President of Sudan, President of Southern Sudan, the national legislature, state governors, and all state legislatures;
- the Southern Sudanese people would determine in a referendum to be held in January 2011 whether the South stays within a united Sudan or becomes independent;
- a special administration would be established in the oil-rich area of Abyei, the boundaries of which would be determined by an independent commission, and a popular referendum held in January 2011 would determine whether Abyei continues to have a special status in the North or becomes part of the South;
- local autonomy would be granted to the contested areas of the Southern Kordofan/Nuba Mountains State and Southern Blue Nile State, which would remain part of the North, and popular consultations would be held at the end of the interim period to determine governance arrangements in the two states; and
- the GNU would bring "peace dividends" in the form of economic development to marginalized areas in Southern Sudan, Abyei, Southern Kordofan/Nuba Mountains and Blue Nile states to encourage unity.

*Status of CPA Implementation*

Full implementation of the CPA, which according to its preamble is a “concrete model for solving problems and other conflicts in the country,” is designed to address the marginalization, underdevelopment, and human rights violations which have led to several regional conflicts that are still ongoing in Sudan.

Five years have passed since the signing of the CPA, and many provisions, particularly those related to human rights reforms and economic development, remain unimplemented, partially implemented, or severely delayed. There are serious disagreements, mistrust, and power inequity between the NCP and SPLM, but the GNU is functioning and power- and oil revenue-sharing arrangements are moving forward. The greatest success to date is that the North and the South are still at peace, although tensions remain high.

Part of the problem is that following the CPA’s signing the crisis in Darfur distracted the international community’s attention from the implementation of the peace agreement. With less than one year remaining, international attention is now focused on the January 2011 referenda in Southern Sudan, in which it appears likely that the South will vote for independence, as well as in Abyei. Only those outstanding CPA provisions pertinent to these polls, as well as those related to post-2011 arrangements, are being addressed in a serious manner. Issues related to the promotion of human rights, including freedom of religion or belief, governance in the North, and security and development in North-South border areas have been put aside. Unfortunately, failure to address these issues could exacerbate existing tensions or even reignite conflict.

*Human Rights Protections*

The CPA requires the GNU to implement a new constitution guaranteeing human rights, bring Sudan’s laws into compliance with its international agreements, and create three independent institutions to monitor and protect human rights conditions in the country. At the time of this writing, the human rights protections called for in the CPA have not been adequately implemented.

An Interim National Constitution, based on the CPA and signed into law in July 2005, includes a Bill of Rights and human rights protections and gives primacy to Sudan’s international human rights commitments. Nevertheless, human rights protections in Sudan continue to be severely constrained by an undemocratic ruling elite led by an authoritarian president indicted by the International Criminal Court (ICC) for crimes against humanity, an oppressive national security system that operates with impunity, and several restrictive national laws. Of the three institutions mandated by the CPA to monitor and promote human rights in Sudan, only one—the Southern Sudan Human Rights Commission—is truly functional.

*Freedom of Religion or Belief in the North*

The Interim National Constitution guarantees religious freedom protections, including freedom to worship and assembly, establish and maintain places of worship, establish and maintain appropriate charitable or humanitarian institutions, observe days of rest and celebrate holidays and ceremonies, and communicate with individuals and communities in matters of religion or belief at both the national and international levels. Despite these protections, severe violations of freedom of religion or belief continue in government-controlled areas of the North.

All Sudanese in the North, including Christians and followers of traditional African religions, are subject to sharia. In meetings with Muslims and Christians in Khartoum in December 2009, followers of both

religions told USCIRF that they felt their religious freedom rights were infringed by the government's imposition of a particular Islamic ideology on the entire population, including its enforcement of religiously-based morality codes and corporal punishments adopted from sharia.

The state enforces corporal punishments and morality laws on both non-Muslims and Muslims who do not follow traditional practices, despite provisions in the CPA and the Interim National Constitution that non-Muslims would be provided alternatives to the punishments prescribed for Muslims. In the past year, under a 1991 "public order" law that prohibits acting in "a manner contrary to public morality, or wear[ing] an indecent or immoral dress, which causes annoyance to public feeling," dozens of Muslim and Christian women and girls were flogged in Khartoum for indecency. What specifically constitutes immoral dress is not defined and is left to the discretion of arresting officers and prosecuting judges. The penalty for violating this provision is a maximum 40 lashes flogging, a fine, or both. According to the African Centre for Justice and Peace Studies (ACJPS), indecency charges are primarily used against poor Southern women and the specialized courts in which these cases are heard do not provide due process rights. The most celebrated recent indecency case, that of UN employee Lubna Hussein, ended when an unknown person believed to be acting for the government paid her fine, apparently as a way of avoiding further adverse international publicity.

The "public order" law also is used to discriminate against women more broadly, including requiring all women to wear the *hijab* and restricting women's economic activities. According to the ACJPS, the law is used to restrict the work hours of women in Darfur.

Additionally, Christians in Khartoum complained to a visiting USCIRF delegation in December 2009 that they are frequently suspected of and harassed by the police for producing and selling illegal alcohol. Reportedly, the vast majority of inmates in Khartoum's women's prison are Christian women accused of selling alcohol. In April 2010, during an election campaign rally, President al-Bashir stated that all persons selling and drinking alcohol would be flogged.

In addition to imposing an Islamic ideology on Muslims and non-Muslims, the government routinely discriminates against non-Muslims. Although permits to construct and operate mosques are routinely granted, and mosque construction is supported by government funds, permission to build churches often is difficult to obtain. Since the CPA's signing in 2005, there appears to have been some progress on this issue; three churches have received building permits and are reportedly under construction. Churches built without official permission, by owners who register land for personal rather than church use, exist at the authorities' sufferance. Even legally recognized church-owned properties are vulnerable to seizure.

Muslims also receive preferential access to limited government services and preferential treatment in court cases involving Muslims against non-Muslims. Christians told the Commission during its December 2009 trip to Khartoum that foreign church officials are not permitted outside of Khartoum, that except for a Christmas Day broadcast the state media denies Christians air time, and that Christians are denied educational opportunities and employment services when administrators discover their religious background. In addition, school textbooks negatively stereotype non-Muslims and ignore their contribution to the country.

Blasphemy is legally prohibited under Sudan's criminal laws, and blasphemy accusations have been used to intimidate those expressing disfavored views. In 2005, a Khartoum newspaper editor was charged with blasphemy after publishing an article interpreted by some readers as disrespectful to the Prophet Muhammad. Subsequently released and later acquitted, the editor was murdered in September 2006. Nine suspects in the murder case were found guilty and executed in April 2009. That same month, several newspapers accused SLPM parliamentary caucus leader Yassir Arman of apostasy for calling for amendments to Sudan's criminal code that would exempt non-Muslims from the application of sharia.

Additionally, in the past year such accusations have been made against the opposition Communist Party. The Association of Scholars and Preachers issued a fatwa declaring that “Communism is blasphemy, [and] whosoever believes in Communism is Kafir [i.e., an unbeliever] even if he observes prayer five times a day.” In September, after a cleric described a Communist party office as “a den of atheism, vice and fornication,” the premises were attacked.

Islamic proselytism is allowed, but proselytism by non-Muslims is prohibited. Conversion from Islam is a crime legally punishable by death. In practice, suspected converts are subjected to intense scrutiny, intimidation, and sometimes torture by government security personnel who act with impunity. Converts to Christianity from Islam face societal pressures and harassment from the security services to the point that they typically cannot remain in Sudan.

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

Finally, although Muslim-Christian violence has declined from the high levels seen during the North-South civil war, some relatively minor incidents occurred in 2009 in South Kordofan/Nuba Mountains. In February 2009, two Popular Defense Force (PDF) members allegedly threatened to kill a local Christian leader. On March 1, 2009, PDF members reportedly interrupted a church service and broke a cross. Finally, on March 27, 2009, a mob razed a building used by two Christian groups. Renewed conflict between Khartoum and Southern Sudan would inevitably engender violence that would have religious as well as ethnic, political, and sectional dimensions.

#### *Freedom of Religion or Belief in the South*

The Interim Constitution of Southern Sudan separates religion and the state and guarantees freedom of religion and equality before the law regardless of religious belief. These provisions are respected in practice by the Government of Southern Sudan (GoSS) and by the SPLM. Although the SPLM draws its support largely from Christian Southerners, the party and the Southern government avoid appearing to favor Christians over Muslims. The SPLM Northern Sector head and former presidential candidate, Yassir Arman, is himself a Northern Muslim.

USCIRF has traveled repeatedly to South Sudan since 2006, most recently in January 2010. On these visits, Southern Muslims and Christians told USCIRF that they feel that their right to freedom of religion or belief is respected, the GoSS is responsive to their needs and concerns, and relations between the religious communities in the South are generally good. Muslim leaders told USCIRF in January 2010 that among Southerners, there are many inter-religious families and that where there is conflict in the South, it is along ethnic, not religious lines. Muslim leaders stated that they are working with the GoSS to form a Muslim counterpart to the Sudanese Council of Churches and that the government is receptive to their request for specialized courts to address personal status issues. They also said that the GoSS responded positively to concerns raised to USCIRF in October 2008 that a new registration law for religious communities unduly targets their community. However, USCIRF is concerned by reports it has received that several Arab Muslims and their businesses in the South have been targeted for attack and theft in 2009-10. Given the overlapping tensions based on North-South, Christian-Muslim, ethnic, and class identities, however, it is difficult to determine if religion is a motivating factor in these attacks.

*Commission for the Rights of Non-Muslims in the National Capital Area*

The mandate of the Commission for the Rights of Non-Muslims in the National Capital Area (Commission) is to ensure that the rights of non-Muslims are protected in accordance with the Interim National Constitution's human rights protections and that "non-Muslims are not adversely affected by the application of the Sharia law in the National Capital." Chaired by a Southerner, the Commission is composed of Southern and northern religious scholars, community leaders, and representatives from Khartoum State, the judiciary, the Ministry of Justice, the police, and the security forces. Since its creation in 2007, the Commission has had some limited successes, including obtaining permission for church construction, obtaining the return of a portion of a Christian cemetery from the Khartoum State government, and voicing concerns about the treatment of non-Muslims by the police and an Islamic bias in the teaching of history. However, Sudanese Christians in Khartoum told USCIRF that the Commission is not widely known to the community and those who are aware of its existence feel that it is controlled by the government and its Muslim membership.

The Commission often fails to intervene in cases violating the rights of non-Muslims. For example, according to ACJPS, although Commission members were present during a March 2009 hearing at which two young girls were sentenced to 40 lashes and a fine for wearing trousers, they did not intervene. The Commission also did not intervene when Christians were flogged who were arrested with Lubna Hussein in July 2009 for wearing trousers. In a meeting in December 2009, the Chair of the Commission told USCIRF that in many cases, the judge hands down sentences before intervention is possible.

The Commission also told USCIRF that its aim is not to exempt non-Muslims from sharia but rather to urge that sharia be applied leniently to the entire population, including by seeking to prevent floggings and executions. According to the Commission chair, non-Muslims need to learn to live within the existing system. The Commission's disappointing performance has been noted by CPA observers. In a 2008 mid-term report evaluating CPA implementation, CPA-created Assessment and Evaluation Committee called on the GNU to increase support for the Commission. Additionally, UN officials in Khartoum told USCIRF in December 2009 that the Commission is in need of human rights training and capacity-building assistance to be more effective.

*Human Rights Commissions*

In April 2009, the Sudanese National Assembly enacted legislation establishing a National Human Rights Commission (NHRC). According to the legislation, the NHRC will monitor, research, and investigate human rights abuses in Sudan, and provide recommendations to improve human rights conditions and legal protections for human rights. Its yet-to-be-appointed 15 members are to be independent, experienced, impartial, and known for their commitment to human rights causes. However, in apparent contradiction to these provisions, the NHRC also will have six government representatives as advisors.

In 2006, the GoSS established the independent Southern Sudan Human Rights Commission (SSHRC), with the mandate to monitor and investigate human rights conditions in the South, advocate for human rights protections, and educate the populace on human rights. The SSHRC currently has 20 staff members in eight states, and plans to expand to all 11 Southern States. It regularly takes cases from individuals alleging abuses by local authorities, and works to address these claims. According to the SSHRC's Chair, the majority of complaints are about physical abuses by Southern security officers belonging to the Sudan People's Liberation Army (SPLA) and the Southern Sudan Police Forces (SSPF). In addition, throughout the early 2010 election period, the SSHRC conducted voter education and awareness campaigns. The institution also participated in registration and election monitoring activities. According to the SSHRC Chair, the SSHRC receives good cooperation from the GoSS, particularly President Salva Kiir and the Ministry of Justice.

*Bringing National Laws into Compliance with International Obligations*

Despite CPA provisions requiring that legal reforms comply with international obligations, several national laws continue to circumscribe the freedoms of speech, assembly, and the press. In 2009, the GNU took steps to reform the 2004 Press and Publications Act, the 1999 National Security Forces Act, and the 1991 Criminal Procedures Act. However, the new laws fail to address the problems in the existing laws, and continue an atmosphere in which the freedoms of assembly, speech, and press are infringed.

In June 2009, the National Assembly passed the Press and Printed Materials Bill 2009 amidst a parliamentary walk-out by the SPLM and other opposition parties. The new bill continues to give the government sweeping powers to censor, suspend, and heavily fine the press for articles it does not like. The legislation also retains clauses permitting national security officers to engage in pre-publication censorship of “issues pertaining to safeguarding the national security and public order and health.” In September 2009, President al-Bashir issued a decree purporting to end this practice, if journalists agreed to censor themselves under a code of conduct. The President warned editors-in-chief that failure to abide by the code of conduct would lead to “harsh sanctions.”

The National Security Forces Act of 1999 provided broad powers of arrest and detention and granted procedural immunity to the National Intelligence Security Services (NISS). A new National Security Act was passed in December 2009, but it continues the practice of granting extensive powers to the NISS to arrest and detain persons without charge. The new Act also continues to grant procedural immunity to NISS officers, as well as continuing to permit government security forces to disperse peaceful demonstrations forcibly.

In December 2009, USCIRF witnessed the dangerous implications of the National Security Act for opposition political parties and human rights activists. During USCIRF’s visit to Khartoum, the NISS and police officers arrested dozens of demonstrators, including National Assembly members, state legislators, and other officials, who had attempted to present a petition to the Assembly’s Speaker calling for urgent action to implement CPA legal reforms and prepare the country for the 2010 elections and 2011 referenda. Many demonstrators, including Yassir Arman, the head of the SPLM’s Northern Sector, were beaten. USCIRF saw firsthand the busloads of security officers—police, national security, and army—being driven into Khartoum in unmarked vehicles to suppress the demonstration and, in a meeting the following day, saw Mr. Arman’s visible injuries.

*Elections*

The first elections in Sudan in almost 25 years took place from April 11-15 2010. Originally scheduled for February 2009, the elections were delayed by more than a year. Election observers reported serious problems during the campaign period, including the intimidation and detention of opposition activists by the security forces. These problems led the SPLM and some Northern opposition parties to boycott the Presidential contest and state elections in the troubled Darfur region and elsewhere.

Regrettably, the elections neither created a more democratic government in Sudan nor addressed the history of concentration of power and wealth in Khartoum. Laws and logistical arrangements were implemented to ensure an NCP victory and keep President al-Bashir in power. Election observers, including the Carter Center and the European Union, found that the elections failed to meet international standards. Freedom of speech, association, and assembly were frequently infringed. Insecurity in some areas of Sudan, including Darfur and Southern Sudan, prevented open campaigning and voting. Voter fraud and district gerrymandering were common. Logistical problems disenfranchised many voters.

Organizations such as the Carter Center, Human Rights Watch, and African Centre for Justice and Peace Studies reported that the environment in Sudan prevented the elections from being free and fair. Many of the problems were due to the repressive press and national security laws. Despite the NCP's promise to former-U.S. President Jimmy Carter that the most troubling provisions of the two laws would not be applied during the election period, journalists were prohibited or censored from reporting on purportedly "inappropriate" electoral content and opposition parties were denied access to state media. Human rights and party activists were harassed and arrested for engaging in voter education efforts and complaining about inappropriate NCP campaign behavior. Opposition parties were harassed in the South as well, where the Sudan People's Liberation Movement-Democratic Change (SPLM-DC) candidates accused Southern Sudanese security forces of arresting and harassing their candidates.

The GNU also instituted rules infringing on the ability of candidates and parties to campaign freely. There were also logistical problems and concerns, including allegations of voter registration fraud, delays in reviewing voter registration lists, inconsistencies among such lists, a lack of trained polling staff, an inadequate number of polling centers, delays in distributing funds to state election committees, the printing of ballots by Khartoum-based companies as opposed to independent third country companies, and poor voter education.

*The Three Contested Areas: Southern Kordofan/Nuba Mountains, Blue Nile, and Abyei*

Separate protocols in the CPA addressed the three contested areas of Southern Kordofan/Nuba Mountains State, Blue Nile State, and Abyei (an area within Southern Kordofan/Nuba Mountains State). These three ethnically- and religiously-mixed areas are along the border between North and South Sudan and were the front lines of the North-South civil war. The people in these areas broke along religious (Christian and Muslim) and ethnic (African and Arab) lines to join forces with either the Southern SPLA or Khartoum's Sudanese Armed Forces (SAF) and aligned militias. The separate CPA protocols establish local administrations in these areas, implement security mechanisms, call for increased development projects, and establish procedures to address governance of the areas following the referendum on Southern Sudan self-determination set for January 2011. However, lack of implementation of the protocols, particularly those related to security, administration, development, and education, makes these areas vulnerable to renewed conflict at any point, and in particular after 2011.

*Abyei*

The Abyei Protocol of the CPA provides that Abyei has "special status" in the North and that a referendum will be held in 2011 for residents to determine if the Abyei Area will retain that status or become part of Southern Sudan's Bahr el Ghazal State. A "final and binding" determination of the area's geographic boundaries would be made by an Abyei Boundaries Commission (ABC) composed of international experts, and residency and voter eligibility decisions by an Abyei Referendum Commission. As of this writing, however, the borders are not demarcated on the ground, a referendum commission has not yet been implemented, a local administration is not yet fully functional, development funds have not been devolved as required, services are not being provided to residents, and the security situation remains tense.

In July 2006, the ABC presented its report determining the Abyei Area's borders to the SPLM and the NCP. However, the NCP rejected it, stating that the ABC had "exceeded its mandate." In July 2008, after an outbreak of violence, the NCP and SPLM signed the Abyei Roadmap Agreement recommitting themselves to the Abyei Protocol and agreeing to submit the boundaries dispute to the International Court of Arbitration at The Hague and accept its decision as final. That body reached its decision in July 2009, finding that the ABC experts were correct in their delineation of the Southern border, but were incorrect

in their delineation of the Area's northern, eastern and western boundaries. The Hague tribunal also ruled that the Abyei Area is the ancestral homeland of the Ngok Dinka. Although the parties agreed to demarcate the Abyei boundaries on the ground by September 30, 2009, per The Hague award's instructions, lack of funding, local obstruction, and insecurity has impeded their work, which has stopped at the time of this writing.

In December 2009, after months of negotiations, legislation concerning the Abyei referendum was passed in the National Assembly. The legislation calls for the establishment of the Abyei Referendum Commission this year to determine residency status and voter eligibility criteria and oversee the procedures for the poll. Of particular interest is the determination of the residency of the Misseriya, who are believed to be in favor of the Abyei area remaining in the North.

#### *Southern Kordofan/Nuba Mountains State and Blue Nile State*

Under the CPA, the two states of Southern Kordofan/Nuba Mountains State and Blue Nile State continue to be part of the North. Unlike Southern Sudan and Abyei, however, residents of these two states will have "popular consultations" in 2011, which are vaguely defined in the CPA as "a democratic right and mechanism to ascertain the views of the people on the comprehensive agreement reached." Throughout the interim period, the two states have governing autonomy but receive funds from Khartoum to address development inequalities and implement security measures.

Over the past five years, implementation of the provisions related to the two states has been haphazard. Administrations have been set up in both states, although only the one in Blue Nile State reportedly operates relatively well. Inadequate security and underdevelopment remain serious concerns in both states.

In December 2009, the National Assembly passed legislation governing the popular consultation process. That process has yet to start, however, and many residents of the two states believe that they will have a referendum like Abyei and Southern Sudan. According to the CPA, the popular consultation process is supposed to begin with elected state leaders consulting with their respective populations to rectify the shortcomings of the CPA's constitutional, political, and administrative arrangements. The elected leaders are then to take up their concerns with the central government. However, reports indicate that the process will be led by governing officials with little citizen involvement and that residents have little education about the process.

#### *Referendum on Self-Determination for Southern Sudan*

The CPA provides that on January 9, 2011, Southerners will vote to remain in a united Sudan or opt for independence. To many Southerners, the GoSS, and the SPLM, this referendum is crucial in terms of CPA implementation. SPLM officials have threatened several times that if the referendum is not held as scheduled, they will unilaterally declare independence. After the April 2010 elections, the referendum is the remaining milestone of the CPA and preparations for the poll and post-referendum arrangements are now the focus of the international community. Additionally, with the expectation that Southerners will vote for independence, much of the work on post-referendum issues operates under the assumption that an independent state of Southern Sudan is inevitable.

For Sudanese political leaders, much of the second half of 2009 was focused on debating, drafting, and passing legislation governing the referendum process, with periods of high tensions including a temporary boycott of the National Assembly by the SPLM. Disputes centered on vote and turnout thresholds for independence, voter eligibility, and the timeline for addressing post-referendum arrangements.

The legislation passed in December 2009 provides that independence will be granted with a simple majority vote and a minimum of 60 percent turnout of registered voters; all Southerners (in the South, the North, and the diaspora) will be eligible to register to vote; and the National Assembly will approve presidential nominations to the Khartoum-based commission that will oversee the holding of the referendum.

In the upcoming year, much remains to be done to prepare for a referendum. Referendum commission members have to be appointed, logistical arrangements for the vote have to be decided, and voters have to be registered. Although the Ad-Hoc Border Committee submitted its initial report to the Presidency on the North-South border in February 2010, the border remains to be demarked on the ground. The two parties currently are working to resolve disputes over five locations. SPLA and SAF troops must be removed behind their respective borders. Voter education programs need to begin and funding for the registration and polling periods need to be raised. The parties need to decide on monitoring of the registration and voting periods.

Finally, the two parties must urgently enter into negotiations over a number of post-2011 arrangements. The referendum legislation identified eight issues pertinent to a smooth and peaceful post-referendum period, including, but not limited to citizenship, status of Joint Integrated Units (JIUs), oil concessions and production and transportation and exporting, and water. Beginning negotiations and reaching agreements on these and the other post-2011 issues as early as possible prior to the poll will help avoid conflicts and misunderstandings. USCIRF is particularly concerned about: the plight of Southerners in the North and Northerners in the South; governance and protections for human rights, including freedom of religion or belief, in the North; and development in the South.

#### *Southerners in the North and Northerners in the South*

An estimated one to two million Southerners continue to reside in the North, including long-term residents and IDPs. There are also many Northerners living in the South. The NCP and SPLM must decide on the citizenship rights of these populations should Southern Sudan vote for independence. These rights include not only legal standing in territories, but also the rights to work, access services and governing institutions, own property, and maintain residence. There is great concern that if Southerners vote for independence, these rights will be revoked and these populations, particularly Southerners in the North, will become stateless.

Historical precedents elsewhere, including the Partition of Britain's Indian Empire into the separate countries of India and Pakistan and the creation of Bangladesh from East Pakistan, suggest that a lack of attention now to these issues could result in tremendous human suffering. Those who find themselves on the "wrong" side of a new international border could face discrimination and even violence. Large numbers of people could be left stateless in areas where they have lived for decades or even generations.

The physical safety of these populations is also a concern. Will Southerners in the North be attacked in retaliation for the South's independence? If this happens, or citizenship rights of Southerners in the North are revoked, will there be retaliation against Northerners in the South? During USCIRF's visit to Juba in January 2006, local Muslim community leaders related having been targeted following the death of Dr. John Garang.

USCIRF also is concerned about the plight of Southern IDPs in the North. In 2005, there were approximately four million Southern IDPs in the North. Over these past five years, almost two million IDPs have returned to the South and the three border areas of Southern Kordofan/Nuba Mountains, Blue Nile, and Abyei. The vast majority of these returns have been spontaneous, with no or little assistance from the international community. More recently, however, the pace of returns has slowed. In addition

to the lack of international assistance, the lack of livelihood opportunities, services, and education in the South led many Southerners to decide that they and their families were better off remaining in Khartoum, despite terrible camp conditions and pressure from authorities there, and discrimination and harassment based on religious identification.

However, when USCIRF met with Southern IDPs at Jebel Aulia camp in Khartoum in December 2009, almost three quarters of those asked expressed plans to return to the South after the referendum vote. USCIRF is concerned that the international community, the GoSS, and authorities in the three border areas are not prepared to assist an increased number of returnees next year. The international community and key Sudanese stakeholders need to begin now to prepare for the likelihood of increasing returns, including return logistics and potential security problems. The potential of increased returns also highlights the need for dramatically increasing and coordinating development assistance to the South, both now and after the 2011 referendum, to make the return process run smoothly for the displaced persons, but also to help absorbing communities properly integrated returnees. Most of the returnees are settling in urban areas, because either rural areas lack the services or they have become accustomed to urban living, creating a significant “squatter” problem, increased competition for overtaxed resources, and in some cases, discrimination against returnees.

#### *Governance and Human Rights in the North*

The human rights institutions the CPA created and the human rights protections in both the CPA and Interim National Constitution have not been fully implemented and serious human rights abuses, including freedom of religion or belief, continue. Moreover, the underlying problems of political and economic marginalization of non-Arabs, non-Muslims, and in areas of the country beyond Khartoum have not been addressed. Genocide and conflict continues in Darfur, despite numerous and current efforts to sign a lasting peace deal. In addition to the Darfurians, the Beja people in East Sudan and the Nubian people north of Khartoum remain politically and economically marginalized. After the referendum in 2011, these abuses and the underlying problems in Sudan’s governing structure will continue. They may even worsen if the international community focuses only on developing Southern Sudan and neglects human rights in the North. Some observers believe that Sudan could become even more Islamist in orientation should the South secede.

The responsibility of the highest levels of the Sudanese government in egregious human rights violations in the North was underlined by the March 2009 decision of the ICC to authorize an arrest warrant against President al-Bashir on five counts of crimes against humanity and two counts of war crimes in regard to his actions in the Darfur conflict. Khartoum’s expulsion of international humanitarian organizations in response to the indictment, and its arresting and silencing of Darfuri human rights activists, demonstrates a disregard for the welfare of Darfur’s civilian population. Abusive tactics and brutal violence against African Muslim civilians in Darfur continue with impunity. Additionally, even as it was engaging in peace talks with Darfuri rebel groups, the Khartoum government continued offensives in Darfur, killing hundreds and displacing tens of thousands in Jebel Marra and prohibiting UN and humanitarian agencies from accessing the region. The lack of accountability and persistent use of tactics against civilians amounting to crimes against humanity and war crimes by the government of Sudan and its agents raise serious questions about the government’s commitment to abide by the terms of the CPA.

The international community must redouble its efforts, both now and immediately following the end of the CPA interim period, to pressure the Khartoum government to meet its human rights obligations under international treaties and the human rights provisions of the CPA. Among other efforts, the government must bring the country’s laws into compliance with its international commitments. The two Northern-based human rights institutions created in the CPA, the Commission on the Protection of Non-Muslims in the National Capitol Area and the yet-to-be established National Human Rights Commission, also should

be retained and strengthened. The government also should be pressed to address the serious issues raised by successive UN special rapporteurs/experts on human rights in Sudan, the UN's panel of Experts on Darfur, and the African Union Panel on Darfur.

### *Development in the South*

The SPLM faces multiple challenges of participating in the GNU, establishing the GoSS, bringing economic development and providing services to the South, and transforming its armed wing from a rebel movement to a standing army. These staggering tasks are being undertaken in one of the most impoverished and least developed areas of the world that has been devastated by years of neglect from successive governments in Khartoum (before and after independence in 1956) and the long civil war. To date, international support has tended to focus on humanitarian assistance. A more long-term approach to development is needed.

The GoSS and SPLM are forming a new government, despite lacking capacity and governing experience at all levels and across all government ministries and service providers. Poor management skills and lack of knowledge of contracts, financial management, payroll systems, and planning processes contribute to a serious corruption problem in the South. The need for training is even more acute at local levels as most training and assistance is focused on Juba. Despite the GoSS's strong needs for technical assistance, USCIRF saw during its January 2010 trip to Juba that the numbers of technical advisors are shockingly inadequate -- only 150 are on the ground in Southern Sudan. International technical assistance in other post conflict situations has been much higher, with advisers numbering in the thousands.

Development efforts in Southern Sudan are also hampered by increased insecurity in the South. Southern Sudan witnessed a dramatic increase in local level, inter-communal conflict in 2009, with more than 2,500 deaths and 350,000 persons displaced because of the violence. This death toll exceeds that in Darfur in 2009, and the insecurity highlights the drastic needs of law and order institutions in the South. The Southern Sudan police force lacks training in civilian policing and human rights and lacks basic equipment. Civilians in many locations are better armed than officers. The Southern Sudan army itself has problems with lack of professionalization and training (including on human rights) among its troops and poor communication equipment. Failure by the GoSS to pay army and police salaries has led officers to sell guns and uniforms to civilians.

The judicial sector needs even more assistance than the security sector, especially due to a considerable lack of qualified judges. In USCIRF's meetings with Supreme Court judges in both October 2008 and January 2010, the Chief Justice stressed that the judicial system and judges are in great need of training and technical assistance, as well as computers and offices.

Finally, Southern Sudan has some of the lowest human development indicators in the world. Insecurity and the lack of infrastructure prevent assistance organizations from reaching rural areas where the needs are most acute. At the end of the civil war, there were no paved roads in Southern Sudan outside of Juba and Wau. GoSS institutions still lack the capacity to meet its citizens' food, water, education, health, and sanitation needs; these types of assistance continue to be provided by international non-governmental groups.

### **U.S. Policy**

The United States is the leading, arguably indispensable, international actor in Sudan. U.S. involvement in the peace negotiations was vital to the signing of the CPA ending the North-South civil war. As a guarantor of the CPA, with the United Kingdom and Norway, the U.S. government has an obligation to work with the signatories, the SPLM and NCP, to ensure its robust implementation. Since the CPA was

signed in 2005, its implementation has been ignored or severely delayed when the United States and the international community lost focus.

In 2009, the Obama administration refocused attention on CPA implementation, as well as continuing efforts to bring peace to Darfur. In March 2009, President Obama appointed retired Major General J. Scott Gration as Special Envoy for Sudan. In October, the administration announced its long anticipated Sudan policy, which reportedly had been held up by internal administration disagreements. The policy aims to take a comprehensive approach to Sudan, simultaneously working to end genocide and conflict in Darfur, implement the CPA, ensure a peaceful post-2011 Sudan whatever the outcome of the referendum, and prevent Sudan from becoming a safe-haven for terrorists. The administration stated that it had developed benchmarks for the Sudanese government's efforts to meet these goals, and that U.S. actions, particularly tightening or easing sanctions, would be determined by Khartoum's progress on the benchmarks and "concrete improvements on the ground." Quarterly reviews to measure progress are to be conducted by senior-level staff from various agencies.

The policy's benchmarks are classified in a secret "annex." As a result, the policy community does not know what these benchmarks are, and is concerned that they may not be as strict as necessary to move Khartoum. History in Sudan has shown that the NCP only responds to strength. Additionally, there were reports that, at the first quarterly review in February 2010, there were serious disagreements within the administration on both the evaluation of the Sudanese government's actions and the direction of U.S. policy.

At times, Special Envoy Gration's comments have seemed inconsistent with administration positions. In January 2010, when asked during a hearing before the House of Representatives Foreign Affairs Committee about the classified annex, the Special Envoy denied its existence, stating that they had several different memos. A few days later, the Secretary of State insisted that there is an annex of benchmarks. Additionally, in Congressional testimony in July 2009, the Special Envoy stated that he believed the United States should consider easing sanctions in Sudan and said that genocide was not continuing in Darfur. A few days later Gen. Gration walked back these statements, and other administration officials, including U.S. Ambassador to the UN Susan Rice, explicitly stated that genocide was continuing in that region.

Even with these conflicting statements, the Special Envoy has made a concerted effort to implement the administration's Sudan policy. Among the Special Envoy's first acts was to travel to Sudan to engage the NCP to reinstate humanitarian organizations which were expelled following the ICC's indictment of President al-Bashir. In June 2009, 13 organizations were readmitted, although under different names and with restricted access to the region. Also in June the Special Envoy held a three-day CPA Forum bringing key stakeholders, including the SPLM and NCP, European and other international partners, and East African regional states to Washington, DC to address the outstanding needs for CPA implementation, which USCIRF attended. In August, as the result of trilateral talks brokered by the Special Envoy, the NCP and SPLM announced agreement to implement several outstanding CPA provisions. The agreement contained deadlines for implementing the outstanding provisions. All of the deadlines have been missed. Since the agreement, the Special Envoy has traveled frequently to Sudan to engage the parties in negotiations over the outstanding provisions and to attempt to mitigate rising tensions. Most recently, he has traveled to Doha and the region to try to finalize a new peace agreement for Darfur.

As part of its overall policy, the United States is increasing its assistance funds to Southern Sudan in anticipation of the vote for independence. Sudan is the largest recipient of U.S. assistance in Sub-Saharan Africa. Funding is used to solidify CPA implementation, bring peace to Darfur, and address the country's massive humanitarian needs. U.S. assistance programs in Southern Sudan are aimed at conflict mitigation

and reconciliation, professionalization of Southern Sudan's army, political party development, capacity building for the GoSS and state governments, tackling corruption, building infrastructure, extending health and education services, addressing food insecurity, and improving agriculture development. Additionally, efforts to address gender imbalances in education, livelihoods, and public opportunities are found throughout the U.S.-Sudan assistance program.

In addition, in advance of the April 2010 elections and with the January 2011 referendum approaching, the U.S. government has increased its assistance to train security officers to ensure that elections and the referendum are held in secure environments, and to work with local organizations on reconciliation efforts, to improve access to information on the referendum and popular consultation processes to avoid conflict, and to develop alarms to quickly respond to outbreaks of conflict.

### **USCIRF Activities**

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

USCIRF had recommended repeatedly that the U.S. government appoint a nationally prominent individual to bring about a peaceful and just settlement of the North-South civil war. In September 2001, then-President Bush appointed former Senator John Danforth as Special Envoy for Peace in Sudan, energizing the peace process. Senator Danforth was followed in September 2006 by former USAID Administrator and Special Humanitarian Coordinator for Sudan Andrew Natsios, and in January 2008 by Richard Williamson. Following the inauguration of the Obama Administration, USCIRF called for a new Special Envoy who would demonstrate continued U.S. commitment to peace in Sudan. On March 18, 2009, President Obama appointed retired Major General J. Scott Gration to this position.

USCIRF has been extensively engaged in Sudan during this reporting period. The Commission traveled twice to Sudan, to Khartoum in December 2009 and Juba in January 2010. During these trips, USCIRF collected up-to-date information on religious freedom conditions in the North and South, CPA implementation, and development needs in Southern Sudan. While in Khartoum USCIRF witnessed first-hand the NCP's human rights abuses, meeting with SPLM officials who had been arrested and beaten when peacefully attempting to present a petition to the National Assembly relating to legislation important for CPA implementation. Upon return from Khartoum, USCIRF held a press conference with Representatives Donald Payne (D-NJ), Frank Wolf (R-VA), and Chris Smith (R-NJ) to relay what was witnessed and call on the Administration to more forcefully engage the CPA parties on the implementation of the peace agreement.

Throughout the year, USCIRF held several meetings with senior administration officials. USCIRF met twice with Special Envoy Gration, as well as with National Security Council (NSC) Senior Director for Multilateral Affairs Samantha Power, NSC Senior Director for African Affairs Michelle Gavin, and Assistant Secretary for State for African Affairs Johnnie Carson.

USCIRF also engaged Sudan human rights activists in the Washington, D.C. area. In the fall of 2009, USCIRF held three roundtables addressing major issues relating to the CPA, including human rights in Sudan, the April elections, and the 2011 referendum on Southern Sudan's political future. Finally, throughout the year, USCIRF issued numerous statements and press releases, including commenting on the Obama administration's new Sudan policy and calling on the SPLM and NCP to abide by the international tribunal ruling on the Abyei boundaries.

## **Recommendations**

In addition to recommending that Sudan continue to be designated a CPC, USCIRF urges the U.S. government to remain engaged at the highest levels in bringing about a just and lasting peace for all of Sudan. The Commission believes that the normalization of relations with Sudan and any considerations of lifting U.S. sanctions must be preceded by concrete action and demonstrated progress by Khartoum in implementing peace agreements, ending abuses, and cooperating with efforts to protect civilians.

### **I. Insist on Full CPA implementation to Serve as a Model for Political Accommodation of Legitimate Grievances throughout Sudan**

The U.S. government should:

- enlist international support for peace in Sudan, including from CPA guarantors United Kingdom and Norway as well as China, and other nations that have major economic investments in Sudan, to press Khartoum to fulfill CPA implementation;
- work with the CPA signatories, in coordination with international partners, to implement outstanding CPA provisions, including:
  - holding the 2011 referenda in Southern Sudan and Abyei and the popular consultations in Southern Kordofan/Nuba Mountains State and Blue Nile State as scheduled and in a free, fair, and credible manner;
  - implementing the Abyei border and the Abyei Roadmap Agreement;
  - demarcating the North-South border; and
  - establishing the National Human Rights Commission and bringing all national laws into compliance with international human rights commitments;
- report, publicly and regularly, to the Congress on the status of CPA implementation, focusing on violations, responsibility, and U.S. government responses; and
- consider new sanctions, as needed, to respond to non-compliance with CPA terms, including targeted sanctions such as asset freezes and travel bans against responsible individuals and institutions.

### **II. Prepare for a Successful 2011 Referendum in Southern Sudan**

The U.S. government should:

- make clear that the United States expects the choice of the people of Southern Sudan, as expressed in a free and fair referendum to be held in 2011 in accordance with the CPA, to be respected, whether the people of Southern Sudan choose to remain in Sudan or be independent;
- directly engage and contribute resources and technical expertise to help ensure that the referendum is free, fair, and credible, including by ensuring that, during both registration and polling periods, there is:

- adequate international and GNU funding registering and educating voters and holding the poll;
- international monitoring and observation; and
- adequate security;
- taking into account the possibilities of either unity or separation, work with the CPA signatories to advance discussions on post-2011 issues including:
  - citizenship rights of Southerners in the North and Northerners in South;
  - the terms of oil and wealth sharing accords between the regions;
  - the roles, responsibilities, and positions of the SAF, SPLA and Joint Integrated Units;
  - the parties' obligations to Sudanese international agreements, including treaties and debt commitments;
  - the legal and human rights framework in the North after the expiration of the Interim National Constitution, including retaining those independent human rights institutions established by the CPA; and
  - preparation, including financial assistance, for an increase in IDPS voluntarily returning to the South after the vote.

### **III. Strengthen Human Rights Protections, including Freedom of Religion or belief, in both the North and the South**

The U.S. government should:

- insist the government in Khartoum meet the following benchmarks to promote freedom of religion or belief before the United States will normalize relations or lift sanctions:
  - allow all religious groups to conduct their activities without harassment, discrimination or undue interference, including publishing or importing religious literature, building, repairing, and operating houses of worship, and operating social service programs;
  - repeal laws that punish changing one's religion or encouraging another to do so and end the use of official accusations of blasphemy, apostasy, "offending Islam," or similar charges to stifle public debate or restrict the right to freedom of expression;
  - abandon efforts to force religious organizations to register as non-governmental organizations under regulations that give government officials control over their activities;
  - permit relations between national religious communities and their co-religionists abroad in accordance with universal human rights norms;
  - reform the state security services to be representative of all Sudanese and ensure that all national institutions such as the military, law enforcement agencies, and the highest levels of the judiciary are representative and equally protective of all Sudanese regardless of religious affiliation or belief;

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

--exclude negative stereotyping in school textbooks; include in school curricula, in textbooks, and in teacher training the concepts of tolerance and respect for human rights, including freedom of religion or belief; and incorporate into history texts the religious and cultural diversity of Sudan's past;

- appoint a ranking official at U.S. Embassy Khartoum, reporting directly to the Ambassador, to work full-time on human rights and monitor human rights abuses, including religious freedom, in the North, as well as to advance the U.S. human rights agenda in Sudan;
- increase funding and technical assistance to the Southern Sudan Human Rights Commission, the Commission for the Rights of Non-Muslims in the National Capital, and the National Human Rights Commission, once it is established, to strengthen their capacity independently to protect, monitor, and investigate human rights abuses and to promote respect for internationally recognized standards on freedom of religion or belief and related human rights;
- urge the government in Khartoum to end the impunity with which members of the security forces and others acting as agents of the government have engaged in human rights abuses; urge the establishment of effective mechanisms for accountability for past abuses; and in the absence of such bodies, provide full cooperation with international institutions, including those mandated by the UN Security Council;
- urge the GNU to cooperate fully with international mechanisms on human rights issues, including inviting further visits by the UN Special Rapporteur on Freedom of Religion or Belief, the Special Rapporteur on the Situation of Human Rights in Sudan, the UN Working Group on Arbitrary Detention, and the and comply with the UN Human Rights Council's High-Level Mission on the Situation of Human Rights in Darfur's recommendations; and
- undertake programs to improve citizen awareness and enforcement of the legal protections for human rights included in the Interim National Constitution, the Interim Constitution of Southern Sudan, and the international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), to which Sudan is a party.

#### **IV. Prevent Violence Against Civilians (including Mass Atrocities and Genocidal Acts) that would Result from Renewed Conflict and Hold Perpetrators Responsible**

The U.S. government should:

- take the steps necessary to make feasible the establishment of various security guarantees for Southern Sudan in order to deter Khartoum from renewing the North-South civil war, including as appropriate, to improve the South's ability to detect air attacks and therefore reduce civilian casualties;
- increase technical assistance and expertise or other capacity to bolster the professionalization and human rights performance of the SPLA and the Southern Sudan Police Force to respond to insecurity and provide security for the 2011 referendum utilizing State Department's International Military

Education and Training (IMET) and International Narcotics and Law Enforcement Affairs (INL) programs;

- increase support for the Government of Southern Sudan's current, active efforts toward disarmament, demobilization, and reintegration of Southern Sudan's many ex-combatants;
- utilize existing social institutions, including indigenous religious bodies, and strengthen civil society organizations that have special expertise and a demonstrated commitment in the areas of inter-religious and inter-ethnic reconciliation and conflict prevention, to promote a peaceful civil society;
- expand technical assistance and training, education, provision of reference materials and facilities to the court system in Southern Sudan to address insecurity in the South and hold perpetrators of violence responsible;
- support a stronger international presence in Darfur sufficient to protect civilian populations and to monitor compliance with the peace accords and UN Security Council resolutions, including by:
  - urging the UN-African Union Mission in Darfur (UNAMID) to protect civilians in accordance with the highest international peacekeeping standards; providing resources, logistics, equipment, and early warning systems to enable peacekeepers to move quickly to places where abuses are occurring;
  - bringing in experts on civilian protection issues and sexual violence to train and work with international force commanders, including female troops and police officers;
  - providing security to refugees and IDPs;
  - supporting the active enforcement of the UN Security Council aerial "no-fly zone;"
  - increasing substantially the number of human rights monitors from the UN Office of the High Commissioner for Human Rights and the number of international peacekeepers deployed in Darfur; and
  - insisting that relief organizations be permitted unimpeded, safe access to the region so that necessary humanitarian assistance can be provided to refugees and IDPs; and
- use bilateral and multilateral diplomacy to mount an international campaign to pressure the Sudanese authorities to cooperate fully with the ICC.

**V. Build a Successful Governing Structure and Indigenous Economy in Southern Sudan in Anticipation of the 2011 Referendum on the South's Political Future**

The U.S. government should:

- enhance the facilities and personnel resources of the U.S. Consulate General in Juba in order to support increased U.S. engagement and programming in Southern Sudan;
- increase substantially the number of technical advisors from all relevant U.S. government agencies, including, but not limited to the State Department, U.S. Agency for International Development, Department of Justice, Department of Treasury, and Department of Agriculture, to the Government of Southern Sudan to promote good governance, administer rule of law, improve administration and

delivery of social services and education, and address corruption and encourage other potential donors to increase technical assistance to Southern Sudan in these area;

- expand the opportunities for fellowships, internships, or similar exchange programs for Southern Sudanese professionals to increase the capacity of the Government of Southern Sudan to promote good governance, administer the rule of law, improve the administration and delivery of social services and education, and address corruption;
- expand the provision of U.S. assistance to indigenous civil-society, private-sector groups and provide appropriate technical assistance to enable such groups to prepare project proposals for U.S. grants;
- encourage U.S. private investment in Southern Sudan while alleviating the impact of remaining U.S. sanctions on all areas under the control of the Government of Southern Sudan and in the border areas of Abyei, Southern Blue Nile, and the Nuba Mountains, including sanctions on communications equipment;
- support the creation of an effective banking system in Southern Sudan, recognizing that such a system is crucial for the South's economic development and political stability;
- expand partnerships between U.S. universities and the University of Juba to enhance Southern Sudanese expertise in agriculture, business, law, health care, public administration, public works, education, and other areas to support development efforts;
- while recognizing the urgent need for continued U.S. humanitarian assistance, begin shifting to recovery and development assistance, taking into account the needs of returning IDPs and the absorbing communities, through increased funding for education, health care, economic development, and infrastructure;
- promote agricultural development in Southern Sudan with the goal of promoting greater food security; and
- explore providing the SPLA with needed technical expertise and capacity, such as in road construction and other public works, to assist in creating an infrastructure that bolsters economic development.

## Turkmenistan

**FINDINGS:** Significant religious freedom problems and official harassment of religious adherents persist in Turkmenistan despite steps taken by Turkmen President Berdimuhamedov since 2007 to reduce certain aspects of the repressive measures that existed under the country's former president. The country's laws, policies, and practices continue to violate international human rights norms, including on freedom of religion or belief. Police raids and other harassment of registered and unregistered religious groups continue more than three years after the death of longtime dictator Saparmurat Niyazov. The repressive 2003 religion law remains in force, causing major difficulties for religious groups to legally function.

In light of these persistent and severe problems, and until systemic human rights reforms are implemented, USCIRF continues to recommend in 2010 that the U.S. government designate Turkmenistan as a "country of particular concern," or CPC. The Commission has recommended the CPC designation for Turkmenistan since 2000, but the State Department has never followed this recommendation.

Under the late President Saparmurat Niyazov, who died in December 2006, Turkmenistan was among the world's most repressive and isolated states. Virtually no independent public activity was permitted and Niyazov maintained a vast cult of personality. Today, despite decreased emphasis, the Turkmen government still promotes the former president's personality cult through the *Ruhnama* (Niyazov's book of "spiritual thoughts") as a mandatory feature of public education. Turkmen law does not allow a civilian alternative to military service, and five Jehovah's Witnesses have been imprisoned for conscientious objection to military service. Although the new president has taken a few positive steps, including the 2007 release of the country's former chief mufti, systemic legal reforms directly related to religious freedom and other human rights have not been made.

**PRIORITY RECOMMENDATIONS:** The United States should appoint an ambassador to Turkmenistan as soon as possible, in part because previous U.S. ambassadors have played a key role in addressing that country's human rights issues. For four years, the United States has not been represented in this strategically important country by a fully accredited ambassador. The United States needs to increase exchange programs as well as broadcasts to Turkmenistan to attempt to overcome decades of isolation which have created a threatening cultural vacuum. The United States should also establish regular bilateral meetings with the Turkmen government on human rights and religious freedom, discuss ways Turkmenistan can implement laws and practices to comply with international human rights standards, and establish a regular reporting mechanism on these issues. In the absence of any measurable improvements in the human rights sphere by the Turkmen government, the United States should express its concern at appropriate international fora, including the United Nations and the OSCE. The United States should also consider whether relevant aspects of the human rights activities of the OSCE Center in Ashgabat can be replicated in OSCE states, including those of Central Asia. Additional recommendations for U.S. policy towards Turkmenistan can be found at the end of this chapter.

## **Religious Freedom Conditions**

### *Governing and Legal Framework*

Until the 2006 death of President Saparmurat Niyazov, Turkmenistan was among the world's most repressive and isolated states. Virtually no independent public activity was allowed, and the 2003 religion law banned most religious activity. Moreover, Turkmenistan's public life was dominated by Niyazov's quasi-religious personality cult that was expressed in the *Ruhnama*, and that the state imposed on the country's educational and religious life.

After elections in early 2007, Gurbanguly Berdimuhamedov succeeded Niyazov as president. He has implemented limited educational reforms and promised, but not yet made, certain reforms of the country's oppressive laws. He has also taken a few positive steps such as: the 2007 release of 11 political prisoners, including the former chief mufti; placing some limits on Niyazov's personality cult; the establishment of two new official human rights commissions; and the registration of 13 minority religious groups. In addition, police controls on travel inside Turkmenistan were eased, and the country is somewhat more open to the outside world.

The country's constitution purports to guarantee religious freedom, the separation of religion from the state, and equality regardless of religion or belief. However, the Turkmen religion law, promulgated in 2003, contradicts these provisions and violates international standards with regard to freedom of religion or belief. The law's problematic provisions include: intrusive registration criteria; the requirement that the government be informed of all financial support received from abroad; a ban on worship in private homes and the public wearing of religious garb except by religious leaders; and severe and discriminatory restrictions on religious education. In a January 2010 report to the UN Human Rights Committee, the Turkmen government stated that "[t]he activity of unregistered religious organizations is banned" in the country.

Religious matters fall under the purview of the government-appointed Council on Religious Affairs (CRA), which reports to the president. While the CRA's membership includes government officials and Sunni Muslim and Russian Orthodox Church representatives, no other religious groups are represented on the council. The CRA controls the hiring, promotion, and firing of Sunni Muslim and Russian Orthodox clergy, who must report regularly to the CRA, and examines and controls all religious publications and activities of all registered groups.

CRA Deputy Chair Andrei Sapunov, a Russian Orthodox Church (ROC) priest, oversees Christian affairs and reportedly has veto power over other Christian groups' ability to function. Some ROC members have told human rights groups that Sapunov has disclosed to the secret police confidential information from the confessional. Moreover, members of religious minorities believe that recently-named CRA officials tend to favor state-controlled Islam and deny permission for non-Muslim activity more often than did their predecessors appointed under Niyazov. Four of the officials appointed in September 2009 to head CRA regional branches were also appointed as new regional chief imams. In their dual role as CRA officials and imams they also collaborate with government agencies, including the security police.

### *Stalled Legal Reforms*

In 2007, President Berdimuhamedov set up a new government commission, headed by the Chairman of the Supreme Court but specifying no other members or any procedures, to examine citizens' petitions on the work of law enforcement bodies. Reportedly, this commission received thousands of petitions on police abuse, bribery, and unjust arrests and prosecutions. In August 2007, the commission issued its first

decision: the pardon and release of 11 prisoners of conscience, including former Chief Mufti Nasrullah ibn Ibadullah, who had been sentenced to a 22-year prison term in a secret 2004 trial. Ibadullah had opposed Niyazov's decree that the *Ruhnama* be displayed in mosques, and had been charged with treason for his alleged role in a 2002 coup attempt against Niyazov. Following his release, Ibadullah was allowed to resume work as a senior adviser to the CRA.

During USCIRF's August 2007 visit to Turkmenistan, the Turkmen President established a new commission to examine how the country's laws conform to international human rights commitments. President Berdimuhamedov told USCIRF that his country "may have some shortcomings on religion and other issues." In February 2008, the then-director of the Presidential Institute on Democracy and Human Rights, Shirin Akhmedova, pledged that the process amending the Turkmen religion law would be "transparent" and involve "international experts," and claimed that Turkmen citizens could also suggest amendments.

The Turkmen government requested in 2008 that the U.S. Agency for International Development (USAID) provide a technical critique of Turkmen laws affecting religious freedom. USAID awarded a grant to a U.S. non-governmental group, the International Center for Not-for-Profit Law (ICNPL), to analyze the Turkmen religion law. ICNPL presented its review to the Turkmen government in July 2008. The Turkmen government postponed a follow-up seminar with international experts that had been scheduled for March 2010. Reportedly, the government has not yet even begun to draft a revised religion law; a draft NGO law, which would also affect religious communities, has been given priority.

### *Registration*

In response to international pressure, President Niyazov issued several decrees in 2004 that reduced the registration requirement for religious groups from 500 members to five, eased other registration requirements, and decriminalized unregistered religious activity. However, unregistered groups still face administrative penalties that include imprisonment and large fines and, as mentioned above, the Turkmen government told the UN in January 2010 that it continues to ban unregistered religious activity. Moreover, the benefits of registration are not fully clear, since even registered groups are forbidden to meet for worship in private homes, print and import religious literature, and be led by foreign citizens. Registered groups also are subject to financial restrictions and required to provide the government with information about their meetings and activities.

The Justice Ministry manages the registration process, with the CRA playing an advisory role. A commission which includes representatives from the Ministries of Justice and Internal Affairs and the security services reviews applications. The review process is supposed to last no longer than three months and written denials are to be issued, but these standards are often not met. Reportedly, Justice Ministry officials have denied registration based on spurious clerical errors or required that religious groups change their church charters in order to register.

Following the 2004 decrees, nine small minority religious groups were registered, including the Baha'i, several Pentecostal communities, Adventists, several Evangelical churches and the Society for Krishna Consciousness. The Ashgabat parish of the ROC was reregistered in 2005 and the Turkmenabat ROC parish was reregistered in early 2006. The Source of Life Church in Turkmenabat and a Muslim group in Akhal were registered in late 2007. According to the CRA, Shi'a Muslim groups were allowed to register collectively, most likely in 2008.

In its January 2010 UN report, the Turkmen government claimed that 123 religious communities were registered in the country, a far lower number than previously cited. Of these, 100 are Muslim, both Sunni and Shi'a, and 13 are Russian Orthodox. The 10 others include Baptist, Pentecostal, Greater Grace,

Seventh-day Adventist, New Apostolic, Baha'i and Hare Krishna. After years of effort, Ashgabat's Catholic community, protected by the Vatican diplomatic status of its two priests and chapel, gained local legal status in March 2010. Nevertheless, it is unclear how the Catholic congregation met the Turkmen legal requirement that any religious community must be headed by a Turkmen citizen.

Also according to the January report, the Turkmen Justice Ministry was considering registration applications from four religious communities, including the Peace to the World Protestant Church in Mary and the Parth of Faith Church in Dashoguz, an independent ethnic Turkmen Baptist congregation whose registration has been under consideration for five years. According to Forum 18, some Shi'a Muslim groups, the Armenian Apostolic Church, some Protestant groups, and the Jehovah's Witnesses have had applications rejected or have decided that they should not submit applications due to the onerous and opaque process. Reportedly, the Turkmen government has also pressured some groups to write promises that they will not gather for worship until they receive official registration.

#### *Government Interference in Internal Religious Structures*

The Turkmen government also continues to interfere in the internal leadership and organizational arrangements of religious communities. The current Chief Mufti, Gurban Haitliev, appointed in September 2009, is widely believed to have been chosen by the president. At the time he was appointed, numerous regional imams were transferred to new duties, thereby continuing former President Niyazov's practice of frequent rotation of official leaders.

Muslims in Turkmenistan have expressed concern about the state's replacement of imams with formal Islamic theological education by those who lack such education. Indeed, the former Turkmen Chief Mufti, Nasrullah ibn Ibadullah, who was imprisoned from 2004-2007, is seen by many as the country's last Muslim leader with a good knowledge of Islam. Turkmen officials have stated that imams cannot be appointed if they have received training outside the country. Furthermore, observers note official ethnic discrimination as a factor in the recent removal from office of ethnic Uzbek minority imams in the Dashoguz region and their replacement with ethnic Turkmen imams.

Former President Niyazov requested that the ROC in Turkmenistan be removed from the Central Asian diocese in Tashkent and come under Moscow Patriarchate jurisdiction. The new president continued to press for this transfer. In October 2007, the ROC Holy Synod in Moscow voted to place Turkmenistan's 12 ROC parishes and one convent in Ashgabat under the Moscow Patriarchate's jurisdiction. In May 2008, subordination to the Moscow Patriarchate became official as a result of a meeting between President Berdimuhamedov and ROC officials. The ROC named Bishop Feofilakt (Kuryanov) as the first head of the Patriarchal Deanery for Turkmenistan.

USCIRF also was informed in 2007 that the Turkmen Justice Ministry reportedly "advised" several smaller unregistered groups to combine with other, currently registered communities, without considering possible doctrinal differences or need for organizational autonomy.

#### *Penalties for Religious Activities*

In recent years, members of religious communities, including Muslims, Protestants, Jehovah's Witnesses and a Hare Krishna, reportedly received prison terms or were sent into internal exile due to their religious convictions. There were, however, no reports of such punishments in the past year. A Sunni mullah reportedly has been held since 2006 in a closed psychiatric hospital; he gave sermons critical of the Turkmen government, according to Forum 18. His name and current status are unknown.

In April 2009, Turkmen officials ordered Shageldy Atakov, a Turkmen Baptist leader either to pay a fine of \$12,000 for his alleged swindle of the equivalent sum in 1995 or his home would be confiscated. A former political prisoner who already has served time for the alleged swindle, Atakov claims this penalty is due to his religious activities; since May 2009, there reportedly have been no official efforts to make him pay.

Local secret police officers reportedly require Muslim and Orthodox clerics to make regular reports on activities within their communities. At least six secret police agents, as well as informants, allegedly have been placed in each Muslim and Orthodox community and the secret police and ordinary police also try to recruit agents in unregistered religious groups. In addition, unregistered religious communities face raids by secret police, anti-terrorist police units, local government, and local CRA officials. Registered religious communities also are subjected to raids or check-ups.

For example, in December 2009 the Path of Faith Baptist congregation in Dashoguz, which is awaiting a decision on its registration application, was subjected to a police raid. The country's former Chief Mufti, who is now the senior regional CRA official, participated in the raid. Some 100 Christian books, including personal Bibles, were confiscated, Forum 18 reported. All 22 people at the service were taken to the local government building and pressured to sign statements not to attend the church. In January 2010 the pastor of a registered Protestant church in Dashoguz, was questioned by police and local CRA after he gave a brief prayer at a birthday party. He was charged with violating the religion law, even though the host had requested the prayer and the church's registration allows the pastor to conduct religious activity throughout Dashoguz region.

The only reported instance of physical abuse against a member of a religious minority in the past year also led to the unprecedented imposition of a penalty against the police officer involved, according to the State Department. On May 6, 2009, a police officer in Turkmenabad reportedly beat a Jehovah's Witness. Her mother later reported the incident to the local public prosecutor. The prosecutor reportedly summoned the police officer and ordered him to pay damages of about U.S. \$540.

### *Conscientious Objectors*

Under Turkmen law, it is a crime for men to refuse military service and there are no legal provisions for a civilian service alternative. Those who refuse to serve in the Turkmen military face a maximum two-year term of imprisonment. Despite urging from the UN Special Rapporteur on Freedom of Religion or Belief, the UN Human Rights Council, and USCIRF, the Turkmen government has not introduced such an alternative.

As of March 2010, five Jehovah's Witnesses were imprisoned and two others were serving suspended sentences for refusing to perform military service. In December 2008, Sakhetsmurad and Mukhammedmurad Annamamedov each received a two-year suspended sentence, but in May 2009 were transferred to prison for the rest of their terms. They became the first Jehovah's Witnesses since 2007 to be jailed as conscientious objectors to military service. In July 2009, two other Jehovah's Witnesses were sentenced to prison terms; Shadurdi Ushotov received a two-year sentence and Akmurat Egendurdiev received an 18-month term. In December 2009, Navruz Nasyrlaev was sentenced to two years of imprisonment. In April 2009, two Jehovah's Witness conscientious objectors, Zafar Abdullaev and Dovran Kushmanov, received two-year suspended sentences. Both live under restrictions at home, having to report regularly to the police and requiring permission to travel out of the city.

*Restrictions on Meeting for Worship*

It is illegal for unregistered religious groups to rent, purchase, or construct places of worship. Registered groups must obtain government permission, which is often difficult to obtain, to build or rent worship places. For meeting to worship in unapproved areas, such as private homes, congregations face police raids, court-imposed fines and other forms of harassment. For instance, in 2008 several Jehovah's Witnesses who are members of an unregistered religious community were threatened by police with rape and efforts were made to force them to recant their faith due to their participation in "illegal" religious activities, according to Forum 18.

While some new construction of mosques is underway according to the State Department, the government also refuses to allow the construction of three Shi'a mosques. The Turkmen government is building monumental mosques in Koneürgenç in the northern Dashoguz region, in Mary in the east of the country, and in Gypchak. Reportedly, a mosque under construction in 2009 will be named in honor of President Berdimuhamedov; the equivalent of U.S. \$1,000,000 for the building will be drawn from a special presidential fund. It is unclear how the construction of these mosques is in line with the constitutional separation of religion from the state since they are built at public expense. In addition, the Turkmen government reportedly has not adequately compensated the owners of private houses destroyed on the sites of the future state-funded mosques.

With government permission, an ROC Cathedral is being constructed in Ashgabat, albeit slowly. The land for the cathedral was granted in 2007. In April 2009, for the first time in 12 years, Russian Orthodox church was consecrated in Turkmenistan, in the city of Tejan. In the summer of 2009, officials in the city of Dashoguz granted a construction permit for a new Russian Orthodox church. However, city authorities also reportedly decided to construct high-rise buildings around that church, apparently so that its domes will not be easily visible, according to the Turkmen Initiative for Human Rights.

Five registered minority religious communities have managed to establish places of worship. Three are rented and two are in the private homes of members of Baha'i and Hare Krishna communities. Worship in private homes, however, is limited to nuclear family members who belong to registered religious communities. Turkmen officials have told the State Department that if neighbors do not object, worship in private homes is allowed. Nevertheless, security police reportedly continue to break up religious meetings in private homes and search homes without warrants. The leader of a registered Christian community told USCIRF in 2007 that after registration, he could no longer invite friends and family to worship, even in his own apartment. Officials told him that private worship must be limited to husband and wife and children and could not include adult parents and siblings.

There have been no recent reports of destruction of houses of worship by the Turkmen authorities. In the Niyazov era the state reportedly closed, confiscated, or destroyed at least a dozen houses of worship. Despite the country's vast financial resources from the sale of natural gas (most funds reportedly are held in personal accounts in western banks), Turkmen officials told Forum 18 in August 2008 that no compensation would be paid to any religious community for the destruction or confiscation of at least 17 mosques and churches that took place under Niyazov.

One leader of a registered Pentecostal church told USCIRF in 2007 that his home in Ashgabat had been confiscated because unsanctioned worship services were held there. Despite years of effort, his personal property has not yet been returned to him.

*Restrictions on Religious Literature*

The publication of religious literature inside Turkmenistan is banned by decree. The CRA must approve all imported religious literature, but since Islam and Russian Orthodoxy are the only religions represented, the CRA's knowledge of other religions is limited. The State Department reported that the Koran was "practically unavailable" at state bookstores in Ashgabat in 2009. While most homes have one Arabic copy of the Koran, few are available in Turkmen. The local CRA branches frequently confiscate and photocopy literature. Religious communities need a license to copy religious literature already in their possession. One leader of a registered Protestant community said that the Justice Ministry had threatened his church for trying to copy religious material without a license.

By law, only registered religious communities can import religious literature, and the quantities must correlate to the number of members in their congregations. Members of religious minority communities report that they are usually denied official permission to import religious literature and it is often confiscated before it can be submitted for official examination. Customs officers restrict returning travelers, regardless of citizenship, to only a small amount of religious literature for personal use. The State Department reported in 2009 that Turks who reside in Turkmenistan have had their personal Korans confiscated at the border. Religious literature, CDs, and DVDs found during police raids are routinely confiscated and rarely returned. Bibles and other literature continue to be confiscated from minority religious communities. Unlike in previous years, however, ethnic Turkmen members of unregistered religious groups accused of disseminating religious material were not singled out for particularly harsh treatment.

The ROC can receive and distribute Bibles easily, but reportedly it does not share them with Protestants because it views them as competitors. Moreover, the Russian Orthodox community is impacted by the government's policy banning Turkmen residents from receiving Russian publications by mail, including the *Journal of the Moscow Patriarchate*. According to Protestant groups, neither a Bible Society nor Christian bookshops are allowed to exist.

Internet users in Turkmenistan cannot access most international religious websites because the state has a monopoly on Internet access. The government also reportedly uses a computer program to search emails for coded words and blocks "suspicious" messages. Moreover, in 2009 the Turkmen government established a new government committee to approve all books, films, plays, art, and cultural programs, the State Department reported.

*Restrictions on Religious Education*

Turkmenistan's religion law bans the private teaching of religion, as the Turkmen government recently acknowledged in its January 2010 report to the UN Human Rights Committee. Only individuals who have graduated from institutions of higher religious education (domestic or foreign is not specified) and are CRA-approved may offer religious instruction, and such instruction must take place in officially-approved institutions. However, some independent religious education unofficially takes place.

Under the religion law, mosques are allowed to provide religious education to children after school for four hours per week, as long as parents have given their approval. Some Sunni mosques have regularly scheduled Koran instruction. The 2003 religion law prohibits the ROC from conducting religious education programs without CRA and presidential approval and there were, according to the State Department, no reports that such programs had been approved.

Muslims are not allowed to travel abroad for religious education. In July 2009, the building of the Islamic Theology Department of Turkmen State University in Ashgabat reportedly was demolished.

Government officials refuted these claims, but an official at the university said that students have relocated to the main building of the university. According to Forum 18, the faculty only had 60 students in its five-year course and it no longer is allowed to employ foreign staff.

The country's largest religious minority, the Russian Orthodox community, has no institution in Turkmenistan to train clergy, although Russian Orthodox men are allowed to leave the country for clerical training. Shi'a Muslims, most belonging to Iranian and Azeri ethnic minorities, also have no religious training institutions in Turkmenistan. Even registered religious minority communities have difficulty with regard to training; one leader has said that most religious training is conducted informally and in private homes.

#### *Restrictions on International Travel and Foreign Religious Workers*

The current Turkmen government continues to interfere with the ability of Turkmen religious adherents to travel outside the country. In 2009, Turkmen authorities did not allow any Muslims to leave the country to perform the *hajj* (pilgrimage to Mecca), allegedly due to fear of swine flu infection. Instead, The Turkmen government organized "an internal *hajj*" for 188 officially-designated Muslim pilgrims to travel to 38 sites inside Turkmenistan. Some of these sites had religious significance, such as an eleventh-century mosque that honors Sufi saints, but others allegedly were selected to display government efforts to improve public welfare. The government had long limited the annual number of Turkmen *hajj* pilgrims to 188, even though the country's official Saudi quota is at least 4,000 people and Turkmen reportedly have had to pay bribes to be included on the list.

Obtaining entry visas continues to be difficult for certain groups of foreign religious workers and coreligionists. The last known visit to Turkmenistan by Armenian Apostolic Church clergy was in 1999, although the country has long had an ethnic Armenian minority. The Baha'is report that it is impossible for their foreign relatives to receive permission to visit Turkmenistan, although Baha'i adherents can leave the country on visits. However, in the past several years, the Turkmen government has allowed international travel for the representatives of certain religious communities. ROC Metropolitan Kyril was permitted to visit Turkmenistan in May 2008, the first visit by a ROC leader since 2003. During 2009, the Turkmen government permitted visits by foreign religious leaders to conduct religious services for at least three registered minority religious groups, according to the State Department. In addition, the New Apostolic Church received its first permission for a visit by a European church leader in April 2009.

#### *Status of Presidential Personality Cult*

The new Turkmen government appears to be moving away from Niyazov's personality cult and the forceful official promotion of the *Ruhnama*. The *Ruhnama* has been removed from government buildings and from mosques, including the large mosque in Niyazov's native village of Gipchak, although its inscriptions remain emblazoned on that mosque's walls. A USCIRF delegation visited the Gipchak mosque in 2007; above the *mikhrab*, or the special bay in the mosque wall directed toward Mecca, was the word "Turkmenbashi," Niyazov's self-designated title, in a display that most Muslims would consider deeply offensive.

Imams no longer are required to repeat a loyalty oath to the "fatherland" and Niyazov after each daily prayer. The amount of time public school students must spend studying the *Ruhnama* has been reduced, although Niyazov's works remain part of the curriculum and students still must pass examinations on them for advancement, graduation, or admission to higher educational institutions. The Turkmen Academy of Sciences, closed at Niyazov's order, has been re-opened. Articles by Turkmen historians and the works of four classical Turkmen authors have been published. Nevertheless, a university named in

honor of the *Ruhnama* was opened in 2009 and the Turkmen president recommended later in the year that the book be used to educate youth.

There are concerns that President Berdimuhamedov is seeking to establish a new presidential personality cult around himself, but without religious overtones. Although the new president in 2008 ordered the removal of all Niyazov portraits and *Ruhnama* citations from the outside of buildings throughout the country, many were replaced with large portraits and posters of the current President. Most secondary school textbooks were revised to remove all text devoted to Niyazov and his family, but a picture of Niyazov still appears on the first page of textbooks. The new books also include pictures of the new president, and the text on his “New Revival” ideology has replaced the previous text on Niyazov and his family, according to the State Department. Reportedly, Presidential administration representatives now sell the new president’s books on medicine, the history of his family and on Akhal-Tekke horses to public institutions, including schools.

The Turkmen government also requires teachers and students to spend 70 to 80 days of the academic year in state-sponsored extracurricular events. For example, in late 2009, hundreds were forced to stand on line overnight in sub-zero weather in the Dashoguz region to greet the new Turkmen president. The State Department reported in 2009 that secondary school teachers are now required to agree to salary cuts if they do not participate in such events, and participating students receive an “A” grade for the day.

#### *Relations with International Organizations*

After five years of requests, Asma Jahangir, the UN Special Rapporteur on Freedom of Religion or Belief, visited Turkmenistan in September 2008. Her report, which was published in January 2009, noted some improvements since 2007, but expressed concern about continuing legal restrictions, including regarding religious activities, places of worship, religious materials, and the arbitrary implementation of laws. As the Special Rapporteur observed in a press release, the official Turkmen media ignored these concerns and reported only her praise of new Turkmen president’s reforms. Moreover, according to Human Rights Watch, Turkmen security services warned representatives of at least three religious communities in Ashgabat not to meet with the Special Rapporteur during her visit.

In 2008, the UN Human Rights Council conducted its first Universal Periodic Review (UPR) of Turkmenistan’s human rights record. The Turkmen government rejected calls for various human rights reforms, such as the release of political prisoners. The government’s representative also stated during the UPR session that the government planned to amend the country’s religion law and address registration issues consistent with the USAID-funded ICNPL study. As discussed above, however, no such legal reforms have yet been undertaken.

In 2009, the Turkmen government continued its policy of boycotting human rights meetings of the Organization for Security and Co-operation in Europe (OSCE) and has not released from imprisonment Batyr Berdiev, the former Turkmen ambassador to the OSCE. The OSCE’s Ashgabat Center in 2009, however, held numerous events relating to human rights, including various seminars with foreign human rights experts. In addition the Ashgabat Center has created a free-of-charge searchable database, available online, containing Turkmen laws and international treaties signed by Turkmenistan for the use of lawmakers, parliamentary staff, courts and prosecutor’s offices, government officials, legal experts and the general public.

## **U.S. Policy**

The United States for four years has not been represented in this strategically important country by a fully accredited ambassador, despite its many interests in Turkmenistan, including overflight rights to Afghanistan and the country's huge natural gas supplies. Moreover, previous U.S. ambassadors played an important role in highlighting the importance of respect for human rights in Turkmenistan.

The United States also has an interest in ensuring the Turkmen government does not again adopt isolationism as state policy. Such a policy, especially in view of the 20-year Niyazov era, runs the risk of continuing a cultural, ideological, and religious vacuum in Turkmenistan. Since Turkmenistan shares long and porous borders with Iran and Afghanistan, the country may also become open to radical Islamist influences.

In 2009, there were two reminders that the Turkmen government may be returning to isolationism vis-à-vis the United States, at least on policies that benefit the Turkmen population. In September, 47 U.S. Peace Corps volunteers were abruptly informed that they had been denied Turkmen entry visas. Even though it finally granted entry permits to seven Peace Corps members in March 2010, the Turkmen government reduced the total number of Peace Corps volunteers from 70 to 50. In the summer of 2009, the Turkmen government also refused exit permits to some 150 Turkmen who were students at the American University of Central Asia in Bishkek. While about half of those students were eventually given exit visas, others reportedly are still banned from foreign travel.

In its programs in Turkmenistan, the U.S. government has stressed the importance of freedom of information and media. The United States has sent Turkmen professionals, government officials, and students to the United States for study, including foreign policy and broadcast journalism programs. The U.S. government also provides funding for local civil society projects, including leadership camps and seminars, and promotes greater access to information by funding a resource center to provide Turkmen with Internet access and computer training. The United States also encourages the Turkmen government to revise its laws on religion and mass media and reform its criminal code. The U.S. government also meets with representatives of Turkmen religious groups to promote religious freedom.

## **Recommendations**

### **I. Expanding U.S.-Turkmen Bilateral Relations**

The U.S. government should:

- appoint an ambassador to Turkmenistan as soon as possible, as the United States has not been represented by a fully accredited ambassador for four years and previous U.S. ambassadors have played an important role in highlighting the importance of respect for human rights in Turkmenistan;
- urge the full implementation of USAID's technical critique of Turkmen laws affecting religious freedom; and
- establish a program of bilateral meetings with the government of Turkmenistan on human rights and on freedom of religion or belief, to discuss ways Turkmenistan can implement laws and practices to comply with international human rights standards, as well as establish a regular reporting mechanism on these issues.

## **II. Promoting Freedom of Religion or Belief and Other Human Rights**

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

- repeal all laws, decrees or regulations, and amend those articles of the religion law, that are found to be in violation of international norms on freedom of religion or belief, for example by implementation of the recommendations of the recent USAID-funded analysis of that law;
- eliminate intrusive and onerous registration procedures and abolish criminal or other penalties for engaging in religious or other peaceful activity solely because it has not been approved by the state;
- halt unlawful arrest, detention, harassment, deportation, fines, and residential and workplace intimidation of members of religious communities due to their peaceful practice of religious or other beliefs;
- end fully the harassment and unlawful deportation of religious leaders and the imposition of fines on members of peaceful unregistered religious communities whose activities officially are deemed “illegal;”
- end the imposition of the *Ruhnama* or other state-sponsored texts or ideology in public institutions and religious organizations;
- promulgate new regulations and adopt new policies to ease the importation of religious and other material and permit the domestic printing and dissemination of such material in accordance with international standards;
- restore genuine legal alternatives to military service on the grounds of religious or conscientious objection based on international precedents, including those of the OSCE, and cease the criminal prosecution of, and fully restore the civil and political rights of, Jehovah’s Witnesses and others who refuse to serve in the army on the grounds of conscience;
- expand and regularize the work of the government’s Commission to Examine Turkmenistan’s Legal Obligations under International Human Rights Law, established in August 2007, including by the systematic and effective involvement of international legal experts, such as those of the OSCE Panel of Experts on Religion or Belief and the OSCE Panel on Freedom of Association, and relevant UN experts;
- reform the government’s other policies toward religious practice, including the end of state interference in the management of religious communities and the selection and training of religious leaders, including from Sunni and Shi’a Muslim and the Russian Orthodox communities, as well as from Protestant and other minority communities; and
- permit a USCIRF delegation to return to Turkmenistan to assess progress on implementation on freedom of religion or belief, including Constitutional amendments and legislative reforms, speak with current or former prisoners of conscience in places of detention and speak unimpeded with religious and other organizations and their members.

### **III. Expanding U.S. Programs and Other Activities to Promote Human Rights and Reform Efforts**

The U.S. government should:

- increase and improve radio, Internet, and other broadcasts of objective news and information, including on topics such as freedom of religion or belief and on other human rights and religious tolerance, by:
  - expanding and improving broadcasts to Turkmenistan by the Turkmen Service of Radio Free Europe/Radio Liberty (RFE/RL), including by increasing coverage of issues relating to freedom of religion or belief, adding Russian-language broadcasts, and providing additional programming for the estimated 12 million Turkmen in the diaspora, particularly in Iran, Iraq, and Afghanistan; and
  - restoring Voice of America's Russian-language television and radio broadcasts to Central Asia, particularly those broadcasts relating to human rights, including freedom of religion or belief.
- assist in improving Turkmenistan's educational system, particularly with regard to curricula on religious freedom and other human rights, by:
  - reprinting Russian and Turkmen language materials on human rights, particularly on international norms on freedom of religion or belief, including civic education materials such as "The Law that Unifies Us," first published and distributed by the OSCE Center in Ashgabat; and
  - providing funds for libraries in Ashgabat and other cities, including materials on human rights, as well as freedom of religion or belief, tolerance, civic education, and international legal standards;
- develop assistance programs to encourage civil society groups that protect human rights and promote freedom of religion or belief, including by expanding legal assistance programs for representatives of religious communities through grants that address freedom of religion or belief via the USAID Democracy and Conflict Mitigation or the Democracy Commission Small Grants program administered by the U.S. Embassy;
- expand international contacts and increase U.S. involvement in communities in Turkmenistan by increasing the budgets of the Peace Corps and USAID programs, include religious leaders in community projects in efforts to address social problems and increase religious and ethnic tolerance, and expand exchange programs, including with civil society leaders, students, and others concerned with human rights; and
- cooperating with the OSCE Center in Ashgabat, including by resuming joint activities with human rights activists from Turkmenistan to encourage civic education, including on international norms on freedom of religion or belief as well as other human rights, and also by encouraging the OSCE officially to respond to the Turkmen government's offer in May 2007 to host an OSCE experts' level meeting.

**IV. Strengthening Efforts in the International Arena**

With regard to international fora, the U.S. government should urge the government of Turkmenistan to:

- implement the recommendations of the October 2006 Report of the UN Secretary General on the Situation of Human Rights in Turkmenistan and the 2008 recommendations of the UN Human Rights Council during the UPR of Turkmenistan;
- agree to the numerous requests for visits by the UN Special Rapporteurs, as well as representatives of the OSCE, including its Panel of Experts on Freedom of Religion or Belief, and provide the full and necessary conditions for such visits; and
- participate fully in the OSCE, including in the annual Human Dimension meeting in Warsaw and expand the activities of the OSCE Center in Ashgabat, particularly on human rights, including programs with local schools, universities, and institutes on human rights standards, including freedom of religion or belief.

## Uzbekistan

**FINDINGS:** Since Uzbekistan gained independence in 1991, fundamental human rights, including freedom of religion or belief, have been under assault. The Uzbek government harshly penalizes individuals for independent religious activity, regardless of their religious affiliation. A restrictive religion law severely limits the rights of all religious communities and facilitates the Uzbek government's control over them, particularly the majority Muslim community. The Uzbek government continues to arrest Muslims and repress individuals, groups, and mosques that do not conform to government-prescribed practices or that the government claims are associated with extremist political programs. This policy has resulted in the imprisonment of thousands of persons; many reportedly are denied due process and are subjected to torture. Though security threats do exist in Uzbekistan, including from members of groups that claim a religious linkage, these threats do not excuse or justify the scope and severity of the Uzbek government's maltreatment of religious believers.

Based on these severe violations, USCIRF continues to recommend in 2010 that Uzbekistan be designated as a "country of particular concern," or CPC. The State Department has so designated Uzbekistan since 2006.

Uzbek police and security forces raid and repress members of registered and unregistered religious groups for peaceful religious activity. Members of non-violent unregistered Muslim groups have been convicted and sentenced to lengthy prison terms in trials that fall far short of international standards. Since 2008, the Uzbek government has initiated a campaign against the *Nur* group, charging them with alleged extremism, although they are not known to use or advocate violence. Uzbek courts in 2009 sentenced 47 individuals to prison terms totaling 380 years. Religious minority groups, especially those viewed as engaging in proselytism, also are targeted. A Pentecostal pastor and three Jehovah's Witnesses recently have been imprisoned.

**PRIORITY RECOMMENDATIONS:** The State Department should again designate Uzbekistan as a CPC. Upon re-designation, no waiver should be given and sanctions should be imposed, including a ban on visits to the United States by high-level Uzbek officials. U.S. policy on Uzbekistan should be coordinated across agencies to ensure that human rights concerns are reflected in all dealings with the Uzbek government and that U.S. security and other assistance does not go to agencies responsible for particularly severe violations of religious freedom. U.S. assistance, except humanitarian assistance and human rights programs, should be contingent on the Uzbek government's actions to improve religious freedom conditions and comply with international human rights standards. These actions should include ending reliance on convictions based solely on confessions; establishing a review mechanism for those detained or charged with religious, political, or security offenses; making public a detailed list of individuals currently detained or imprisoned for such offenses; and releasing those imprisoned solely due to their religious beliefs or practices. The United States also should press the Uzbek government to revise its 1998 religion law to bring it into accord with international standards and to permit an independent international investigation into the May 2005 Andijon events. Additional recommendations for U.S. policy towards Uzbekistan can be found at the end of this chapter.

## **Religious Freedom Conditions**

### *Legal Framework*

Uzbekistan's 1998 Law on Freedom of Conscience and Religious Organizations severely restricts the exercise of religious freedom. Through regulations that are often arbitrarily applied, the law imposes onerous hurdles for the registration of religious groups, particularly minority religious groups. The law criminalizes unregistered religious activity; bans the production and distribution of unofficial religious publications; prohibits minors from participating in religious organizations; bans private teaching of religious principles; and forbids the wearing of religious clothing in public by anyone other than clerics. The term "religious clothing" is not defined. As a result, some Muslim men reportedly hesitate to grow beards or wear traditional clothing and women wearing head scarves have encountered official difficulties, although as of 2008 these difficulties seem to have decreased. The law also limits religious instruction to officially sanctioned religious schools and state-approved instructors, does not permit private instruction, and levies fines for violations. Only six entities meet the Uzbek religion law's requirement to train religious personnel, and only seven have the legal right to import, publish, or distribute religious literature.

Under Uzbek law, it is a criminal offense, punishable by up to five years imprisonment, to organize an "illegal" religious group (a group that is merely unregistered) or to resume such a group's activities after it has been denied registration or ordered to disband. Individual participation in an unregistered group is a crime punishable by up to three years in prison. The Uzbek criminal code distinguishes between "illegal" groups, which are not properly registered, and "prohibited," alleged extremist, groups. (See discussion under *Extremism Laws* below.) Those who participate in prohibited groups face imprisonment for up to 20 years. Uzbek courts, however, have often ignored the distinction between illegal and prohibited groups, and convicted alleged members of unregistered Muslim groups under both statutes.

The government modified the country's criminal and administrative codes in late 2005 and 2006 to introduce heavier fines— as much as 200 to 300 times the minimum monthly wage— for repeated violations of the rules on religious meetings, processions, other ceremonies, and education. Repeated violations of the provisions related to religious literature may result in a fine of 100 to 200 times the minimum monthly wage or corrective labor of up to three years.

Worship meetings and all other religious activities are illegal for unregistered religious groups. Unregistered religious congregations may be subject to massive fines and police raids, as well as threats of physical violence, detentions, and arrest. Without legal registration status, religious groups cannot open bank accounts; construct, rent, or buy buildings; print religious literature; or appoint or hire a religious leader. Many religious groups are unable to meet the registration requirements, which include: a minimum of 100 members who are Uzbek citizens; a fee amounting to 50 times the minimum monthly wage; the submission of numerous documents setting out the group's rules, meeting protocol, and certification that other requirements have been fulfilled; and proof of a valid legal address. In addition, Uzbek officials reportedly create administrative barriers to registration, such as rejecting applications that meet the requirements, claiming that applicants have falsified congregation lists; discovering grammatical or other technical errors in a religious group's charter, imposing obstacles in certifying addresses, or claiming improper certifications by fire inspectors, sanitation workers, or other officials.

In 1998, the Uzbek government closed down approximately 3,000 of the 5,000 mosques that were open at that time. Since then, closed as well new mosques, continue to face difficulties in gaining registration. Several mosques in the Ferghana valley, viewed as the country's most actively religious region, were not registered even though they meet the number of congregants required by Uzbek law. Nevertheless, a number of unofficial, independent mosques reportedly are allowed to operate quietly under the watch of

official imams. Uzbek authorities also permitted the operation of an unregistered Sufi monastery in Kokand in the Fergana valley. The Uzbek government sometimes promotes Sufism, particularly the native Naqshbandi order, as an alternative to foreign Islam, which it views as extremist.

Many non-Muslim religious groups also face great difficulty in registering with the government. For instance, since 1999 the registration applications of all Baptist churches have been rejected by Uzbek authorities. Churches which have repeatedly been denied registration include the Bethany Baptist Church in the Mirzo-Ulugbek District of Tashkent, the Pentecostal Church in Chirchik, the Emmanuel and *Mir* (Peace) Churches in Nukus, the Hushkhabar Church in Guliston, the Pentecostal Church in Andijon, the Baptist Church in Gazalkent, and the Adventist, Greater Grace Christian, and Miral Protestant Churches, all in Samarkand. Some Protestant communities, however, such as the Council of Churches Baptists, refuse on principle to seek registration. Many churches, particularly evangelical churches with ethnic Uzbek membership, did not apply for registration because they expect local officials to refuse their applications. Other groups, particularly those with too few members to qualify for registration, reported that they did not want to draw official attention and possible official harassment.

In November 2007, the Tashkent City Civil Court invalidated the property title of the Grace Presbyterian Church of Tashkent, thereby depriving it of the legal address required for registration. Since 1996, the Jehovah's Witnesses have attempted to register in Tashkent on at least 23 occasions and to register in the provinces on 13 separate occasions. Only one Jehovah's Witness group in the country, in Chirchik, has been registered, and the Uzbek government reportedly has made frequent attempts to restrict its activities.

#### *Application of Extremism Laws*

Over the past decade and particularly since 1999, the Uzbek government has arrested and imprisoned, with terms of up to 20 years, thousands of Muslims who reject the state's control over religious practice, or whom the government claims are associated with extremist groups such as *Hizb ut-Tahrir* (HT). Reportedly, there are at least 5,000 such persons in prison, including sane individuals sent to psychiatric hospitals. According to international and Uzbek human rights activists, the only "crime" of many of these individuals is performing daily prayers and studying Islam.

The Uzbek government bans Islamic organizations it deems extremist and criminalizes membership in these groups, including HT, *Akromiya*, *Tabligh Jamaat*, *Nur*, and other groups the government broadly labels "Wahhabi." According to the Uzbek government, it does not consider repression of persons or groups suspected of extremism to be an issue of religious freedom, but rather of preventing armed resistance to the government. Security threats do exist in Uzbekistan, including from members of HT and other groups claiming a religious linkage. However, these threats do not excuse or justify the scope and severity of the government's ill-treatment of religious believers.

In an April 2009 report, the Moscow-based human rights group Memorial reported that 1,452 individuals had been prosecuted by Uzbek officials allegedly on politically motivated charges between 2004 and 2008. Nearly 95 percent of these individuals were charged with religious extremism, including alleged HT membership. According to the State Department, in 2009 the number of individuals imprisoned for alleged HT membership appeared to decrease for the second year in a row. Alleged HT members are believed to comprise as many as 4,500 of the estimated 5,000 political prisoners in Uzbek prisons. In most of these cases, there was no evidence that the individual took part in violent acts and many of those arrested are wrongfully accused of membership or association. Some arrests are due to the alleged—or planted—possession of HT literature at the time of arrest. Additionally, according to the State Department, "authorities made little distinction between actual members [of HT] and those with marginal affiliation with the group, such as persons who had attended its Koranic study sessions." Local human

rights activists have reported that police and security service officers, acting under pressure to break up HT cells, frequently detained family members and close associates of suspected members.

While HT is not known to have engaged in violence, according to the State Department, its literature strongly suggests that it might resort to armed action. The group, which is banned in most Muslim countries, calls for a worldwide Islamic caliphate to replace existing governments and for the imposition of an extremist interpretation of Islamic law. HT literature expresses virulently anti-Semitic and anti-Western views. The Uzbek government's prosecution of HT members appears mainly motivated by the group's political activity. Nonetheless, those actions by the Uzbek government lack due process guarantees and also involve credible allegations of torture.

The Uzbek government has also repressed and prosecuted members of *Akromiya* (or *Akromiylar*) since 1997. Uzbek authorities claim that *Akromiya* is a branch of HT and that it, along with the terrorist Islamic Movement of Uzbekistan (IMU), attempted to violently overthrow the Uzbek government in Andijon in May 2005. According to religious experts, *Akromiya* is an informal, peaceful association that promotes business with Islamic religious principles based on the 1992 writings of an imprisoned Uzbek mathematics teacher, Akram Yuldashev. The charges against the 23 businessmen on trial in Andijon included alleged membership in *Akromiya*. (See *The Andijon Protest and its Aftermath*, below.)

Another prohibited group, *Tabligh Jamaat*, is an Islamic missionary group with origins in South Asia. Its members follow worship, dress, and grooming practices from the time of the Prophet Muhammad and according to the State Department claim to be exclusively religious and apolitical. In 2004, ten *Tabligh* members were sentenced to prison terms in Uzbekistan after the group was listed as an extremist organization.

The Uzbek government also prohibits groups and represses and prosecutes individuals it deems "Wahhabis." The term "Wahhabi" usually refers to followers of the highly restrictive interpretation of Sunni Islam practiced in Saudi Arabia. The government of Uzbekistan, however, uses the term to refer to a wide range of Muslim individuals or groups, including genuine extremists, political opponents of the Karimov regime, those educated abroad, those who practice Islam independently of government strictures, or those whose intellectual or religious roots derive from the teachings of three Uzbek imams prominent in the 1990s. (Two of these three imams have disappeared in Uzbek prisons. The third, Obidkhon Qori Nazarov, fled Uzbekistan after he was officially branded "Wahhabi" and was given political asylum in Sweden. Human rights sources say Nazarov was not promoting extremism but practicing independent Islam.

After 1999, but particularly since 2008, the Uzbek government has harassed and imprisoned numerous alleged members of what it labels the *Nur* group: followers of Said Nursi, a Kurdish mullah who was active in Turkey after World War I. Many observers do not consider Nursi's followers to constitute a formal movement, but rather to be informal groups of individuals who read his books, which were in wide public circulation in Uzbekistan and other post-Soviet countries in the 1990s. Although Nursi followers are not known to have advocated or engaged in violence, the Uzbek Religious Affairs Committee (RAC) listed *Nur* as a banned religious organization in 2000. In early 2009, Uzbek state television aired a documentary describing *Nur* as an extremist sect that aims to establish a pan-Turkic state and claiming that its activities "undermine our centuries-old values."

In 2009 and 2010, Uzbek authorities made dozens of arrests and imprisonments during a widespread crackdown on suspected *Nur* members. Two groups of Nursi's followers were tried on charges of religious extremism in February 2009. These included a group of five journalists, Bahrom Ibragimov, Davron Kabilov, Ravshanbek Vafoyev, and U.S. exchange program alumni Abdulaziz Dadahanov and Botirbek Eshkuziyev, who were sentenced to between eight and 12 years in prison for producing a journal

called *Irmoq* supposedly linked to Nursi's views. The defendants reportedly testified in court that they had been tortured in pretrial detention and that evidence against them had been fabricated. In April 2009, three individuals associated with the *Yeti Iqlim* newspaper, journalist Davron Tojiev, distributor Shavkat Ismoilov, and imam Madali Shahobiddinov, were sentenced to prison terms of eight to 12 years for alleged *Nur* membership. Two mass trials of alleged Nursi followers ended in July 2009, and 21 defendants in Samarkand received long prison terms ranging from seven to 11 years: Hasan Karimov, Bahtiyor Fattaev, Nusratulla Ibadullaev, and Bahodir Hamraev received 11 years; Solejon Shirmatov, Bahodir Muhamadiev, and Shuhrat Hodiev received nine years; Jamshid Oblokulov and Abbas Toirov received eight years and Rahmatulla Ibadullaev and Fozil Ikromov received seven years. In parallel trials in Khorezm, ten men received prison terms between five and 11 years. According to reports, in 2009, a total of 47 individuals were convicted of "extremism" for being alleged Nursi followers and were sentenced to prison terms totaling 380 years. Local human rights groups, Veritas Youth Human Rights Group and the Khorezm-based Najot Human Rights Group, say that these individuals were merely practicing Islam outside the state-controlled framework.

In January 2010, around 40 people were arrested by police in the central Uzbek city of Bukhara on the suspicion that they read Nursi literature. Local sources reported that these individuals were not necessarily Nursi followers, but were neighbors and friends of individuals charged as such in an earlier case. In early February 2010, five suspected Nursi readers reportedly have been arrested in the Ferghana region. In addition, 25 alleged Nursi readers serving in the Uzbek army were arrested in 2009 in Tashkent; reportedly, 12 are due to face a military tribunal.

#### *The Andijon Protest and its Aftermath*

In May 2005, after several thousand mostly unarmed civilians gathered on the Andijon central square to protest the trial of 23 local businessmen for alleged ties to Islamic extremism, Uzbek armed forces fired without warning into the crowd. Estimated fatalities range from an official Uzbek total of 187 to over 700, according to the Organization for Security and Cooperation in Europe (OSCE); some non-governmental organizations (NGOs) report that as many as 1,000 men, women, and children were killed. The Uzbek government continues to reject calls from the United States, the European Union (EU), the OSCE, and the UN High Commissioner for Human Rights for an independent international investigation into these events.

After the May 2005 Andijon events, the number of court cases in Uzbekistan against independent Muslims increased markedly. Uzbek authorities jailed hundreds of local residents, human rights activists, and journalists on suspicion of involvement in the events. The Uzbek government continues to seek out and persecute anyone it deems to have a connection to, or information about, the Andijon events. Even the relatives of human rights defenders have been threatened, dismissed from their jobs, beaten, and sometimes arrested, prosecuted, and imprisoned on fabricated criminal charges. The government cracked down on both domestic and foreign-based NGOs, particularly those that focus on human rights, closing almost three-fourths of them. The Uzbek government also has pressured other countries forcibly to return Uzbek refugees who fled after the Andijon events and who were under the protection of the Office of the UN High Commissioner for Refugees (UNHCR). In 2007, the UN Committee against Torture pointed to reports that some persons who had sought refuge abroad and were returned to Uzbekistan were subjected to torture.

#### *Conditions in Detention*

Human rights organizations report that many detainees in Uzbekistan were arrested, among other things, for possession of literature of a banned organization. Once arrested, they often are denied access to a lawyer or are held incommunicado for weeks or months. Many of those imprisoned or detained for

charges related to religion are treated particularly harshly; prisoners who pray or observe Muslim religious festivals reportedly are subjected to further harassment, beatings, and torture in an effort to force them to renounce their religious or political views. For example, eleven men who allegedly belong to a Nursi group were arrested by the Samarkand Regional National Security Service (NSS) in February 2009 and held in that city's investigation isolation cells where reportedly they were subjected to prolonged torture.

In May 2009, Nigmat Zufarov, a labor camp inmate since 2000, began a hunger strike demanding permission to pray in prison. After six days, prison officials reportedly force-fed him and performed a forced enema using pepper solution, and they continued to beat him after he ended his hunger strike. In July 2009, he was found dead. Prison officials say he committed suicide, but his family reported signs of torture on his body. His brother Sobit, also a prisoner since 2000 in the same camp, reportedly was placed in an isolation cell for up to six months as punishment for praying. In September 2009, three UN Special Rapporteurs—on extrajudicial executions, torture, and freedom of religion or belief—wrote to the government of Uzbekistan raising concerns about these cases; the Uzbek government rejected the validity of these claims.

Convictions in the cases described above are based almost entirely on confessions, which, according to the State Department, are often gained through the use of torture. Despite promises from the government to halt the practice, torture remains endemic in prisons, pretrial facilities, and local police and security service precincts, and reportedly includes the threat or use of physical violence, rape and the use of gasmasks to block victims' air supply. Torture is allegedly used to force adults and children to renounce their beliefs or to implicate themselves or others. In 2008, the UN Committee against Torture confirmed numerous, on-going, and consistent allegations of the use of torture, often before formal charges are brought and often to extract confessions to be used in criminal proceedings. The Committee acknowledged that the Uzbek government had taken some limited steps to eliminate torture in detention, but noted continued and numerous reports that ill-treatment remained routine and systemic and that those who engaged in torture were rarely punished. The Committee has also called for the closure of the "special regimen" prison in Jaslyk where well-known poet, Yusuf Jumaev, is serving a 12-year term. According to Jumaev's relatives, the poet is emaciated and beaten by guards.

Particularly since the 2005 Andijon events, it has become increasingly difficult to gain independent verification of Uzbek government claims that it is combating torture and improving prison conditions. What is more, Uzbek authorities reportedly do not release prisoners, especially those convicted of religious extremism, at the end of their terms. Instead, prison authorities often extend inmates' terms simply by accusing them—without judicial review—of new crimes and claiming that the prisoners continue to represent a danger to society.

The Uzbek authorities have also adopted repressive measures against entire families on charges of alleged religious extremism. One such individual is Akhmadjan Madmarov, a human rights activist from the city of Margilan in the Fergana valley whom USCIRF met in 2004. In September 2007, Uzbek authorities extended by 16 and one-half years the sentence of Madmarov's son, Habibullah, who was charged with taking part in an alleged extremist conspiracy even though he was incarcerated. Although one of Madmarov's sons was released on parole after completion of his seven-year term, another son and his two nephews remain in prison; all have been charged with religious extremism.

*Restrictions on Muslims*

Despite the constitutional separation of religion and state, the Uzbek government strictly regulates Islamic institutions and practice through the officially sanctioned Muslim Spiritual Board, the *Muftiate*. The state fully controls the training, appointments, and dismissals of Muslim leaders through the *Muftiate*. The *Muftiate* has banned imams in the Namangan region from preaching at Ramadan night prayers since 2007; children were also banned from these prayers.

In the Ferghana Valley, viewed as the country's most active religious region, the state has confiscated a number of mosques in recent years and used them as warehouses or for other state purposes. Several years ago, the government introduced various administrative and other obstacles to religious practice in this region. For example, in the Andijon area, the regional head of administration in 2008 banned the five daily public calls to prayer from mosques and the preaching by mullahs at weddings. In addition, regional officials in Uzbekistan have been instructed by the central government that children should not attend mosque at any time. Nevertheless, despite these draconian efforts by the Uzbek government to limit young people's interest in Islam, the country's registered official mosques reportedly are very full.

In January 2009, Uzbek authorities in Karshi threatened children and their parents for their attendance at worship services; several teachers asserted that Uzbek "children are not permitted to attend mosque." The Deputy *Hokim* (governor) of Namangan region reportedly said that "school-age children should not attend religious meetings at all." In the Bukhara region, an imam reportedly said that women are banned from attending Friday prayers in mosques, claiming this ban is "in accordance with Hanafi teachings."

Some 30 women reportedly were arrested in Karshi in November 2009, including Mehriniso Hamdamova, 40, a teacher of an officially-approved religious course for women at Karshi's Kuk Gumbaz Mosque. Hamdanova was charged with providing private religious instruction for young people. Several of Hamdanova's female relatives, including her sister, a daughter-in-law, and nieces, were also arrested on unknown charges. Allegedly, some of these women were threatened with rape if they did not testify against their relative. In another arrest linked to the Hamdamova case, her brother-in-law was arrested in January 2010 in the south-western Kashkadarya region.

In January 2010, a Muslim newspaper and radio journalist, Hairulla Hamidov, was arrested in Tashkent and charged with illegal religious activity, reportedly for speaking positively about women wearing the *hijab* and for inviting independent religious leaders to speak on his radio show. Hamidov also reportedly founded a popular Islamic-inspired periodical in 2007 that was banned by the government six months later.

*Restrictions on Non-Muslims*

Protestants and Jehovah's Witnesses are frequently branded by the Uzbek government as "extremists" for practicing religion outside state-sanctioned structures, and they face ongoing harassment, detention, and arrest for "illegal religious activity," such as holding private prayer meetings or possessing "illegal" religious literature. In 2007, Pentecostal pastor Dmitri Shestakov from the city of Andijon was sentenced to a four-year term in a closed labor colony. Reportedly, Shestakov had been involved in the conversion of some ethnic Uzbeks to Christianity, but the official charges against him consisted of organizing an illegal religious group, inciting religious hatred, and distributing religious extremist literature. Three Jehovah's Witnesses, Abdubannob Ahmedov, Sergei Ivanov, and Olim Turaev are serving prison terms ranging from two to four years on charges of teaching religion without official permission or for organizing unauthorized religious meetings or organizations.

The Uzbek authorities continued their campaign against unregistered minority religious communities. In 2009, at least 21 people reportedly were detained in Uzbekistan for taking part in unregistered religious

activity. Uzbek police invited a Russian Orthodox priest to take part in a March 2009 raid on a group of Baptists holding a prayer meeting in a private house. The priest reportedly told the Baptists that they should not attend unregistered worship services. In a similar incident, a pastor in the Surkhandarya region was fined over 83 times the minimum monthly wage for leading an unregistered worship service.

Moreover, in 2009 various official actions have been taken against registered minority religious communities. In March, 20 officials raided the worship service of a registered ethnic Korean Baptist church in Tashkent, because official permission for the service had not been requested 10 days in advance. The church's pastor was later jailed for 10 days. Administrative charges were brought against three leaders of the registered Full Gospel Holiness Church in the Umid village after police raided a Christmas service. In July, Gafur Yusupov, who lives in a facility for the disabled in eastern Uzbekistan, was banned from attending his registered Baptist church; the facility also forbade him contact with fellow congregants. After Baptists complained at Yusupov's treatment, the facility's official said that they should talk to the secret police. In September, two Baha'is received 15-day jail terms in Tashkent; one, whose wife and children live in Uzbekistan, was later expelled from the country. They were accused of missionary activity and proselytism, after police raided an officially authorized meeting of teenage Baha'is who also had parental consent.

Some regions of Uzbekistan, such as Karakalpakstan and Khorezm, are noted for particularly severe anti-religious campaigns, including expulsion of Hare Krishna and evangelical Protestant students from university and the state-ordered closure of almost all churches.

The state-controlled media has encouraged prejudice against certain minority religious groups. It also has accused missionaries of posing a danger to society and equated them with religious extremists. In addition, government officials have held meetings at universities and schools around the country warning students about the "negative consequences of missionaries and religious extremism."

#### *Restrictions on Religious Literature*

The official Council on Religious Affairs (CRA) must approve all religious literature. Under the religion law, importing, storing, producing or distributing unapproved religious materials is prohibited. Administrative violations are subject to fines of 20 to 100 times the minimum monthly wage for individuals, or 50 to 100 times the minimum monthly wage for officials of organizations. The materials and the means of producing and distributing them can also be confiscated and destroyed. Individuals already convicted of administrative offenses are liable under the criminal code to pay court-ordered fines of 100 to 200 times the minimum monthly wage or to serve a term of corrective labor of up to three years. The Uzbek criminal and administrative codes also punish the production and distribution of "literature promoting racial and religious hatred."

Only seven registered religious organizations (an inter-denominational Bible Society, the Muslim Board of Uzbekistan, two Islamic centers, and Russian Orthodox, Full Gospel, Baptist, and Roman Catholic offices) have the legal right to publish, import, and distribute religious literature. Moreover, a 2006 instruction issued by the Uzbek government reportedly limits the press run of any religious book to fewer than 1,000 copies.

It remains difficult to secure permission from the CRA and the *Muftiate* to publish Muslim literature, and the CRA chairman reportedly has said that the import of foreign Islamic literature has almost ceased. Imam Obidkhon Nazarov, the exiled former imam of Tashkent's Tukhtaboi mosque, noted that even books by renowned Muslim scholars were no longer published in Uzbekistan. In addition to Islamic books and periodicals published by the state-controlled Muslim Board, the independent former

Chief *Mufti*, Muhamad Sadyk Muhamad Yusuf, whom the Commission met in 2004, has official permission to publish religious materials and to host a radio program.

Uzbek officials also continued to confiscate imported religious literature, including two shipments of Jehovah's Witness literature which were held for over a year. The CRA limits the import of Russian-language Jehovah's Witnesses literature to their two registered congregations and does not allow imports to unregistered communities. Religious literature confiscated from Muslims, Protestants, Hare Krishna devotees, and Jehovah's Witnesses is often burned and even legally imported literature is confiscated by police. A Protestant reported that the addressees in Uzbekistan who had requested religious literature never received the material sent. Many who would like to receive such material are afraid of official identification as Christians.

In May 2009, a religious affairs official in Karakalpakstan region reportedly banned the Bible, a hymn book, and Bible commentaries. Baptists were also persecuted for distributing and owning religious literature. In July 2009, police raided a Baptist home and confiscated various books for "religious expert analysis," including a Russian-language Koran and a Russian Orthodox prayer book. The Baptist faced charges of "illegal production, storage, import and distribution of materials of a religious nature." In late 2009, 17 Protestants were fined for possessing "illegal" religious literature. The judge, when asked why he ordered an Uzbek-language copy of the New Testament to be destroyed, claimed that the literature had not been legally owned. In March 2010, Internet users in Uzbekistan were blocked from viewing a Russian-language news article on Lenta.ru about the difficulties a bearded Muslim in Samarkand had faced in obtaining an Uzbek passport. Other Russian and Uzbek religious news websites blocked by the Uzbek government include Uznews.net, Ferghana.ru, Portal-credo.ru, Religion.ng.ru and I-r-p.ru.

#### *Restrictions on Religious Education*

Only six registered religious communities qualify for a central administrative body, which meets the legal requirement of eight regional branches, and allows them to engage in religious education. Moreover, Uzbek law limits religious instruction to officially sanctioned religious schools and state-approved instructors. The law permits no private instruction and provides for fines for violations.

There are 10 state-controlled *madrassas* (including two for women) that provide secondary education in Uzbekistan and an official Islamic Institute and Islamic University in Tashkent that provides higher education. The official *Muftiate* conducts regulated Sunni Muslim religious education for adults. However, despite the presence of a Shi'a minority in the country, there is no training for Shi'a religious leaders, nor does the government recognize foreign Shi'a religious education, although Sunni *madrassas* reportedly offer some courses in Shi'a jurisprudence. The state has also closed or confiscated privately-funded religious schools.

Religious minorities in Uzbekistan are allowed only extremely limited educational opportunities by the Uzbek government. The Russian Orthodox Church operates two monasteries (one for women, one for men) and a seminary. The Jewish community lacks a rabbinate or yeshiva because it does not have synagogues in eight different Uzbek provinces and therefore cannot meet the legal requirements for a registered central office. A Jewish school in Tashkent provides instruction on Jewish culture. In 2008, the Uzbek government did not renew the visa of Uzbekistan's chief rabbi, effectively expelling him from the country.

Registered Christian groups and other religious communities may establish Sunday schools subject to numerous government restrictions, but registered religious communities that offer religious education have also been persecuted. In April 2009, the deacon of a registered Baptist church was given a 15-day

prison sentence for teaching religion to children. In December 2009, the director of the registered Baptist Union was banned for three years from holding an official position for tax evasion and involving children in religious activity without consent. Pentecostal preachers have also been detained and received massive fines for allegedly breaking the legal ban on teaching children religion.

#### *Restrictions on Foreign Travel for Religious Purposes*

The Uzbek government continues to restrict international travel for religious purposes. It has also denied exit visas to religious minorities. For example, in March 2009, several Protestants reportedly were denied exit visas as punishment for their religious activity. Allegedly, Muslims and Jehovah's Witnesses have also been denied exit visas. Several expatriate staff members of NGOs were deported for suspected missionary activity in 2009. In February, Uzbek authorities forced the departure of three U.S. citizens associated with the New Hope faith-based humanitarian assistance NGO, which provides medical care to disabled persons in Tashkent.

For many years, the Uzbek government has allowed only 20 percent of the country's official quota of 25,000 pilgrims to make the religious *hajj* to Mecca. In 2009, only 5,000 were permitted to go. Those who travel must be approved by local authorities, the secret police, the CRA's *Hajj* commission, and the *Muftiate*. Furthermore, *hajj* pilgrims reportedly must travel on state-run Uzbekistan Airlines and pay the equivalent of 200 times the monthly wage.

#### **U.S. Policy**

U.S. policy interest in Uzbekistan focuses on the country's position as a supply route for U.S. and NATO International Security Assistance Forces in Afghanistan. Uzbekistan's role has increased, with the establishment of the so-called "northern distribution network"—an alternative to insecure routes through Pakistan to supply NATO forces in Afghanistan. In January 2009, the United States entered into transit agreements with Russia, Kazakhstan, and Uzbekistan to move supplies from Western Europe and the Baltic states to Afghanistan through those countries. Reportedly, a de-facto U.S. supply hub has been set up at the Uzbek airport of Navoi using a South Korean transport firm as a proxy. Uzbekistan also has allowed U.S. soldiers to be transferred to Afghanistan via Termez where German troops are based. These developments have led to concerns on the part of human rights groups that the U.S. government may temper its human rights criticisms of the Uzbek government and reduce its efforts to promote human rights in Uzbekistan to ensure the network's continued operation.

The U.S. State Department has designated Uzbekistan as a CPC for its systematic, egregious, ongoing violations of religious freedom since 2006. The CPC designation was most recently renewed in January 2009. At that time, the State Department imposed a 180-day waiver on taking any action under IRFA to allow for negotiations with the government of Uzbekistan on steps to improve religious freedom. These negotiations have not led to the establishment of a binding agreement, despite the tolling of the 180-day period. USCIRF recommends that Uzbekistan be re-designated a CPC and that the waiver be dropped. As a consequence of the designation, the State Department should also impose sanctions, including a ban on visits to the United States by high-level Uzbek officials.

In its 2009 *Advancing Freedom and Democracy Report*, the State Department described the goals of U.S. democracy and human rights policy in Uzbekistan as follows: "to promote respect for human rights (particularly eradicating the use of torture in the investigative process and abuse in prisons); legal reform and accountability; political pluralism and a strong civil society sector; freedom of the press and religion; and the rights of vulnerable groups, including children, women, persons with disabilities, and refugees." It also stated that "U.S. security interests in the country are inseparable from its efforts to secure

democracy, human rights, and the rule of law, as these will ultimately form the underpinning of the country's long-term stability and development.”

## **Recommendations**

### **I. Speaking in a Unified Voice in its Relations with the Uzbek Government**

In addition to continuing to designate Uzbekistan as a CPC, the U.S. government should:

- lift the waiver in place since January 2009 and impose sanctions, including a ban on visits to the United States by high-level Uzbek officials, as a consequence of Uzbekistan’s CPC designation;
- reduce aid and arms sales to Uzbekistan and ban visits by high-level Uzbek officials in response to the Uzbek government's refusal to allow an independent investigation into the violence in Andijon in May 2005;
- ensure that U.S. statements and actions are coordinated across agencies to ensure that U.S. concerns about human rights conditions in Uzbekistan are reflected in its public and private arrangements with the Uzbek government;
- press the Uzbek government to revise its 1998 religion law to bring it into compliance with international standards;
- ensure that U.S. assistance to the Uzbek government, with the exception of assistance to improve humanitarian conditions and advance human rights, be made contingent upon establishing and implementing a specific timetable for the government to take concrete steps to improve conditions of freedom of religion or belief and observe international human rights standards, steps which should include:
  - ending reliance on convictions based solely on confessions, a practice that often is linked to ill-treatment of prisoners, and implementing the recommendations of the UN Committee Against Torture (June 2002) and the UN Special Rapporteur on Torture (February 2003);
  - establishing a mechanism to review the cases of persons previously detained under suspicion of or charged with religious, political, or security offenses, including Criminal Code Articles 159 (criminalizing “anti-state activity”) and 216 (criminalizing membership in a “forbidden religious organization”); releasing those who have been imprisoned solely because of their religious beliefs or practices as well as any others who have been unjustly detained or sentenced; and making public a list of specific and detailed information about individuals who are currently detained under these articles or imprisoned following conviction;
  - implementing the recommendations of the OSCE Panel of Experts on Religion or Belief to revise the 1998 Law on Freedom of Conscience and Religious Organizations and bring it into accordance with international standards;
  - registering religious groups that have sought to comply with the legal requirements; and
  - ensuring that every prisoner has access to his or her family, human rights monitors, adequate medical care, and a lawyer, as specified in international human rights instruments, and allowing

prisoners to practice their religion while in detention to the fullest extent compatible with the specific nature of their detention;

- ensure that U.S. security and other forms of assistance are scrutinized to make certain that this assistance does not go to Uzbek government agencies, such as certain branches of the Interior and Justice Ministries, which have been responsible for particularly severe violations of religious freedom as defined by the International Religious Freedom Act of 1998; and
- use appropriate avenues of public diplomacy to explain to the people of Uzbekistan both why religious freedom is an important element of U.S. foreign policy, and what specific concerns about violations of religious freedom exist in their country.

## **II. Encouraging Greater International Scrutiny of Uzbekistan’s Human Rights Record**

The U.S. government should:

- work with other governments to urge the UN Human Rights Council to reverse its recent decision to end human rights scrutiny of Uzbekistan under the confidential 1503 procedure and to address this situation in a public country resolution at the Council;
- encourage public scrutiny of Uzbek human rights concerns in appropriate international fora, such as the OSCE and other multilateral venues, and facilitate the participation of Uzbek human rights defenders in multilateral human rights mechanisms; and
- urge the Uzbek government to agree to a visit by UN Special Rapporteurs on Freedom of Religion or Belief and the Independence of the Judiciary, set specific visit dates, and provide the full and necessary conditions for such a visit.

## **III. Supporting Uzbek Human Rights Defenders and Religious Freedom Initiatives**

The U.S. government should:

- continue to carefully monitor the status of individuals who are arrested for alleged religious, political, and security offenses and continue efforts to improve the situation of Uzbek human rights defenders, including by pressing for the registration of human rights groups and religious communities;
- support efforts to counteract the Uzbek government’s blockade on information into the country by increasing radio, Internet, and other broadcasting of objective news and information on issues relevant to Uzbekistan, including education, human rights, freedom of religion, and religious tolerance;
- continue funding for the Voice of America VOA Uzbek Language Service so as to meet the Broadcasting Board of Governors’ stated goal of outreach to the Muslim world, including reaching the news-deprived population of Uzbekistan, as well as the large Uzbek diaspora in Afghanistan and other neighboring countries;
- increase foreign travel opportunities for civil society activists, religious leaders, and others in Uzbekistan concerned with religious freedom to permit them to take part in relevant international conferences;

- continue to attempt to overcome the objections of the Uzbek government in order to develop assistance programs for Uzbekistan designed to encourage the creation of institutions of civil society that protect human rights and promote religious freedom, programs that could include training in human rights, the rule of law, and crime investigation for police and other law enforcement officials; since such programs have been attempted in the past with little effect, they should be carefully structured to accomplish, and carefully monitored and conditioned upon fulfillment of, these specific goals:
  - expanding legal assistance programs for Uzbek relatives of detainees, which have sometimes led to the release of detainees;
  - expanding “train-the-trainer” legal assistance programs for representatives of religious communities to act as legal advisers in the registration process;
  - specifying freedom of religion as a grants category and area of activity in the Democracy and Conflict Mitigation program of the U.S. Agency for International Development and the Democracy Commission Small Grants program administered by the U.S. Embassy; and
  - encouraging national and local public roundtables between Uzbek officials and representatives of Uzbek civil society on freedom of religion; and
- increase opportunities in its exchange programs for Uzbek human rights advocates and religious figures, and more specifically:
  - expand exchange programs for Uzbek religious leaders to include representatives from all religious communities; and
  - ensure that the U.S. Embassy vigorously protests cases when an Uzbek participant in an exchange program encounters difficulties with the Uzbek authorities upon return to Uzbekistan, and if such difficulties continue, inform the Uzbek authorities that there will be negative consequences in other areas of U.S.-Uzbek bilateral relations, including a ban on high-level meetings.

## **Vietnam**

**FINDINGS:** The government of Vietnam continues to control government-approved religious communities, severely restrict independent religious practice, and repress individuals and groups viewed as challenging political authority. Religious activity continues to grow in Vietnam and the government has made some important changes in the past decade in response to international attention, including its designation as a “country of particular concern” (CPC). Nevertheless, individuals continue to be imprisoned or detained for reasons related to their religious activity or religious freedom advocacy; police and government officials are not held fully accountable for abuses; independent religious activity remains illegal; legal protections for government-approved religious organizations are both vague and subject to arbitrary or discriminatory interpretations based on political factors; and new converts to some Protestant and Buddhist communities face discrimination and pressure to renounce their faith. In addition, improvements experienced by some religious communities are not experienced by others, including the Unified Buddhist Church of Vietnam (UBCV), independent Hoa Hao, Cao Dai, and Protestant groups, and some ethnic minority Protestants and Buddhists. Property disputes between the government and the Catholic Church continue to lead to harassment, property destruction, and violence, sometimes by “contract thugs” hired by the government to break up peaceful prayer vigils. In the past year, the government harassed monks and nuns associated with Buddhist teacher Thich Nhat Hanh and forcibly disbanded his order.

Given these ongoing and serious violations, the uneven pace of religious freedom progress after the CPC designation was lifted, the continued detention of prisoners of concern, and new evidence of severe religious freedom abuses, USCIRF again recommends that Vietnam be designated as a CPC in 2010. The Commission has recommended that Vietnam be named a (CPC) every year since 2001. The State Department named Vietnam a CPC in 2004 and 2005, but removed the designation in 2006.

**PRIORITY RECOMMENDATIONS:** Religious freedom conditions have not improved as quickly or as readily as have other areas of the U.S.-Vietnamese relationship, and there continues to be a marked deterioration of the human rights situation overall. Nevertheless, there is reason to believe that the government of Vietnam will engage on human rights concerns. Non-governmental organizations (NGOs) have engaged Hanoi on religious freedom concerns over the past year, and religious freedom was a part of the renewed annual U.S.-Vietnam human rights dialogue. However, the frequency of these exchanges is neither as structured nor as focused on concrete results as those that took place between 2004 and 2006, when Vietnam was named a CPC and was seeking entrance to the World Trade Organization (WTO). USCIRF continues to urge the Obama administration to re-evaluate the diplomatic and political resources employed to advance religious freedom and related human rights in its relations with Vietnam. USCIRF also encourages the Administration to view CPC designation as a flexible tool in light of its previous success in spurring serious diplomatic engagement and achieving measurable improvements, while not hampering progress on other areas in the U.S.-Vietnam relationship. Additional recommendations for U.S. policy towards Vietnam can be found at the end of this chapter.

## **Religious Freedom Conditions**

### *Overall Human Rights Situation*

Vietnam's overall human rights record remains poor, and has deteriorated since Vietnam joined the WTO in January 2007. Vietnam is an authoritarian state governed by the Communist Party. Over the past two years, the government has moved decisively to repress any perceived challenges to its authority, tightening controls on the freedom of expression, association, and assembly. New decrees were issued prohibiting peaceful protest in property disputes and limiting speech on the internet. In 2007, as many as 40 legal and political reform advocates, free speech activists, human rights defenders, labor unionists, journalists, independent religious leaders, and religious freedom advocates have been arrested. Others have been placed under home detention or surveillance, threatened, intimidated, and harassed. In 2009, a new wave of arrests targeted bloggers, democracy advocates, and human rights defenders, including lawyer Le Cong Dinh who defended prominent human rights activists. Over the past year, two journalists were arrested and convicted in connection with their reporting on high-level corruption, and several journalists and editors at leading newspapers were fired. Several Internet bloggers were also jailed after writing about corruption and protesting China's actions in the disputed Spratly and Paracel Islands; one was convicted and sent to prison.

Given the prominence of religious leaders in advocating for the legal and political reforms needed to fully guarantee religious freedom, their continued detention must be considered when measuring religious freedom progress in Vietnam. Over the past two years, individuals motivated by conscience or religion to peacefully organize or speak out against restrictions on religious freedom and related human rights continue to be arrested or detained, including Nguyen Van Dai, Nguyen Thi Hong, and over a dozen members of the Hoa Hao and Cao Dai communities. There are also an unknown number of ethnic minority Montagnards, including religious leaders, still detained after 2001 and 2004 demonstrations for religious freedom and land rights. The Most Venerable Thich Quang Do and other UBCV leaders and Fr. Phan Van Loi remain under administrative detention orders and are restricted in their movements and activities.

In 2009, the government released six Khmer Buddhists jailed in 2007 for taking part in peaceful demonstrations against restrictions on religious practice. Fr. Nguyen Van Ly was granted temporary medical parole in March 2010 after suffering two major strokes in prison. Human rights activist Le Thi Cong Nhan was released in March 2010 after completing a three year prison term; she is now under home detention orders. USCIRF was able to meet while they were still imprisoned Le Thi Cong Nhan and Nguyen Van Dai in 2007 and Fr. Nguyen Van Ly and Nguyen Van Dai in 2009.

Despite significant restrictions and governmental interference, the number of religious adherents continues to grow in Vietnam. In large urban areas, the Vietnamese government continues to expand the zone of permissible religious activity for Catholics, non-UBCV Buddhists, some Protestant groups, and government approved Hoa Hao and Cao Dai communities, including allowing large religious gatherings and pilgrimages. Religious leaders in Hanoi and Ho Chi Minh City report fewer restrictions on their normal worship activities in recent years, and the government largely continues to support the building of religious venues and the training of religious leaders. Nevertheless, lingering property disputes over venues and facilities previously confiscated by the Communist government created serious tensions between Hanoi and some religious communities, leading to church demolitions, property confiscations, detentions, and societal violence. In some parts of the Central Highlands, particularly Gai Lai province, most of the churches and meeting points closed after 2001 and 2004 religious freedom demonstrations were re-opened, and the government and the officially-recognized Protestant organization have established a working relationship. However, groups that do not worship within government approved

parameters or are suspected of sympathizing with foreign groups seeking Montagnard autonomy face a growing number of problems, including property destruction, detentions, and beatings.

When designated as a CPC, Hanoi released prisoners, expanded some legal protections for nationally recognized religious groups, prohibited the policy of forced renunciations of faith (which resulted in fewer forced renunciations), and expanded a zone of toleration for worship activities, particularly in urban areas. Nevertheless, during USCIRF's October 2007 and May 2009 trips to Vietnam, religious leaders reported that while overt restrictions on their religious activity slowed in the past decade, there continue to be serious problems with the legal and policy framework the government uses to oversee religious activity. Improvements often depended on geographic area, ethnicity, the relationship established with local or provincial officials, or perceived "political" activity. Most religious leaders attributed these changes to the CPC designation and the priority placed on religious freedom concerns in U.S.-Vietnamese bilateral relations.

#### *Implementation of Vietnam's Legal & Policy Framework on Religion*

The 2004 Ordinance on Religion and Belief requires religious groups to operate within government approved parameters. The Ordinance promises those who succeed at gaining "national" legal status fewer government intrusions in regular religious activities. However, the registration process is ill-defined and implementation of the Ordinance is problematic. Some provincial officials ignore recognition applications, require religious groups to include the names of all religious adherents in a church, or pressure religious leaders to join groups already given legal recognition, despite theological or other objections. In addition, the Ordinance provides for two levels of legal recognition, neither of which offers the same protections as "national" recognition. In fact, at the first level, "permission for religious operation," religious groups report government intrusions in daily religious activity, including seeking from religious leaders the names of congregants or limiting participation in and the scope of worship services. Religious groups whose applications for legal recognition are denied or who do not meet the Ordinance's vague standards are technically illegal and can be closed without warning.

Contrary to its provisions, local officials have told religious groups and a visiting USCIRF delegation that the Ordinance does not apply in their provinces. The central government has also delayed implementation and enforcement of the Ordinance and issued a training manual on how to deal with religious groups that counsels restricting rather than advancing religious freedom. The manual, issued by the central government's Committee on Religious Affairs, has gone through several revisions because of international scrutiny. Nevertheless, problematic language remains regarding measures to halt the growth of religious communities.

A USCIRF delegation traveled to Vietnam in May 2009 and ascertained that new converts to Protestantism in ethnic minority areas face official intimidation and discrimination if they do not renounce their faith (see discussion below under *Hmong Protestants: Northwest Provinces*). There are also reports that new monks and nuns of Buddhist teacher Thich Nhat Hanh face similar tactics as do individuals who frequent pagodas affiliated with the UBCV.

Provisions of the Ordinance do not meet international standards and are sometimes used to restrict and discriminate rather than promote religious freedom. For example, national security and national solidarity provisions in the Ordinance are similar to those included in Vietnam's Constitution and override any legal protections guaranteeing the rights of religious communities. These include Article 8 (2) of the Ordinance, which prohibits the "abuse" of religion to undermine national unity, to "sow division among the people, ethnic groups and religions" or to "spread superstitious practices", and Article 15, which provides that religious activities will be suspended if they "negatively affect the unity of the people or the nation's fine cultural traditions." The government continues to significantly limit the organized activities

of independent religious groups and individuals viewed as a threat to party authority on these grounds. There are some reports that Vietnamese officials are considering revising the Ordinance on Religion and Belief, which would offer the international community an opportunity to engage the government on ways to change Vietnam's legal structure on religion so that it conforms to international standards.

In the past year, religious groups without legal status—whether because they do not meet established criteria, are deemed politically unreliable, or refuse to accept government oversight—were harassed, had venues destroyed, and faced severe discrimination. In addition, there were reports that ethnic minority Protestants were arrested and detained because their meeting points were not legally recognized or they were not affiliated with the government approved religious organization.

The government continues to extend legal recognition to, and allows religious venues to affiliate with, 11 officially recognized religious groups: Buddhism, Islam, Catholicism, Protestantism, Hoa Hao, Cao Dai, Pure Land Buddhist Home Practice, Bani Muslim Sect, Threefold Enlightened Truth Path, Threefold Southern Tradition, and the Baha'i Community. In the past year the government has extended legal status to the Mysterious Fragrance from Precious Mountains and the Four Gratuities and the Vietnam Christian Fellowship. In October, 2009, the Assembly of God denomination was granted permission to operate, an initial legal status that had previously been denied because the Assembly of God did not meet the Ordinance requirement for "20 years of stable operation."

#### *Prisoners of Concern*

In the past, the State Department maintained that one of the reasons Vietnam's CPC designation was lifted was because there are no longer any "prisoners of concern." USCIRF contends that there remain dozens of prisoners of concern in Vietnam. As discussed above, a number of individuals remain incarcerated for actions related to their religious vocation, practice, activity, or conscience. Along with those incarcerated, over a dozen religious leaders are held under long-term administrative detention, including United Buddhist Church of Vietnam (UBCV) leader Thich Quang Do and Catholic Fr. Phan Van Loi. In addition, hundreds of Montagnard Protestants arrested after the 2001 and 2004 demonstrations for religious freedom and land rights remain in detention in the Central Highlands. The circumstances and charges leveled against them are difficult to determine, but there is enough evidence available to determine that peaceful religious leaders and adherents were arrested and remain incarcerated. The continued detention of prisoners of concern, and the existence of vague "national security" laws that were used to arrest them, should be a primary factor in determining whether Vietnam should be designated as a CPC.

In the past, the State Department has contended that only those individuals who are arrested "for reasons connected to their faith" will be considered in evaluating religious freedom conditions in Vietnam, as if the internationally recognized right to the freedom of religion guarantees only the freedom to worship. This narrow definition excludes from consideration anyone arrested or detained for peaceful public advocacy to protect religious freedom, including expressing support for the legal or political reforms needed to fully ensure it. The State Department's criterion also excludes those who monitor the freedom of religion and are arrested or otherwise punished for the publication of their findings. It also excludes those who, motivated by ongoing restrictions on religious practice or the arrests of fellow-believers, peacefully organize or protest to draw attention to government repression. The State Department's standard for determining who is a religious "prisoner of concern" draws an arbitrary line between "political" and "religious" activity not found in international human rights law.

USCIRF contends that in all the most recent cases of arrest, detention, and imprisonment, religious leaders or religious-freedom advocates engaged in legitimate actions that are protected by international treaties and covenants to which both the United States and Vietnam are signatories. In addition to the

freedoms to believe and to worship, the freedom to peacefully advocate for religious freedom and express views critical of government policy are legitimate activities guaranteed by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. They protect not only the right to freedom of thought, conscience, and religion<sup>14</sup> but also the related rights to freedom of opinion and expression<sup>15</sup> and to freedom of peaceful assembly and association.<sup>16</sup> Moreover, the right to freedom of thought, conscience, and religion or belief is “far-reaching and profound” and “encompasses freedom of thought on all matters [and] personal conviction,” as well as “the commitment to religion or belief.”<sup>17</sup>

In the past several years, Montagnard Protestants have been subject to a number of short-term detentions, disappearances, and one possible beating death in custody. According to reports from NGOs and several members of the European Parliament, Montagnard Protestant Puih H’Bat was arrested in April 2008 for leading an illegal prayer service in her home in Chu Se district, Gai Lai province—an area where there have been protests in the past over land rights and religious freedom abuses. In fact, according to Human Rights Watch, police arrested dozens of Montagnards in that area in April 2008 and forcibly dispersed crowds peacefully protesting recent land confiscations. Given historical animosities, past repression, and the region’s remoteness, it is difficult to determine the exact reasons why Puih H’Bat was arrested, though the fact that police have refused to allow her family to visit her and the lack of police and judicial transparency in the case is disturbing. Also in the same Gai Lai province district, as many as 11 Montagnard Protestants were detained in February 2009 after police reportedly entered a worship service and asked everyone present to renounce their faith or join the officially recognized Southern Evangelical Church of Vietnam (SECV). Everyone who refused was arrested. Nine were released a month later, and two remain in detention. The State Department was able to confirm from other religious leaders in the region that these individuals were arrested for trying to organize an independent Protestant organization, which the Vietnamese government has refused to allow in this area since the large religious freedom protests in 2001 and 2004. In other parts of Gai Lai province, however, ethnic Montagnard Protestants associated with the government-approved SECV have established a working relationship with provincial officials, leading to the re-opening of many religious venues closed after 2001, new religious training courses for pastors, and the building of at least one new church property.

In the past year’s reporting cycle, the government released six Khmer Buddhist prisoners of concern, including Cambodian monk Tim Sarkhorn and five Khmer Buddhist monks convicted for leading February 2007 religious freedom protests in Soc Trang province. The five monks were not allowed to rejoin their monasteries or return to their studies, and Tim Sarkhorn, though released from prison in July 2008, was held under house arrest and constant police surveillance until early April 2009. The U.N. High Commissioner for Refugees (UNHCR) granted them refugee status, and they were resettled in Europe. The situation of the Khmer Buddhist has been an underreported problem in Vietnam. The State Department, despite travelling to Soc Trang province in October 2007, did not report on the arrests of Khmer monks until after they were released.

In March 2010, Le Thi Cong Nhan was released from prison after completing her prison sentence. The USCIRF delegation met with her in prison during a 2007 visit. She continues to serve a sentence of administrative parole, which is essentially house arrest. After granting interviews to international media after her release, she was detained and interrogated by police and remains under close scrutiny.

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<sup>14</sup> Universal Declaration of Human Rights (UDHR), Art. 18; International Covenant of Civil and Political Rights (ICCPR), Art. 18.

<sup>15</sup> UDHR, Art. 19; ICCPR, Art. 19.

<sup>16</sup> UDHR, Art. 20; ICCPR, Arts. 21 & 22.

<sup>17</sup> United Nations Human Rights Committee General Comment 22, Article 18 (Forty-eighth session, 1993), para 1. <sup>18</sup> Criteria for reviewing textbooks and other educational materials have been developed by several international bodies, including UNESCO. For the UNESCO criteria, see [http://www.unesco.org/education/pdf/34\\_71.pdf](http://www.unesco.org/education/pdf/34_71.pdf).

Also in March, Fr. Nguyen Van Ly was released on medical parole after suffering several strokes in prison. He will be returned to prison once his health improves. A USCIRF delegation was allowed to meet with Fr. Ly in May 2009 and discovered that he has been held in solitary confinement for over two years. Fr. Ly has been imprisoned numerous times for his religious freedom and human rights advocacy, including after he submitted testimony to a 2001 USCIRF hearing on Vietnam. USCIRF has consistently advocated for his unconditional release.

*Buddhists, Hoa Hao, and Cao Dai*

The government continues to actively discourage independent Buddhist religious activity and refuses to legally recognize the UBCV and some Hoa Hao and Cao Dai groups. Government-approved organizations oversee Buddhist and other indigenous religions' pagodas, temples, educational institutes, and activities. Approval is required for all ordinations and ceremonies, donations, and expansions of religious venues. The government-approved leaders of Buddhist, Hoa Hao and Cao Dai organizations also vet the content of publications and religious studies curricula offered at schools.

The Vietnamese government requires the UBCV and independent Hoa Hao, and Cao Dai groups to affiliate only with the government approved religious organization. Those who refuse face ongoing and serious religious freedom abuses, including arrests, detentions, fines, forced renunciations of faith, destruction of property, and other harassment. This fact is important when deciding whether religious freedom conditions have improved in Vietnam overall, given that these groups, along with the ethnic minority Khmer Buddhists, represent the largest number of religious adherents in Vietnam.

The UBCV is Vietnam's largest religious organization with a history of peaceful social activism and moral reform. The UBCV has faced decades of harassment and repression for seeking independent status and appealing to the government to respect religious freedom and related human rights. Its leaders have been threatened, detained, put under pagoda arrest, imprisoned, and placed under strict travel restrictions for many years. The freedom of movement, expression, and assembly of UBCV leaders continues to be restricted. Monks, nuns, and youth leaders affiliated with the UBCV face harassment and threats. Senior UBCV monks, including the Most Venerable Thich Quang Do with whom USCIRF delegations were able to meet in both 2007 and 2009, remain under some form of administration probation or pagoda arrest. Charges issued in October 2004 against UBCV leaders for "possessing state secrets" have never been rescinded. Local attempts by monks to organize UBCV provincial boards or carry out charitable activities also are thwarted. Police routinely question UBCV monks and monitor their movement and activities. Foreign visitors to UBCV monasteries have been assaulted and harassed.

In the recent past, UBCV monks have been detained, threatened and ordered to withdraw their names from provincial leadership boards and cease all connections with the UBCV. Government officials have taken steps to make sure that government affiliated monasteries do not affiliate overtly with the UBCV. In 2008, police and government officials in Lam Dong province sought to depose Thich Tri Khai from his post as superior monk of the Giac Hai pagoda, reportedly offering bribes to anyone who would denounce him and urging 12 monks in the region to sign a petition supporting his ouster. Two hundred and thirty nine monks affiliated with the UBCV signed a letter opposing the government's action and, as a result, were threatened and subjected to "working sessions" with police. In April 2008, police arrested Thich Tri Khai, who went into hiding; two UBCV monks attempting to visit Khai were detained and questioned by police. Also in April 2008, police harassed, assaulted, and briefly detained monks from, and vandalized, the Phuoc Hue monastery in Quang Tri province. The monastery's head Abbot, Thich Tu Giao, had declared allegiance to the UBCV. Police also assaulted and detained Thich Tu Giao's mother and members of the Buddhist Youth Movement. Local officials set up barriers on roads leading to the pagoda and put up signs claiming the pagoda was a "Forbidden Area." It was the second time police vandalized

the pagoda. The previous year, police destroyed a newly built kitchen and warehouse, and stole money contributed by local Buddhists for other buildings.

UBCV adherents also experience harassment and intimidation. During its visits to Vietnam, the USCIRF delegation learned that the Vietnamese government's Religious Security Police (*cong an ton giao*) routinely harasses and intimidates UBCV followers, warning that if they continue to frequent known UBCV pagodas they may be arrested, lose their jobs, or their children expelled from school. The government has actively sought to suppress the activities and growth of the Buddhist Youth Movement.

The State Department also reports that, in the past year, a UBCV monk was detained and later expelled from his monastery for distributing humanitarian aid and food to land rights protestors in Hanoi. A UBCV monk in Ho Chi Minh City resigned from monastic life reportedly due to being constantly harassed by police for his activities organizing a Buddhist Youth Movement. A UBCV nun was also forced to leave the pagoda she founded in Khanh Hoa Province reportedly because she openly affiliated with the UBCV.

There also continue to be reports of harassment and disbandment of religious ceremonies and other activities UBCV monks conduct. For instance, police in the past year routinely interrogated the Venerable Thich Vien Dinh and other monks from the Giac Hoa Pagoda in Saigon and issued fines for minor building code violations. Officials also have prevented them from holding festivals on *Vesak* (Buddha's Birthday) and the Lunar New Year. In late January, 2010, police reportedly raided the pagoda in order to break up a ceremony of the Buddhist Youth Movement. Parents and children were warned to cease participating in the group. Routine systematic harassment of UBCV monks and affiliated pagodas occurs in the provinces of Quang Nam-Danang, Thua Thien Hue, Binh Dinh, Khanh Hoa, Ba Ria-Vung Tau, Dong Nai, Hau Giang, and An Giang.

The Vietnamese government continues to ban and actively discourage participation in independent factions of the Hoa Hao and Cao Dai, two religious traditions unique to Vietnam that claim memberships of four and three million respectively. While not providing details, the State Department continues to report repression of independent groups that includes intimidation, loss of jobs, discrimination, and harassment of Hoa Hao followers and imprisonment of individuals who peacefully protest religious freedom restrictions.

Both the Cao Dai and Hoa Hao groups report ongoing government oversight and control of their communities' internal affairs, including their rituals, celebrations, funerals, and selection of religious leaders, and even of government approved organizations. Other complaints concern the government's rejection of the Cao Dai charter drawn up before the 1950s, official unwillingness to allow the community to maintain its own independent source of income, and the seizure without compensation of Cao Dai properties after 1975. Some Cao Dai traditionalists have refused to participate in the government-appointed management committees and have formed independent groups. Eight Cao Dai were arrested in 2005 for protesting government intrusion in Cao Dai affairs; five remain in prison at the time of this report.

Independent Hoa Hao groups face severe restrictions and abuses of religious freedom, particularly in An Giang province. According to the State Department, members of the independent Hoa Hao Central Buddhist Church (HHCBC) face "significant official repression," and there is continued friction between independent Hoa Hao and government officials in the Mekong Delta region, including reports of confiscation and destruction of HHCBC affiliated buildings. HHCBC religious leaders refuse to affiliate with the government-approved Hoa Hao Administrative Council (HHAC) and are openly critical of it, claiming that it is subservient to the government. HHCBC leaders and their followers have been arrested for distributing the writings of their founding prophet, had ceremonies and holiday celebrations broken up by police, had sacred properties confiscated or destroyed, and individual followers have faced

discrimination and loss of jobs. At least 12 Hoa Hao were arrested and sentenced for protesting religious freedom restrictions, including four who were sentenced to four years in prison for staging a peaceful hunger strike.

The Vietnamese government's ongoing repression of the language, culture, and religion of ethnic Khmer living in Vietnam has led to growing resentment in the Mekong Delta. Khmer Buddhism is associated with the Theravada branch of Buddhism and has religious and ethnic traditions distinct from the dominant Mahayana Buddhist tradition practiced in most parts of Vietnam. Some Khmer Buddhists have called for a separate religious organization, distinct from the government-approved Vietnamese Buddhist Sangha (VBS). Religious freedom concerns continue to be central to demands of ethnic minority Khmer for human rights protections and preservation of their unique language and culture.

As many as one million ethnic minority Khmer Buddhists live in Vietnam, mostly in the Mekong Delta region. Long simmering tensions emerged there in 2006 and 2007, as Khmer Buddhist monks peacefully protested government restrictions on their freedom of religion and movement and Khmer language training. On January 19, 2007, according to Human Rights Watch, Buddhist monks in Tra Vinh province protested the arrest of a monk for possessing a publication from an overseas Khmer advocacy group. The protesting monks were interrogated and accused of allegedly separatist activities, and three monks were detained in their pagodas for three months and later defrocked. In February 2007, more than 200 monks staged a peaceful demonstration in Soc Trang province protesting the government's restriction on the number of days allowed for certain Khmer religious festivals and calling on the government to allow Khmer Buddhist leaders—not government appointees—to make decisions regarding the ordinations of monks and the content of religious studies at pagoda schools. The protestors also called for more education in Khmer language and culture. Provincial officials initially promised to address the monk's concerns, but several days later, monks suspected of leading the protest were arrested and some reportedly were beaten during interrogations. At least 20 monks were defrocked and expelled from their pagodas, and five monks sentenced to between two and four years in prison. Defrocked monks were sent home to their villages, where they were placed under house arrest or police detention.

Five young monks arrested for leading the demonstrations were given sentences ranging from one to five years. In interviews with USCIRF, the monks described severe restrictions on the religious life of Khmer Buddhists. They stated that they had applied to hold a demonstration and it was not, as the government maintains, a spontaneous event. They also described in detail, the beatings and torture they endured in detention, including one monk stating that he was beaten every day for one year.

After the 2007 demonstrations in Tra Vinh and Soc Trang, provincial officials and police expanded surveillance and restrictions on Khmer Buddhists religious activity and pressured Khmer Buddhist leaders to identify and defrock monks critical of the government. In July 2007, the Vietnamese government arrested Tim Sarkhorn, a Cambodian Khmer Buddhist monk on charges of "illegally crossing the border." As mentioned above, the five Khmer monks and Tim Sarkhorn were released in early 2009. They were not allowed to return to the monkhood and are now living as refugees in Europe.

The Vietnamese government, through the Vietnamese Buddhist Sangha (VBS), began an academy in 2008 in Can Tho that focused on Theravada Buddhism. The government provided land for the building and expansion of a larger academy. In addition, the government expanded the Pali language school in Soc Trang Province, the site of the demonstrations. It is unclear whether these actions will be sufficient to address long-standing grievances over religious restrictions and discrimination based on ethnicity.

*Crackdown on the Lang Mai Buddhists of Bat Nha Monastery*

In September 2009, over 300 Lang Mai (Plum Village) Buddhist monks and nuns, followers of the well-known Buddhist Zen Master Thich Nhat Hanh, were forcibly removed from Bat Nha monastery in Lam Dong province. In 2008, the central government's Religious Affairs Committee stated that the Lang Mai Buddhists were no longer welcome in Vietnam and claimed that some monks and nuns in Bat Nha lacked legal rights to live at the monastery. The abbot of Bat Nha, under pressure from the government, ordered Thich Nhat Hanh's followers to leave. Beginning in June 2009, government officials and police harassed the Lang Mai monks and nuns, turning off water, electricity, and telephone lines, and threatening adherents who came to study at the monastery. In July, local civilians and undercover police entered the monastery, threatened the residents, and confiscated food, furniture, and other property.

Finally, in September 2009, police cordoned off the monastery and allowed more than 100 civilians and undercover police to enter and forcefully evict the Lang Mai Buddhists. Monks were beaten, degraded, and sexually assaulted. Over 200 Buddhist monks and nuns sought temporary refuge at the nearby pagoda of Phuoc Hue. Two senior monks, Phap Hoi and Phap Sy, were arrested. A senior monk at another Lang Mai meditation center in Khanh Hoa province has gone into hiding to avoid arrest.

On December 31, 2009 police and government officials forcibly evicted the 400 monks and nuns residing at Phuoc Hue pagoda. 200 Lang Mai followers left to seek asylum in Thailand and, as of this writing, are seeking religious worker visas to reside in the U.S., Germany, Australia, and France. Another 200 monks and nuns returned to their home provinces in Vietnam, where police harassment continues and authorities threaten family members with job loss and reduced government benefits unless they renounce their Lang Mai affiliation.

In 2005, the Vietnamese government had welcomed Thich Nhat Hanh and the establishment of the Lang Mai order in Vietnam. His return was hailed as evidence of religious freedom progress by both Hanoi and the State Department when the CPC designation was removed in 2006. The government's crackdown on the Lang Mai Buddhists started in late 2007, after Thich Nhat Hanh privately, and later publicly, urged the government to ease restrictions on religion. In addition, the Lang Mai teachings were very popular and therefore threatening to government officials and the leadership of government approved Vietnamese Buddhist Sangha (VBS). Thousands of Vietnamese attended Buddhist ceremonies, lectures, and monastic retreats led by Thich Nhat Hanh and other senior monks. The Bat Nha monastery grew quickly, drawing hundreds of novices and young people to study from all over Vietnam. Local officials and police regularly discouraged potential novices from joining the Lang Mai community.

In October 2009, 180 Vietnamese academics, poets, teachers, and scientists, including Vietnamese Communist Party members, sent a petition to the government requesting an investigation. In addition, the local VBS management board in Lam Dong province sent a memorandum to national VBS leadership in Hanoi deploring the way the Lang Mai Buddhists had been treated. The Lang Mai Buddhists continue to seek a monastery in Vietnam to host their order and allow monks and nuns to live together in community.

*Montagnard Protestants: Central Highlands*

In some parts of the Central Highlands, particularly for those churches and meeting points affiliated with the SECV in Gai Lai province, religious freedom conditions have improved somewhat since Vietnam was designated as a CPC in 2004. Religious activity is tolerated within government approved parameters, and the government has re-opened closed religious venues and allowed new churches to be built, and provincial authorities have granted permission for some religious training classes to be conducted.

Religious freedom conditions have not improved uniformly, however, in all parts of the Central Highlands or Central Coast regions. There continue to be reports of restrictions, land seizures, discrimination, destruction of property, and other egregious religious freedom abuses that target independent or unregistered Protestant religious venues. In particular, in Dak Lak province, there was active harassment of independent Protestant groups who refused to join the SECV or those suspected of affiliation with the banned *Tin Lanh Dega* (Dega Protestant Church), which the government claims combines religion with advocacy of political autonomy. A 2007 study by the UN High Commissioner for Refugees, based on interviews with Montagnard asylum-seekers in Cambodia, found that few self-identified adherents of *Tin Lanh Dega* sought political autonomy or had a political agenda, apart from “enhancement of their human rights position” and the “need to gather in independent church communities.” Respondents unanimously expressed suspicion of the SECV, as an organization lead by Vietnamese and controlled by the Vietnamese government. Even those *Tin Lanh Dega* leaders who expressed a desire for greater political autonomy sought to advance this position peacefully, according to the study.

Government suspicion of a *Tin Lanh Dega* organized political movement has led to dozens of detentions and at least one beating death in recent years. According to Human Rights Watch and the European Parliament, Montagnard Protestant Y Ben Hdok died while in detention at a provincial police station in Dak Lak province in May 2008. Police claim that he was detained for suspicion of inciting demonstrations, though the family claims that he was organizing a group to seek asylum in Cambodia for reasons including religious persecution. In previous years, USCIRF has raised the cases of other ethnic minority Protestants beaten to death in police custody. There were no new developments related to the 2006 and 2007 deaths of Y Ngo Adrong or Y Vin Het. In the latter case, credible reports indicated that the ethnic minority Protestant was beaten to death by police officers for refusing to recant his faith.

According to the State Department, the Vietnamese government closely scrutinizes all ethnic minority religious communities in the Central Highlands, both legally recognized and independent groups, particularly in Dak Lak and Bien Phuoc provinces. In March 2008, religious leaders from the Inter-Evangelistic Movement (IEM) in Bien Phuoc were reportedly beaten and insulted by police when they traveled to Dak Nong province to hold services. On November 11, 2008, Vietnamese government officials issued fines and summons to everyone affiliated with an independent Protestant church of EahLeo hamlet, Dak Lak province. The church was later charged with operating an illegal Bible school for people outside the province and ordered to dismantle the school and cease religious activity because it was not legally recognized. The church continues to meet in another location. Also in November, in EaSup hamlet, Dak Lak province, police and provincial officials confiscated lumber purchased to build a chapel and issued an order telling the church in EaSup not to meet. In December 2008, hundreds of police and provincial officials destroyed a new Protestant church structure in Cu Dram hamlet; ethnic minority Protestants who protested the demolition were beaten with sticks and electric prods and some were severely injured and later were refused medical treatment. Leaders of this Cu Drom hamlet church continue to be threatened with arrest at this writing. Other independent ethnic minority congregations in EaSol and Thay Ynge hamlets and Krong Bong district of Dak Lak report that their leaders regularly are summoned to police stations and forced to sign papers agreeing that they will not gather “new” Christians for worship and that churches cannot be organized with believers from other hamlets or districts. Vietnamese government policy does not permit anyone who belongs to an unofficial religious group to speak publicly about their beliefs.

In the past year, dozens of Montagnard Protestants were detained, beaten, and threatened in Chu Se district, Gai Lai province because they were suspected of belonging to unregistered Protestant churches or planning to convey information about rights abuses to activists abroad. USCIRF was able to confirm that 11 individuals in this district were arrested and asked to renounce their faith in February 2009. Two remain in detention at this time. Human Rights Watch reports that police routinely raided unregistered

churches in the Central Highlands, mostly in parts of Dak Lak and Gai Lai provinces. On several occasions church members were beaten and shocked with electric batons when they refused to sign pledges to join the government-approved Southern Evangelical Church of Vietnam (SECV). In January 2010 two Montagnard Protestants were sentenced to prison terms of nine and twelve years for allegedly organizing “reactionary underground” networks. Though the details of this case are not entirely clear, there are reports that the two men were organizing unregistered church groups.

Similar charges were leveled against two Protestant evangelists working in Phu Yen province. In January 2010 police detained pastor Y Du reportedly because police suspected that he helped organize 2004 demonstrations for land rights and religious freedom in Dak Lak province. Pastor Du was beaten and dragged behind a motorbike. He was imprisoned in Phu Lam prison in Phu Lam district. Police reportedly told local Protestants that they do not have enough evidence to charge Pastor Du, but they will continue to hold him until he provides evidence against another Protestant pastor, Mai Hong Sanh, for organizing demonstrations. Along with Pastor Du, Phu Yen province officials continue to detain Pastor Y Co until he signs a “confession” concerning his prior involvement in public protests. He has reportedly refused numerous times to sign the document.

Provincial officials in the Central Highlands also target ethnic minority Protestants for official discrimination. Children reportedly are denied access to high school based on outdated laws prohibiting entrance of children from religious families. Protestants reportedly are denied access to government benefits readily available to non-Protestants, including housing and medical assistance programs. In addition, local officials reportedly pressure family elders, threatening to take away their government benefits unless they convince younger family members to renounce their faith. Montagnard Protestants have long complained of targeted discrimination, but at least one eyewitness report indicates that provincial officials are being trained in discriminatory tactics. At a 2007 religious training workshop in Kontum conducted by central government officials, local police and government officials were taught how to deny medical, educational, housing, financial, and other government services to “religious families” and families of recent converts. In addition, officials were instructed to divert foreign aid projects from known Protestant villages. It is unclear if this incident in Kontum is an isolated case, as the details of the official content of these training courses are unknown. The central government continues to conduct training courses for provincial officials on implementing Vietnam’s legal framework on religion.

#### *Hmong Protestants: Northwest Provinces*

The government continues to view with suspicion the growth of Christianity among Hmong in Vietnam’s northwest provinces. According to the State Department, over the past several years, the Vietnamese government has started to allow Hmong Protestants to organize religious venues and conduct religious activities in homes and “during the daytime.” However, unlike in some parts of the Central Highlands, the government has moved very slowly to extend legal recognition to Hmong Protestant churches. The number of legally recognized churches and meeting points has reached 100 in the past year, but an estimated 1,000 religious groups are seeking affiliation with the Evangelical Church of Vietnam (ECVN). Hundreds of applications for legal recognition have been declined or ignored, despite provisions in the Ordinance on Religion and Belief requiring government officials to respond to applications in a timely manner.

The Vietnamese government recognizes that there is a “genuine need” for religion in the northwest provinces, opening the way for at least some religious activity in the region to be legally recognized. However, government policy seems focused on making sure that “new” religious growth is controlled and “new” converts discouraged. According to the State Department, over the past year, local officials repressed Protestant believers in some parts of the northwest provinces by forcing church gatherings to cease, closing house churches, and pressuring individuals to renounce their religious beliefs, though often

unsuccessfully, despite the prohibition on forced renunciations in the Prime Minister's 2005 Instruction on Protestantism.

In the recent past, Hmong religious leaders reported that security officials attended religious services, checked church membership lists, and forced anyone not on the list to leave. In some locations, security officials reportedly barred anyone under the age of 14 from attending services, banned mid-week meetings and programs for children and young people, and insisted that religious leaders be chosen under their supervision. Since USCIRF's last Annual Report, in Bat Xat district, Lao Cai province, police harassed and confiscated food and other materials from a group of unregistered "house church" Protestants celebrating Christmas. In another village in Bat Xat district, police reportedly confiscated livestock and other belongings from members of another Protestant "house church" celebrating the Lunar New Year.

In August 2008, in Huoi Leng commune, Lao Cai province, a Protestant house church leader claimed that local officials constantly were pressuring him to give up his faith and threatening his congregants with deportation and cattle prods. Also, in Si Ma Cai district, Lao Cai province police beat and choked two Hmong Protestants in an attempt to force them to recant their faith. Police told them that there "could not be...Christians in the district." In Son La province, ethnic minority Catholics reported that government officials and police regularly threatened the loss of government benefits and services unless they returned to traditional religious practices and in Ha Giang province, local officials have used similar tactics and refused to allow a Catholic priest residence in the province.

In other regions, local authorities reportedly encouraged clan elders to pressure members of their extended families to cease practicing Christianity and return to traditional practices. Religious leaders also report that local authorities sometimes use "contract thugs" to harass, threaten, or beat them, according to the State Department. For example, in July 2007, a veterans group in Ha Giang province burned down a home where ethnic minority Protestants met for worship and damaged other buildings in an attempt to stop all worship activities. Though such activities are prohibited by law, there are no known cases of prosecution or punishment for attempted forced conversions or property destruction.

In the past year, several unregistered religious gatherings were broken up or obstructed in the Northwest Highlands. Local authorities reportedly used "contract thugs" to harass or beat ethnic minority Protestants. During the USCIRF delegation's visit to Dien Bien province, local congregations reported detentions, discriminations, and efforts to get Hmong Protestants to recant their faith, including the arrest of two individuals for conducting religious training in multiple villages. There are also credible reports that Vietnamese police in Dien Bien Dong district, Na Son commune arrested and beat Hmong Protestant Sung Cua Po after he converted to Christianity in November 2009. Before his arrest, police incited local villagers to harass and stone his house, beat his wife, and fined other Protestants in the commune in order to get him to return to traditional Hmong religious practices. Government authorities also threatened the heads of his extended family with the loss of government services unless they pressured him to deny his faith. Sung Cua Po's house was destroyed in late March, 2010 along with the homes of 14 other Christian families in Dien Bien Dong district. He and his family have disappeared.

Unfortunately, cases like Sung Cua Po are not isolated. Abuses and restrictions targeting ethnic minority Christians in the Northwest provinces continue. Central government policy supports the actions of provincial officials. In 2006, the Committee on Religious Affairs in Hanoi published a handbook instructing provincial officials in the northwest provinces on how to manage and control religious practice among ethnic minorities. USCIRF was critical of the handbook because it offered instructions on ways to restrict religious freedom, including a command to "resolutely subdue" new religious growth, "mobilize and persuade" new converts to return to their traditional religious practice, and halt anyone who "abuses religion" to undermine "the revolution"—thus seemingly condoning forced renunciations of faith.

Although the 2006 handbook recognizes the legitimacy of some religious activity, it also indicates that the Vietnamese government continues to control and manage religious growth, label anyone spreading Christianity in the northwest provinces as a national security threat, and use unspecified tactics to “persuade” new converts to renounce their beliefs.

In 2007, the Committee on Religious Affairs promised to revise the handbook and, since its 2007 visit to Vietnam, USCIRF has received two new versions. Neither, however, offers much improvement on the original. In the 2007 revision, provincial officials continue to be urged to control and manage existing religious practice through law, halt “enemy forces” from “abusing religion” to undermine the Vietnamese state, and “overcome the extraordinary...growth of Protestantism.” This last instruction is especially problematic, since it again suggests that the growth of Protestantism among ethnic minority groups should be viewed as a potential threat to public security and that it is the responsibility of officials to stem it. The 2007 revised version also states that local officials must try to “solve the root cause” of Protestant growth by “mobilizing” ethnic groups to “preserve their own beautiful religious traditions.” A 2008 version of the handbook contains all the language in the 2007 revision but adds a final chapter which chides local officials for “loose control” over Protestantism, leading to an increase in illegal meetings places. Local officials are instructed that these meeting places “must be...disbanded.” These instructions are inconsistent with Vietnam’s international obligations to protect the freedom of religion and belief and can be read as instructions to abuse and restrict religious freedom.

### *Catholics*

The relationship between the Vietnamese government and the Catholic church continues to be tense in some parts of Vietnam. Catholicism in Vietnam continues to grown rapidly and the church has expanded both clerical training and charitable activities in recent years. However, in response to peaceful prayer vigils at properties formerly owned by the Catholic church, police have used tear gas and batons and detained participants. In addition, government officials have employed “contract thugs” to assault and intimidate Catholics attending prayer vigils.

Tensions escalated in January 2008 after Catholic parishioners conducted large-scale prayer vigils at the residence of the former papal nuncio in Hanoi that the government had confiscated in 1954. In February of that year, after the government promised to resolve the problem, the prayer vigils ceased. However, on September 19, 2008 city officials announced that they would turn two sites formerly owned by the Catholic church into public parks and make the former papal nuncio's home a library. City officials immediately began demolishing buildings on the site of the Papal Nuncio and the former Redemptorist monastery in Thai Ha parish. Large-scale protests followed, with as many as 15,000 Catholic parishioners attending a special mass and prayer vigil conducted by Archbishop Kiet on September 21, 2008. Police used violence to disband crowds at the two sites and used “contract thugs,” some wearing the blue uniforms of the Communist Youth League, to harass and beat Catholic parishioners and vandalize churches. Eight individuals who participated in the vigils were arrested, and authorities detained and beat an American reporter covering the events.

The Hanoi People’s Committee has called for the “severe punishment” and removal of Archbishop Kiet and the transfer of four priests from the Thai Ha parish for “inciting riots,” “disrespecting the nation,” and “breaking the law.” Catholic leaders in Hanoi have refused these demands and the Catholic Bishops Conference issued a public defense of the Archbishop and local priests, raising concerns about the government’s commitment to religious freedom, the right of property, the government’s control over the media, and other human rights issues.

On December 8, 2008 the eight individuals arrested for participating in the prayer vigils at the Thai Ha parish were tried jointly at the Dong Da People's Court in Hanoi and convicted of disturbing public order

and destroying public property. Seven were given suspended sentences ranging from 12 to 15 months; of these, four were also sentenced to additional administrative probation ranging from 22 to 24 months. The eighth individual was given a warning. All were released with time served. The eight Catholics filed an appeal of the guilty verdict which was denied in April 2009.

Disputes over property continued in the past year. In July 2009, as many as 200,000 Catholics peacefully protested in Quang Binh province after police destroyed a temporary church structure erected near the ruins of the historic Tam Toa Church in Vinh Diocese. Police used tear gas and electric batons to beat parishioners who resisted, arresting 19, of whom seven were charged with disturbing public order. Charges are pending in this case.

In January 2010, an estimated 500 police and army engineers used explosives to blow up a crucifix at the cemetery of Hanoi's Dong Chiem Parish Church. Catholic laypeople that came to the site were held back by police and several people were beaten for protesting the action. The government alleges that the crucifix was erected illegally. In February 2010, Catholic laypeople and nuns who traveled to the Dong Chiem site to join peaceful prayer vigils were assaulted, harassed, and in one case briefly detained by police. Reportedly, not all Vietnamese government officials condoned the destruction of the crucifix. The local government in Dong Chiem released a statement expressing disagreement with the action.

The government maintains veto power over appointments of bishops, but often cooperates with the Vatican in the appointment process. Catholic leaders in Ho Chi Minh City reported that they often move ahead with ordinations without seeking government approval. In 2007 two bishops and two priests were rejected because of inappropriate "family backgrounds." In 2009, the government approved three Vatican affiliated bishops in Hanoi, Ho Chi Minh City, and Buon Ma Thuot. All students must be approved by local authorities before enrolling in a seminary and again prior to their ordination as priests, and the province of Thien-Hue restricted the number of seminarians. However, the government allowed a new Jesuit seminary to be built in Ho Chi Minh City and permitted several local dioceses to conduct religious education classes for minors on weekends and some sizeable medical and charitable activities.

During a May 2009 visit, a USCIRF delegation discovered severe restrictions on Catholic activities in Son La and Ha Giang provinces. In Son La, bishops and priests were restricted from traveling to dioceses in northwest Vietnam and provincial authorities refused to register a local Catholic diocese and mistreated lay Catholic leaders. Among ethnic minority Catholics in Ha Giang, some communities face pressure by authorities to renounce their faith. Following discussions by USCIRF with local officials, Catholics in Moc Chau District of Son La were able to celebrate Christmas and Easter last year and a priest is now allowed to give communion twice a month at a Catholic meeting point.

Despite evolving tensions between Catholics and the Vietnamese government in the past several years, Hanoi continues to discuss with the Holy See conditions for the normalization of relations and other issues of concern. In December 2009, President Nguyen Minh Triet met with Pope Benedict XVI at the Vatican. Hanoi hosted a visit from a high-level Vatican delegation in February 2009. The delegation announced that Pope Benedict hoped to visit Vietnam by the end of 2010.

### *Human Rights Defenders*

Over the past year, the Vietnamese government has harassed, threatened, detained and sentenced lawyers and human rights defenders who have assisted religious communities and other vulnerable populations in cases against the state.

In January 2010, human right lawyer Le Cong Dinh was sentenced to 16 years imprisonment for "conducting propaganda" against the state. As a lawyer, he defended human rights and religious freedom

advocates Nguyen Van Dai and Le Thi Cong Nhan in 2007. Le Cong Dinh is one of a growing number of peaceful human rights defenders challenging convictions based on Vietnam's vague national security laws and other laws inconsistent with the Vietnamese Constitution and international covenants and human right treaties to which Vietnam is a signatory.

In March 2010, unidentified intruders assaulted human rights activist Pham Hong Son and vandalized his home. They threatened additional action unless he stopped writing articles in the online journal *To Quoc*, which was started, according to its founders, to "defend human rights, free expression and religious freedom...using moderate language and reasonable arguments." USCIRF delegations met with Pham Hong Son in both 2007 and 2009. He is a peaceful reform advocate previously imprisoned for circulating via the internet an essay on democracy downloaded from the website of the U.S. Embassy in Hanoi.

On March 1, 2009, Ho Chi Min city police raided the law office and seized the property of, and detained for questioning, human rights lawyer Le Tran Luat, who is defending Catholics arrested for taking part in peaceful prayer vigils in Hanoi. The government revoked his legal license in April 2009. The official media has alleged tax fraud and other business related improprieties in what is often an act of political intimidation that signals a future arrest. Hanoi lawyer Le Quoc Quan also had his legal license revoked, allegedly because he was under investigation for assisting in the Thai Ha protests, and he has been unable to get his license renewed. Le Quoc Quan also was arrested in 2007 when he returned to Vietnam after completing a fellowship at the National Endowment for Democracy. His activities remain restricted and he is under constant surveillance, but was able to travel.

Mennonite pastor and human rights advocate Nguyen Thi Hong was given a three year sentence in January 2009 for "fraud" and other illegal business practices, allegedly for debts incurred by her late husband in 1999. Her lawyer claims that the debts were repaid and that she was singled out for her work as a human rights advocate and her association with the Mennonite group of Pastor Nguyen Quang which has not been allowed to legally register.

## **U.S. Policy**

The U.S.-Vietnamese relationship expanded in many areas since relations were normalized in 1995. The United States is Vietnam's largest trading partner and U.S. investments in Vietnam topped \$1.5 billion in 2009. The U.S. and Vietnamese governments hold regular dialogues on human rights and the return of Americans who died during the Vietnam War. Vietnam will chair ASEAN, the Association of South East Asian Nations, in 2010.

The United States and Vietnam engage in a wide range of cooperative activities in the areas of peacekeeping, humanitarian assistance and disaster relief, search and rescue, maritime and border security, law enforcement, and nonproliferation. The countries cooperate on counternarcotics and regional security issues, including an annual political-military strategic consultation. Vietnam has hosted multiple visits by American nuclear powered carriers and destroyers and humanitarian supply ships. In June 2008, Prime Minister Dung announced plans to take part in the multinational Global Peace Operations Initiative (GPOI) to train international peacekeepers.

Vietnam's suppression of political dissent and religious freedom remains a source of bilateral contention. Since spring 2007, Vietnam's government has arrested dozens of political dissidents, and in 2008 and 2009 further tightened controls over the press and freedom of speech. The U.S. government has commercial rule of law programs in Vietnam and has funded small human rights related programs for woman, labor, and religious freedom. The Vietnam Education Foundation has brought 300 Vietnamese to the United States for graduate study in the past five years. The U.S.-Vietnam Fulbright program

remains one of the largest per capita, with an estimated 2,500 Vietnamese students and scholars coming to the U.S. to study in the past decade.

## **Recommendations**

### **I. Pressing for Immediate Improvements to End Religious Freedom Abuses, Ease Restrictions, and Release Prisoners**

In addition to designating Vietnam as a CPC, the U.S. government, in both its bilateral relations and in multilateral fora, should urge the Vietnamese government to:

#### *Prisoner Releases*

- release or commute the sentences of all religious prisoners of concern, including those imprisoned or detained on account of their peaceful advocacy of religious freedom and related human rights including, among others, Nguyen Van Dai, Le Cong Dinh, Nguyen Thi Hong, members of ethnic minorities in the Central Highlands and northwest provinces, the Cao Dai and Hoa Hao followers, and those held under some form of administrative detention or medical parole, including Le Thi Cong Nhan, Father Nguyen Van Ly, Father Phan Van Loi, the Most Venerable Thich Quang Do, and other UBCV leaders detained since the 2003 crackdown on the UBCV's leadership; and
- publicize the names of all Montagnard Protestants currently in detention for reasons related to the 2001 and 2004 demonstrations, allow visits from representatives of the International Committee of the Red Cross or other independent foreign observers, and announce publicly that a prompt review of all such prisoner cases will be conducted.

#### *Revise Laws to Meet International Human Rights Standards*

- amend the 2004 Ordinance on Religious Beliefs and Religious Organizations, Decree 22, the “Prime Minister’s Instructions on Protestantism,” and other domestic legislation to ensure that such laws do not restrict the exercise of religious freedom and conform to international norms regarding the freedom of thought, conscience, and religion or belief, including revising the vague national security provisions in the 2004 Ordinance;
- enforce the provisions in the Prime Minister’s “Instructions on Protestantism” that outlaw forced renunciations of faith and establish specific penalties in the Vietnamese Criminal Code for anyone who carries out such practices;
- end the use of such far-reaching “national security” provisions as Article 88 or Article 258 of the Criminal Code, which have resulted in the detention of advocates for religious freedom and related human rights such as the freedoms of speech, association, and assembly;
- revise or repeal ordinances and decrees that empower local security police to arrest, imprison, or detain citizens in administrative detention for vague national security or national solidarity offenses, including Ordinance 44, Decree 38/CP, and Decree 56/CP, and Articles 258, 79, and 88, among others, of the Criminal Code, and end their de facto use to detain advocates;
- revise or repeal ordinances and decrees that limit the freedom of expression, assembly or association, including new regulations banning peaceful public protests of property disputes;
- end the harassment, threats, arrest, and revocation of legal licenses of human rights lawyers who take up political sensitive cases;

- establish a clear and consistent legal framework that allows religious groups to organize and engage in humanitarian, medical, educational, and charitable work;
- investigate and publicly report on the beating deaths of Hmong and Montagnard Protestants and prosecute any government official or police found responsible for these deaths; and
- implement the recommendations of the UN Human Rights Council pursuant to Vietnam's May 2009 UN Universal Periodic Review, including cooperation with various UN mechanism and special procedures.

*Protect Peaceful Religious Practice*

- establish a non-discriminatory legal framework for religious groups to engage in peaceful religious activities protected by international law without requiring groups to affiliate with any officially registered religious organization, for example:
  - allow the banned Unified Buddhist Church of Vietnam (UBCV) or the Khmer Buddhists to operate legally and independently of the official Buddhist organizations and the Vietnam Buddhist Sangha, including allowing the UBCV's Provincial Committees and Buddhist Youth Movement to organize and operate without restrictions or harassment;
  - allow leaders chosen by all Hoa Hao adherents to participate in the Executive Board of the Hoa Hao Administrative Council or allow a separate Hoa Hao organization, such as the Hoa Hao Central Buddhist Church, to organize legally and operate with the same privileges as the Administrative Council;
  - allow Cao Dai leaders opposed to the Cao Dai Management Council to form a separate Cao Dai organization with management over its own affairs;
  - allow Protestant house church groups in the Central Highlands, central coast, and north and northwest provinces to organize independently and without harassment, and allow them to operate, if desired, outside of either the Southern Evangelical Church of Vietnam (SECV) or the Northern Evangelical Church of Vietnam (ECVN);
- allow all Hoa Hao groups freely and fully to celebrate their founding Prophet's Birthday, allow the printing and distribution of all the groups' sacred writings, and allow the rebuilding of the Hoa Hao Buddhist Library in Phu Tan, An Giang province;
- approve the registration applications of all 671 ethnic minority churches in the north and northwest provinces and allow them to affiliate immediately with the Evangelical Church of Vietnam (ECVN), consistent with the deadlines established in the Ordinance on Religious Belief and Religious Organizations;
- create a national commission of religious groups, government officials, and independent, non-governmental observers to find equitable solutions on returning confiscated properties to religious groups;
- end the harassment and restrictions on monks and nuns affiliated with the Plum Village (Lang Mai) order associated with Thich Nhat Hanh, rescind the government decree to disband the order in Vietnam, and allow them to live and worship together legally and in community without harassment; and

- issue public orders to disband the Religious Security Police (*cong an ton giao*) and hold accountable all officials who beat, harass, or discriminate against those exercising the universal right to the freedom of religion and belief.

*Train Government Officials*

- revise the *Training Manual for the Work Concerning the Protestant Religion in the Northwest Mountainous Region* to reflect fully international standards regarding the protection of religious freedom and remove language that urges authorities to control and manage existing religious practice through law, halt “enemy forces” from “abusing religion” in order to undermine the Vietnamese state, and “overcome the extraordinary...growth of Protestantism;”
- issue clear public instructions for provincial officials on the registration process, consistent with the provisions of the Ordinance, including by restating the timetables for responding to applications; providing redress for denials; and ceasing unreasonable demands for information or other conditions placed on registration applications, such as demanding the names of all members of religious communities, requesting management changes, requiring denominational leaders to convene conferences to undergo indoctrination classes, and requesting that denominational leaders become informants on other religious groups;
- issue a “National Handbook for Religious Work” to train the estimated 21,000 new government officials engaged in “religious work” that should include an unambiguous statement about the need to respect international standards regarding religious freedom; guidelines for interpreting the Ordinance on Religion and Belief; detailed procedures on how to oversee the legal recognition process; a clear explanation of the duties of provincial officials under the law; and a description of the rights of religious communities under Vietnamese law and international human rights standards, including providing avenues to report inappropriate actions by local officials or police; and
- issue a public statement clearly stating that the denial of educational, medical, housing, and other government services or economic assistance, including foreign aid, based on religious belief, affiliation, or ethnicity is contrary to Vietnamese law and that government officials found using such tactics will be prosecuted under the law.

**II. Establishing New Priorities for U.S. Assistance & Refugee Programs**

The U.S. government should assist the government of Vietnam and other international governmental and non-governmental organizations to develop protections for religious freedom and refugees in Vietnam, including by taking the following actions:

- support the work of regional human rights organizations and civil society mechanisms to focus attention on Vietnam while it is the 2010 ASEAN chair, including supporting the participation of prominent dissidents, religious leaders, and legal reform advocates from Vietnam in regional human rights conferences, symposia, training, and capacity building;
- fully implement the Montagnard Development Program (MDP) created as part of the House and Senate Foreign Operations conference report of 2005 and continued in the 2008 conference report, and consider expanding the MDP to assist all ethnic minority communities in Vietnam to provide targeted humanitarian and development funds to ethnic minorities whose demands for land rights and religious freedom are closely connected;
- ensure that rule of law programs include regular exchanges between international experts on religion and law and appropriate representatives from the Vietnamese government, academia, and religious

communities to discuss the impact of Vietnam's laws and decrees on religious freedom and other human rights, train public security forces on these issues, and discuss ways to incorporate international standards of human rights in Vietnamese laws and regulations;

- work to improve the capacity and skills of Vietnamese civil society organizations, including medical, educational, development, relief, youth, and charitable organizations run by religious organizations;
- offer some Fulbright Program grants to individuals and scholars whose work promotes understanding of religious freedom and related human rights;
- encourage the Vietnam Educational Foundation, which offers scholarships to Vietnamese high school-age students to attend school in the United States, to select youth from ethnic minority group areas (Montagnard and Hmong), from minority religious communities (Cao Dai, Hoa Hao, Catholic, Protestant, Cham Islamic, and Khmer Buddhists), or former novice monks associated with the Unified Buddhist Church of Vietnam and Khmer Buddhists;
- work with international corporations seeking new investments in Vietnam to promote international human rights standards in Vietnam and find ways their corporate presence can help promote and protect religious freedom and related human rights; and
- expand funding for additional Voice of America (VOA) and Radio Free Asia (RFA) programming for Vietnam and to overcome the jamming of VOA and RFA broadcasts;
- seek access to the Central Highlands to monitor the safe resettlement of Montagnards repatriated from Cambodia and continue to assist the UN High Commissioner for Refugees (UNCHR) and other appropriate international organizations as they seek unimpeded access to the Central Highlands in order voluntarily to monitor repatriated Montagnards consistent with the Memorandum of Understanding (MoU) signed on January 25, 2005 between the UNHCR, Cambodia, and Vietnam;
- increase the use of Priority 1 authority to accept refugees facing a well-founded fear of persecution, both those who have escaped to other countries in the region and those who are still in Vietnam, without the prerequisite of a referral by the United Nations High Commissioner for Refugees, including seeking to expand in-country processing in areas outside of Ho Chi Minh City; and
- allow all monks and nuns affiliated with the Plum Village Buddhist order to enter the United States from Thailand under temporary religious worker visas (R-1), and remove any obstacles to the immediate granting of their visas so that they are able join a functioning religious community in the United States until their order in Vietnam is reestablished.

### **III. Recommendations for U.S. Congressional Action**

The U.S. Congress should:

- pass the Vietnam Human Rights Act (H.R. 1609 / S. 3678) and fully appropriate the funds authorized in the Act, including for programs in religious freedom, human rights, refugees, rule of law, public diplomacy, and anti-trafficking measures;
- ensure that any new funds appropriated or allocated to expand bilateral economic or security relations are met with corresponding funding for new human rights, civil society capacity-building, non-commercial rule of law programs in Vietnam, and consider creating a pilot program for Vietnam as an Asian counterpart to Supporting Eastern European Democracy (SEED) program--which could be called Promoting Universal Rights and the Rule of Law (PURRL);

- continue oversight, establish benchmarks, and measure progress of the U.S.-Vietnam Human Rights Dialogues, renewed in 2007, by holding appropriate hearings on the progress report the State Department is required to submit to Congress on the trajectory and outcomes of bilateral discussions on human rights as required by Sec. 702 of PL 107-228;
- appropriate additional funds for the State Department's Human Rights and Democracy Fund for new technical assistance and religious freedom programming that should be at least commensurate with new and ongoing programs for Vietnamese workers, women, and rule of law training; and
- engage Vietnamese leaders on needed legal revisions and protections of individuals related to the far-reaching national security provisions that are currently used to arrest and detain peaceful advocates for religious freedom and related human rights.

## Country Chapters: USCIRF's Watch List Afghanistan

**FINDINGS:** The Afghan constitution fails to explicitly protect the right to freedom of religion or belief, allows other fundamental rights to be superseded by ordinary legislation, and contains a repugnancy clause stating that no law can be contrary to Islam. As a result, individuals lack protection to dissent from state-imposed orthodoxy, to debate the role and content of religion in law and society, to advocate for the rights of women and members of religious minorities, or to question interpretations of Islamic precepts. Doing so risks unjust accusations of religious crimes such as apostasy and blasphemy. In high-profile cases, Afghan courts have not protected freedom of religion or belief in accordance with international standards, with the result that members of the majority Muslim community have been imprisoned for exercising their internationally guaranteed rights of freedom of expression on sensitive religious or social issues. In addition, the Afghan government continues to be unable to protect citizens against violence and intimidation by the Taliban and other illegal armed groups.

Based on these concerns, the Commission continues in 2010 to place Afghanistan on its Watch List. Afghanistan was first placed on the Commission's Watch List in 2006. In 2000 and 2001, USCIRF had recommended that the Taliban regime, then in control of most of Afghanistan's territory, be designated as a "particularly severe violator of religious freedom." The Secretary of State designated the Taliban as such in 1999 and 2000.

Conditions for religious freedom remain problematic, despite gains in human rights since the ouster of the Taliban regime in late 2001. Individuals who dissent from the prevailing orthodoxy regarding Islamic beliefs and practices are subject to legal action due to the influence of religious leaders. A government ministry announced it had destroyed Shi'a Muslim books from Iran, apparently because they contained material deemed offensive to the Sunni majority. Before final revision, a new Shi'a family or personal status law appeared to sanction marital rape and to require a husband's permission for a wife to leave home except in an emergency. Violence and intimidation by the Taliban and other insurgents poses a serious threat to human rights of all Afghans. Efforts at national reconciliation could potentially return Taliban or other insurgents hostile to international standards of human rights to positions of influence.

**PRIORITY RECOMMENDATIONS:** U.S. policy has not sufficiently prioritized human rights, including religious freedom, in Afghanistan. Promoting respect for freedom of religion or belief must be an integral part of U.S. strategy, particularly as the government of Afghanistan pursues a peace or reconciliation process with anti-government insurgents. USCIRF recommends the U.S. government should continue to maintain a high level of diplomatic, development assistance, and military engagement to preserve and consolidate the Afghan people's human rights gains since 2001. The U.S. government should clearly state its concern for religious freedom as an essential element in U.S. policy in Afghanistan; use its influence to support those who advocate respect for human rights, including freedom of religion or belief; support efforts to develop a judicial sector that upholds international standards of human rights; support the promotion of respect for human rights and of religious tolerance in public education; urge inclusion of representatives of civil society, including women and members of minority communities, in any reconciliation talks; and work to ensure that any reconciliation process does not provide immunity to known human-rights violators. Additional recommendations for U.S. policy towards Afghanistan can be found at the end of this chapter.

## Religious Freedom Conditions

### *Government Policies toward Religious Groups and Activities*

In January 2004, Afghanistan adopted a constitution that provides for the freedom of non-Muslim religious groups to exercise their faith, contains an explicit recognition of equality between men and women, and declares the state will abide by “the UN charter, international treaties, international conventions . . . and the Universal Declaration of Human Rights.” However, the constitution does not extend explicit protections for the right to freedom of religion or belief, as it only provides that “followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law.” Other fundamental rights, such as the right to life and free expression, can be superseded by ordinary legislation. These shortcomings are compounded by a repugnancy clause that states that “no law can be contrary to the beliefs and provisions of the sacred religion of Islam,” as well as by provisions for a judicial system empowered to enforce the repugnancy clause and apply Hanafi sharia (Islamic) jurisprudence to cases where there is no other applicable law. In addition, the constitution prohibits any amendments that would be contrary to the “provisions of adherence to the fundamentals of the sacred religion of Islam.”

The absence of a guarantee of the individual right to religious freedom and the empowerment of the judicial system to enforce Islamic principles and sharia law mean that the constitution does not fully protect individual Afghan citizens who dissent from state-imposed orthodoxy against unjust accusations of religious “crimes” such as apostasy and blasphemy. There are few protections for Afghans to debate the role and content of religion in law and society, to advocate the rights of women and religious minorities, and to question interpretations of Islamic precepts without fear of retribution or being charged with “insulting Islam.” These legal deficiencies have permitted the official imposition of harsh, unfair, and at times even abusive interpretations of religious orthodoxy, violating the human rights of individuals.

For instance, in September 2009 former student journalist Parwiz Kambakhsh went into exile after being released from prison as the result of an unpublicized Presidential pardon. Kambakhsh had been sentenced to death for blasphemy in Balkh province in January 2008 for circulating material to other students, some of which he had downloaded from the Internet, concerning women’s rights in Islam. Although an influential council of religious scholars pressed for the execution to be carried out, others—including human rights groups, civic organizations, and groups of journalists—staged public protests in his defense. In October 2008, an appeals court in Kabul reduced his sentence to 20 years in prison. Another blasphemy case similarly ended with a presidential pardon with the release of three prisoners on March 20, 2010, in conjunction with the Nowruz spring festival. In that case, in September 2008 a court in Kabul had sentenced veteran journalist Ahmed Ghous Zalmai and mosque leader Mullah Qari Mushtaq to 20 years in prison, and publisher Mohammad Ateef Noori to five years, for their roles in publishing an independent translation of the Koran. Authorities were influenced by Afghan religious scholars who alleged that the translation misinterpreted verses on social issues, was un-Islamic, and did not have a parallel Arabic text next to the Dari translation.

Such cases involving Muslim individuals exercising their internationally guaranteed rights demonstrate the inadequate guarantees for individual human rights in the Afghan constitution. These cases represent a problem for the country’s development as a democratic state based on the rule of law where fundamental human rights are protected. This problem has been exacerbated by the persistent weakness of the country’s central government, which continues to face substantial challenges that include mounting insecurity, a lack of basic infrastructure, massive corruption, an expanding illegal drug trade, and unresolved human rights violations from previous conflicts that have given rise to a climate of impunity in many parts of the country.

Religious sensitivities, heightened by the ongoing conflict with Taliban insurgents, have limited freedom of expression in the country. There has been a “backlash” by Afghanistan’s powerful traditionalist religious forces against the liberalization that occurred after the fall of the Taliban. A media law passed by parliament in September 2008 prohibits works and material that are contrary to the principles of Islam, works and materials offensive to other religions and sects, and propagation of religions other than Islam. President Karzai initially attempted to block the passage of this bill by veto, but the bill was passed with a two-thirds majority. At the end of the reporting period, the authorities do not appear to have implemented the law. Nevertheless, media outlets, including radio and television, face pressure and occasional legal action from authorities influenced by Muslim clerics who object to particular content, such as references to other religions or the scenes of women dancing common in Indian films.

These concerns about freedom of religion and expression take place in a context of declining respect for democratic norms and human rights, including with regard to freedom of speech and the press. In addition to cases involving views on religious interpretation, journalists in Afghanistan are coming under increasing pressure—and facing legal consequences—for criticizing political leaders, powerful local politicians, drug dealers, or warlords.

The security situation continues to be serious, and President Karzai’s government does not exercise full control over the country, particularly outside Kabul and the major provincial centers, even with the active support of U.S. and NATO International Security Assistance Forces. As a result, the situation for religious freedom and other human rights is precarious in many parts of the country. The Taliban continues to stage attacks inside Afghanistan, posing an ongoing threat to the stability of the government. In addition, illegal militias have not been disarmed, and they, as well as some nominally allied with the government, continue to exercise power throughout the country and often perpetrate human rights abuses. These abuses include political killings, torture, coercion to enforce social and religious conformity, and abuses against women and girls, sometimes with the active support of the local courts and police. In some areas of Afghanistan, the Taliban administer a virtual parallel state, and some Afghans reportedly prefer Taliban courts, as they are seen as less corrupt than government ones. These substantial security threats present a persistent danger to the establishment of democracy and the rule of law throughout Afghanistan.

### *Women’s Rights*

The human rights of women were severely and egregiously violated in the name of religion by the Taliban regime. Since then, the status of women has improved significantly, although it remains under threat. Women, traditionally accorded a subordinate status in Afghan society, have become more prominent in public life. Women serve in both houses of Afghanistan’s national parliaments (some in seats reserved for women) and in provincial councils. Record numbers of women ran as candidates in the August 2009 presidential and provincial assembly elections. Two candidates for president, seven of the candidates for vice president, and approximately 10 percent of the candidates for provincial council seats were women. The governor of one of Afghanistan’s 34 provinces (Bamiyan) is a woman. A woman, Dr. Sima Samar, heads the Afghanistan Independent Human Rights Commission, a constitutional body. A few women also serve as judges, prosecutors, and ambassadors.

Nevertheless, women’s progress in the public sphere is threatened today both by the Taliban resurgence and the continuing strong influence of religious traditionalists. Women who seek to engage in public life are likely to be seen as “immoral” by traditionalists and to be targeted for intimidation, harassment, or violence by Taliban or other extremists. The number of women in senior government positions has decreased since President Karzai dropped three female ministers from his cabinet in 2006. Currently, the

Minister of Women's Affairs is the sole female cabinet minister. There are no women on the Supreme Court.

Although the enveloping burqa, required during the Taliban regime, is less common in Kabul, almost all women wear some form of head covering, either out of personal piety or fear of communal pressure. In rural areas, local religious leaders continue to pressure women about their dress and most women wear the burqa.

Pervasive discrimination continues to place women in a second-class status and to limit their opportunities to obtain education, employment, and even medical care. Women in Afghanistan frequently are denied equal access to legal representation and due process, especially in rural areas, where traditional councils mete out justice. Numerous reports by the UN and other international observers have documented the widespread and deeply-rooted problem of violence against women, including so-called "honor killings." Lack of access to the legal system hampers efforts to combat violence against women, particularly domestic violence. The government has taken some steps to combat this problem. According to the UN High Commissioner for Human Rights, Afghanistan's new Law on the Elimination of Violence against Women, endorsed by presidential decree in July 2009 but still awaiting parliamentary approval, "explicitly criminalizes rape, as well as underage and forced marriage, and other forms of violence against women."

#### *The Shi'a Muslim Minority*

The situation of Afghanistan's Shi'a Muslim minority has improved markedly since the end of Taliban rule, when they were severely persecuted. Shi'a are now able to perform their traditional *Ashura* public processions and rituals in Kabul without incident or hindrance. Shi'a participate fully in public life, including in parliament and in senior positions in the Karzai government. Afghanistan's Second Vice President, Abdul Karim Khalili, is a member of the Shi'a minority. Most Shi'a are from the Hazara ethnic group, which traditionally has been harshly discriminated against and segregated from the rest of society due to a combination of political, ethnic, and religious reasons.

The constitution provides that Shi'a law will be applied in cases in which both parties are Shi'a. The government's efforts to further accommodate Shi'a practices with the adoption of a Shi'a family or personal status law proved controversial, however, because of provisions that many Afghan and international observers believed to be contrary to constitutional guarantees of equal rights to men and women, particularly in regard to women's rights in marriage. In its original form, the law appeared to sanction marital rape and to deny wives the right to leave home without permission from their husbands, except in emergencies. In response to such criticism, the Shi'a Personal Status Law underwent a process of technical review before an amended version was endorsed by presidential decree in July 2009. The most controversial article, that appearing to sanction marital rape, was removed and others reworded. In a December 2009 report, Ms. Navanethem Pillay, the UN High Commissioner for Human Rights, stated that the law, even following these changes, "legitimizes discriminatory practices against women" and "represent(s) a set-back for women's rights" in Afghanistan. Judge Pillay personally recommended that the law be repealed.

Despite the overall improvement in respect to the Shi'a Muslim community, there was one reported instance of a restriction on the importation of Shi'a religious literature in the current reporting period. In May 2009, the Ministry of Culture and Youth Affairs announced that in late 2008 it had seized and destroyed a shipment of Shi'a religious books from Iran. The stated reason for this action was that the books were dangerous to the unity of Afghanistan because they contained interpretations of Islam offensive to members of the majority Muslim community. This action appears to have been arbitrary and extralegal in nature as there are no legal restrictions on the importation of religious texts.

### *Non-Muslim Minorities*

Although specifying that Islam is the state religion, the constitution states that “followers of other religions are free to practice their faith and perform their religious rites within the limits of the provisions of law.” There were no known cases of non-Muslims being formally accused by Afghan authorities of blasphemy or prosecuted on other religious grounds. As in the case of Shi’a Muslims, the situation of Afghanistan’s small communities of Hindus and Sikhs has improved since the fall of the Taliban, as there is no longer any official discrimination. Hindus and Sikhs are allowed to practice their faith and to have places of public worship. However, they are effectively barred from most government jobs, and face societal hostility and harassment. The few Afghan Christians, converts from Islam or their children, are forced to conceal their faith and are unable to worship openly. Members of Afghanistan’s small Baha’i community also lead an essentially covert existence, particularly since May 2007 when the General Directorate of Fatwa and Accounts ruled that their faith is a form of blasphemy and that all Muslims who convert to the Baha’i faith are apostates. There were no reports, however, of anti-Baha’i incidents or court cases during the past year.

### **U.S. Policy**

During the past year, U.S. policy in Afghanistan and Pakistan, increasingly viewed as a single theater for U.S. diplomatic and military efforts, has been based on the results of a policy review announced in March 2009. The declared goal of U.S. policy in both countries is to “disrupt, dismantle, and defeat al-Qaeda and its safe havens in Pakistan, and to prevent their return to Pakistan or Afghanistan.” The Obama Administration’s stated objectives for achieving this goal in Afghanistan include disrupting terrorist networks, promoting a more accountable and effective government, developing Afghan security forces, and involving the international community, with an important leadership role for the UN. The counterinsurgency strategy now being pursued in Afghanistan appears to be designed to improve the security of Afghanistan’s civilian population by providing better protection from insurgent violence and by better strengthening Afghanistan’s economy and institutions in order to increase popular support for the Afghan government.

According to the Congressional Research Service, U.S. assistance to Afghanistan is intended to stabilize and strengthen the economic, social, political, and security environment in order to “blunt popular support for extremist forces in the region.” Since the U.S. intervention in Afghanistan after the September 11, 2001 terrorist attacks, the United States has spent almost \$40 billion on this effort, just over half of which has been assistance to Afghan military and police forces (primarily for training and equipment). Approximately a third has been development and humanitarian assistance, about 10 percent has gone to counter-narcotics efforts, and only 5 percent to promoting good governance and democratization.

Early 2010 witnessed an intensification of U.S. military efforts in Afghanistan. In February 2010, U.S. forces, in conjunction with the NATO International Security Assistance Force and Afghan forces launched a major anti-Taliban offensive in Helmand province, in what was described as perhaps the largest such operation since 2001. In March 2010, preparations appeared underway for a similar offensive around Kandahar, a traditional area of Taliban support.

The first quarter of 2010 also saw the tentative, beginning stages of a peace or “reconciliation” process that could possibly bring the current conflict to an end. At an international conference on Afghanistan held in London on January 28, 2010 President Karzai sought support for plans to hold a “peace jirga” that would bring together tribal leaders, including those with ties to the Taliban, to be held in May. (A jirga is a traditional Afghan assembly of notables, often resorted to in Afghan history to provide legitimacy to major political developments.) President Karzai publicly stated that he was open to talking with anti-

government insurgents who could accept the Afghan constitution and respect human rights, including the rights of Afghan women. Although the Taliban led by Mullah Omar appear to have rejected this initiative, in March 2010 a delegation arrived in Kabul representing another major insurgent group, the faction of Hizb-i-Islami led by Gulbuddin Hikmatyar, a major mujahideen commander during the Afghan resistance to the Soviet occupation. Although there appeared to be widespread awareness among the Karzai government's international supporters of the claimed need to reintegrate into Afghan society lower-level and less ideological elements among the insurgents, some observers cautioned about the human rights implications of reintegrating notorious human rights abusers such as Hikmatyar.

## **Recommendations**

The United States bears a special responsibility toward Afghanistan as instrumental in ousting the Taliban regime following the September 11, 2001 terrorist attacks against the United States, as the major outside actor in supporting subsequent efforts toward political and economic reconstruction, and as the major contributor to current military operations. In light of these circumstances and the priority placed on the U.S.-Afghanistan relationship by President Obama, USCIRF recommends that the U.S. government increase its diplomatic, development, and military engagement in Afghanistan to preserve and consolidate the Afghan people's gains in the protection of human rights, including freedom of religion or belief. This engagement should involve new strategies for development assistance to promote human rights, transparency and mutual accountability.

The failure of these efforts would threaten a return to the Taliban-era's repression of women and independent thinkers within the majority population. Not only would Afghanistan be less free but it would also more be unstable, thereby contributing to regional insecurity and potentially serving again as a future haven for global terrorism that threatens U.S. interests.

### **I. Vigorously Promoting Every Individual's Human Right to Freedom of Religion or Belief and Related Rights**

The U.S. government should:

- clearly articulate a concern for religious freedom and related human rights as an essential element of U.S. strategy in Afghanistan and have Special Representative for Afghanistan and Pakistan Richard Holbrooke and his office increase their effective engagement on these issues, including by:
  - bolstering the position of Afghans who advocate respect for human rights and tolerance;
  - ensuring that U.S. assistance to educational programs promotes respect for human rights and religious tolerance;
  - supporting judicial sector and legal reforms conducive to protecting human rights; and
  - ensuring that human rights concerns are integrated into the reconciliation process looking toward a post-conflict Afghanistan;
- vigorously support respect for the right of every individual to freedom of thought, conscience, and religion or belief, and increase efforts to ensure the protection, in law and practice, of fundamental human rights, including freedom of conscience and the equal rights of women, as outlined in international human rights instruments to which Afghanistan is a party;

- use its influence to protect freedom of expression against charges that may be used to stifle debate, such as blasphemy, “offending Islam,” apostasy, or similar offenses, including expression on sensitive subjects such as the role of religion in society and the rights of women and members of minority groups;
- act to bolster the position of those reformers who respect, and advocate respect for, religious freedom and human rights, since those persons currently are on the defensive and are threatened and need U.S. support to counter the influence of those who advocate an Islamic extremist agenda;
- amplify the voices of political reformers and human rights defenders by, among other things, encouraging President Karzai to appoint independent human rights defenders to the country’s independent national human rights commission and court system;
- in the context of increased military activity by U.S. and NATO International Security Assistance Forces throughout Afghanistan, but especially in the south, ensure that any engagement or partnership with Afghan religious leaders is mindful of international standards of freedom of religion or belief; and
- utilize the engagement of the U.S. military’s chaplains corps with Afghan Religious and Cultural Affairs officers (the Afghan equivalent to U.S. military chaplains) to help ensure that religious extremists do not infiltrate the chaplaincy corps of the Afghan army.

## **II. Advancing Institutional Reform**

The U.S. government should:

- ensure that programs administered by the U.S. Agency for International Development to help develop primary and secondary education, including through printing textbooks and providing civic education, incorporate as part of the content education on international standards with regard to human rights, including freedom of religion or belief, and religious tolerance;
- strengthen efforts to reform the judicial system, including by helping to develop needed infrastructure and supporting the reconstruction of a judicial sector operating under the rule of law and upholding civil law and international standards of human rights;
- undertake efforts to reform the legal system to ensure that laws and legal systems uphold international standards on human rights;
- work to ensure that all judges and prosecutors are trained in civil law and international human rights standards, women are recruited into the judiciary at all levels, and all Afghans have equal access to the courts; and
- assist legal experts in visiting Afghanistan, engaging their Afghan counterparts, and providing information to the Afghan public on the universality of human rights and the compatibility of Islam and human rights, including freedom of religion or belief, and expand existing programs to bring Afghans to the United States to experience how Islam and other faiths may be practiced in a free society.

### **III. Integrating Human Rights into the Reconciliation Process**

In order to improve the prospects for human rights in a post-conflict Afghanistan, the U.S. government should press the government of Afghanistan, when engaging in reconciliation talks, to:

- ensure that recognized representatives of civil society, including Shi'a Muslims, members of other religious and ethnic minorities, and women, are included in any reconciliation talks with anti-government elements; and
- ensure that any reconciliation process does not provide immunity to known human rights violators and that such individuals should be barred from appointive or elective office, as well as from leadership positions in political parties.

The U.S. government should:

- not negotiate with the Taliban leadership except to set terms of their surrender or to draw less ideological individuals and elements away from the Taliban structure.

## Belarus

**FINDINGS:** The government of Belarus continues to commit serious violations of the freedom of thought, conscience, and religion or belief, both in law and in practice. Belarus has a highly authoritarian government, with most political power concentrated in the hands of President Aleksandr Lukashenko and his small circle of advisors. The Lukashenko regime maintains extensive and intrusive structures to control and restrict religious communities, causing some human rights groups to compare the current religious freedom situation in Belarus to that under the former Soviet Union. In addition, the government has engaged in serious human rights abuses, including involvement in the disappearances of several key opposition figures, the imprisonment of political opponents and journalists, and strict controls on the media and civil society.

In light of these violations, the Commission maintains Belarus on its Watch List for 2010. Belarus has been on USCIRF's Watch List since 2003.

The 2002 Belarusian religion law is viewed as the most repressive in Europe, particularly because of its ban on unregistered religious activity. Participation in the activities of unregistered religious groups may result in a maximum two-year term of imprisonment. The government maintains an extensive bureaucracy that closely supervises religious life throughout the country, and continues to harass and fine members of some religious groups, particularly Protestants and others viewed as "foreign" or as having a political agenda. In fact, in recent years there has been an increased use of large court-imposed fines for unregistered religious activity. Conscientious objectors to military service have been detained for terms of several months and fined. Foreign religious workers continue to face many official obstacles, including deportation and visa refusals. Religious communities have been registered under the 2002 law, but some evangelical Protestant congregations and Orthodox communities that do not accept Moscow Patriarchate jurisdiction continue to be denied.

**PRIORITY RECOMMENDATIONS:** U.S. policy on Belarus should pay more attention to the issue of freedom of religion or belief. Its importance in Belarusian public opinion was demonstrated by a 2008 popular petition urging reform of the religion law and greater religious freedom. It was the largest non-party political petition in Belarusian history, signed by 50,000 people. As part of its effort, the United States should ensure continuation of democracy promotion activities as envisaged in the Belarus Democracy Reauthorization Act. The National Endowment for Democracy's Belarus civil society programs and the broadcasts of U.S. government-funded radio broadcasts to Belarus, such as those of Radio Free Europe/Radio Liberty (RFE/RL), should focus on the right to freedom of religion or belief and the promotion of religious tolerance. In addition, the U.S. government should allocate funds to advance internet freedom and protect Belarusian human rights activists from harassment and arrest by developing new technologies and immediately distributing proven and field-tested programs to counter censorship. Such activists should also be assisted to participate in relevant international conferences, including those of the Organization for Security and Cooperation in Europe (OSCE). Additional recommendations for U.S. policy towards Belarus can be found at the end of this chapter.

## Religious Freedom Conditions

### *Legal Framework*

The country's 2002 religion law set up severe regulatory obstacles and major bureaucratic and legal restrictions on the activities of religious communities. Essentially, the 2002 law prohibits all religious activity by unregistered groups, limits the activity of religious communities to their areas of official registration, bans foreign citizens from leading religious activities, forbids unapproved religious activity in private homes except small, occasional prayer meetings, denies religious communities the right to train clergy, and requires official permission for the printing, import, or distribution of religious materials.

The religion law also set up three categories: religious communities, religious associations, and national religious associations, with varying legal rights and registration requirements. A complex registration process requires extensive personal information about the members of religious congregations. In addition, the law mandated that all religious communities in Belarus re-register by late 2004. While most groups were re-registered, some disfavored groups have had difficulty re-registering.

### *Restrictions on Religious Activities*

Some religious groups, particularly Protestant congregations, have repeatedly been denied registration and in many cases officials do not provide reasons. One frequent basis for denial is failure to provide a valid legal address, although in some cases, registration is required before such an address can be obtained. Moreover, a religious organization cannot be located at a residential address unless that location has been re-designated as nonresidential. In 2009, religious groups continued to have difficulty obtaining local government permission to convert residential property for religious purposes. Another basis for denial can be the religious group's alleged failure to limit activities to a specified location.

In January 2008, a secret government ruling reportedly denied official registration to 12 groups the government deemed "destructive sects," including Ahmadi Muslims.

Without state registration, religious communities are subject to state harassment of and interference with religious activities that sometimes result in fines. In recent years, the Belarus courts have increased these fines and expanded the range of religious groups subject to them. Until 2006, such fines usually were the equivalent of about \$15, and were imposed on Council of Churches Baptist congregations that refuse on theological grounds to register with state authorities. However, since 2006, administrative fines for unregistered religious activity have increased and members of other groups have been fined. For example, a disabled 68-year old pensioner, Yevgeny Bakun, was fined in August 2009 the equivalent of \$49 for holding an unregistered Salvation Pentecostal service in his yard in the city of Grodno. In September, he was issued another fine the equivalent of \$245 for "holding mass events." In a late 2009 incident, a member of an unregistered Baptist group in Brest received an administrative fine the equivalent of \$63 (reportedly half her monthly wage) for allowing her home to be used for worship.

Although the religion law, at least in theory, allows people to pray in private homes, it requires that individuals obtain permission from local authorities to hold rituals, rites, or ceremonies in homes. However, such permission usually is denied. For six years, Protestant leaders unsuccessfully have attempted to resolve this situation. Despite confirmation from the Presidential Administration's Department for Communication with Citizens that religious organizations may legally meet in private homes if local state authorities agree, police on several occasions in 2009 interfered with private religious meetings and sometimes fined participants. Some registered religious organizations, however, including Muslims, Lutherans, and Baha'is, have held worship services at residential addresses without prosecution.

The government also continues to limit the ability of registered groups to own or use property for religious purposes. Authorities reject requests for property registration from many Protestant churches and other groups officially viewed as new to Belarus; these groups also have faced difficulty in renting property from state proprietors. Moreover, Protestants in particular have reported that securing permission to build new churches is almost impossible. In Minsk, city planners will not grant any such permits until 2030, according to official documents. Protestant churches seeking property permits also report that they are treated as commercial organizations and charged fees set by Minsk authorities that may be hundreds of thousands of dollars. Forum 18 also reports that some of the smaller religious communities continue to face great difficulties in rebuilding premises for worship.

In 2009 and 2010, officials continued to harass the New Life Full Gospel Church and threaten to seize its building in Minsk. Court executors delivered an order to vacate the building by August 2009, but the congregation refused to vacate. In January 2010, the government charged the church with polluting the grounds around its building with oil. If convicted, the church could be liable for a fine, plus \$91,000 for the alleged damage. If the judgment is not paid, the government can seize the church building as compensation.

The 2002 religion law states that religious organizations do not have priority in reclaiming property confiscated in Soviet times if a former worship building is now used for culture or sports activities. As a result, only nine of 92 historic synagogues in Belarus have been returned to the Jewish community since the country gained independence in 1991. Lutheran and Calvinist communities have also had little success in the return of their historical churches from the Belarusian government.

Other laws, regulations, and directives also restrict the activities of registered religious communities. For example, groups are not allowed to function outside their geographic area of registration. Additionally, if a registered religious community does not qualify as a “central association”—meaning it has not been legally recognized for over 20 years or it does not have enough members—it cannot own media outlets or invite people from outside Belarus to work with the community, as in the case of the Greek Catholic Church (also known as the Byzantine Rite or Uniate Catholic Church). The Society for Krishna Consciousness also does not qualify as a central association and therefore cannot rent a hall or produce a publication with a print run of over 300.

#### *Restrictions on Religious Literature*

All religious literature is subject to compulsory government censorship. Religious publishing is restricted to religious groups with 10 registered communities, including at least one that was in existence in 1982. This requirement is onerous, since 1982 was during the Soviet period when few religious groups were allowed to operate. Some members of religious communities continue to be harassed and fined for “illegally” distributing religious literature. In April 2009, the government confiscated Unification Church materials to prevent “violations of human rights and freedoms” and “risks to individual psychological and physical welfare.” In May 2009, a Baptist was fined \$745, the largest known fine for unregistered religious activity in Belarus, for operating a Christian street library and ordered to turn the materials over to the state. The Belarusian government also continues to harass and fine Hare Krishnas for distributing religious literature.

#### *The Privileged Status of the Belarusian Orthodox Church*

The 2002 religion law recognizes the “definitive role” of the Orthodox Church in the development of Belarusian traditions, and the historic “traditional faiths,” Catholicism, Judaism, Islam, and Evangelical Lutheranism, without mentioning the Old Believers and Calvinist Churches, both of which have roots in Belarus dating to the 17<sup>th</sup> century. Since he assumed power in 1994, President Lukashenko has

discriminated in favor of the Belarusian Orthodox Church (BOC), an Exarchate of the Moscow Patriarchate Russian Orthodox Church. In June 2003, the Belarus government and the BOC signed a concordat on the Church's role in public life, thereby further enhancing its privileged position. Despite the concordat, however, BOC instruction has not been introduced into the state education system. In March 2004, the Belarusian government granted the BOC the sole right to use the word "Orthodox" in its title.

The Belarusian government has denied registration to several Orthodox churches that do not accept the authority of the Moscow Patriarchate, including the Belarusian Autocephalous Orthodox Church and the True Orthodox Church. Archbishop Jovan of the Holy Belarusian Autocephalous Orthodox Church (BAOC), a religious freedom activist, continued to be denied entry into the country in 2009. The Russian Orthodox Church Abroad is also denied registration, and in recent years its members have had to pay numerous fines for private worship services.

However, despite its privileged status, the BOC also has not been immune from government harassment. Belarusian officials have discouraged the BOC from commemorating those Orthodox Christians killed in Belarus during the Soviet period due to their religion. The Belarusian KGB has tried to convince BOC clergy to remove icons of the Orthodox "New Martyrs" from the city of Grodno cathedral, although the local bishop refused to do so. In addition, KGB officers often monitor visitors to the town of Kuropaty, where New Martyrs are among the mass graves; a BOC chapel planned for the site has never been built.

#### *Conscientious Objectors*

A decade after the Constitutional Court declared it "urgent" to adopt a law on alternative military service, a proposal included in the 2010 Legislative Program was removed at the last minute.

In November 2009— nine years after the charges against him were first brought—a Jehovah's Witness from the city of Gomel, Dmitry Smyk, was found guilty of refusing military service and assessed a large fine. He is appealing. In February 2010, Ivan Mikhailov, a Christian convert from Judaism, was sentenced to a three-month jail term for refusing compulsory military service; his case also is on appeal. Reportedly, criminal charges against another conscientious objector were dropped in 2009, but he has been informed that he will be charged if he again refuses compulsory military service.

Muslims have complained that they are unable to observe their religious rites in the Belarus army. One Muslim, Mikhail Mikhaliyena, who refused military service for this reason was sentenced in January 2009 to three months of imprisonment for evading military service and refusing to pay the associated fine.

#### *Challenges to the Religion Law*

In 2007, thousands of individuals from diverse religious communities, as well as nonbelievers, initiated a petition to the Belarusian government to protest the country's 2002 religion law and other restrictions on freedom of religion or belief. In March 2008, the petition gained the 50,000 signatures required for the document to be considered by the Belarusian government; it was sent to the Constitutional Court, Parliament, and Presidential Administration. The Constitutional Court rejected it that same month on the grounds that only the head of state or other government officials can question the constitutionality of laws. Parliamentary and presidential authorities also rejected the petition, claiming that there were no religious freedom violations in Belarus. In April 2008, three human rights defenders were fined the equivalent of two months average monthly wages for their involvement with the petition.

In March 2009, the Belarusian Supreme Court rejected an appeal brought by a Pentecostal pastor against a fine for leading an unregistered religious organization. While the pastor argued that the legal

requirement to register violated the Belarusian Constitution and the International Covenant on Civil and Political Rights, the court ruled against him.

### *Anti-Semitism*

The Belarusian government continues to demonstrate a lax attitude towards the problem of anti-Semitism and has not taken effective measures against individuals responsible for vandalism against Jewish memorials, cemeteries, or other property. During 2009, anti-Semitic incidents were investigated only sporadically, according to the State Department. Although official periodicals did not attack Jewish groups in the past year, the sale and distribution of anti-Semitic literature continued through state press distributors, government agencies, and stores affiliated with the BOC. Anti-Semitic and ultranationalist Russian newspapers and literature, digital video disks, and videocassettes also continued to be sold at *Pravoslavnaya Kniga* (Orthodox Bookstore), which also sells the literature of the BOC, the officially-favored church.

Although Judaism is viewed under the 2002 religion law as “traditional” to Belarus, Jews recently have been the targets of offensive remarks by government officials, including President Lukashenko and the state media. For example, in October 2007, on live national radio, President Lukashenko referred to the Belarusian town of Babruysk as a “pigsty,” and “mainly a Jewish town—and you know how Jews treat the place where they are living.” According to the State Department, the president and other government officials have not publicly made anti-Semitic remarks within the past year.

### *Religion and Public Education*

The religion and education laws specify that the state education system is secular, and that state education institutions are can work with registered religious organizations only outside school hours. Belarusian official school textbooks continued to promote intolerance towards religions officially considered “non-traditional” to Belarus. One textbook, a chapter entitled “Beware of Sects” included language about Seventh-Day Adventists and Jehovah’s Witnesses. Another book labeled Protestants and Hare Krishnas as “sects,” although according to the State Department, the authorities promised to change the language in the next edition.

### *Restrictions on Foreign Religious Workers*

In 2008, Belarus further tightened strict government regulations on foreign religious workers. A government official, the Plenipotentiary for Religious and Nationality Affairs, has the sole discretion to decide whether religious activity by foreign citizens is necessary. In addition, that official is not required to provide reasons for denials of a foreign religious worker’s request to visit. Moreover, there is no avenue for appeal of denials. A foreign religious worker must be invited by a registered religious association. The visa application must include relevant work experience, the timetable and syllabus of the relevant religious educational institution and proof of knowledge of the Belarusian and Russian languages, as well as the proposed dates and reason for the visit. The application procedure for visits by foreign religious workers is usually lengthy and highly bureaucratic.

Belarusian authorities continue to question foreign religious workers, humanitarian workers, and local citizens on the sources and uses of their funding. There were also credible reports that foreign religious workers were under surveillance by security personnel. Since 2004, a total of 33 foreigners, about two-thirds of whom are Catholics, have been expelled or have been denied extension of their residence permits due to their religious activities. In January 2010, two Catholic priests who had worked in Belarus for several decades reportedly were ordered by authorities to halt religious activities but were not barred from the country.

Furthermore, if foreign citizens have not explicitly stated that they plan to participate in religious activities in Belarus, they can be reprimanded or expelled. In February 2009, two Danish visitors to Belarus were detained by police and banned from the country for one year due to their expressions of “ideas of a religious nature,” in the words of the deportation order. Both were attending—but were not leading—a church service in the city of Gomel.

### **U.S. Policy**

In October 2004, President Bush signed into law the Belarus Democracy Act (BDA) as an attempt to promote democratic development, human rights, and the rule of law in Belarus. The BDA bans the U.S. government from providing loans, credit guarantees, financing or other financial assistance for Belarus, excluding humanitarian assistance, until the Belarusian authorities conduct a thorough inquiry into the disappearances of opponents of President Lukashenko, release political prisoners, and end persecution of the independent media and pro-democracy organizations. The BDA was reauthorized in 2007.

The United States first imposed sanctions on Belarus in 2006 which were expanded in 2007 and 2008, targeting government entities and officials responsible for human rights abuses. Belarus released its last remaining political prisoners in 2008. In March 2008, the Belarusian government requested that the United States withdraw its ambassador and the U.S. Embassy in Minsk reduce its American diplomatic staff from 35 to five. In response, the United States requested that the Belarusian ambassador also be withdrawn from Washington, D.C. Bilateral relations continue at this low ebb.

Nevertheless, the United States continues to provide assistance to more than 90 local NGOs in order to promote human rights and the rule of law. The U.S. Embassy Small Grants Program for registered Belarusian NGO projects also continues, and in 2009 \$300,000 was awarded in 13 grants, including for the preservation of the national cultural and historical heritage.

### **Recommendations**

#### **I. Advancing Religious Freedom through U.S. Programs and Policies**

The U.S. government should:

- institute fully the measures in the 2007 Belarus Democracy Reauthorization Act, which expresses the sense of Congress that sanctions be applied against the government of Belarus until it makes significant human rights progress; specific sanctions would include denying entry into the United States to high-ranking Belarusian officials and prohibiting strategic exports and U.S. government financing to the Belarusian government, except for humanitarian goods and agricultural or medical products;
- ensure that the activities to promote democracy authorized by the Belarus Democracy Reauthorization Act, as well as in the Belarus civil society programs of the National Endowment for Democracy, include the right to freedom of religion or belief and the promotion of religious tolerance;
- ensure that U.S. government-funded radio broadcasts to Belarus, including those of RFE/RL, continue at least at their present levels, that efforts are made to secure sufficient transmission capacity to ensure reliable reception throughout that country, and that the programs discuss issues relating to freedom of thought, conscience, and religion or belief;
- use appropriated internet freedom funds to develop free and secure email access for use in Belarus; facilitate the dissemination of high-speed internet access via satellite; and distribute immediately

proven and field-tested counter-censorship programs in order to prevent the arrest and harassment of religious freedom and human rights activists and help them maintain their freedom of expression and legitimate expectations of privacy;

- award funds appropriated by Congress to counter censorship in Belarus, including from the FY2010 Consolidated Appropriations Act, through a competitive and merit based process;
- provide increased international travel opportunities, particularly to attend international conferences, for Belarusian civil society leaders, including representatives of human rights and religious groups, and others who defend freedom of religion in that country;
- continue to support, publicly and privately, persons and groups engaged in the struggle against repression in Belarus, including the group of religious and opposition activists who make up the Freedom of Religion Initiative that published the “White Book”;
- organize roundtables inside Belarus between members of registered and unregistered religious communities and international experts on freedom of religion, particularly the OSCE Panel of Experts on Freedom of Religion or Belief; and
- assist in funding Belarusian NGOs seeking reform of the country’s religion law.

## **II. Advancing Religious Freedom through Bilateral and Multilateral Diplomacy**

The U.S. government should:

- use public and private diplomacy to advance the protection of religious freedom and human rights in Belarus, such as enhanced monitoring and public reporting by the U.S. Department of State, including the Special Envoy on Anti-Semitism and the Ambassador-at-Large for International Religious Freedom, and by the appropriate international organizations, including the OSCE and the UN;
- coordinate with the European Union on the application of financial sanctions and visa bans on high-ranking Belarusian officials, particularly those who are directly responsible for or who have carried out the government’s abuses of religious freedom;
- work with international partners to reinstate the position of UN Special Rapporteur on the situation of human rights in Belarus and support that position’s efforts to gain unrestricted access to the country; and
- urge the Belarusian government to issue invitations to relevant UN Special Procedures, including the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression; the Special Representative of the Secretary-General on the Situation of Human Rights Defenders; the Special Rapporteur on Freedom of Religion or Belief; and the Working Group on Enforced and Involuntary Disappearances.

### **III. Ending Violations of Religious Freedom in Belarus**

The government of Belarus should:

- repeal the highly restrictive 2002 religion law, as several of its provisions violate international norms on freedom of religion or belief, as called for in the 2008 popular petition urging reform of the religion law, which was the largest non-party political petition in Belarusian history;
- end the practice of denying registration to religious groups and then erecting obstacles to religious practice because of that unregistered status;
- ensure that no religious community is given a status that may result in or be used to justify discrimination against or impairment of the rights of members of other religious groups;
- provide the right to conduct religious education and distribute religious material;
- adopt effective measures to halt attacks on the persons and property of minority religious groups and prosecute individuals who perpetrate such attacks;
- ensure a greater effort on the part of government officials to find and hold accountable perpetrators of attacks on the persons and property of members of religious minorities;
- publicly condemn, investigate, and prosecute criminal acts targeting Jews and the Jewish community, as well as members of other ethnic and religious communities; and
- provide free access by domestic and international human rights groups and others to sites of religious violence or the destruction of places of worship.

## Cuba

**FINDINGS:** Serious religious freedom violations continue in Cuba. These violations include, among others: harassment and occasional arrests and detentions of religious professionals and laypersons affiliated with both registered and unregistered religious groups; the government's extensive efforts to control and monitor religious belief and practice, including through surveillance, infiltration, and legal restrictions prohibiting religious communities from operating without government permission; and the government's delay in registering new religious groups, which obliges unregistered groups to operate "illegally" and places them at risk of punishment. Moreover, the one-party Communist government continues to have an overall poor record on human rights.

Based on these concerns, USCIRF again places Cuba on its Watch List in 2010 and will continue to monitor conditions of freedom of religion or belief in Cuba to determine if they rise to a level warranting the country's designation as a "country of particular concern," or CPC. Cuba has been on the Commission's Watch List since 2004.

Religious belief and practice continue to be tightly controlled in Cuba. Within this reporting period, a number of religious leaders were arrested and the government expanded its efforts to crack down on independent churches operating outside of government control. Although the Cuban government seeks to project the image that it respects the right to religious freedom, state authorities perceive the potential influence of religious organizations as a threat to the revolution and, hence, the government's legitimacy. Furthermore, despite becoming a signatory to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in 2008, President Raul Castro and the government have yet to indicate, let alone institute, plans for large-scale improvements in freedom of religion or belief and related human rights. There were several positive developments for certain religious groups during the past year. However, these developments were local, and not nationwide, in nature, did not benefit all religious groups and should be viewed within the context of strict government control of all aspects of life in Cuba.

**PRIORITY RECOMMENDATIONS:** The promotion of freedom of religion or belief is not adequately addressed in the U.S. government's programs to promote human rights in Cuba. USCIRF recommends that, in addition to demanding that Havana release religious leaders who have been unjustly imprisoned, the United States should set objectives for the Cuban government to meet regarding the protection of freedom of religion or belief in Cuba before it will consider resuming full diplomatic relations with that country. In addition, the U.S. government should use appropriated funds to advance Internet freedom and protect Cuban activists from harassment and arrest by developing new technologies and immediately distributing proven and field-tested programs to counter censorship. Additional recommendations for U.S. policy towards Cuba can be found at the end of this chapter.

## Religious Freedom Conditions

### *Arrests of Religious Leaders*

In 2009, the Cuban government increased its efforts against religious leaders who have withdrawn from denominations that are part of the government-recognized Protestant umbrella group, the Cuban Council of Churches (CCC), criticized the government's interference in their churches, and/or are outside of the government's control of religion. Leaders of the unregistered "Apostolic Reformation"—a self-described non-political religious "movement" that has attracted many pastors who formerly belonged to CCC denominations—were particularly targeted. Apostolic Reformation leaders have reported that their phones are tapped, they are watched and threatened, and their members are threatened with loss of employment if they do not leave the group.

In May 2008, Apostolic Reformation Pastor Omar Gude Pérez was imprisoned and his family was told he would be charged with "human trafficking." The pastor had received numerous threats from government officials prior to his imprisonment. The human trafficking case was dismissed in March 2009, but in April 2009 Gude was charged with illicit economic activity and falsification of documents and given a six-year sentence—the longest sentence handed down to a religious leader in decades. Following the sentence, Gude's house was searched and his family was threatened with eviction and confiscation of their belongings. In January 2010, Gude was denied the right to appeal his sentence.

According to Christian Solidarity Worldwide (CSW), more than 30 other Apostolic Reformation members were briefly detained in 2009. In April, Pastor Bernardo de Quesada Saloman and his wife Damaris Marin were arrested as they attempted to observe Gude's court hearing. Other pastors from the Apostolic Reformation were also arrested and threatened with charges of "social dangerousness" to discourage movement members from attending the hearing. In June 2009, dozens of Apostolic Reformation pastors were arrested in Camaguey to prevent them from attending an interdenominational meeting with 200 other religious leaders. In July 2009, Alexi Perez was arrested and imprisoned for illicit economic activity. Charges were later changed to illegal reception of materials. Other actions against the Apostolic Reformation included the eviction of three pastors from their house churches. One pastor, Mario Alvarez, is appealing the confiscation of his house to the Supreme Tribunal.

Several religious leaders were detained or remained in detention in 2009. Reverend Robert Rodriguez, president of the Interdenominational Fellowship of Evangelical Pastors and Ministers, has been detained since October 2008 on charges of "offensive behavior." At present, no date for his trial has been set. Prior to his arrest, Rev. Rodriguez had pulled out of the CCC after publishing a letter complaining about state interference in church affairs.

Two Baptist leaders, Rubén Ortiz-Columbié and Francisco "Pancho" Garcia, were jailed for more than two weeks in October 2009 for "illegal economic activities." The two men were arrested in Guantanamo while distributing financial aid to churches damaged in the 2008 hurricanes. Their church, the Eastern Cuba Baptist Convention, is one of the largest denominations on the island. The two men were well known to government authorities and had been working in Guantanamo province continually since the 2008 hurricanes.

Independent Santeria priests also reportedly were threatened and pressured to assimilate into the government-sanctioned Yoruba Cultural Association during the past year.

*Governmental Oversight and Legal Restrictions*

The Cuban government's main interaction with, and control over, religious denominations is through its routine surveillance, infiltration, and/or harassment of religious, active laity, and the administrative apparatus of the various churches. The Cuban government requires churches and other religious groups to register with the relevant provincial office of the Registry of Associations within the Ministry of Justice. Registration requires religious communities to identify locations and funding sources for activities and obtain a government certificate that states that each registering community is not duplicating the activities of other registered religious communities. Registration permits religious leaders to receive foreign visitors, import religious materials, meet in approved houses of worship, and apply for travel abroad for religious purposes.

The Cuban government is most tolerant of those religious groups that maintain "close relations" with the state or that "often [support] government policies," according to the State Department. There are approximately 50 state-recognized religious groups, primarily Christian denominations, half of which have some form of association with the CCC. However, the government has not interfered with activities of the Baha'is and the Church of Jesus Christ of Latter-day Saints (Mormons), groups that are not officially registered. There is also a small Jewish community, primarily in Havana.

As in past years, government permission to build new houses of worship, or to repair or restore existing ones, is difficult to obtain, although in 2009 some religious denominations did obtain permission to repair houses of worship that had been damaged during the 2008 hurricanes.

Because of the difficulty in obtaining permission to build new houses of worship, many religious groups, both registered and unregistered, hold services in private homes or similar accommodations, commonly known as "house churches." There are reports that at least 10,000 house churches exist nationwide, the majority of which are not registered. A 2005 law requires all house churches to register and submit to the government detailed information on membership, the house's inhabitants, and the schedule of services. The law also permits no more than three meetings to be held per week, bars foreign citizens from participating in services without government permission, and requires house churches of the same denomination to be at least two kilometers apart. According to the State Department, of the 4,500 house churches that have applied, 2,400 have been registered.

Since the 2005 law was enacted, several house churches from registered and unregistered denominations have been closed, confiscated, or destroyed, and some house church leaders have been briefly detained or evicted from their homes. Examples in this reporting period include the April 2009 attempted eviction of evangelical minister Julio Ibanez in Havana Province and the June detention of several evangelical pastors in Camaguey for holding an unauthorized meeting. There also have been reports that individual worshippers have received citations and some churches have been forced to pay large fines. The Cuban government justifies these actions by arguing that unregistered house churches are improperly using the buildings, citing the religious communities' lack of government approval both to hold meetings and to hold them at that specific location.

All publications are required to be registered with the Ministry of Culture. However, the Cuban Conference of Catholic Bishops has refused to register its publications, arguing that such registration would mean a loss of content and format control. Although the government has not blocked the printing or publication of Catholic publications completely, increased government pressure in recent years, sometimes in the form of questioning by state security agents and blocking the distribution of supplies, has led several such publications to close.

Other means by which the government restricts religious practice include the following: a regulation preventing any Cuban or joint enterprise, except those with specific authorization, from selling computers, facsimile machines, photocopiers, or other equipment to any church other than at the official—i.e. exorbitant—retail prices; an almost total state monopoly on printing presses; a prohibition on private religious schools; limitations on the entry of foreign religious workers; denial of Internet access to religious organizations; and denial of religious literature, such as Bibles, to persons in prison. Additionally, religious groups must receive permission from local Communist Party officials prior to holding processions or events outside religious buildings. Permission is often denied based on the decision of individual government officials rather than in accordance with the law.

The government sometimes discriminates in the area of employment on the basis of religion. Converts from Santeria to Catholicism are reportedly encouraged to “retire,” are not given promotions or pay raises, or are excluded from work functions or meetings because colleagues no longer consider them “trustworthy.” Unofficially, people who are overtly religious also are excluded from diplomatic work, careers in journalism, or from joining the police, military, or other security forces.

### *Improvements*

There were several positive developments for certain religious groups during the past year. However, these developments were local, and not nationwide, in nature, did not benefit all religious groups and should be viewed within the context of strict government control of all aspects of life in Cuba.

The situation for the Catholic Church continued to improve slightly. The construction of a new Catholic seminary continued, with completion expected in 2010. Instruction is already occurring in completed classrooms. Cuba’s Roman Catholic Cardinal read a Christmas message on state television for the second straight year.

In September 2009, government officials announced that Catholic and Protestant services would be permitted in prisons whenever requested by inmates. According to the State Department, religious leaders reported increased opportunities to hold such services. The State Department also reports that detainees’ requests for clerical visits were increasingly honored.

In April 2009, the Cuban government agreed to assist the Jehovah’s Witnesses in seeking a larger branch facility to replace their current one. To alleviate space constraints in the private homes they currently use for worship, the government permitted the Jehovah’s Witnesses to obtain 40,000 chairs. In addition, Jehovah’s Witnesses and Seventh-day Adventists reported fewer instances of job discrimination and harassment than in previous years. These groups report that their members now are provided with alternative civic services in lieu of mandatory military service and are exempted from patriotic activities at school. Adventists report their members are normally excused from Saturday work or school activities.

Some religious denominations reported increased opportunities to conduct humanitarian and charity work. Certain denominations also reported a slight improvement in the ability to receive contributions from co-religionists outside Cuba; however, receipt of financial assistance from persons in the United States continued to be troublesome for many denominations. Several religious denominations reported that bibles and travel permits were more easily obtainable.

Religious leaders and organizations reported significant increases in membership, especially among the young, as well as increased participation by children in church religion classes since the state schools stopped scheduling activities on Sundays.

## **U.S. Policy**

The United States and Cuba do not have full diplomatic relations, and U.S.-Cuba policy continues to be dominated by the U.S. trade sanctions and travel embargo on Cuba. Since 1963, when the first sanctions on Cuba were imposed through the Trading with the Enemy Act, there have been periods of tighter and looser sanctions, but relations between the two countries have always remained poor.

In 2009, President Barack Obama moved to ease the U.S. sanctions on Cuba and improve relations. In April, the President lifted restrictions on the number of times Cubans in the United States can travel to Cuba visit and the amount of money they can send to relatives in that country. On the same day, President Obama also announced that the United States would begin issuing licenses for companies to provide cellular telephone and television services in Cuba. Additionally, during this reporting period meetings took place between senior-level U.S. and Cuban diplomats, and discussions took place on the resumption of mail services and migration issues. In March 2010, President Obama announced that technology companies would be permitted to export Internet services to Cuba to increase freedom of expression and allow human rights activists to collect and share information.

Nevertheless, relations between the two countries remain poor. In the first half of 2009, President Raul Castro and Fidel Castro spoke in complimentary terms about President Obama. As it became apparent that the U.S. government would continue to call for the Cuban government to improve freedom of speech and association and release political prisoners before fully resuming diplomatic relations, the two Cuban leaders became more critical of the U.S. president. Relations further soured after the December arrest and the continued imprisonment of USAID contractor Alan Gross for working in Cuba to increase Internet access on the island. Gross was arrested for working without the proper visa.

The U.S. government also continues to press allies to raise human rights concerns with Cuban authorities. For instance, in June 2009 when it appeared that the Organization of American States (OAS) would pass a resolution unconditionally readmitting Cuba to the regional body, the United States intervened. Secretary of State Hillary Clinton successfully urged the inclusion of a provision requiring Cuba to meet the OAS Charter's requirements of respect for democracy and human rights prior to rejoining the group. In October, when the Spanish Foreign Minister traveled to Havana, President Obama requested that he raise the issue of political prisoners and human rights during his meeting with President Castro.

U.S. assistance to Cuba seeks to promote democracy on the island, including through support for civil society and rule of law and human rights programs. Although the U.S. government says it promotes freedom of religion or belief within its overall democracy and human rights programs, the focus of these programs is on strengthening independent civil society organizations and independent media, including journalists and libraries. The U.S. government also provides humanitarian assistance to political prisoners and their families and funds the Miami-based Radio and TV Marti to broadcast independent news into Cuba.

## **USCIRF Activities**

In 2009, Commissioners and staff sought to travel to Cuba to research religious freedom conditions on the island, but were not granted visas. Throughout the year, the Commission met with religious communities and non-governmental organizations who promote religious freedom and human rights in Cuba.

## Recommendations

### I. Advancing Religious Freedom through U.S. Programs and Policies

The U.S. government should:

- press the Cuban government to meet the following benchmarks concerning the freedom of thought, conscience, and religion or belief prior to resuming full diplomatic relations with the country, including:
  - unconditionally release all religious leaders detained or imprisoned and drop all charges against such persons or targeted by state security agencies because of their independence from the state, including Reverend Robert Rodriguez, Pastor Omar Gude Pérez, and Alexi Perez;
  - stop the arrests and harassment of religious persons and infiltration and intimidation of religious communities by state security agencies and hold those involved in any further such practices accountable for their conduct;
  - revise government Directive 43 and Resolution 46, which restrict religious services in homes or on other personal property, and other national laws and regulations on religious activities to conform them to international standards on freedom of religion or belief;
  - cease interference with religious activities and the internal affairs of religious communities, such as denials of visas to religious workers, limitations on freedom of movement of religious workers, arbitrary prevention of religious ceremonies and processions, and attempted interference in elections in religious bodies;
  - end the practice of arbitrarily denying registration to religious groups and detaining or harassing members of religious groups because of that unregistered status;
  - issue permits for construction of new places of worship;
  - end the practice of evictions and requisition of personal property of religious individuals or communities without due process and grant restitution or provision of alternative accommodation for previous instances of such illegal activity;
  - permit religious communities to operate private educational institutions;
  - end the restrictions on religious communities' access to the media and publication equipment; and
  - lift restrictions on humanitarian, medical, charitable, or social service work provided by religious communities and protecting persons who conduct such work.
- ensure that funding budgeted to promote human rights and democracy in Cuba includes support for effective initiatives advancing freedom of religion or belief;
- encourage Radio Marti and TV Marti to report on the international standards of freedom of religion or belief and on religious freedom conditions in Cuba;

- continue to promote religious freedom and related human rights by eliminating barriers in U.S. law that result in the denial of Internet services to religious freedom and human rights activists in Cuba;
- use appropriated Internet freedom funds to develop free and secure email access for use in Cuba; facilitate the dissemination of high-speed internet access via satellite; and distribute immediately proven and field-tested counter-censorship programs in order to prevent the arrest and harassment of religious freedom and human rights activists and help them maintain their freedom of expression and legitimate expectations of privacy; and
- award funds appropriated by Congress to counter censorship in Cuba, including from the FY10 Consolidated Appropriations Act, through a competitive and merit-based process.

## **II. Advancing Religious Freedom through Multilateral Efforts**

The U.S. government should:

- encourage international partners, including key Latin American and European countries, the European Union (EU), and Canada, to ensure that violations of freedom of religion or belief and related human rights are part of all formal and informal multilateral or bilateral discussions with Cuba;
- work with international partners to reinstate the position of UN Special Rapporteur on the situation of human rights in Cuba and support the Rapporteur's efforts to gain unrestricted access to that country; and
- work with the EU to implement measures in response to Cuba's noncompliance with the EU Common Policy's human rights benchmarks and urge Canada to develop and use such benchmarks.

## Egypt

**FINDINGS:** Serious problems of discrimination, intolerance, and other human rights violations against members of religious minorities, as well as disfavored Muslims, remain widespread in Egypt. The reporting period marked a significant upsurge in violence targeting Coptic Orthodox Christians. The Egyptian government has not taken sufficient steps to halt the repression of and discrimination against Christians and other religious believers, or, in many cases, to punish those responsible for violence or other severe violations of religious freedom. This increase in violence, and the failure to prosecute those responsible, fosters a growing climate of impunity. Implementation of previous court rulings – related to granting official identity documents to Baha’is and changing religious affiliation on identity documents for Christian converts – has been limited and subject to onerous delays. Disfavored Muslims continue to face discrimination and repression. The government has not responded adequately to combat widespread and virulent anti-Semitism in the government-controlled media. On a positive note, there was increased public space to discuss and debate a wide range of religious freedom concerns, including sectarian violence, in the media and other public fora, which, in previous years, was discouraged or prevented by Egyptian authorities.

Due to persistent and serious concerns, Egypt remains on USCIRF’s Watch List in 2010. Egypt has been on the Watch List since 2002.

USCIRF traveled to Egypt in January 2010 to assess religious freedom conditions in the country. The visit took place just weeks after six Coptic Christians and one Muslim were killed outside a church on Coptic Christmas eve in the town of Naga Hammadi. This incident served as a wake-up call to many Egyptians about the government’s inadequate response to growing sectarian tensions and other religious freedom issues. USCIRF concludes that there is a window of opportunity for the Egyptian government to conduct thorough investigations and to bring to justice perpetrators of sectarian violence before societal and government attention shifts to the upcoming parliamentary elections later in 2010 and presidential elections in 2011. Other needed reforms also should be immediately implemented, such as removing religion from official identity documents and passing a unified law for the construction and repair of places of worship.

**PRIORITY RECOMMENDATIONS:** U.S. policy towards Egypt does not adequately prioritize human rights and religious freedom. Despite documenting widespread abuses in the annual human rights and religious freedom reports, the United States has not pressed the Egyptian government sufficiently in numerous areas of concern. The U.S. government should establish a timetable with Cairo for implementation of human rights and religious freedom reforms. If deadlines are not met, the U.S. government should reconsider its allocation of its assistance to the Egyptian government. The United States should more aggressively press the Egyptian government to prosecute perpetrators responsible for sectarian violence and to remove *de facto* responsibility for religious affairs from the state security services, with the exception of cases involving violence or the advocacy of violence. The U.S. government also should do more to support, without vetting by the Egyptian government, Egyptian civil society groups who are pressing for political and democratic reform. Additional recommendations for U.S. policy towards Egypt can be found at the end of this chapter.

## Religious Freedom Conditions

### *General Concerns*

Egypt has a poor overall human rights record, including repressive practices that seriously violate freedom of thought, conscience, and religion or belief. Human rights groups inside Egypt are concerned that extremism continues to advance in the country, with detrimental effects on the prospects for democratic reform, religious tolerance, and the rights of women, girls, and members of religious minorities. Some believe that the government is not acting to counteract this problem, especially in the areas of public education and the media, where extremist influence is growing. Many are concerned that if the Egyptian government does not implement reforms and address a range of democracy and human rights issues immediately, the status quo will remain up to and through the parliamentary elections in June and November 2010 and presidential elections in 2011.

The Emergency Law, which has been in effect since 1981 and was renewed for another two years in May 2008, restricts many human rights, including freedom of religion or belief as well as freedom of expression, assembly, and association. Under the Emergency Law, security forces arbitrarily arrest and detain persons, hold detainees in prolonged pretrial detention, mistreat and torture prisoners, and occasionally engage in mass arrests. Thousands of persons have been detained without charge on suspicion of illegal terrorist or political activity; others are serving sentences after being convicted on similar charges. Egyptian and international human rights groups have asserted that the primary purpose of the State Emergency and Military Courts is to punish political activism and dissent, even when that dissent is peaceful. These courts also are used to detain and try individuals deemed by the state to have “unorthodox” or “deviant” Islamic or other religious beliefs or practices. Since 2005, Egypt’s National Human Rights Commission (NHRC) has called for the Emergency Law to be lifted.

### *Majority and Minority Muslims*

The government maintains tight control over all Muslim religious institutions, including mosques and religious endowments, which are encouraged to promote an officially sanctioned interpretation of Islam. According to Egyptian officials, the government regulates these Muslim institutions and activities as a necessary precaution against religious extremism and terrorism. The state appoints and pays the salaries of all Sunni Muslim imams, all mosques must be licensed by the government, and sermons are monitored by the government.

The government-funded Al-Azhar University is one of the preeminent Sunni Muslim centers of learning in the region. The Islamic Research Center (IRC) of Al-Azhar has legal authority to censor and, since 2004, to confiscate any publications dealing with the Koran and *hadith* (oral traditions). In recent years, the IRC has ruled on the suitability of non-religious books and artistic productions. Al-Azhar also has the legal right to recommend confiscations, but must obtain a court order to do so. The Egyptian government consults Al-Azhar on a wide range of religious issues impacting Muslims in the country. Over the years, clerics and scholars at Al-Azhar have issued discriminatory *fatwas* (religious edicts) and delivered controversial sermons about some non-Muslim faiths, particularly the Baha’i faith, as well as disfavored or dissenting Muslims. Non-Muslims are prohibited from attending Al-Azhar University. Grand Sheikh of Al-Azhar Muhammad Sayed Tantawi died suddenly in March 2010 while visiting Saudi Arabia. Days later, President Mubarak appointed the former Mufti of Egypt, Ahmed Al-Tayeb, as the new Grand Sheikh.

Egyptian law prohibits blasphemy through Article 98(f) of its Penal Code, which prohibits citizens from “ridiculing or insulting heavenly religions or inciting sectarian strife.” This provision has been applied to

detain and prosecute members of religious groups whose practices deviate from mainstream Islamic beliefs or whose activities are alleged to jeopardize “communal harmony” or to insult the three “heavenly religions:” Judaism, Christianity, and Islam.

These include Muslim groups, such as the Koranists—a very small group in Egypt that accepts only the Koran as the sole source of religious guidance and thus has been accused by the Egyptian government of deviating from Islamic law. Many from the Koranist community report discrimination in employment and continue to suffer from harassment and surveillance by security services. Some members are prevented from leaving the country by authorities. In November 2009, authorities detained Koranist Abdel Latif Said for one week after his attempt to travel to Sudan. Earlier in April, security officials at Cairo International Airport prevented Said from traveling to the United States to attend a conference. In October 2008, Reda Abdel Rahman, an Egyptian blogger affiliated with the Koranist movement, was arrested and charged with “insulting Islam,” reportedly because his blog called for political and religious reform in Egypt. After nearly three months in detention, during which he alleges he was physically abused, Rahman was released in January 2009.

Over the years, the small Shi’a Muslim community has faced periodic discrimination, harassment, and arrests. There are approximately 300 Shi’a Muslims living in Egypt. In June 2009, a Shi’a Muslim cleric, Hassan Shehata Moussa, was arrested, along with 11 other Shi’a Muslims, after reportedly being charged by authorities with using Friday sermons to promote Shi’a ideals, recruiting “foreign elements,” leading a banned group, receiving financial support from foreign governments, and possessing books defaming Sunni Islam. Egyptian human rights groups have been prevented from closely monitoring developments in this case. The status of those detained is unknown.

Hani Nazeer, a Coptic Christian blogger from Upper Egypt, has been detained since October 2008 under a succession of administrative detention orders issued by the Interior Minister using powers provided by the Emergency Law. Reportedly, Nazeer has been held because of posting on his blog a cover of a book deemed insulting to Islam. Although his lawyers have obtained at least four court orders mandating his release, most recently in January 2010, Nazeer remains in prison near Alexandria. According to his lawyers, Nazeer has been mistreated while in prison and pressured to convert to Islam by prison officials. In February 2007, a court in Alexandria convicted and sentenced Abdel Karim Suleiman, a 22 year-old Internet blogger and former student at Al-Azhar University, to four years in prison, three years for blaspheming Islam and inciting sectarian strife and one year for criticizing Egyptian President Hosni Mubarak. Suleiman had used his blog to criticize some activities of Al-Azhar University and attacks on Coptic Christians in Alexandria in October 2005. In March 2007, an appeals court upheld his sentence. He currently is serving the remainder of the four-year prison term.

The Muslim Brotherhood and other Islamist political groups which advocate or seek to establish an Islamic state in Egypt based on their interpretation of Islamic law are illegal organizations under a law prohibiting political parties based on religion. Despite these restrictions, the Muslim Brotherhood has become much more visible in Egypt’s political landscape. In fact, more than 100 members of the Muslim Brotherhood ran as independent candidates in the December 2005 parliamentary elections and won 88 seats, up significantly from their previous 15. The Muslim Brotherhood and other Islamist political groups have used violence in the past to achieve their aims, including the assassination of President Anwar al-Sadat in 1981 and attacks on foreign tourists. Some of these groups persist in advocating violence. Egyptian security forces continue to arrest hundreds of suspected Islamists every year, and some are subject to torture and/or prolonged detention without charge. Human rights groups that closely monitor the detention of such individuals claim that the vast majority are in prison as a result of their political beliefs or activities, and not on the basis of religion.

*Violence Targeting Christians*

During the past year, there has been a significant increase in violent attacks targeting Coptic Orthodox Christians and their property. In most cases, perpetrators have not been convicted. In other cases, the alleged perpetrators have been briefly detained but eventually released without charge. This increase in violence, and the failure to prosecute those responsible, fosters a growing climate of impunity, especially in Upper Egypt. In recent years, in response to sectarian violence, Egyptian authorities have conducted “reconciliation” sessions between Muslims and Christians as a way of easing tensions and resolving disputes. However, reconciliation efforts should not be utilized to undermine enforcement of the law and punishing perpetrators for wrongdoing. In fact, in its 2009 annual human rights report on Egypt, the State Department concluded that reconciliation sessions not only “prevented the prosecution of perpetrators of crimes against Copts and precluded their recourse to the judicial system for restitution” but also “contributed to a climate of impunity that encouraged further assaults.” Below is a sample of recent violent incidents impacting the Coptic Orthodox community, who comprise 10-15 per cent of the Egyptian population of 80 million people.

On March 12, 2010 in Marsa Matrouh, northern Egypt, the prayer leader of the Al-Rifayah mosque allegedly incited some 250 Muslims worshippers to demolish a wall that was under construction by the nearby Coptic Church. The wall reportedly encroached on part of a road leading to the mosque. The Muslim worshippers left the mosque after Friday afternoon prayers and approached the Coptic Church compound and began throwing Molotov cocktails and stones at and over the wall. Approximately two dozen Coptic Christians inside the compound were injured. There were reprisal attacks by some Christians from inside the compound. According to the State Department and media reports, police and security forces responded adequately and arrested approximately 14 Copts and 16 Muslims. The compound suffered damage and at least two vehicles and three homes owned by Copts were set on fire. To date, no charges have been filed as police continue to investigate the incident.

In February 2010, four Muslim men were acquitted of murdering a Coptic Christian man, Farouk Attallah, in October 2009 in the Upper Egypt town of Dairout. The murder reportedly was witnessed by a number of individuals. According to reports, Attallah’s Christian son was involved in a romantic relationship with a Muslim girl. The defendants allegedly had planned to attack the young man, but when they could not find him, they killed his father. The court stated the reason for the acquittal was insufficient evidence.

On January 6, 2010 in the town of Naga Hammadi, Qena Governorate, three men with automatic weapons shot Coptic churchgoers leaving midnight Christmas Mass. At least seven people were killed – six Christians and one off-duty Muslim police officer – and several others wounded. Some argued the attack was in retaliation for a November incident in which a 12-year-old Muslim girl was rumored to have been raped by a Christian man in a nearby town (see below); others suggested that a political vendetta could have been a factor. Three suspected perpetrators have been arrested and their trial started in February in a state emergency court and is ongoing. For days following the January 6 incident, riots ensued as Christians destroyed and burned the shops and property of private Muslim business-owners. At least 42 individuals were arrested as a result of the riots; approximately 28 Christians and 14 Muslims. At least 12 Christians and nine others remain in detention. Magdi Ayoub, the Qena Provincial Governor, and the only Coptic Christian Governor in the country, testified before parliament that the Naga Hammadi incident was not sectarian in nature, which drew the ire of Christian parliamentarians and Coptic Bishop Kyrollos of the Naga Hammadi Diocese. President Mubarak and Muslim and Christian religious leaders have spoken out repeatedly to condemn the January 6 killings and have called for bringing the perpetrators to justice. The killings also outraged many Egyptian citizens throughout the country and prompted a robust and wide-ranging debate in the press about the broader context and measures to prevent future incidents.

In November 2009, in Farshout and other villages in the Qena Governorate, rumors that a 20-year-old Coptic man had raped a 12-year-old Muslim girl sparked massive violence by Muslims against the Coptic Christian community. Rioting ensued for five days, resulting in millions of dollars in damage to Christian-owned businesses. Many Christian families were forced from their homes. The assailants also attacked the police station where the accused Christian man was being detained. Some eyewitness and media reports stated that security forces arrived hours after being called and did little to stop the attacks. Bishop Kyrollos denounced the security forces' failure to restore calm and alleged that the attacks were pre-planned. The rape case against the Christian man has not yet gone to trial. Bishop Kyrollos had been receiving threats since the November incident, and after the January 6 shootings in Naga Hammadi, police asked him to stay at home for fear of further violence.

On June 21, 2009, Muslim villagers looted and attacked private homes and a building used for Christian gatherings and religious services in Ezbet Boshra-East. According to reports, a group of Christians from Cairo were visiting a pastor who lives in the building. This apparently caught the attention of local residents and a group of Muslims reportedly soon began looting. Several Christians and Muslims sustained injuries and some of the homes and the building were damaged. In addition, crops on property owned by Christian farmers were uprooted by Muslim rioters. Christians remained in their homes for several days for fear of additional attacks. Some reports claimed that state security services did little to prevent the violence from occurring. To date, no one has been brought to justice for the violence.

In January and May 2008, armed Muslim Bedouins attacked the Abu Fana monastery in Minya province. In the May attack, one Muslim died, at least three Christians were wounded, and several monks were abducted and abused. Three abducted monks reportedly were rescued by Egyptian security services. Even though ownership of the land at issue is disputed, advocacy groups claim that Egyptian authorities' repeated characterization of the incident as a "land dispute" ignores the severity of violence faced by Coptic Orthodox Christians. Following the May incident and other previous attacks on the monastery, Egyptian authorities organized "reconciliation meetings" between the local Bedouin population and the monks. In August 2009, two Christians who were held in detention without charges since May 2008 were released; they alleged physical abuse while in detention. The two were accused of killing a Muslim during the armed attack by Muslim Bedouins on the Abu Fana Monastery. Their release reportedly followed an agreement in which the monastery dropped criminal charges against the attackers. Two Muslims, also held since the May 2008 attack, were also released.

In September 2008, six Christians in Port Said were arrested after local authorities raided their café because it remained open during the Muslim fasting period of Ramadan. The six were charged with resisting arrest and assaulting authorities and were sentenced in January 2009 to three years in prison. The accused also alleged physical abuse while in custody.

In 2004, the Court of Cassation upheld the acquittal of 94 of 96 persons suspected of involvement in the killing of 21 Christians in Al-Kosheh in late 1999 and early 2000. Some Egyptian human rights advocates believe that Egyptian authorities should still investigate claims of police negligence and inadequate prosecution of those involved in this violence.

On a positive note, in February 2010 in the Qena Governorate of Upper Egypt, a court convicted and sentenced to life in prison five Muslim men for the murder of two Christian men in the spring of 2009. The Christian men themselves had just been released from prison after serving sentences for murdering a relative of the Muslim men. Although this case fits the pattern of an Upper Egypt vendetta killing and reprisal, the Christian men were reportedly shot outside a church, which created a sectarian overtone.

### *Discrimination against Christians*

In addition to violence, Christians face official and societal discrimination. Although Egyptian government officials claim that there is no law or policy that prevents Christians from holding senior positions, the Coptic Orthodox Christian community faces *de facto* discrimination in appointments to high-level government and military posts. There are only a handful of Christians in the upper ranks of the security services and armed forces. There is one Christian governor out of 28, one elected Member of Parliament out of 454 seats, no known university presidents or deans, and very few legislators or judges. According to the State Department, public university training programs for Arabic-language teachers exclude non-Muslims because the curriculum involves the study of the Koran. Under Egyptian law, Muslim men can marry Christian women but Muslim women are prohibited from marrying Christian men. Contacts between such persons are often a source of tension between Muslim and Christian communities in Egypt.

For all Christian groups, government permission is required to build a new church or repair an existing one, and the approval process for church construction is time-consuming and inflexible. President Mubarak has the authority to approve applications for new construction of churches. Although most of these applications were submitted more than five years ago, the majority have not received a response. Even some permits that have been approved cannot, in fact, be acted upon because of interference by the state security services at both the local and national levels.

In 2005, President Mubarak signed a decree transferring authority for granting permits to renovate or repair existing churches from the president to the country's 28 governors. At the time, observers welcomed this step as a major improvement, but several years later, some churches continue to face delays in the issuance of permits. The Egyptian government claims most such requests are approved. According to government statistics received after USCIRF's January 2010 visit, between 1998 and July 2009 67 permits for new churches were approved and 2,475 existing churches were granted permission to expand or make repairs. However, even in cases where approval to build or maintain churches has been granted, many Christians continue to complain that local security services prevent construction or repair, in some cases for many years.

A positive development in June 2009 concerned the granting of custody to Kamilia Lotfy of her 14-year-old twin sons, in a ruling that overturned a September 2008 Alexandria Appeals court decision giving custody to the boys' father following his conversion from Christianity to Islam. This ruling marked the first time a non-Muslim was granted custody of children under the age of 15 following the conversion of a spouse to Islam.

### *Converts and Reconverts to Christianity*

Although neither the Constitution nor the Penal Code prohibits proselytizing or conversion, the State Department has observed that the Egyptian government uses Article 98(f) of the Penal Code to prosecute any alleged proselytizing by non-Muslims. Known converts from Islam to Christianity generally receive scrutiny from the state security services; most conversions therefore are done privately. In some instances, converts, who fear government harassment if they officially register their change in religion from Islam to Christianity, reportedly have altered their own identification cards and other official documents to reflect their new religious affiliation. Some individuals have been arrested for falsifying identity documents following conversion. Other converts have fled the country for fear of government and societal repercussions.

In December 2008, an administrative court in Alexandria awarded Fathi Labib Yousef the right to register as a Christian after spending 31 years officially identified as a Muslim. Yousef was raised Coptic

Orthodox Christian but converted to Islam in 1974 in order to divorce his Christian wife. He returned to Christianity in 2005, but the local civil registry office refused to acknowledge his change of religion. Despite the favorable court ruling, however, Yousef has not been able to obtain his new documents by the end of the reporting period. In recent years, many local government registry offices have not changed official identity documents to reflect new religious affiliations, citing various excuses, despite judicial rulings that legally mandate such action.

In February 2008, Egypt's Supreme Administrative Court ruled that 12 individuals who were born Christian could not be legally prohibited from returning to Christianity after converting to Islam. However the court ruled that their identity documents must list them as "formerly declared Muslim," thus potentially making them subject to continued discrimination in the provision of public services, police harassment, and societal violence. In March 2008, an Egyptian judge appealed the ruling to the Supreme Constitutional Court. The appeal is pending. According to a lawyer for many of the plaintiffs, the government will not take any action until the Supreme Constitutional Court rules on more than 100 other reconvert cases, which may take years. In addition, several non-governmental entities have opposed the ruling. They argue that since Article 2 of the Egyptian constitution makes Islamic law the principal source of legislation, Muslims cannot have the right to convert from Islam.

In addition, reports during the last year supported claims that there were cases of Muslim men forcing Coptic Christian women to convert to Islam. The State Department has asserted that such cases are often disputed and include "inflammatory allegations and categorical denials of kidnapping and rape." Nevertheless, in November 2009, one human rights group found that there were credible cases where Coptic women were "deceptively lured" into marriages with Muslim men and forced to convert to Islam. According to the report, if a woman returns or escapes from the marriage and wants to convert back to Christianity, she faces the same legal hurdles in changing her religious affiliation on official identity documents discussed above.

In contrast to the re-conversion cases, the Egyptian government generally does not recognize conversions of Muslims to other religions. Egyptian courts also have refused to allow Muslims who convert to Christianity to change their identity cards to reflect their conversions. In the first such case, brought by Muhammad Hegazy, a lower court ruled in January 2008 that Muslims are forbidden from converting away from Islam based on principles of Islamic law. The court also stated that such conversion would constitute a disparagement of the official state religion and an enticement for other Muslims to convert. Hegazy, who has been subjected to death threats and is currently in hiding, has appealed the ruling.

The second such case was filed in August 2008 by Maher El-Gohary, who also is in hiding because of threats from extremists. In June 2009, the Seventh Circuit Court of Administrative Justice ruled against El-Gohary, finding that a convert must prove his conversion to the state and that El-Gohary's behavior contradicted his claim to be a Christian. The court also ruled that, because Egypt had ratified the International Covenant on Civil and Political Rights "taking into consideration the provisions of Islamic Law and the absence of contradiction between these provisions and the Covenant," sharia takes precedence in the event of a contradiction. El-Gohary, with whom the USCIRF delegation met during its January 2010 visit, is seeking asylum for himself and his 15 year-old daughter.

### *Baha'is*

All Baha'i institutions and community activities have been banned since 1960 by a presidential decree. As a result, Baha'is, who number approximately 2,000 in Egypt, are unable to meet or engage in group religious activities. Over the years, Baha'is have been arrested and imprisoned because of their religious beliefs, often on charges of insulting Islam. Almost all Baha'i community members are known to the state security services, and many are regularly subject to surveillance and other forms of harassment. Al-

Azhar's Islamic Research Center has issued *fatwas* in recent years urging the continued ban on the Baha'i community and condemning Baha'is as apostates.

Intolerance of Baha'is has increased in both the independent and government-controlled media in recent years. In March 2009, several Baha'i homes in a village in the Sohag province were vandalized by Muslim villagers. Egyptian human rights groups immediately condemned the violence and contended that a contributing factor to the attacks was incitement by a media commentator who, during a television program, labeled an individual member of the Baha'i faith an apostate and called for her to be killed. According to the Egyptian Interior Ministry, several alleged perpetrators were arrested; however, it is unclear if they were released. More than one year after the incident, there has been no investigation or prosecution related to the attacks.

In March 2009, the Supreme Administrative Court rejected a final legal challenge to a 2008 lower court ruling that required the Egyptian government to issue national identification documents to three Baha'i plaintiffs containing a dash or other mark in the space designated for religious affiliation. Until this ruling, identification documents permitted registration in only one of the three officially approved faiths—Islam, Christianity, or Judaism—thereby effectively preventing Baha'is from gaining the official recognition necessary to have access to numerous public services, and without which it is illegal to go out in public. Since the 2008 decision, the government has issued birth certificates to at least 120 Baha'is, documents which it previously refused to issue. In addition, approximately 20-30 single male and female Baha'is have received identity cards. However, no married couples have been able to receive identity cards because the Egyptian government does not recognize Baha'i marriages. Over the past few years, some Baha'is lost their jobs and a few young Baha'is were dismissed from universities because they did not have identity cards.

#### *Anti-Semitism and the Jewish Community*

Material vilifying Jews—with both historical and new anti-Semitic stereotypes—appears regularly in the state-controlled and semi-official media. This material includes anti-Semitic cartoons, television programming such as a 24-part series based on the notorious anti-Semitic “Protocols of the Elders of Zion,” and Holocaust denial literature. Egyptian authorities have not taken adequate steps to combat anti-Semitism in the media, despite official claims that they have advised journalists to avoid anti-Semitism. According to the State Department, in 2009 anti-Semitism in the media was common but “less prevalent than in recent years.” Human rights groups cite persistent, virulent anti-Semitism in the education system, which is increasingly under the influence of Islamist extremists, a development the Egyptian government has not adequately addressed.

The small Jewish community of approximately 125 people owns its property, and finances required maintenance largely through private donations. In 2007, Egyptian authorities, including the Minister of Culture and the head of the Ministry's Supreme Council of Antiquities, pledged to move forward over the next few years with the restoration of at least seven synagogues, as well as the possible development of a Jewish museum. Restoration of the Maimonides synagogue in Cairo, named after a 12<sup>th</sup> century rabbinic scholar, was completed in March 2010.

#### *Jehovah's Witnesses*

A 1960 presidential decree banned all Jehovah's Witnesses activities. According to the State Department, there are between 800 and 1200 Jehovah's Witnesses living in Egypt. Over the past year, Egyptian authorities continued to monitor the homes, phones, and private meeting places of members of this small community. For years, the Jehovah's Witnesses pursued legal recognition through the court system. In

December 2009, the Seventh Circuit Administrative Court handed down a verdict denying Jehovah's Witnesses legal status. The local community is appealing the verdict.

*Other Developments Internationally and in Egypt*

In February 2010, Egypt underwent its Universal Periodic Review (UPR) at the UN Human Rights Council (HRC). The U.S. delegation issued a strong statement which included several religious freedom concerns and recommendations. The head of Egypt's delegation, Mufid Shihab, Minister of State for Legal and Parliamentary Councils, stated that freedom of religion and worship are guaranteed in the constitution and are not limited by law. Despite such constitutional protections, in practice, the law is arbitrarily and inconsistently applied. The Egyptian delegation also characterized relations between Muslims and Coptic Christians as "healthy and positive," attributing recent sectarian tensions to extremism and asserting that the law is implemented whenever violent incidents do occur. This assertion by the UPR delegation is contrary to repeated public statements by President Mubarak in the weeks after the Naga Hammadi incident in which he acknowledged a "sectarian problem" in the country and pledged that the state would ensure the application of constitutional provisions on citizenship and equal rights for all Egyptian citizens without discrimination.

Among the recommendations that the Egyptian delegation supported at the UPR included those that urged the government to take all necessary measures to guarantee religious freedom, prevent discrimination that affects this freedom, and promote inter-religious dialogue and tolerance. The delegation rejected recommendations which urged the Egyptian government to remove any categorization of religion on official government documents, as well as to eliminate the legal and bureaucratic restrictions that complicate an individual's right to choose his or her religion.

In February 2010, the annual dialogue between the Vatican's Joint Committee for Dialogue and the Permanent Committee of Al Azhar for Dialogue among the Monotheistic Religions was held in Cairo. The dialogue focused on understanding sectarian violence, its causes, and possible resolutions to end the ongoing violence. In 2009, Al Azhar also held its annual interfaith dialogue with the British Anglican Church.

In May 2009, the National Council for Human Rights (NCHR), a government-appointed advisory body, released its fifth annual report. The report expressed serious concern about rising sectarian tensions. It also recommended ways to resolve official recognition of Baha'is and criticized religious textbooks both in schools and the Ministry of Higher Education's Imams' Institution for failing to address human rights topics. The report also encouraged the Egyptian government to pass a law for all religious groups addressing the construction of new places of worship. The NCHR also called for the formation of a permanent national anti-discrimination league and an end to the state of emergency. In the days following the Naga Hammadi incident, the NCHR dispatched a team of researchers to investigate the killings and sent a private letter to President Mubarak with its findings and recommendations.

In addition, over the past few years the Egyptian government has adopted several measures to acknowledge the religious pluralism of Egyptian society, including increased efforts to promote interfaith activity. In 2008, the first national conference of the organization Egyptians Against Religious Discrimination was held in Cairo.

**U.S. Policy**

U.S. policy toward Egypt focuses on fostering strong bilateral relations, continuing security and military cooperation, maintaining regional stability, and sustaining the 1979 Camp David peace accords. Successive administrations have viewed Egypt as a key ally in the region. Until a few years ago, Egypt

was the second largest recipient of U.S. aid; however, it now ranks fifth behind Afghanistan, Iraq, Israel, and Pakistan. In recent years, the U.S. government and Congress have increased efforts to urge the Egyptian government to make more expeditious progress on economic and political reforms, including on human rights and religious freedom issues. Following President Obama's visit to Egypt in June 2009 to deliver his historic speech to the Muslim world, the United States and Egypt held their annual strategic dialogue.

U.S. assistance reflects the recognition of Egypt's continued and crucial role in ensuring Arab-Israeli peace. While Foreign Military Financing (FMF) assistance has remained at approximately \$1.3 billion for 30 years, Economic Support Fund (ESF) assistance has declined significantly over the last decade pursuant to a 10-year agreement reached in the late 1990s known as the "Glide Path Agreement." As a result, economic aid to Egypt has decreased approximately \$40 million each year from \$815 million in FY1998 to approximately \$411 million in FY2008. In FY 2009, total ESF assistance was \$250 million and for FY2010, the Administration again requested \$250 million. In FY 2008, \$54 million was allotted for democracy and governance whereas in FY 2009, only \$20 was budgeted for such programming. According to the State Department's FY2010 Congressional Budget Justification, ESF funds will support democracy promotion programs designed to increase public participation "while promoting human rights, civic education, and administration of and access to justice." Over the past year, observers have expressed serious concern that due to the overall decrease in ESF funding, human rights and religious freedom programming has decreased proportionally to an inconsequential amount.

According to the State Department's 2009 *Advancing Freedom and Democracy Report*, the U.S. government seeks, through programming and advocacy, to "build a more robust civil society, address human rights problems, promote the rule of law, increase democratic local governance, and encourage the growth of democratic institutions, including an independent media and judiciary." Only a small portion of U.S. programming supports initiatives in areas related to religious freedom, including funding for programs of the Coptic Evangelical Organization for Social Services that work with Coptic and Muslim community groups in Upper Egypt, as well as support for NGOs that monitor the country's media for sectarian bias.

In addition, there is concern about the degree of Egyptian government control over U.S. funding of civil society and human rights groups in Egypt. According to the USAID Mission in Cairo, direct grants to registered Egyptian NGOs are vetted by the Egyptian government. As a consequence, many Egyptian NGOs do not seek formal registration, and instead form as a civil corporation, to avoid unnecessary government interference and oversight. However, the Egyptian government recently has claimed that even U.S. funding of civil corporations is a violation of Egyptian law, which casts doubt on the ability of the U.S. government to continue to support the programs and activities it already funds.

In recent years, Congress and others have urged that U.S. aid to Egypt should be conditioned on improvements in Egypt's human rights and religious freedom record. In fact, some members of Congress and other experts have argued that U.S. assistance has not been effective in promoting democracy and human rights reform and that foreign assistance must be renegotiated to include benchmarks that the Egyptian government must meet to continue to receive aid.

For three consecutive years, the State Department has concluded that religious freedom conditions in Egypt have declined. This assertion has not resulted in any significant change in U.S. policy towards Egypt other than a few public comments and statements. For example, in January 2010, Assistant Secretary of State for Democracy, Human Rights and Labor Michael Posner publicly raised in Cairo concerns about a growing "atmosphere of intolerance" days after the incident in Naga Hammadi. In addition, the State Department issued some statements in early 2010 expressing concern about some troubling human rights and religious freedom developments following the Naga Hammadi incident.

Nevertheless, the United States continues to give insufficient priority to religious freedom in the bilateral relationship.

### **USCIRF Activities**

In January 2010, USCIRF traveled to Cairo on a fact-finding visit to assess religious freedom conditions throughout Egypt. The delegation's visit took place just weeks after the Naga Hammadi incident in Upper Egypt in which six Copts and one Muslim were killed. The USCIRF delegation intended to visit Upper Egypt to meet with the victims of the violence, but the Egyptian government threatened to cancel the trip unless USCIRF confined its visit to Cairo. Meetings with high-ranking Egyptian officials also were canceled. Despite these restrictions, USCIRF met with a wide range of civil society actors and religious leaders, as well as the Minister of Islamic Endowments, the Grand Sheikh of Al-Azhar, and human rights officials at the Ministry of Foreign Affairs.

In March, a USCIRF delegation met with Egyptian Ambassador to the United States, Sameh Shoukry, in Washington, DC to discuss the possibility of an expanded follow-up visit to Egypt, as well as to raise religious freedom concerns. Regrettably, the Egyptian Ambassador was inflammatory and rejected every concern raised by USCIRF. In January 2010, USCIRF wrote a letter to U.S. Secretary of State Hillary Clinton calling for U.S. representatives to the United Nations office in Geneva to raise questions about violations of religious freedom and related human rights during the UN Human Rights Council's UPR of Egypt in February. In September 2009, USCIRF urged the U.S. government, through a letter to Secretary Hillary Clinton, to vigorously oppose the candidacy of Farouk Hosni of Egypt to be Director General of the United Nations Educational, Scientific, and Cultural Organization (UNESCO) due to concerns about past discriminatory public comments and statements. In August 2009, USCIRF wrote to President Obama urging him to raise a number of religious freedom issues during Egyptian President Hosni Mubarak's visit to the United States later that month. The letter also urged the Administration to establish a timetable with the Egyptian government for implementation of specific political and human rights reforms. In June 2009, USCIRF issued a press release expressing concern over attacks on Coptic Orthodox Christians in the small Egyptian village of Ezbet Boshra-East. In May 2009, USCIRF wrote President Obama urging him to raise concerns about religious freedom and related human rights in his meetings with President Mubarak during President Obama's visit to Cairo to deliver his June 4 speech to the Muslim world.

In March 2009, USCIRF wrote to U.S. Ambassador to Egypt Margaret Scobey urging her to raise specific religious freedom issues with Egyptian officials. In February 2009, H.Res. 200, a resolution calling on the Egyptian government to respect human rights, was introduced in the U.S. House of Representatives; the resolution includes findings and recommendations from the USCIRF's May 2008 annual report. Throughout the past year, USCIRF continued to meet with representatives of the various religious communities in Egypt, as well as with human rights organizations, academics, and other experts.

### **Recommendations**

#### **I. Taking Most Responsibility for Religious Affairs Out of the Jurisdiction of the Egyptian Security Services**

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

- remove *de facto* responsibility for religious affairs from the state security services, with the exception of cases involving violence or the advocacy of violence, including conspiracy to commit acts of terror;

- repeal the state of emergency, in existence since 1981, in order to allow for the full consolidation of the rule of law in Egypt;
- implement procedures that would ensure that all places of worship are subject to the same transparent, non-discriminatory, and efficient regulations regarding construction and maintenance, such as the passage of a unified law, and take special measures to preserve Coptic Orthodox and other Christian properties and antiquities, which too often are subject to societal violence and official neglect; and
- repeal Article 98(f) of the Penal Code, which “prohibits citizens from ridiculing or insulting heavenly religions or inciting sectarian strife”; allow for full access to the constitutional and international guarantees of the rule of law and due process for those individuals charged with violating Article 98(f); and release Abdel Karim Suleiman and other individuals convicted under Article 98(f) on account of their religion or belief.

## **II. Implementing Additional Reform in Order to Comply with International Human Rights Standards**

The U.S. government should also urge the Egyptian government to:

- facilitate a USCIRF visit to Egypt that would include meetings with high-level government officials;
- discontinue the use of reconciliation sessions as a bypass for punishing perpetrators, commensurate with the gravity of the crime and in accordance with the rule of law;
- promptly investigate sectarian violence against Egyptian citizens, particularly Coptic Orthodox Christians, vigorously prosecute and bring to justice perpetrators, and ensure compensation for victims;
- address incitement to violence and discrimination against disfavored Muslims and non-Muslims by:
  - prosecuting government-funded clerics and other officials who incite violence against Muslim minority communities or individual members of non-Muslim religious minority communities;
  - dismissing or disciplining government-funded clerics who espouse intolerance;
  - publicly and officially refuting incitement to violence and discrimination by clerics and the government-controlled media against Muslim minority communities, such as the Koranists, and members of non-Muslim religious minorities, such as Baha’is; and
  - rescinding any previous fatwas issued by Al-Azhar that are discriminatory toward or incite violence against Muslim minority communities or non-Muslim religious minority communities;
- repeal 1960 presidential decrees banning members of the Baha’i faith and Jehovah’s Witnesses from practicing their faith;
- cease all messages of hatred and intolerance, particularly toward Jews and Baha’is, in the government-controlled media and take active measures to promote understanding and respect for members of these and other minority religious communities;

- take all appropriate steps to prevent and punish acts of anti-Semitism, including condemnation of anti-Semitic acts, and, while vigorously protecting freedom of expression, counteract anti-Semitic rhetoric and other organized anti-Semitic activities;
- ensure that every Egyptian is protected against discrimination in social, labor, and other rights by modifying the national identity card either to omit mention of religious affiliation or make optional any mention of religious affiliation;
- fully implement the January 2008 ruling of the Court of Administrative Justice, which overturned the ban on providing official identity documents to members of the Baha'i faith;
- remove the designation "formerly declared Muslim" from identity cards for those Christians who have converted back to Christianity from Islam, which makes the persons involved vulnerable to official harassment and societal violence;
- exclude from all educational textbooks any language or images that promote enmity, intolerance, hatred, or violence toward any group of persons based on faith, gender, ethnicity, or nationality, and include in school curricula, textbooks, and teacher training the concepts of tolerance and respect for human rights, including religious freedom, ensuring that textbooks meet the standards set out in the Universal Declaration of Human Rights;<sup>18</sup>
- permit any Egyptian citizen to learn voluntarily the Coptic language in the public school system; and
- investigate claims of police negligence and inadequate prosecution of those involved in the Al-Kosheh case, as well as other recent instances of violence targeting individuals on account of their religion or belief, particularly members of the vulnerable Coptic Orthodox Christian community.

### **III. Ensuring that U.S. Government Aid Promotes Prompt and Genuine Political and Legal Reforms and is Offered Directly to Egyptian Civil Society Groups**

The U.S. government should:

- establish a timetable for implementation of political and human rights reforms, including steps described in the recommendations above; if deadlines are not met, the U.S. government should reconsider the appropriate allocation of its assistance to the Egyptian government;
- provide direct support for human rights and other civil society or non-governmental organizations (NGOs) without vetting by the Egyptian government;
- urge the Egyptian government to ensure that NGOs engaged in human rights work can pursue their activities without undue government interference, and monitor and report to what extent this is accomplished; and
- expand support of initiatives to advance human rights, promote religious tolerance, and foster civic education among all Egyptians, including support for:

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<sup>18</sup> Criteria for reviewing textbooks and other educational materials have been developed by several international bodies, including UNESCO. For the UNESCO criteria, see [http://www.unesco.org/education/pdf/34\\_71.pdf](http://www.unesco.org/education/pdf/34_71.pdf).

- civic education and public awareness programs that reflect the multi-confessional nature of Egyptian society and the diversity of Egypt's religious past;
- efforts by Egyptian and international NGOs to review Egyptian educational curricula and textbooks for messages of hatred, intolerance, and the advocacy of violence, and to monitor equal access to education by girls and boys regardless of religion or belief; and
- the preservation and restoration of Egyptian Jewish properties and antiquities in publicly accessible sites, such as a museum, so that all Egyptians can better understand past and present Jewish contributions to their history and culture.

The U.S. Congress should:

- in the context of the annual congressional appropriation for U.S. assistance to Egypt, require the State Department to report every six months on the government of Egypt's progress on the issues described in this chapter, as well as on the U.S. government's progress in offering funding directly to Egyptian NGOs without prior Egyptian government approval.

#### **IV. Promoting Freedom of Religion and Belief and Related Human Rights in Multilateral Fora**

The U.S. government should:

- call on the Egyptian government to comply with and fully implement recommendations from the UN Human Rights Council's February 2010 Universal Periodic Review of Egypt, including those related to freedom of religion or belief;
- urge the Egyptian government to invite, provide specific dates, and admit UN special procedures mandate holders who are waiting for an invitation, including the UN Special Rapporteur on Freedom of Religion or Belief, the UN Special Rapporteur on Human Rights Defenders, and the UN Special Rapporteur on Torture;
- urge the Egyptian government to halt its practice at the UN Human Rights Council and other international fora of introducing and supporting the so-called "defamation of religions" resolution, which violates the internationally-guaranteed rights to freedom of religion and expression; and
- urge the Egyptian government to implement the 2002 recommendations of the UN Committee Against Torture, as well as other relevant international human rights treaties to which Egypt is a party.

## India

**FINDINGS:** India is a critically important country in terms of religious freedom for several reasons: it is the world's largest democracy; its multitude of religious communities have historically coexisted peacefully; it occupies a key geopolitical position; and its stature is rising on the global stage. Nonetheless, India's progress in protecting and promoting religious freedom during the past year was mixed. The Indian government at various levels recognized the problem of communal violence and created some structures to address these issues. However, justice for victims of communal violence was slow and often ineffective, thereby perpetuating a climate of impunity. While there was no large-scale communal violence against religious minorities during the reporting period, attacks on Christians and Muslims and their places of worship continued, along with incidences of intolerance against both.

Because the governmental response at the state and local levels continues to be largely inadequate and the national government has failed to take effective measures to ensure the rights of religious minorities in several states, USCIRF again places India on its Watch List for 2010.\* USCIRF placed India on its Watch List for the first time in 2009.

Despite the current national government's commitment to religious tolerance, communal violence has continued to occur with disturbing regularity, and the governmental response, particularly at the state and local levels, has been largely inadequate. Following incidents and reprisals at and after Christmas 2007, the murder of an influential Hindu leader in August 2008 sparked a prolonged and violent campaign targeting Christians in the state of Orissa. Over several weeks, at least 40 individuals were indiscriminately killed, the vast majority of whom were Christians, church properties and thousands of homes were destroyed, and tens of thousands fled their homes, seeking refuge in the jungle or in government relief camps. An inadequate police response failed to quell the violence, and early central government intervention had little impact. Mass arrests following the Orissa violence did not translate into the actual filing of many cases, and the courts prosecuting the claims absolved a disproportionately high percentage of cases for lack of evidence. Also, efforts continue to lag to prosecute the perpetrators of the 2002 Hindu-Muslim riots in Gujarat, in which the official death toll was 1,272 (with some groups estimating double that number of actual fatalities), the majority of whom were Muslim.

**PRIORITY RECOMMENDATIONS:** Infrastructure for investigating and prosecuting cases of religiously-motivated violence or harassment exists in India, but the legal system's capacity and will is severely limited and is utilized inconsistently. These deficiencies have resulted in a culture of impunity that gives members of vulnerable minority communities few assurances of their safety, particularly in areas with a history of communal violence, and little hope of perpetrator accountability. USCIRF urges the U.S. government to encourage and assist the government of India to undertake measures to make more vigorous and effective efforts to halt violent attacks against members of religious minorities, as well as women and individuals deemed to be of lower caste; conduct timely investigations and prosecutions of individuals alleged to have perpetrated violence; hold state governments and officials accountable for violence and unlawful acts in their states; and enact policies to encourage religious tolerance in accordance with India's rich history of religious pluralism and the peaceful coexistence of different linguistic, ethnic, and religious groups. USCIRF also urges the U.S. government to integrate concern for religious freedom and related human rights into all bilateral contacts with India and the U.S. ambassador to India to speak out against, and seek to visit sites of, communal violence such as Orissa.

\*Commissioner Gaer dissented from the placement of India on the Commission's Watch List. The full dissent can be found at the end of this chapter.

## Religious Freedom Conditions

### *Challenges Facing Democratic India*

Unlike many of the other countries of concern to USCIRF, India has a democratically elected government with a tradition of secular governance. A country with a Hindu majority, India has one of the world's largest Muslim populations, the current, two-term Prime Minister is Sikh, the past president is Muslim, and the head of the national governing alliance is a Catholic. Buddhist, Christian, Hindu, Muslim, Sikh, and Parsi holidays are recognized as public holidays. India also has an independent judiciary, an independent media that is relentlessly critical of the government, and a dynamic civil society with numerous non-governmental organizations (NGOs) that provide oversight of government activities. In practice, however, India's democratic institutions charged with upholding the rule of law, most notably state and central judiciaries and police, lack capacity to execute those functions and have emerged as unwilling or unable consistently to seek redress for victims of religiously-motivated violence or to challenge cultures of impunity in areas with a history of communal tensions.

The Commission's concerns about religious freedom conditions in India originated in 2002, based on a disturbing increase in communal violence against religious minorities associated with the rise of organizations with Hindu nationalist agendas, including the Bharatiya Janata Party (BJP), one of the country's major political parties. Under the national leadership of the BJP (in power from 1998 to 2004), USCIRF found the Indian government's response to violent attacks against religious minorities to be inadequate. In response to severe riots in the state of Gujarat and elsewhere, the Commission recommended that India be designated as a "country of particular concern" (CPC) in 2002 and 2003.

India was removed from USCIRF's CPC list following the election in 2004 of the Congress Party, as the new government espoused an inclusive platform and repeatedly pledged its commitment to religious tolerance. This commitment was reiterated by the Congress Party in the 2009 general elections for the lower house of Parliament, in which the Congress Party emerged victorious.

Hindu nationalist organizations retain broad popular support in many communities in India, and their activities, especially those with an extremist agenda or history of using violent force against minorities, often negatively impact the status of religious freedom in the country. Many of these organizations exist under the banner of the Sangh Parivar, a "family" of over 30 organizations that includes the Vishwa Hindu Parishad (VHP), Bajrang Dal, Rashtriya Swayamsevak Sangh (RSS), and the BJP. Sangh Parivar entities aggressively press for governmental policies to promote a Hindu nationalist agenda, and adhere in varying degrees to an ideology of *Hindutva*, which holds non-Hindus as foreign to India.

The failure to provide justice to religious minorities targeted in violent riots in India is not a new development, and in some cases has helped foster a climate of impunity. In 1984, anti-Sikh riots erupted in Delhi, killing thousands following the assassination of Prime Minister Indira Gandhi by Sikh bodyguards. Few of the perpetrators of the anti-Sikh violence have been held accountable. In the late 1990s, there was a marked increase throughout India of violent attacks against members of religious minority communities, particularly Muslims and Christians, including incidents of killings, torture, rape, and destruction of property. Perpetrators were rarely held responsible. For example, there has been little justice for the victims of riots between Hindus and Muslims after the 1992 destruction of the Babri mosque at a contested religious site in Ayodhya. At least 900 people, mostly Muslims, were killed in Bombay in the 1992-1993 riots, but few perpetrators have been successfully prosecuted. For instance, several high-profile trials that commenced over 10 years after the riots resulted in acquittals. A probe by India's Central Bureau of Investigation (CBI) into one high-profile act of riot violence was announced in February 2009, 16 years after the riots. Attacks on Christian churches and individuals, largely perpetrated by individuals associated with these Hindu nationalist groups, continue to occur across the country, and

perpetrators are rarely held to account.

### *Orissa Violence in 2007 and 2008*

The Kandhamal district of the state of Orissa has been the site of repeated attacks by Hindu extremists against Christians. Kandhamal is the country's poorest district, and unlike the rest of the state, it is 25-27 percent Christian. Several of Kandhamal's 2,500 villages are entirely Christian. Religion has played a significant factor in the violence in Kandhamal, with the Hindu majority often raising concerns about alleged "forced conversions." However, according to the National Commission for Minorities, there have been no cases of forced conversions registered in Kandhamal in the past 40 years. In addition to religion, socio-economic tensions between Dalits and tribal groups also motivated the killings, assaults, and property destruction.

In December 2007, violence in Kandhamal district between Christians and Hindus resulted in several deaths, dozens of injuries, the destruction of at least 20 churches and hundreds of homes, and the displacement of hundreds, many from minority religious communities. Reportedly, the influential local VHP leader Swami Lakshmanananda Saraswati played a central role in fomenting and encouraging the violence against Christians. Swami Saraswati was murdered on August 23, 2008, with Maoist extremists claiming responsibility. However, the murder sparked a violent campaign targeting Christians in Orissa. The State Department reported 40 individuals were killed and 134 injured, although some Christian groups report more. In addition, thousands of church properties and homes were destroyed; at least 24,000 fled their homes to government-run relief camps, and thousands more were driven into hiding in jungles. There was no immediate police or state government reaction. Indian Christian leaders, religious leaders and aid agencies were denied access by state and/or district officials to refugees in the hardest-hit areas.

Returns have been hampered by efforts to "reconvert" returning villagers to Hinduism. Numerous press and National Commission for Minorities (NCM) reports document widespread forced conversions of Christians to Hinduism in villages and relief camps in Orissa following the 2008 attacks. Insecurity and the threat of harassment, property destruction, and/or additional violence allegedly have caused many Christians to partake in "reconversion" ceremonies. According to a report by the NCM, even retired high-ranking officials were "threatened with every sort of retaliation if they did not forthwith change their religion and embrace Hinduism." There was no immediate police or state government reaction.

In both 2007 and 2008, the ineffective and/or belated police response failed to quell the violence in Orissa, and initial central government intervention was largely inadequate. In both years' violence, the synchronization of some attacks across wooded and remote terrain suggests premeditation, as well as the awareness and perhaps assistance of local officials and/or police. While the 2008 violence was still ongoing, the Orissa state government permitted a funeral procession for Swami Saraswati to cover a distance of 150 kilometers across Kandhamal two weeks after his murder, despite calls from religious leaders that such a procession could further inflame communal tensions. According to news reports, some police watched passively as violence occurred. Central government paramilitary forces did not arrive in Orissa until August 27, but were reportedly prevented from reaching the most sensitive areas because of the strategic felling of trees across key access roads.

In March 2009, Orissa's ruling party, the Biju Janata Dal (BJD), ended its 11-year coalition with the BJP, a decision brought about in part by the BJD's repudiation of the BJP's Hindu nationalist agenda, and the alleged support of some state BJP officials for the VHP, the Sangh Parivar entity implicated in riots. Several high-profile state and central government investigative teams have visited Orissa. Almost none of the dozens of recommendations for state reform offered by the NCM, the UN Special Rapporteur, and Indian Christian organizations have been implemented. Nevertheless, fears that violence would resume in

Orissa on Christmas 2008 were assuaged by a series of preventative measures undertaken by the government, and the holiday occurred without incident.

Despite mass arrests following the Orissa riots, victims have experienced difficulty in actually filing cases, exacerbating the existing culture of impunity. When attempting to file First Information Reports (FIRs), victims of the 2008 violence reported intimidation and lack of cooperation by police. Nevertheless, 3,223 complaints were filed, but only 831 cases were registered. Among those accused in the violence were 85 members of the RSS, 321 members of the VHP, and 118 members of Bajrang Dal. After preliminary investigations, 133 cases have been dropped.

The Indian government set up two fast-track courts in April 2009 to deal with the complaints lodged after the Kandhamal violence. However, this process has been slow and a large number of cases have been dismissed because of “insufficient evidence.” The State Department reported approximately 60 to 70 convictions and 100 acquittals, with 13 people sentenced to several years in jail. The effectiveness of the fast-track courts is limited by the fact that the prosecuting attorneys generally do not speak Oriya, the local language in which the trials are conducted. Furthermore, the majority of prosecutors are inexperienced in prosecuting cases of communal violence and have an excessively large case load. There also are reports of widespread witness intimidation as well as prejudice against the victims and their families.

The Indian government has appropriated funds to rebuild some of the damaged homes and churches, as well as to provide assistance to families whose family members were killed. Approximately 4,600 houses were damaged, out of which 1981 are reportedly in some stage of repair or have been completely restored. Of the 196 religious institutions, including prayer halls and churches, which were destroyed, 100 have received financial compensation for repairs from the state and national government. The state and national government also appropriated funds for victims and their families on a case-by-case basis.

In late 2008, the state government of Orissa commissioned Justice Mohapatra, a retired judge of the Orissa high court, to conduct investigations into the Kandhamal violence. His interim report in July 2009 found that the “sources of the violence were deeply rooted in land disputes, conversion and fake certificates” and recommended the government take steps to resolve land issues. He also reported that the state government should expedite the freeing of tribal land in possession of non-tribals, clear the fake certificate cases, and be vigilant about conversion and reconversion. Hindu hardliners have focused on land disputes as the main cause of the violence, minimizing religious factors.

#### *Violence in Karnataka State and Other Recent Incidents*

On September 14, 2008, shortly after the outbreak of violence in Orissa, over a dozen prayer halls and churches in three Karnataka state districts were attacked by individuals allegedly associated with the Bajrang Dal, a Hindu nationalist organization. In one district, six individuals were injured after attacks on two New Life Church prayer halls. The New Life Church has been accused of distributing pamphlets denigrating Hinduism. The state response to these attacks has been inconsistent, as police cases have been registered following some but not all of the incidents. Karnataka Chief Minister BS Yeddyurappa did not order additional state security for churches and prayer halls until over a week after the first attack. On September 19, 2008, Karnataka state leader of the Bajrang Dal, Mahendra Kumar, was arrested by state police after he publicly announced his group’s leading role in the attacks. However, in the aftermath of the attacks Mr. Yeddyurappa attributed the violence to conversion activity.

As a response to the rising incidents, the Karnataka state government appointed a commission of inquiry, headed by Justice B.K. Somashekara, to probe the attacks. In February 2010, this commission submitted its interim report to the state government, in which it found members of the BJP responsible for the 2008

attacks on churches and places of worship. The report also stated that high-ranking police officials collaborated with Bajrang Dal and the right-wing Hindu nationalist group Sri Ram Sena in “directly or indirectly” attacking the churches. Although it implicates the aforementioned organizations, the interim report did not take a strong stance against the attacks or the lack of perpetrator accountability. Despite this report, Karnataka Chief Minister Yeddyurappa maintains that the attacks were carried out by an organized group seeking to tarnish the image of the BJP. There has yet to be any justice meted out to the perpetrators identified in the report.

Attacks in Karnataka state continued during the 2009-10 reporting period against Christians and church properties. For instance, in February 2010 Hindu extremists reportedly beat two Christian pastors unconscious after literally dragging them from their church compound. In March 2010, a pastor was assaulted during a prayer service when reportedly 15 Hindu extremists forced themselves into the meeting. In neither case did authorities bring charges against the attackers. However, in recent months, police in Karnataka have detained several pastors and held them overnight on charges of “forcible” conversions. In March 2010, about 30 Hindu extremists reportedly forcibly entered the private home of a Christian family and accused the pastor of “forceful” conversions. Police arrested the pastor based on these allegations, while no action was taken against the intruders.

Hindu nationalist groups have been implicated in attacks against Hindus as well. In January 2009, about 40 members of Sri Ram Sena attacked a group of women at a pub in Mangalore, Karnataka, on the premise that the women’s behavior violated Hindu values. The attacks sparked a national outcry from activists, and several arrests were made, although all were released on bail. In July 2009, rioting between Muslims and Hinds resulted when a dead pig was through into the compound of a mosque in Karnataka. Dozens were reportedly injured but no known arrests were made. There were also repeated reports of incidents in Karnataka’s Dakshina Kannada district of Hindu extremists groups attacking women visiting pubs and Muslim boys who were seen talking to Hindu girls. Any response by authorities is unknown.

Reports of attacks on Christian leaders repeatedly arose in 2010, with violence occurring throughout the country. In New Delhi, a Christian pastor was attacked by 25 RSS members wielding hockey sticks. Police did file an FIR, but no charges have been brought to date. In the state of Andhra Pradesh, Hindu extremists attacked a pastor and his wife, accusing them of preaching in the area. Local police reportedly refused to file an FIR. In the state of Chhattisgarh, an estimated 40 Hindu extremists from Bajrang Dal, reportedly motivated by concerns about “forced conversion,” crashed a Sunday worship service, destroying Bibles and Christian materials. The Bajrang Dal members called the police and the pastor and some church members were held for several hours; the police refused to file a report against the Bajrang Dal members. In Madhya Pradesh, approximately 45 Bajrang Dal supporters, accompanied by police, reportedly broke into a church service. Several church members were taken into custody on suspicion of “conversion activities” and were later released without charges since their activity was not illegal.

In September 2008, a bomb attack in Malegaon, Maharashtra that killed seven and injured over 70 was traced to “Hindu extremists.” Eleven individuals were arrested by the Maharashtra Anti-Terrorism Squad. This attack and the ensuing arrests prompted a national debate regarding the contours of emergent “Hindu terrorism” and allegations of anti-Hindu bias by political parties seeking to appease minority electorates. In Chhattisgarh state in November 2007, a mob of 150 members of a Hindu extremist group attacked a church, destroying the church building, beating the pastor, and kidnapping a young member of the church, who was later found dead. Despite the fact that the police were provided with the names of the attackers, officials reportedly waited until the following day to file a complaint. In January 2008, also in Chhattisgarh, more than 80 people were injured in an attack on a large Christian meeting carried out by extremists. The attackers reportedly beat the Christian worshippers and vandalized the makeshift church structure. The State Department also reports communal clashes between Hindus and Muslims in several districts in Maharashtra and Gujarat in 2007 and 2008, causing injuries and the destruction of property.

The State Department reported that the “levels of societal and insurgent violence declined in [the state of] Jammu and Kashmir,” but insurgents continued to kill individuals associated with the government or rival factions, as well as civilians. Because of the violence, over the past decade thousands of Kashmiri Pandit Hindus have left for other regions of India. In August 2009, the state government of Jammu and Kashmir reportedly provided approximately 16 billion rupees (\$32 million) for the return and rehabilitation of Kashmiri Pandits to the state. In December 2009, around 40 people were injured when police fired tear gas and used batons to break up religious processions during the Muharram commemoration by Shi’a Muslims in Jammu and Kashmir. Local police also arrested 40 people. Large public gatherings of this sort have been banned since 1989. Authorities allow only small mourning rallies and processions in areas with sizable Shi’a populations, leading to annual friction between police and mourners.

### *Gujarat Violence in 2002*

In February 2002 in the state of Gujarat, a train fire reportedly set by Muslims resulted in the death of 58 Hindus returning from the disputed holy site of Ayodhya. Consequently, 1,200-2,500 Muslims were killed across Gujarat by Hindu mobs, thousands of mosques and Muslim-owned businesses were looted or destroyed, and more than 100,000 people fled their homes. Christians were also victims in Gujarat, and many churches were destroyed. Many have not returned, as a study recently commissioned by the NNCM found that approximately 5,000 Muslim families have still not been able to return to their homes and are currently housed in 46 different camps across the state. Their physical situation was described as “precarious.” India’s National Human Rights Commission (NHRC), an official government body, found evidence of premeditation in the killings by members of Hindu nationalist groups, complicity by Gujarat state government officials, and police inaction in the midst of attacks on Muslims. In 2007, the investigative newsmagazine *Tehelka* revealed further evidence of state government and police complicity in the riots, including the complicity of the then and current Gujarat Chief Minister, Narendra Modi. Chief Minister Modi has been re-elected twice since the riots.

Court convictions of alleged perpetrators of the Gujarat riots are rare, due to the slow pace of prosecutions, the lack of evidence, insufficient effort by local police officials, or a combination of the three. Since there were many eyewitnesses to the attacks, the low number of convictions suggests endemic impediments to justice continue to exist within the police, the judiciary, and the state government apparatus. In August 2004, the Indian Supreme Court ordered the Gujarat government to reopen its investigation of the 2002 violence, criticizing the local police officials for poor investigative practices and inadequate follow-up. In July 2006, a report from a committee attached to the Prime Minister’s office again chastised the Gujarat government for failing to improve the situation for Muslims in that state, noting that a “state of fear and insecurity” still existed for many Muslims there. This was corroborated by the January 2009 report of the UN Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, who visited India in March 2008 and noted the systemic economic and social marginalization of members of Gujarat’s Muslim community. In February 2009, seven years after the riots, the Gujarat state government declared that the 228 (predominantly Muslim) individuals still missing would be presumed dead. Family members petitioned the Gujarat high court to direct the state government to release compensation, and the state government reportedly complied.

In response to a complaint filed by the widow of Congress MP Ehsan Jaffri, who was killed in the 2002 riots, the Supreme Court in 2009 ordered the Gujarat police to register a complaint against the Chief Minister and 60 other high-level officials of the Gujarat government regarding their alleged involvement in her husband’s murder. In January 2010, a Special Investigative Team (SIT) established by the Supreme Court disclosed that the Gujarat government had been uncooperative and did not relinquish copies of speeches that Chief Minister Modi made in the immediate aftermath of the riots and other requested documents. That same month, the Supreme Court ordered the Gujarat state government to

immediately release to the SIT copies of these materials to facilitate the probe. The SIT summoned Chief Minister Modi to appear before the Supreme Court in March 2010. Initially, he failed to appear on the date specified, claiming he had not been summoned. However, he did appear before the Supreme Court several days later, and was questioned for ten hours about his role in the Gujarat violence. The investigation is ongoing.

International human rights groups have identified the VHP, RSS, BJP, and Bajrang Dal as perpetrators of the violence in Gujarat, as well as other acts of violence against non-Hindus. The Supreme Court in April 2009 agreed to look into NGO allegations that the SIT is ignoring evidence against the perpetrators. After a controversial 2002 non-governmental organization report described links between a Maryland-based charity and India's RSS and other "violent and sectarian Hindu organizations," Silicon Valley companies Cisco and Oracle suspended matching company donations to the charity. India's central and state police and judicial apparatuses have neglected to examine consistently or adequately the evidence linking Sangh Parivar entities such as the BHP, RSS, BJP, and Bajrang Dal to acts of violence.

The State Department reported that on June 4, 2009, the Gujarat state government appointed a commission of inquiry to study "settlement patterns" in the state from 1947 to the present, so as to make recommendations for "stopping the polarization of population in the state." The membership of the commission was criticized by civil society groups, as it is comprised of one member, a judge viewed to have made several anti-Muslim rulings. In light of the violence in 2002 and the lack of accountability, Muslim groups fear that the charting of their locations could be used in future attacks. The commission's report is due by January 2011.

#### *The 1984 anti-Sikh Riots*

In 1984, anti-Sikh riots erupted in Delhi following the assassination of Prime Minister Indira Gandhi by Sikh bodyguards. Over four days, nearly 3,000 Sikhs were killed, allegedly with the support of Congress Party officials. Few perpetrators were ever held accountable, and then only years after the fact. In April 2009, the Congress Party dropped two individuals, Jagdish Tytler and Sajjan Kumar, from its roster of general election candidates over their suspected role in the 1984 riots. As of early 2010, court proceedings in the Delhi high court against these two individuals were ongoing. As with many cases regarding the prosecution of alleged perpetrators of communal violence, Mr. Kumar and Mr. Tytler have been accused of delaying the trial and intimidating the witnesses and their families. The CBI, which is overseeing the investigation of the anti-Sikh riots, has also drawn criticism for not vigorously investigating and prosecuting the accused. In December 2009, amendments were made to the Code of Criminal Procedure, making it easier for victims of religious persecution to appeal judgments in court. Ten days after the amendment was enacted, the High Court accepted an appeal from a victim of the 1984 anti-Sikh riots, Gurbakshish Singh. The case was ongoing at the end of the reporting period.

#### *Responses to Terrorism and the Prevention of Communal Violence*

Threats and fear of terrorism in India, perpetrated or threatened by domestic actors (including Maoists) and foreign, regional actors (particularly Pakistanis and Bangladeshis), remains high. India continues to witness terrorist bombings; however, unlike with the cases discussed previously, swift state and central government action followed to prevent communal violence. In May 2008, bomb attacks killed almost 100 bystanders in crowded markets next to Hindu temples in Jaipur. At least 45 individuals died in bomb blasts in November 2008 in Ahmedabad, the capital city of Gujarat. Severe casualties also resulted from 2008 bomb attacks in Delhi and Bangalore. The central government's immediate appeals for calm and peace and the rapid response of state police helped prevent communal riots, despite varying religious undertones to the attacks, some of which occurred near places of worship, and/or were orchestrated by Islamic extremists.

In November 2008, 163 people were killed in coordinated attacks on ten prominent Mumbai sites, including two luxury hotels and a Jewish center. These attacks were carried out by members of the extremist Islamic organization Lashkar-e-Taiba, a group active in Kashmir and understood to have linkages with Pakistan's intelligence agency. Lashkar-e-Taiba has been designated by the State Department as a foreign terrorist organization. The attackers purposefully sought out an American-born rabbi and his Israeli wife residing in the upper floor of an apartment building as targets for their murder.

In February 2010, a bomb exploded in the German Bakery in Pune, Maharashtra, killing 17 and injuring over 50. The bakery was a popular meeting place for locals and tourists alike, prompting suspicion to fall on terrorist groups such as Lashkar-e-Taiba. This was the first major terror attack in India after the 2008 Mumbai attacks. Although the investigation is ongoing, the newspaper *The Hindu* reported that a spokesman for a group called Lashkar-e-Taiba al-Almi, an offshoot of Lashkar-e-Taiba, had claimed responsibility and asserted that the attack was in response to India's "refusal" to discuss the disputed region of Kashmir." As was the case with the Mumbai attacks, no backlash against Muslim communities resulted following the attack in Pune. However, some observers attribute this to the level of education, integration, and efforts of the people of Pune rather than any endeavor by the government to ease inter-religious tensions.

### *Legal Climate*

While the Indian Constitution protects the right of citizens to change and propagate their religion, five Indian states —Chhattisgarh, Himachal Pradesh, Gujarat, Madhya Pradesh, and Orissa —have controversial laws against "coerced" religious conversions. A law restricting religious conversions in the state of Arunachal Pradesh awaits implementing regulations for enforcement and is considered "inactive." The Rajasthan state government passed an "anti-conversion" law in March 2008 that would restrict proselytism, but the governor refused to sign it into law. When the BJP lost to the Congress Party in December 2008 state assembly elections, no additional attempts were made to pass the law. Anti-conversion laws require government officials to determine what is or is not a "sincere" conversion. These laws provide for fines and imprisonment for anyone who uses force, fraud, "inducement," and in some cases, the threat of "divine displeasure" to convert another. In 2007, the Andhra Pradesh state government enacted a law against the "propagation of other religion in places of worship or prayer," which prohibits the distribution of religious materials near the place of worship of another religion.

The State Department reported approximately 17 arrests under "anti-conversion" and other restrictive laws in the states of Chhattisgarh, Madhya Pradesh, and Maharashtra. These laws create a hostile atmosphere for religious minorities, particularly given that they exist in states in which attacks by extremist groups are more common—and often happen with greater impunity—than elsewhere in India. For example, the NCM report on the December 2007 violence in Orissa concluded that an important factor behind the attacks was the "anti-conversion" campaign carried out by groups associated with the Sangh Parivar. The UN Special Rapporteur has also expressed her concern over the impact of these laws on religious minorities and their inconsistency with international norms guaranteeing the freedom to change one's religion, and has called for their repeal.

According to the State Department, India's central government maintained a list of banned books. The books were prohibited from importation or sale because censors deemed their content "inflammatory and apt to provoke communal or religious tensions." The Rajasthan state government also banned books considered blasphemous of Hindu gods.

An additional factor exacerbating tensions between Hindus and Christians in Orissa—tensions that erupted into violence in 2007 and more prolonged rioting in 2008—is a quota scheme offering certain

benefits to India's most disadvantaged groups, the Scheduled Tribes and Scheduled Castes (also known as Dalits or "untouchables"). In Orissa, Hindus who are members of Scheduled Castes receive job quota benefits, but Christians and Muslims from Scheduled Castes do not, as they are considered to have removed themselves from the caste system. Although affirmative action is not an internationally recognized right, the quota system, which was enacted because Scheduled Castes and Tribes represent a historically underprivileged and impoverished demographic, is frequently applied discriminatorily so that disadvantaged Christians and Muslims are excluded from benefiting. However, in many cases, the economic and social challenges facing this demographic do not appear to be eliminated by their religious affiliation. The UN Special Rapporteur has condemned this discriminatory system and called for the abolition of links between religion and caste or tribal status. Christian groups have filed a case with the Supreme Court to allow converts to Christianity and Islam to access the same reservations as other Scheduled Castes. The Court was considering the case at the end of the reporting period.

In November 2006, the Sachar Committee reported that Indian Muslims face discrimination and other hardships and Prime Minister Singh pledged to "address the imbalances." Reports conflict about how many of the 22 recommendations have actually been implemented. In January 2009, the government announced that *madrassa* degrees would be equivalent to university degrees. In May 2008, at least 40 unarmed protesters were killed and hundreds were detained during weeks of violent protests and counter-protests regarding the Jammu and Kashmir government's decision to transfer 100 acres of forest land to the government-run, Sri Amarnath Shrine Board for the lodging of Hindu pilgrims. The state government's decision to transfer the property in the Muslim-majority state was seen by many Kashmiri Muslims as an expression of pro-Hindu bias and an attempt by the Indian government to increase Hindu religious tourism and skew state religious demographics. In March 2009, at the urging of the Election Commission, BJP general election candidate Varun Gandhi of the Gandhi political dynasty was arrested by Uttar Pradesh state police under the National Security Act on charges of hate speech against Muslims during a campaign rally. After over two weeks in jail, the Supreme Court ordered Gandhi's release on bail, pending his upholding of a commitment not to promote "disharmony or feelings or enmity, hatred or ill-will between different religion, racial, language or regional groups or castes or communities." Varun Gandhi was elected to the lower house of India's national parliament in the 2009 national elections but subsequently faced a legal challenge on the grounds that his alleged hate speech rendered his victory invalid.

In December 2009, the Singh government announced amendments to the Code of Criminal Procedure. Changes to Section 372 permit individuals to appeal a court order without permission from the law enforcement or prosecuting agency. Previously, an appeal could be filed only after the prosecutor approved the appeal. The amendment makes it easier for victims of religious persecution or other violence to appeal unfavorable court judgments.

## **U.S. Policy**

Since the end of the Cold War, India and the United States have enjoyed increasingly closer ties, with India now described as a "strategic" and "natural" partner of the United States, especially considering the two countries represent the two largest democracies in the world. India is a rising international power, with its economy growing rapidly over the past decade despite large-scale challenges of poverty, overpopulation, and corruption. Since 2004, Washington, DC and New Delhi have pursued a "strategic relationship" based on common concerns regarding the growing threat of terrorism, energy security, and global warming, as well as on the shared values of democracy and the rule of law. Most notably, three decades of U.S. nonproliferation policy toward India have been reversed through an initiative launched by President Bush in 2005 and finalized by the 110th Congress in 2008. In March 2010, India and the

United States successfully concluded negotiations allowing India to reprocess spent nuclear fuel, a development which will open commercial opportunities for U.S. nuclear energy companies.

In 2009, Secretary of State Hillary Clinton traveled to India to launch the “Strategic Dialogue,” which called for greater collaboration in a number of areas, including energy, climate change, trade, education, and counterterrorism. However, human rights and religious freedom were not a part of the stated agenda. The first state visit hosted by President Obama was for Prime Minister Singh during his November 2009 visit to Washington, DC. The United States views as important India’s role in its efforts of fighting and disrupting terrorist networks of al-Qaeda and other militant groups on the subcontinent, such as Lashkar-e-Taiba. Military-to-military ties have increased, especially after the signing in 2005 of a ten-year defense framework agreement expanding bilateral security cooperation. India purchased \$25 million worth of arms through the Foreign Military Sales programs in 2006 and \$93 million in 2007.

Bilateral tensions have increased, however, with India concerned about increasing U.S. military aid to Pakistan, which New Delhi fears bolsters the Pakistani military capabilities against India rather than for counter-insurgency operations. There are also concerns about the Obama administration’s desire to increase relations with China and President’s Obama’s proposed protectionist and anti-outsourcing policies that may affect India’s economy. However, U.S. aid programs continue. USAID funds for FY 2009 were \$78 million and requested funds for FY 2010 are \$99 million. The largest appropriations are for health-related programs and food aid.

### **USCIRF Activities**

During the reporting period, USCIRF Commissioners and staff met with State Department officials as well as a variety of NGOs and religious groups to learn more about the religious freedom situation in India. In June 2009, USCIRF requested to visit India to discuss religious freedom conditions with officials, religious leaders, civil society activists and others, but the Indian government did not issue visas to the USCIRF delegation. Nor did the Indian government offer alternative dates for a visit, which the Commission requested. USCIRF would still welcome the opportunity to visit India.

### **Recommendations**

#### **I. Advancing Religious Freedom through U.S. diplomacy**

The U.S. government should:

- integrate concern for religious freedom and related human rights into all bilateral contacts with India, such as with the follow-up work from the 2009 Strategic Dialogue; and
- make clear to the Indian public the high priority the U.S. government gives this issue by directing the U.S. ambassador to: publicly denounce attacks against any religious community, be it in the majority or the minority; seek to visit the sites of communal violence, such as Orissa state; and meet with state and local officials to raise these concerns.

#### **II. Strengthening Law Enforcement and the Judiciary**

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

- strengthen the ability of the state and central police and other law enforcement bodies to provide effective measures to prohibit and punish cases of religious violence, and protect victims and witnesses by:

- ensuring that complainants are able to file “First Information Reports” (FIRs);
- ensuring adequate protection for witnesses and complainants after an FIR has been filed;
- ensuring that cases relating to religious violence are processed in a timely manner, including by ensuring that a sufficient number of investigators and public prosecutors are supplied to districts in which acts of communal violence have occurred, and that all such individuals are impartial and adequately trained on human rights and religious freedom standards;
- providing protection for witnesses in danger of retaliatory violence;
- ensuring that all complainants are able to obtain legal representation, regardless of religion or caste status;
- ensuring that standardized procedures for documenting and collecting evidence are promptly followed in instances of communal conflict;
- ensuring that prosecutors have a working knowledge of the language of the court to which they are assigned; and
- ensuring that trials at all levels of the justice system are impartial, including by investigating allegations of corruption or official complicity in any acts of alleged religious violence;
- strengthen the state and central judiciary by implementing measures to ensure that:
  - cases involving religious violence or harassment are processed and resolved in a timely manner; and
  - survivors of communal violence are made aware of their rights and avenues for legal recourse, for example by establishing free or low-cost community legal aid clinics in riot-hit areas;
- ensure that the state and central police and other law enforcement agencies have the training and resources necessary to avert future communal violence, including by sharing information among central and state law enforcement bodies about measures that successfully prevented outbreaks of violence in previous high-tension situations;
- provide training on human rights and religious freedom standards and practices to members of the state and central police and judiciary, particularly in areas with a history or likelihood of communal violence;
- ensure that the perpetrators of terrorist attacks are brought to justice, and the victims and their families are provided aid and counseling; and
- fulfill a pledge made in 2004 to enact a law criminalizing inter-religious violence.

*Regarding Orissa*

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

- initiate a Central Bureau of Investigation probe into the murder of Swami Lakshmanananda Saraswati and the ensuing violence in Orissa;
- continue to pursue, investigate, and bring charges against the perpetrators of the killings and arson in Orissa, as well as any forced reconversions [see specific recommendations above under II. Strengthening Law Enforcement and the Judiciary];
- allow aid groups, regardless of religious affiliation, access to internally displaced persons still unable or unwilling to return to their home communities;
- facilitate relocation of the more than 1,000 persons still displaced from the riots by assuring their safety;
- establish appropriate mechanisms to ensure that all compensation schemes, including those promised by Prime Minister Manmohan Singh soon after the outbreak of the Fall 2008 violence, are carried out in a timely manner and any families unable to produce the body of an individual killed by rioters are not excluded from compensation schemes;
- take steps to ensure police access to Kandhamal district and other areas that may be prone to communal violence, including by improving road infrastructure and building capacity;
- mobilize the necessary security forces over the timeframe necessary to ensure that internally displaced persons residing in government relief camps or elsewhere are allowed to safely return to their villages, without the threat of violence or harassment;
- ensure that the use or threat of violence or harassment to bring about forced conversions or “reconversions” are prosecuted promptly under existing laws prohibiting harassment and violence; and
- recognize the unique link between poverty, tribal identity, and communal violence in Orissa, and implement development schemes to address poverty, disadvantages associated with tribal or caste status, the lack of economic opportunity, and the lack of adequate education and health infrastructure.

*Regarding Gujarat*

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

- continue to pursue, investigate, and lay charges against any individuals responsible for the deaths at Godhra, and the perpetrators of the killings, sexual violence, and arson in Gujarat in 2002;
- urge the Supreme Court to look into allegations of its Special Investigative Team’s having disregarded evidence;
- ensure that any efforts to bring a case against Gujarat Chief Minister Narendra Modi are allowed to proceed in accordance with the law;
- send a central government investigative team to Gujarat to assess the security of individuals displaced by the 2002 riots and look into reports that such individuals are systematically economically and socially marginalized, and provide recommendations for improving communal harmony in Gujarat; and

- facilitate relocation of the more than 5,000 families still displaced from the riots by assuring their safety.

### **III. Reforming Existing Legislation That May Undermine Freedom of Religion or Belief**

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

- establish an impartial body of interfaith religious leaders, human rights and legal experts, and other civil society representatives to study religious conversion activity and any allegations of forced, induced, or otherwise illegal or improper conversions in states with legislation regulating conversions and to make recommendations as to if and how such laws should be changed to comply with international standards on the freedom of thought, conscience, and religion or belief; and
- investigate job allocation and government benefit schemes for Scheduled Tribes and Castes to assess whether religion is used unfairly to provide or deny access to benefits.

### **IV. Taking New Measures to Promote Communal Harmony, Protect Religious Minorities, and Prevent Communal Violence**

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

- call on all political parties and religious or social organizations, including entities of the Sangh Parivar, including, but not limited to the Bharatiya Janata Party, Rashtriya Swayamsevak Sangh, Bajrang Dal, and Vishwa Hindu Parishad, to: publicly denounce violence against and harassment of religious minorities, women, and low-caste members; acknowledge that such violence constitutes a crime under Indian law; and communicate to all members and affiliates that acts of violence or harassment will not be tolerated and will be prosecuted to the full extent of the law;
- take immediate legal action against any charitable, social, or political organizations, or individuals associated with such organizations, about whom evidence of participation in acts of communal violence is found;
- establish effective State Minority Commissions charged with the responsibility for examining minority affairs, including minority religious communities, issuing recommendations, and serving as a repository for minority grievances in those states that do not currently have such commissions, including Orissa, and ensure that these commissions are transparent, adequately funded, inclusive of women and minorities, and subject to periodic independent review; and
- establish measures to build confidence among religious communities in areas with a history or likelihood of communal violence, including truth and reconciliation councils and social and cultural programming.

#### **Dissenting Statement of Commissioner Felice D. Gaer:**

I respectfully dissent from the decision to recommend that India be placed on the Commission's Watch List of countries with egregious, severe violations of religious freedom that fall short of the statutory requirement for "countries of particular concern." I continue to be deeply concerned over the religiously-motivated violence in India in recent years – and the loss of life, physical abuse, displacement, and more

– as well as over the many matters of accountability or other remedies that remain to be addressed. However the Commission’s conclusion that the system’s “capacity and will is severely limited” and that government response to such incidents has been “largely inadequate” seems to fly in the face of the evidence of serious measures that have been undertaken.

The responses of the Indian government during the past year have been significant. They have ranged from formal amendments to the Code of Criminal Procedure that have enabled appeals of judgments of past incidents (including one from the 1984 anti-Sikh riots), to establishing fast track courts to take up cases in Orissa which according to the State Department had already resulted in 60-70 convictions, to appropriating funds for rebuilding and paying compensation to victims or the families of victims, to permitting a 10-country delegation of the European Union to travel to the region for a first-hand examination. National governmental bodies have taken other steps to correct insufficient action on the state level. For example, the Supreme Court has challenged Gujarat state authorities – ordering special investigative teams, summoning the Chief Minister to testify, demanding documentation, etc. Such proactive measures suggest that the state’s capacity and will can be and are being applied to prevent further outbreaks of inter-religious violence, including to address past evidence that its independent, albeit slow-moving and frequently unresponsive, judiciary can work to hold perpetrators accountable as well. Such measures should be continued.

India has carried out these and other measures despite the ongoing threats of terrorist attacks and violence such as in Mumbai in 2008, in which 163 persons were killed. While there were no comparable attacks of this kind in 2010, it is nonetheless reliably reported that a total of 398 persons were killed in 2010 in violent incidents in Kashmir and Jammu, which remains a sizable and deeply troubling number, even if it is somewhat smaller than in 2009, as noted by the USCIRF report.

The religious diversity and tolerance that exists in India has been remarked upon in the USCIRF report, and observers should also note the vibrant civil society with many independent and outspoken non-governmental organizations that monitor and publish their findings on Indian government responses to such violence. Their actions draw attention to the unfinished business needed to redress religious-based violence in India. They are uniquely placed to urge sustained efforts to strengthen the ability of the state and central police to prohibit and punish cases of religious violence, and to monitor those responses in the public arena. India’s free press has widely reported on these matters as well.

India has the legal and democratic traditions to deal with religious intolerance and should be strongly encouraged to do so. USCIRF recommendations that call for measures to strengthen law enforcement bodies, including the police and judiciary, merit sustained attention and follow-up. U.S. diplomacy has a role here as well; American diplomats have been unusually quiet on these matters in bilateral relations with India. USCIRF recommends that senior American diplomats should be more vocal in denouncing attacks against any religious community and seek to visit the sites of communal violence as well, making clear that the United States places a high priority on preventing such attacks, punishment of perpetrators and protection of victims and witnesses.

## Indonesia

**FINDINGS:** Indonesia's transition to democracy since 1998 has contributed to an overall improvement in conditions for human rights in the country. The majority of Indonesia's diverse religious communities operate openly and with few restrictions, and there are vibrant public discussions among politicians, religious leaders, and civil society about the role of religion in political life. The government of President Susilo Bambang Yudhoyono has taken positive steps to address terrorism and past sectarian violence in the regions of Ambon and Central Sulawesi, to bring peace to the region of Aceh, and to build popular support for democracy. However, during his presidency, religious minorities have experienced harassment, intimidation, discrimination, and even violence perpetuated by groups espousing intolerance and extremism under the banner of Islamic orthodoxy. The activities of some extremist groups are sometimes tolerated by segments of the Indonesian government. In addition, despite legal protections for religious freedom, national decrees and provincial laws have been used to restrict rather than advance the freedom of religion and belief.

Based on these concerns, USCIRF continues to place Indonesia on its Watch List for 2010. Indonesia has been on the Commission's Watch List since 2002, after sectarian violence erupted in Central Sulawesi and the Makukus.

Indonesia has a tradition of religious tolerance and pluralism. Nevertheless, religious radicalism and extremism have found converts in Indonesia, leading to sectarian violence, terrorism, and religious freedom violations. Indonesians have rejected extremism at the polls, but it often goes unchallenged by many political, civic, and religious leaders. In the past year, extremist groups have forcibly closed places of worship belonging to religious minorities, sometimes with the acquiescence of local or provincial officials. A 2008 joint ministerial decree curtailing the activities of the Ahmadiyya community remains in place, as do provincial bans that go further than the decree's stated intent. Provincial officials have also employed Article 156(a) of the Indonesian penal code to harass and detain individuals considered religiously "deviant" and continue to enforce local *perda syariah* laws restricting the rights of women and some non-Muslims. In addition, USCIRF remains concerned about the situation in Papua, where long-standing political and economic grievances and human rights abuses have deepened sectarian tensions.

**PRIORITY RECOMMENDATIONS:** The interests of the United States are advanced by a democratic and prosperous Indonesia committed to countering terrorism and promoting religious freedom, religious tolerance and interfaith cooperation. As part of the formal bilateral partnership being pursued by the Obama Administration, USCIRF recommends that the Administration support any government offices, religious groups, and civil society organizations in Indonesia working to promote religious freedom, counter extremism, teach tolerance and human rights, pursue legal reform, and build interfaith alliances to deal with pressing social, political, and economic concerns. A vibrant U.S.-Indonesian partnership can be an important model, ensuring Indonesian stability, addressing regional human rights issues and the threat of terrorism, and expanding universal rights and freedoms in the "Muslim world." Additional recommendations for U.S. policy towards Indonesia can be found at the end of this chapter.

## Religious Freedom Conditions

### *Indonesia's Tradition of Religious Tolerance and the Challenge of Extremism*

Islam in Indonesia is known historically for its tolerance and accommodation of a variety of indigenous cultural and religious traditions. Over the past decade, there has been a revival of Islamic awareness and piety, previously repressed by the former military government. The wearing of Islamic dress has re-emerged as an outward sign of devotion; the number of Islamic banks, businesses, and publications is growing; and Islamic-themed art and fiction are becoming more popular. Indonesian Muslim leaders have engaged in lively discussions on the nature of democracy and pluralism, the separation of religion and state, women's rights, and human rights more generally. There are numerous religiously-based political parties and the role of Islam in politics and society, as well as the growth of religiously-justified terrorism, are topics discussed widely on television and radio and in numerous public fora.

The revival of Islamic piety, coupled with Indonesia's new democratic openness, has strengthened Indonesia's mainstream Muslim institutions and the rights of some religious minorities, but it also has nurtured a small number of groups espousing intolerance and extremism under the banner of Islamic orthodoxy. Over the past several years, the influence, visibility, and activities of extremist groups have led to sectarian tensions and religious freedom violations. These violations include a troubling number of instances of societal violence targeting religious minorities and the intimidation, arrest, detention, and harassment of allegedly heterodox Muslims and some non-Muslims for allegedly "denigrating religion," "deviancy," or "blasphemy."

Extremist groups and more religiously conservative Islamic political parties have failed to win popular support, as evidenced by results of the April 2009 parliamentary elections and the overwhelming re-election of President Susilo Bambang Yudhoyono in June 2009. However, they have successfully pressed their agenda both publicly and politically, pressuring government officials, judges, and politicians through private lobbying, demonstrations, threats, and mob action. Such efforts resulted in the 2008 Joint Ministerial Decree on the Ahmadiyya and the Anti-Pornography Law, as well as a number of local sharia-inspired laws in provincial areas. Coalitions of moderate Muslims, Christians, Hindus, Buddhists, and other religious and civil society groups have opposed these measures, both politically and in the public square. Though President Yudhoyono and his Democratic party won major electoral victories in 2009, they have not indicated whether they will support repeal of the ministerial decree on the Ahmadiyya or overturn or amend laws that restrict religious freedom.

### *Addressing Past Sectarian Violence*

In 2002, the Commission placed Indonesia on its Watch List after sectarian violence in Central Sulawesi and the Malukus claimed thousands of lives and displaced tens of thousands of others. USCIRF remains concerned about the potential for renewed sectarian tensions in these regions, but notes that religiously-motivated violence has declined sharply in recent years and police have arrested or killed—and local courts have sentenced or executed—dozens of individuals, Muslims and Christians, responsible for past acts of violence. Local civic and religious leaders and government officials have worked to promote reconciliation and diffuse tensions in former conflict areas. The Indonesian government reportedly has committed funds for local programs in conflict mediation and interfaith economic development. Local governments have projects to rebuild churches, mosques, and homes destroyed in past violence. In December 2009, Indonesian courts sentenced 17 individuals to 14 years imprisonment for taking part in sectarian violence in Ambon. Also, the Masohi District Court of Maluku began trials in February 2009 for three suspects who instigated riots that destroyed parts of a Christian village. One of the individuals being tried is a schoolteacher who reportedly denigrated Islam in his classroom, setting off the riots.

Religious leaders and government officials reportedly visited the villages in order to promote reconciliation and gather weapons and ammunition.

Indonesian extremist and terrorist groups continue to train, recruit, and operate in Sulawesi and in islands near the Philippines. These groups frequently have been responsible for attacks on members of religious minorities and police, instigating mob actions to restrict religious activities, stoking sectarian tensions, and organizing political efforts to segregate Central Sulawesi into Muslim and Christian enclaves. Since widespread rioting and sectarian clashes in late 2007, there have been few new incidents of violence. The Indonesian government has taken active steps to promote stability, but tensions continue to exist in the region fueled by political and economic rivalries between Muslim and Christian elites.

In recent years, the police arrested and the courts sentenced individuals who organized the beheading of three young girls in 2006. Police also have apprehended at least 10 others who confessed to participating in various bombings, beheadings, and shootings in Central Sulawesi over the past two years. Police in Central Sulawesi claim that they have arrested or killed 18 of the 29 individuals “most wanted” for sectarian violence in that region, including two individuals accused of the 2006 assassination of Reverend Irianto Kongkoli.

Despite some successes in rooting out suspected terrorists, police tactics, particularly those of the elite counter-terrorism unit Detachment 88, have exacerbated existing sectarian tensions in Sulawesi. Local religious leaders claim that Detachment 88’s harsh tactics increased sympathy for extremists in Central Sulawesi and attracted religious militants from other regions. For example, in April, 2008 police shot and killed Madi, a sect leader involved in a 2005 clash with police.

Many grievances remain from the sectarian conflict that occurred in 1999-2001 in Central Sulawesi and the Maluku, and there continue to be large number of persons who remain displaced from the conflict. In addition, extremists groups still operate in the region, recruiting, and setting up terrorist training camps in remote regions. The June 2007 arrest of suspected terrorist leader Abu Dujana confirmed that the goal of terrorist networks was to stoke sectarian tensions in Central Sulawesi through bombings and assassinations of religious leaders.

#### *Success of Anti-Terrorism Campaign*

The Indonesian government continues to make notable progress in capturing and prosecuting persons accused of specific terrorist activities, including killing or arresting 15 individuals on the United States’ most wanted list. In 2008, police raided a Jemaah Islamiyah (JI) compound in Central Sulawesi and arrested dozens of suspects including Ainul Bahri and Zuhroni, two top JI leaders. Ustadz Rian, one of the primary organizers of JI’s terrorist operations, was killed during the raid. In April 2008, an Indonesian court officially declared JI a terrorist organization and sentenced its military commander, Abu Dujana, to 15 years imprisonment for stockpiling weapons, harboring fugitives, and committing terrorist violence. In January 2009 ten militants with ties to JI were tried for killing a Christian schoolteacher, illegally possessing explosives, harboring fugitives, and plotting to bomb a café. The primary suspect, Mohammad Hasan, a Singaporean English teacher, trained with al-Qaeda in Afghanistan and served as a courier for Osama bin Laden in 2000. He was given an 18 year prison sentence in April 2009.

In February 2009, three JI terrorists were sentenced to eight to nine years in prison for aiding and abetting JI operatives. In April 2009, the government arrested and convicted members of the Palembang group, including Fajar Taslim, Zuber, and Yudi, who were sentenced to 18, 10, and 12 years respectively. Also in April, suspected terrorists Sugiarto, Agustiawarman, and Heri Purwanto were each sentenced in a Jakarta court to 12 years imprisonment for violating the antiterrorism law.

The Indonesian government has been actively hunting JI's top commanders, particularly after the July 2009 bombings at the J.W. Marriott and Ritz-Carlton Hotels in Jakarta. During the past year, counter-terrorism units killed JI top commander Noordin Mohammed Top (September 2009) and Dulmantin (March 2010). Dulmantin was the reported mastermind of the 2002 Bali nightclub bombing and responsible for a string of church bombings in the Philippines in 2000.

#### *Extremist Groups and Societal Violence*

According to opinion polls, public support for terrorist organizations and suicide bombings has declined dramatically in Indonesia since the 2005 Bali bombing. Yet, at the same time, the number and influence of groups pressing political and religious agendas under the banner of Islamic orthodoxy has grown. Religiously based organizations and political parties have long been a feature of Indonesian society, but the proliferation of extremist groups is a recent phenomenon, coinciding with the growth of democratic openness in Indonesia and the spread of the most conservative forms of Islam throughout the "Muslim world."

Most of Indonesia's sectarian tensions and societal violence have been instigated by groups such as the Islamic Defenders Front (FPI), the Indonesian Council of Martyrs (MMI), the Alliances for Anti-Apostates (AGAP), the Islamic Umat Forum (FUI), among others. These groups have used pressure, intimidation, and violence against those whose views or actions they find unacceptable. Their actions have included intimidating judges and local officials; vandalizing and destroying buildings belonging to religious minorities, including Christian churches, Hindu temples, and Ahmadiyya and Shi'a mosques; threatening moderate Muslims or those considered to have "deviant" theological views; and forcing the closure of some non-Muslim businesses during Ramadan. Though these groups are a tiny minority of Indonesia's diverse Muslim community, they remain an active religious force and a political challenge to Indonesia's image as a democracy committed to religious tolerance and pluralism.

The Indonesian government does not officially condone or encourage societal violence by extremist groups and has sometimes spoken out strongly against it. Police have arrested and sentenced members of some extremist groups who instigate violence, including the leaders of the Islamic Defenders Front (FPI) after they orchestrated violence at a June 2008 religious freedom rally in Jakarta. Nonetheless, the government has not been consistently vigilant about hindering the activities of extremist groups or holding leaders responsible for acts of societal violence, vandalism, discrimination, or intimidation.

Additionally, the Indonesian government has been silent about local or provincial laws that contravene national laws concerning the protection of religious minorities. The Indonesian government also continues to provide funds for the Coordinating Board for Monitoring Mystical Beliefs in Society (Bakor Pacem) and the Indonesian Ulema Council (MUI). Both the Bakor Pacem and MUI panels called for a ban on Ahmadiyya religious activities, restrictions on interfaith marriage, interfaith worship, religious pluralism, and yoga, and also have called for widespread enforcement of the blasphemy law. Local MUI chapters, often in the name of religious harmony, pressure provincial officials to close the venues of religious minorities, ban the Ahmadiyya practice, or take action against groups viewed as having "deviant" religious views.

#### *Restrictions and Societal Violence Targeting the Ahmadiyya*

According to the Indonesian Institute on Democracy and Peace (SETARA) and the Wahid Institute, two Indonesian think tanks tracking human rights conditions in the country, societal violence targeting religious minorities and the use of the "deviancy" law have expanded in recent years. Religious leaders and human rights activists continue to express concern about the rise of intolerance and a weak response to societal violence from the Indonesian government.

Violence and legal restrictions targeting the Ahmadiyya community rose dramatically after the July 2005 MUI *fatwa* that condemned them as a heretical sect. Under intense pressure from extremist groups and some mainstream religious leaders, including the staging of large protests and rallies to support a ban, the Ministry of Religious Affairs and the Home Ministry issued a Joint Ministerial Letter on the Restriction of Ahmadiyya in June 2008. While not an outright ban, the decree “froze” Ahmadiyya activities to private worship and prohibited Ahmadiyyas from proselytizing, although it also outlawed vigilantism against them.

Following the decree, provincial governors in West Sumatra, South Sumatra, and West Nusa Tenggara issued outright bans on Ahmadiyya activity. The Indonesian National Commission of the Human Rights (Komnas-HAM) issued a report condemning past atrocities against Ahmadiyya, blaming the MUI *fatwa* for triggering the violence and some governmental officials for helping to implement the *fatwa*. Komnas-HAM officials also called the decree “unconstitutional.” The Indonesian government has not yet signaled whether it will review or overturn the provincial bans under the authority granted by the 2000 Regional Autonomy Law.

Since 2008, 35 Ahmadiyya mosques have been vandalized and 21 mosques and religious meeting points have been forcibly closed. However, there were fewer incidents in this reporting period than previously. Ahmadiyya leaders report that they have been allowed, in most parts of the country, to worship, though they are not free to proselytize or practice their faith publicly. In some parts of West Java, extremist groups interpret any visible Ahmadiyya activity as “proselytizing” and pressure local officials to close mosques or places of worship.

On June 2, 2009, an Ahmadiyya mosque in South Jakarta was deliberately set on fire by unidentified arsonists during morning prayers. There were no injuries from the incident and no arrests were made. In August 2009, members of the Ciputat Muslim Community Forum (FMCC) forcibly sealed an Ahmadiyya mosque in the city of South Tangerang, Banten province, accusing the Ahmadiyya community of proselytizing. Also in August 2009, mobs vandalized an Ahmadiyya mosque in Sukabumi and sealed another mosque in Cianjur, West Java. In October 2009, a mob destroyed the Mubarak mosque in Medan village, Riau Province, after the Eid al-Fitr celebration.

There continue to be an estimated 182 Ahmadiyya living in camps as internally displaced persons (IDPs) in Mataram, Lombok after a mob attacked and drove them from their residences in 2005. In April 2009, the local government requested that the IDPs cancel plans to return to their homes in Gegerungan village due to continued security concerns and negotiations over compensation. To date, 125 Ahmadiyya IDPs remain in the Transito Camp and 57 in the Praya Camp. It was reported that one family from the Praya Camp returned home for a brief period of time, only to return to the camp following a succession of violent threats.

The government no longer subsidizes rice, electricity, and water to the IDP camps. The government has offered the IDPs the option of relocating together to other areas of Lombok or to disperse to government owned property. The Ahmadiyya community has found both options unacceptable. The Ahmadiyya community of Lombok has reportedly sought asylum in a third country, citing religious persecution.

#### *Detentions for Religious “Deviancy”*

According to human rights activists and other experts, the restrictions and societal violence faced by the Ahmadiyya community reflect a larger trend in Indonesia, as government officials have harassed groups and detained individuals associated primarily with allegedly heterodox forms of Islam. Since 2003, over 150 individuals have been detained under Article 156(a) of the criminal code, according to which

“expressing feelings of hostility, hatred or contempt against religions” and “disgracing a religion” are punishable by up to five years in jail.

Over the past two years, police, provincial officials, and local MUI have taken actions to break up sects associated with groups such as Al-Qiyadah al-Islamiyah, Lia Eden, and Noto Ati, among others. The Al-Qiyadah al-Islamiyah sect has faced the most intense pressure. The group has approximately 40,000 followers and its leaders claim to be prophets. In October and November 2007, police detained 125 Al-Qiyadah members during raids in West Lombok, Yogyakarta, East Lombok, and Central Java. Ninety-six members of Al-Qiyadah, including the sect’s leader Ahmad Moshaddeq, publicly signed documents renouncing their beliefs. Despite his recantation, Moshaddeq was sentenced to four years in prison in April 2008 for “violating the criminal code by committing blasphemous acts.” In May 2008, Dedi Priadi and Gerry Lufthi Yudistira, members of al-Qiyadah al-Islamiyah sect, were sentenced in Padang district court to three years in prison under Article 156(a).

During the current reporting period, Lia Eden, leader of the Jamaah Alamulla Group, was found guilty of “blasphemy and inciting hatred among religious adherents.” At the same, Wahyu Wisbisono, a Jamaah Alamulla member, received two years for publicizing Eden’s teachings. Eden had previously served a two and a half year sentence for proselytizing and delivering her messages to government institutions in 2006. In November 2007, Lia Eden’s son was sentenced to three years in prison for claiming to be the reincarnation of the Prophet Muhammad.

In May 2009, Agus Imam Solhin was indicted under Article 156 in a South Jakarta Court. Solhin, leader of a sect called Satria Piningit Weteng Buwono, claimed to be a prophet who received spiritual guidance from the country’s first president, Sukarno. He reportedly was accused of conducting ritual orgies and banning his followers from observing Muslim prayers.

In September 2009, police arrested 24 members of the Daifillah sect under Article 156. This sect is led by Sensen Komara, who claims to be a prophet and has instructed his followers to change the direction of their daily prayers. Reportedly, prior to the arrests, local mobs had attacked the home where the Daifillah sect met.

According to the Wahid Institute, since 2005, many small, primarily “messianic” Muslim groups were labeled “deviant” by local religious leaders and faced harassment or societal violence including such group as Dzikir Asmaul Husa, Dayak Segandhu Losarang Indramayu, Islam Model Baru, Tarekat Naqsabandiyah, and Hidup di Balik Hidup. In February 2009, the East Java MUI declared that Noto Ati teachings were heretical because they violated teachings of the Koran and Hadith and because the group predicted the end of the world in early 2009. Such MUI declarations, in the past, have lead to government harassment, fines, and arrest.

Indonesia’s “deviancy laws” are not only used against allegedly heterodox Muslim groups. In April 2007, police in Malang, East Java detained 42 Protestants for disseminating a “prayer” video that instructs individuals to put the Koran on the ground and pray for the conversion of Indonesia’s Muslim political leaders. In September 2007, a local court found all 42 guilty of “insulting religion” and sentenced each to five years in prison. All were pardoned in August, 2008. In June 2009, police in East Nusa Tenggara province arrested Nimbrot Lasbuan, leader of the Sion City of Allah sect, and 12 of his followers under Article 156. The sect encouraged members to read only the Book of Jeremiah, banned them from attending Sunday services or partaking in sacraments, and required women followers to remove underwear before prayer. Leaders of the local Timor Evangelical Church agreed with provincial officials, saying the sect was “illegal.” In addition, in the Maluku, the Christian teacher whose comment about

Islam reportedly sparked sectarian violence in city of Masohi will reportedly be tried under Article 156(a).

In December 2009, the late President Gus Dur and an interfaith coalition of civil society groups filed a petition with the Constitutional Court to overturn presidential order 1/PNPS of 1965, and by extension its later implementing legislation UU Nomor 5 1969, which outlaws distorting any of the six official religions of Indonesia. The Minister of Religious Affairs and the Minister of Home Affairs oppose judicial review of the law. They claim that the law is consistent with religious freedom guarantees in domestic law and international commitments. Recently, the Minister of Religious Affairs said that overturning the blasphemy statute would create “unlimited religious freedom,” including allowing proselytization by religious groups, which is prohibited by Indonesian law, and the proliferation of sects. He said such a development would lead to social upheaval and potential violence against religious minorities. On April 19, 2010, the Constitutional Court upheld presidential order 1/PNPS 1965 as constitutional.

### *Forcible Closure of Religious Venues*

Indonesia’s religious minorities continued to face societal violence and pressure from local authorities in the past year. In some cases, police have arrested individuals responsible for vandalizing or destroying property of religious minority groups. In the past year, extremist groups reportedly forcibly closed as many as 15 religious venues and provincial officials have blocked and delayed building permits, despite religious groups meeting the stated legal criteria. In some areas, extremist groups interpret the existence of new Protestant or Catholic religious venues as evidence of “proselytization,” an activity banned by Indonesian law.

Police and local officials have sometimes intervened to prevent property destruction and disperse crowds. But mob violence remains too frequent and punishments of perpetrators too infrequent to act as a deterrent. Local government officials also have sought to mediate between militant groups and religious minorities in some cases, but sometimes acquiesce to pressure from militants and revoke permits for longstanding places of worship or allow the destruction of religious venues operating without permits. Officials from the Ministry of Religious Affairs acted in some cases to prevent forced closures of Christian churches, but most often intervene after mob action occurs.

West Java experienced the most incidents of societal violence during the past year, though there were also reported instances in the provinces of East Java, West Lombok, Madura, and Riau. Most targeted Protestant and Catholic congregations which have spread, along with better economic and housing options, to new areas of Indonesia. Hindu temples and Shi’a mosques have also been targeted. There also continue to be unverified reports that several Sunni mosques in predominately Christian Papua have been forced to close by local authorities.

In recent years, Shi’a communities in East Java and Madura faced attacks, vandalism, threats, and legal actions. In January 2008 in Madura province, villagers surrounded the house of Shi’a followers demanding they stop religious activities. Local officials and religious leaders intervened to disperse the crowd.

In January 2008, a mob burned the Sangkareang Hindu temple in Keru district, West Lombok, destroying the building and its contents. Also in West Lombok province, local officials revoked the building permit for a Hindu temple in Bayan District. As of this writing, building permits have not been granted to either temple. The Hindu community of Tangerang, West Java, was given permission to build a temple despite initial opposition from local Muslim groups, but the temple structure has not been built because of lack of funds.

In North Sumatra, during 2008, local authorities delayed the building of a Catholic church in Langkat regency, though the church met legal requirements. In Riau province, North Sumatra, the Love Evangelical Bethel Church ceased operations because of constant intimidation by protestors. In both cases, local officials reportedly were pressured by extremists groups.

In July 2008, armed residents in Kampun Pulo District of West Jakarta attacked the Arastamar Evangelical School of Theology, known as Setia College, because they claimed students were responsible for a recent spate of petty thefts and public disturbances. The students and faculty deny these allegations. The police did not intervene during initial protests and 20 students were injured. Staff and students were evacuated to three different sites, where they continued to live and take classes. Students staged hunger strikes and peaceful rallies to protest the forced closure of their campus. On November 9, Setia College reached a settlement with the Jakarta governor's office regarding a new campus.

In December 2009, a mob attacked and damaged the Saint Albert's Church in Bekasi regency, South Jakarta. Several buildings used to supervise construction of the new church were set on fire. Also in Bekasi in February 2010, 200 demonstrators from as many as 16 extremist groups, including FPI, gathered to pressure local officials to stop the activities of the 600 member Galilea Protestant Church. On February, 28, 2010 a mob gathered to protest the Batak Christian Protestant Church, which met in local homes because city authorities denied them permission to build a permanent structure. Local officials in Bekasi reportedly stated that "the congregation has the right to practice their religion... [but] they disrupt the neighborhood." Church leaders were asked to hold services in a more "commercial area" or in an areas where there is a "larger number of Christians."

In April 2010, 200 people gathered to disrupt the Good Friday activities of the John the Baptist Catholic Church in Bogor, West Java. According to press reports, members of the Parung Ulema Forum protested the existence of the congregation, which has been meeting in tents on vacant land since 1990. Local authorities have not given the congregation permission to build a permanent structure. Similar protests occurred at the site during Easter 2008 and Christmas 2009.

Religious venues are often forcibly closed because they do not have building permits. In response to persistent international and domestic criticism, the Ministry of Religion issued Joint Ministerial Decree 1/2006 to replace a previous, vaguely-worded decree that required religious groups to gain "community approval" before they could expand, renovate, or open new religious venues. Decree 1/2006 requires a religious group with a membership of more than 90 persons to obtain the support of 60 local residents for any plans to build or expand a religious venue. That petition must then be sent to the Joint Forum for Religious Tolerance (FKUB), a provincial panel of religious leaders chosen proportionally by the number of religious adherents in the province. If there remains strong community opposition to the religious venue, the FKUB can find an alternative location.

Critics of the decree claimed that it was designed to stop the proliferation of "house churches" and small Hindu temples (of fewer than 90 members). Prominent Muslim religious leaders have stated publicly that the new decree violates Article 18 of the International Covenant on Civil and Political Rights. Overall, the number of church, temple, and mosque closures declined slightly since Joint Ministerial Decree 1/2006 was issued, but the problem continues. Media attention has focused on the issue and each incident is reported internationally.

The Ministry of Religion has made efforts to establish and train provincial FKUB panels, hoping that they can mediate problems with local communities. Former President Abdurrahman Wahid has commended the "sincere efforts" of some FKUB panels to promote religious tolerance, but added that without sufficient "control, evaluation, monitoring...and sanctions" the panels can be "used to promote the

interests of the majority religion.” In many provinces, the local FKUB’s are dominated by the majority religious group of the region and they oppose or stall issuing licenses to religious minorities. In several cases in West Java, Protestant and Catholic churches in the cities of Bandung, Cianjur, and Bogor churches faced difficulties obtaining licenses, frequently due to opposition by the FKUB.

In many cases, Christian churches that meet in private homes or storefronts are denied permission to build permanent structures. In many cases, the visibility of the congregations raises community opposition, particularly if their membership grows. Five Protestant churches in North Bekasi, Jabotabek region, East Jakarta have faced vandalism and sporadic protests from the group Musholla (Cooperating Bureau of Mosques and Praying Rooms) because they meet in private homes. Although police protect the worship activities of these meeting points, local officials have refused to grant them permission to build permanent structures, despite their having met the criteria established in the 2006 decree. A similar situation occurred in South Rawa Badak, Koja region, North Jakarta. In August 2008, local officials pressured the pastor of a Protestant church to cease worship activities, despite his having received permission from the FKUB to operate the church. In July 2008, under an order from the subdistrict head, municipal police demolished the Indonesian Evangelical Prophet Church (Gekindo) in Bekasi, West Java. The church had not been operating for two years pending receiving a license from the local government.

Provincial officials are not uniformly opposed to issuing building permits to religious minorities who met legal requirements, and court decisions have overturned the actions of local authorities. For example, despite two years of pressure to close the Barnabas Church in Tangerang, West Java, authorities issued the church a building permit. Construction of the new facility is nearly complete. In September 2009, the Administrative Court of Bandung, West Java, granted the Huria Batak Kristen Protestant Church a building permit, overturning a decision of the mayor of Depok.

#### *Aceh & Provincial Sharia Laws*

USCIRF continues to monitor the implementation of sharia in Aceh. In August 2005, the Indonesian government concluded a comprehensive peace agreement with the insurgent group Free Aceh Movement (GAM), ending a 30-year conflict that had resulted in significant human rights abuses. The agreement led to local elections and formally instituted some regional autonomy for a region hard hit by the tsunami and decades of civil conflict. The Aceh peace agreement did not overturn Presidential Decree 11/2003, which allowed the province to establish and implement sharia law and establish sharia courts. Since the end of the civil war, sharia courts and their vice patrols, locally known as the *Wilayahul Hisbah*, have taken on a prominent public profile, enforcing dress codes and banning alcohol consumption, gambling, and unchaperoned male-female liaisons. The provincial government also enacted legislation regulating relations between members of the opposite sex, alcohol consumption, and gambling. The public caning of hundreds of individuals accused of sharia violations gained international attention.

During the April 2009 election, the political parties that won an estimated 80 percent of the vote in regional elections promised to de-emphasize the continuation of sharia in Aceh and instead to fully implement the Helsinki Peace Accords granting Aceh political autonomy.

Local non-governmental organizations (NGOs) in Aceh report that government oversight of *Wilayahul Hisbah* has improved recently, making the vice patrols less intrusive than in the past. The new provincial government also disbanded vice patrols in the city of Banda Aceh and civil courts gradually are taking up case loads previously heard in sharia courts. The incidents of public canings continue to decrease, though the vice patrols continue to publicly lecture individuals on proper dress and decorum. The State Department reports that there were no new reports of roadblocks being set up to enforce Islamic dress.

The existence of sharia in Aceh remains a problem for the new provincial government. In September 2009, the outgoing provincial assembly passed a new law that allows convicted adulterers to be stoned to death and imposes flogging for “inappropriate” sexual conduct and gambling. Aceh’s new governor, Irwandi Yusuf, refused to sign the law. In January, 2010 police arrested three members of a local vice patrol for allegedly raping a 20 year old student. The woman was also reportedly beaten for wearing improper Islamic dress. A court date has not been set.

The expansion of sharia in Aceh has influenced local initiatives elsewhere in Indonesia. Efforts to implement sharia provisions nationally have been defeated consistently by a coalition of the largest Muslim organizations together with religious minorities. However, some provinces and localities are enforcing Islamic law at the municipal and regional levels. Indonesian NGOs estimate that at least 66 *perda syaria*, or local sharia laws, have been promulgated and enforced in the past five years. According to the International Center for Islam and Pluralism, an Indonesian think tank, half of Indonesia’s 32 provinces have enacted sharia-inspired laws. In South Sulawesi, Madura, and West Sumatra, local authorities issued laws enforcing Islamic dress, prohibiting alcohol, and imposing public caning punishments. In Madura and South Sulawesi, civil servants are required to cease work activities during the call to prayer, and recitation of the Koran reportedly is being required for promotion. In Padang, West Sumatra, the local mayor instructed all schoolgirls, regardless of their religion, to wear headscarves. In Bulukumba regency, any woman not wearing a headscarf can be denied government services. Similar laws have already been implemented in parts of West Java, including Cianjur, Tasikmalaya, and Garut. In the city of Tangerang, Banten province, local laws have banned both Muslims and non-Muslims from public displays of affection, alcohol consumption, and prostitution. The anti-prostitution ban is being challenged in Indonesian courts because it defines a prostitute as anyone who draws attention to himself or herself by attitude, behavior, or dress or any woman found “loitering” alone on the street after 10 p.m. In the past year, according to the State Department, 31 women were arrested as prostitutes, including a married mother waiting alone at a bus stop during the early evening.

Recently, 56 Indonesian parliamentarians issued a petition calling for a review of local sharia-inspired laws to determine if they violate constitutional protections and national laws. Home Affairs Minister Mardiyanto announced that there was no need to review or overturn most sharia-inspired laws, although the Indonesian government promised to review 37 ordinances deemed discriminatory and at odds with the constitution. At this time, a review has yet to be completed.

Indonesian human rights advocates have expressed fears that local *perda syaria* ordinances are a backdoor attempt to implement sharia nationally. These laws also could threaten Indonesia’s fragile political consensus supporting pluralism, tolerance, and democracy. The head of Indonesia’s Constitutional Court, Dr. Mohammad Mahfud, told the *Jakarta Post* that, in his view, all *perda syaria* laws should be overturned because they promote religious intolerance, particularly against minorities, are unconstitutional, and “threaten...national integrity.”

## **U.S. Policy**

U.S. assistance to Indonesia has supported programs in conflict resolution, multi-religious dialogue and tolerance, pluralism, public diplomacy, and education that are in line with recommendations made by USCIRF in previous years. Such programs included opportunities for Indonesian and American experts to collaborate and build curriculum to promote interfaith dialogue, religious pluralism, and legal reform. In October 2008, the United States signed a Memorandum of Understanding (MOU) with the Indonesian National Commission on Human Rights (Komnas-HAM) to provide training and technical assistance to government officials in an effort to improve their understanding and implementation of laws protecting religious freedom. This MOU is expected to run through July 2010.

The Obama Administration is negotiating a “comprehensive partnership” with Indonesia, formalizing relations in a number of areas of bilateral interest, including educational reform, improved public health, enhanced trade and investment, food security, and cooperation on regional security concerns, including anti-terrorism and anti-narcotics efforts. Also, in January 2010, the Indonesia-U.S. Interfaith Cooperation Forum was held in Jakarta and focused on “Building Collaborative Communities: Enhancing Cooperation among People of Different Faiths.” The first U.S. initiative of its kind, the meeting promoted multi-religious cooperation and discussed what role governments can play in this process. It is USCIRF’s belief that a vibrant U.S.-Indonesian partnership is an important model, promoting Indonesian stability, addressing both domestic and regional human rights concerns and the threat of terrorism, and expanding universal rights and freedoms in the “Muslim world.”

## Recommendations

### I. Establishing a Human Rights Dialogue

As part of the U.S.-Indonesia Comprehensive Partnership, the U.S. government should create a human rights dialogue with the government of Indonesia and discuss issues regarding the protection and promotion of religious freedom and related human rights, including:

- urging the Indonesian government to overturn the Joint Ministerial Decree on the Ahmadiyya community, fully protect the ability of religious minority communities to freely practice in ways consistent with the Indonesian constitution and international law, and arrest or hold accountable any individual who organizes or carries out societal violence targeting the Ahmadiyya or other religious minorities;
- urging the Indonesian government to amend or repeal Article 156(a) of the Penal Code, and overturn any provincial or local laws inconsistent with Indonesia’s constitution or international human right standards, including local *perda syariah* laws such as those in Aceh;
- urging the Indonesian government to release anyone sentenced for “deviancy,” “denigrating religion,” or “blasphemy,” and ending the prosecution of those detained under Article 156(a) of the Penal Code;
- urging the Indonesian government to amend the Joint Ministerial Decree No. 1/2006 (Regulation on Building Houses of Worship) to bring it into compliance with the Indonesian constitution’s protection of religious freedom as well as international standards, remove any restrictive barriers on building and refurbishing places of worship for all religious groups in Indonesia, and provide protection for religious venues, as well as restitution to religious communities whose venues have been destroyed or closed due to mob violence or protests, and ensure that those responsible for such acts are prosecuted;
- establishing programs to support monitoring of the implementation of sharia law in Aceh and other parts of Indonesia to determine if individual rights and freedoms, including religious freedom, are being guaranteed for all citizens, and making sure that U.S. humanitarian and foreign assistance programs do not support virtue and vice patrols or sharia courts in Aceh or other municipalities in Indonesia; and
- facilitating a durable solution for IDPs in Central Sulawesi, the Malukus, and West Lombok, and for Rohingya refugees in Aceh.

## **II. Supporting the Promotion of Religious Freedom and Human Rights, Countering Extremism, Teaching Tolerance, and Building Interfaith Alliances**

As part of the U.S.-Indonesia Comprehensive Partnership, the U.S. government should support religious groups and other elements of civil society that promote religious freedom and human rights, counter extremism, teach tolerance, and build interfaith alliances to deal with pressing social, legal, political, and economic concerns including:

- renewing the MOU with Komnas-HAM and seeking to expand the capacity, training, and reporting ability of Indonesian human rights defenders;
- creating an agreement with the Ministry of Religious Affairs and other Indonesian civil society groups to train and equip members of provincial FKUBs, allowing FKUB members to mediate sectarian disputes in ways consistent with Indonesia's national and international commitments to protect the freedom of religion and belief;
- creating programs to train, equip, and build capacity and networks for Indonesia's legal reform advocates, governmental judicial officials and judges, and legal and human rights-focused civil society organizations, including the National Human Rights Commission (Komnas HAM), the National Women's Commission (Komnas Perempuan) the Constitutional Court, and the Directorate General of Human Rights in the Ministry of Justice;
- expanding support for various forms of new media, including radio, television, internet, and publishing activities that advance interfaith cooperation, religious tolerance, and promote respect for religious freedom, women's rights, and human rights; and
- expanding support for media and publishing ventures for Indonesian organizations seeking to promote intra-Muslim dialogue on the compatibility of Islam and human rights, democracy, and pluralism, women's rights, including the translation of books by prominent Indonesian scholars into, as appropriate, Arabic, Urdu, Persian, Turkish, and English.

In addition, as part of U.S.-Indonesian counter-terrorism cooperation, the U.S. should ensure that any future ties with the Indonesian military and police should include, as priorities:

- reform of the Indonesian military, including transfer to civilian control, training in international human rights standards, technical assistance in military law and tribunals;
- transfer or removal from Papua, the Malukus, or Central Sulawesi any security, police, and militia personnel indicted for activities related to serious human rights abuses and war crimes by the UN's Serious Crimes Investigation Unit (SCIU) and the Ad Hoc Human Rights Court for East Timor in Jakarta;
- dedicated funds for training Indonesian police in counter-terrorism techniques and protecting human rights in areas of sectarian conflict, including fellowships to the International Law Enforcement Academy (ILEA) in Bangkok, Thailand and participation in UN Police training programs (UNPOL); and
- denial of U.S. assistance, training, or visas for any police or military unit or security agency personnel found to have engaged in violations of human rights.

## Laos

**FINDINGS:** USCIRF continues to be concerned about religious freedom conditions in Laos. The Lao government continues to restrict religious practices through its legal code, but has permitted increased freedom of worship in some cases. Conditions have incrementally improved for Lao Buddhists and for some religious minority groups in urban areas. Nonetheless, during the past year, conditions have deteriorated for some religious minorities, particularly ethnic minority Protestants in provincial areas. The Lao government is either unwilling or unable to curtail completely the activities of provincial officials that severely violate the freedom of religion or belief, including detentions, surveillance, harassment, threats of property loss, forced relocations, and forced renunciations of faith. However, Lao officials in charge of religious affairs reportedly intercede occasionally with provincial officials to mitigate some of the worst mistreatment of ethnic minority religious groups.

Based on these concerns, USCIRF maintains Laos on its Watch List in 2010. The Commission had removed Laos from the Watch List in 2005, citing the Lao government's steps to address serious religious freedom concerns in advance of the U.S. decision to grant Laos permanent normal trade relations (PNTR). Given the rising number of religious freedom abuses targeting ethnic and religious minorities, the Commission returned Laos to its Watch List in 2009.

Since Laos was granted PNTR status in 2005, religious freedom conditions improved somewhat, though the Lao government's toleration of religious practice varies by region and religious group. Buddhism, which is closely associated with Lao culture and is practiced by the vast majority of the population, is now generally free from the restrictions and oversight faced by some other religious groups. In urban areas, leaders of religious minority groups report few restrictions on their worship activities and the government has allowed them to re-open, build, and expand some new venues in recent years. For example, Lao Catholics were allowed to build churches and ordain new priests, the first since 1975. However, serious problems remain on the local level, particularly in the provinces of Bolikhamsai, Houaphan, Salavan, Luan Prabang, Attapeu, Oudamsai, and Luang Namtha. Reports of detentions, threats, and forced renunciations of faith spiked in the past year. Most recent religious freedom abuses center on the small, but fast growing, Lao Evangelical Church and related Protestant denominations.

**PRIORITY RECOMMENDATIONS:** The United States and Laos have expanded relations in recent years. U.S. assistance focuses on humanitarian programs, economic development, trade expansion, military training, and issues remaining from the Vietnam War. The United States continues to express concern and seek transparent mechanisms to track ethnic Hmong repatriated from Thailand. The U.S. government has sponsored training for Lao officials on international religious freedom and the protection of religious minorities in practice and law. USCIRF recommends that the U.S. government initiate human rights and religious tolerance training for the Lao military as part of new U.S. programs to raise military professionalism and provide additional economic assistance to help to monitor and resettle Lao Hmong repatriated from Thailand. Additional recommendations for U.S. policy toward Laos can be found at the end of this chapter.

## Religious Freedom Conditions

### *Governing and Legal Framework*

Laos is a single party, communist, authoritarian state with a poor human rights record overall, including harsh prison conditions, severe restrictions on the freedoms of expression, association, and assembly, and widespread corruption among local police, administrators, and judges.

The Lao Constitution provides for freedom of religion, but the Prime Minister's 2002 Decree on Religious Practice (Decree 92) contains numerous mechanisms for government control of and interference in religious activities. Although Decree 92 authorized religious activities previously regarded as illegal (such as public religious persuasion, printing religious material, owning and building places of worship, and maintaining contact with overseas religious groups), many of these activities can be conducted only with government approval. Moreover, the decree contains a prohibition on activities that create "social division" or "chaos" that reiterates parts of the Lao criminal code used in the past by government officials to arrest and detain ethnic minority Christians arbitrarily.

The Lao Front for National Construction (LFNC), a front group for the Lao People's Revolutionary Party, is the organization tasked with monitoring religious activity and carrying out the Lao government's policy on religion. Decree 92 requires religious groups to register with the LFNC. The government has not allowed some of the most recently established Protestant denominations to apply for recognition, making their activities illegal. Religious leaders have reported that legally permitted religious activities, such as proselytizing and production of religious materials, are restricted in practice. Anyone caught engaging in these activities risks harassment or arrest. Foreigners who distribute religious material are subject to arrest or deportation.

### *Conditions for "Recognized" Religions*

The government officially recognizes four religions: Buddhism, Christianity, Islam, and the Baha'i Faith. Recognized Christian groups included the Catholic Church, the Lao Evangelical Church (LEC), and the Seventh-day Adventist Church. Theravada Buddhism, the largest religion in Laos, occupies an elevated position in Lao society, a position ensured by government promotion. Despite its communist roots, the Lao government actively promotes Theravada Buddhism by incorporating its rituals and ceremonies into state functions and by exempting Buddhism from most of the legal requirements imposed on other religions. The government supports Buddhist temples administratively and financially. Buddhists in Laos generally do not report religious freedom abuses or restrictions, though in February 2007 two Buddhist monks were arrested and briefly detained for being ordained without government permission.

In most urban areas, religious leaders report few restrictions on their worship activities. The government has allowed the officially recognized religious groups to re-open, build, and expand religious venues in recent years. Baha'is were permitted to reclaim two pieces of property seized by the government in 1975. The government also issued permits to build four new Baha'i centers in Vientiane province. Lao Protestants and Catholics also reclaimed several properties confiscated previously in Vientiane and Bokeo provinces. Four new Protestant churches were built in the former Saisomboun Special Zone and Bolikhamsai province, and churches formerly closed or destroyed were permitted to re-open or be rebuilt in Bolikhamsai, Vientiane, and Bokeo provinces. Two Catholic churches were built in villages where permits were long denied. Travel restrictions on the Roman Catholic Bishop of Luang Prabang were lifted and he was able to visit parish churches in northern Laos. The government permitted the ordination of a Catholic deacon in Champassak province, and the government eventually allowed the ordination of three new Catholic priests in Vientiane, despite initially blocking the ceremony. These were the first ordinations of Catholic clergy permitted in the country since 1975. In January 2008, 3,000 people, including foreign dignitaries and the regional Archbishop from Bangkok, were allowed to attend the

ordination of Father Benedict Bennakhone Inthirath, who now serves the Vientiane vicariate. Catholic ordinations continued into early 2009 with the ordination of Father Matthieu Somdet Kaluan on January 10, 2009 in central Laos, a ceremony that also drew thousands of Laotian Catholics.

### *Religious Freedom Abuses in Ethnic Minority Areas*

Most religious freedom abuses in Laos have affected the small but fast-growing Protestant groups in ethnic minority areas. Lao authorities in some areas continue to view the spread of Christianity among ethnic minorities as an “American import” that poses a potential threat to the communist political system, particularly as some ethnic minority groups have long resisted government control. Authorities in some provinces used threats of arrest to intimidate local religious communities.

The Lao government recognizes the LEC and the Seventh Day Adventists, but has refused to recognize legally the Methodists and other small independent Protestant congregations. Most new Christian groups are required to join either the LEC or the Adventists to make it easier for the government to exercise management and oversight. Last year, there were more reports of provincial authorities restricting the activities of ethnic minority Protestants, particularly those who have not joined the LEC or who have established connections with other denominations abroad. For example, in some provincial areas, Methodist congregations cannot gather for worship, build religious venues, or conduct Christian funeral services.

Decree 92 restricts worship services to officially sanctioned houses of worship, and both LEC and non-LEC affiliated “house churches” have experienced various levels of harassment, particularly in Luang Namtha, Oudomasai, and Bolikhamsai provinces. In March 2008, a religious leader and several congregates in Savannakhet were briefly detained and charged with holding “illegal worship services.” The religious leader was released and ordered to cease operation of his “house church” until he received permission from provincial authorities. In August 2008, a congregation of 150 adherents in Bolikhamsai province was banned from meeting in a member’s home by local authorities, who asserted that under current law they could only meet in a church. However, these local officials reportedly destroyed the group’s church earlier in the year and sought to get church members to renounce their faith. In the past, provincial authorities have refused to grant Protestants permission to build church structures.

### *Detentions*

In the past year, according to a variety of sources, the number of individuals arrested and detained for reasons related to religion increased among ethnic minority Protestants. Individuals arrested for their religious activities were held for varying lengths of time up to a year without charges being filed. Many were forced to sign a renunciation of faith while imprisoned. Amnesty International estimates that between July and September 2009 at least 90 ethnic minority Protestants were arrested and detained without charge or trial. In September 2009, Lao officials arrested a church elder, Thao Oun, taking him from his home in Lainsai village, Savannakhet province. He was detained, interrogated, mistreated in detention, and finally charged with “bringing destruction to the Lao nation and government due to his Christian faith.” A few days later, authorities arrested another ethnic minority Protestant, Thao Aom, from the same village, and subjected him to interrogation until he renounced his faith.

### *Forced Renunciations of Faith*

Reports of forced renunciations of faith also have increased in the past year, although it remains difficult to verify all emerging reports. Nevertheless, there is enough credible evidence available to report that some Lao officials use detention and mistreatment as a means to force individuals to renounce their faith. In addition, officials have threatened entire villages by denying schooling to children and access to water

projects, land, and medical care. In September 2009, Amnesty International reported that authorities arrested a teacher in Phonthong district, Champassack province for converting to Protestantism. He was detained for “re-education” and told that he would only be released if he renounced his faith. In September 2009, in Jinsangmai village, Luang Namtha province, local officials pressured ethnic minority Protestants to recant their faith or be forcibly relocated. All of the Christians in the village reportedly recanted their faith, including a man previously jailed for refusing to do so.

In July 2009, in response to an apparent conflict among villagers in Katin, Saravan province, local officials banned the practice of Christianity. Police and local officials threatened Christian residents with confiscation of livestock and land unless they renounced their faith and began worshipping local spirits in accordance with their ethnic tradition. In February 2010, 48 Protestants in Katin were forcibly removed from their property and had their personal belongings confiscated. Police and local officials threatened to destroy even temporary shelters built by evicted Katin villagers.

#### *Lao Government Addresses Some of the Worst Abuses*

In March 2010, the provincial governor of Saravan province met with local Protestants in Katin village and reportedly assured them that they could worship freely and return to their property, apparently contravening the actions of local government officials. In recent years, officials associated with the LFNC have regularly sought to resolve disputes between religious groups and provincial officials, including intervening in some cases of detention or arrest, sometimes resulting in positive outcomes. However, the growing numbers of religious freedom abuses in provincial areas in the past year may indicate that local officials can act with impunity, particularly against ethnic minority Protestants. The Lao government has not been able to halt abuses or hold officials accountable.

#### *Repatriation of Lao Hmong Refugees*

In recent years, the Lao military has stepped up efforts to eradicate a moribund Hmong rebel group that has survived since the end of the Vietnam War. Indiscriminate military activity has targeted Hmong villages, killing civilians and destroying Protestant churches. Repression of ethnic minority Hmong has created an acute refugee problem, as Lao Hmong have sought asylum in Thailand only to be forcibly repatriated. In December 2009, the Thai government forcibly returned 4,000 Lao Hmong from Huay Nam Khao camp, as well as 158 Lao Hmong detained in the Nong Khai Immigration Detention Center since 2006. Despite repeated efforts by the United Nations High Commissioner for Refugees (UNHCR) and the United States, the Thai government continues to repatriate the Lao Hmong. There are reports that repatriated Lao Hmong are subject to imprisonment, re-education, mistreatment, and discrimination.

#### **U.S. Policy**

U.S.-Lao relations have expanded over the past few years as the United States has taken an active interest in both economic engagement and promoting human rights and religious freedom in Laos. Laos historically has had close ties with Vietnam and China. Major areas of U.S. assistance include counter-narcotics programs, trade capacity and legal reform projects, HIV/AIDS prevention and treatment, and the recovery of Americans missing in action since the Vietnam War. In 2008, the U.S. and Laos exchanged defense attaches for the first time in over thirty years and started military training and education programs. The Obama administration has expressed concerns over the plight of the Lao Hmong population, and 31 members of Congress signed a letter to Secretary of State Clinton urging her to appeal to the Thai government not to repatriate Lao Hmong asylum-seekers forcibly. The United States has also urged the Lao government to accept independent, international monitoring of the resettlement of repatriated Lao Hmong.

The U.S. Embassy in Laos has supported an ongoing program of training for Lao officials in international religious freedom, religion and law, and the protection of religious minorities.

### **Recommendations**

The U.S. government should:

- establish measurable goals and benchmarks, in consultation with USCIRF, for further human rights progress in Laos as a guide for diplomatic engagement between Laos and the United States and make clear to the government of Laos that improvements in the protection of freedom of thought, conscience, and religion or belief, including legal reforms, political accountability for government officials who perpetrate religious freedom abuses, and the release of any prisoners detained because of religious affiliation or activity, are essential to further improvements in, and expansion of, U.S.-Laos relations;
- initiate human rights and religious tolerance training for the Lao military as part of new military programs to raise professionalism; deny U.S. training, visas, or assistance to any military unit or security agency personnel found to have engaged in violations of human rights, including religious freedom;
- urge the Lao government to allow international monitoring of the resettlement of Lao Hmong forcibly repatriated from Thailand and accept economic support and technical assistance to help with resettlement;
- expand Lao language broadcasts on Voice of America (VOA) and Radio Free Asia (RFA) while ensuring that the content of the Lao language broadcasts on VOA and RFA includes adequate information about the importance of human rights, including religious freedom, within Laos; and
- initiate and expand technical assistance and human rights programs that support the goals of protecting and promoting religious freedom, including:
  - new programs and exchanges to produce civic education initiatives to combat intolerance and discrimination of religious and ethnic minorities;
  - rule of law programs that provide assistance in amending, drafting, and implementing laws and regulations, including Laos' law on religion (Decree 92);
  - human rights and religious freedom training programs for specific sectors of Lao society, including government officials, religious leaders, academics, lawyers, police, and representatives of international non-governmental organizations;
  - training, networking, and capacity-building for Lao groups that carry out charitable, medical, and development activities in accordance with the Lao government's new law on non-governmental organizations; and
  - initiating a formal human rights dialogue with the government of Laos, addressing such issues as ethnic and religious discrimination, torture and other forms of ill-treatment in prisons, unlawful arrest and detention, lack of due process, and refugee resettlement, and taking practical steps to ensure the rights to freedom of expression, association, and assembly.

## The Russian Federation

**FINDINGS:** Religious freedom conditions in Russia continue to deteriorate. In the past year, the government increased its use of anti-extremist legislation against religious groups that are not known to use or advocate violence. National and local government officials also harass religious groups they view as non-traditional and Muslims through enforcement of other laws. Difficulties include: denials of registration; detention and harassment of members of religious communities; and delays and refusals to permit construction of or grant permits to rent places of worship. Russian officials continue to describe certain religious and other groups as alien to Russian culture and society, thereby contributing to a climate of intolerance. Continued high levels of xenophobia and intolerance, including anti-Semitism, have resulted in violent and sometimes lethal hate crimes. Despite increased prosecution for violent hate crimes, the Russian government chronically has failed to address these serious problems consistently or effectively.

Based on these concerns, USCIRF again places Russia on its Watch List in 2010. The Commission has reported on Russia every year since 1999, but placed Russia on the Watch List for the first time in 2009.

While concerns about the Expert Religious Studies Council established by the Ministry of Justice in 2009 have not resulted in official limits on religious freedom, Russia adopted several policies in 2009 that violate its constitutional provisions on secularism and the equal status of all religions. Specifically, the new official military chaplains and school curricula on religion are limited to the four religions officially viewed as traditional (Russian Orthodoxy, Islam, Buddhism and Judaism). Numerous violent hate crimes against members of various religious communities continue to occur. Violent chauvinistic groups have targeted individuals, groups, and judges and other government officials who defend and enforce minority rights. Although Moscow police officials stepped up arrests and prosecution of violent chauvinists in 2009, most other regions lagged behind.

**PRIORITY RECOMMENDATIONS:** As part of its “reset” of bilateral relations, freedom of religion or belief should be an important issue in the U.S.-Russia bilateral relationship, recognizing that it is both a human rights and security concern in Russia. Although Russia does face genuine domestic security concerns, as evidenced most recently in the March Moscow Metro bombings, the U.S. and international community should press Russia to reform its overly broad law on extremism and ensure that it is not being used against peaceful religious believers, which risks increasing radicalism and instability. The U.S. should implement the “Smith Amendment” of the 2010 Consolidated Appropriations Act to prohibit U.S. financial assistance to the Russian Federation government due to its official policies on religious groups, particularly its wide use of the extremism law. The U.S. also should institute a visa ban and freeze the assets of Chechen President Ramzan Kadyrov due to his leadership of the Chechen armed forces, which the European Court of Human Rights (ECtHR) has found involved in severe human rights abuses. U.S.-funded grants to NGOs should include the promotion of international legal guarantees on freedom of religion or belief, and U.S.-funded exchange programs should include participants from Russian regions with sizeable Muslim and other religious minority populations. In addition, the United States should initiate International Visitor’s Programs for Russian officials on the prevention and prosecution of hate crimes. Additional recommendations for U.S. policy toward Russia can be found at the end of this chapter.

## Religious Freedom Conditions

### *Overall Human Rights Climate*

In recent years, Russia has steadily retreated from democratic reform, endangering post-Soviet human rights gains, including those regarding freedom of religion or belief. Evidence of this general retreat includes further limitations on media freedom and on political parties, tighter controls on non-governmental organizations (NGOs) and religious communities, concerted harassment of human rights activists and organizations, legal restrictions on freedom of assembly, and constraints on popular referenda. Increasingly, Russian journalists, lawyers and others who have defended human rights—particularly those who seek to bring such violations to international attention-- have been subjected to brazen killings and attacks, and the perpetrators usually act with impunity. Moreover, Moscow opposed international efforts to draw attention to these serious problems by terming such inquiries “meddling” or “interference in internal affairs.” This sharp deterioration in the human rights climate appears to be a direct consequence of the authoritarian stance of the Russian government as well as the growing influence of chauvinistic groups in Russian society.

Russia’s weak judicial system, inconsistent adherence to the rule of law, and local officials’ arbitrary decisions in regard to the status of the four so-called traditional religions have also contributed to chronic problems for the country’s diverse religious communities. Official respect for freedom of religion or belief varies widely over Russia’s vast territory depending on the personal views of regional Ministry of Justice officials or even governors. For example, Chechen President Ramzan Kadyrov has declared that his republic “would be better off” if it were ruled by sharia law, and he has also justified polygamy and honor killings. Moreover, government respect for the legal rights of a religious community is often dependent on that group’s relationship with individual state officials.

### *Application of Extremism Laws*

As is the case in many other countries, the Russian government faces major challenges as it addresses extremism and acts of terrorism that claim a religious linkage, while also protecting freedom of religion or belief and other human rights. The post-Soviet revival of Islam, along with the ongoing violence throughout the North Caucasus, compound difficulties for the Russian government in dealing with its 20 million Muslims, the country’s second largest religious community. As evidenced by the March 2010 terrorist attacks in the Moscow metro, Russia faces security threats from domestic terrorism, particularly those related to violence in the North Caucasus. The North Caucasus region also faces chronic instability due to severe economic dislocation, especially among young men; certain radical foreign influences on indigenous Muslims, and endemic corruption and local political grievances, particularly in Chechnya, Dagestan, Ingushetia, and Kabardino-Balkaria. All these factors fuel increasingly widespread and sometimes violent expressions of popular dissatisfaction by Muslims with the local and national Russian government.

Human rights groups report that, particularly in the North Caucasus, Muslims perceived as “overly observant” have been killed, disappeared, or arrested on vague official accusations of alleged Islamist extremism or for allegedly displaying Islamist sympathies, without any proven relationship to Islamist militancy. There are also at least 200 cases of Muslims who have been imprisoned on the basis of evidence, including banned religious literature, drugs, or weapons, allegedly planted by the police. Persons suspected of involvement in alleged Islamist extremism have also reportedly been subjected to torture and ill-treatment in pre-trial detention, prisons, and labor camps. In 2009, Amnesty International accused the Russian Internal Ministry’s Center for Extremism Prevention (known as Center “E”) of engaging in torture to extract confessions from suspects. Muslim prisoners in the Murmansk oblast filed a case in the ECtHR in 2008 alleging official mistreatment on the basis of their religion.

The Russian government has specifically equated the practice of Islam outside of government-approved structures with extremism and even terrorism. In a 2008 joint order, the Russian Federal Security Service (FSB), Procuracy General, and Ministry of Internal Affairs accused “Muslim communities and preachers not dependent on the Muslim Spiritual Directorates (MSDs)” of “extremism under cover of Islam.” The director of the Interior Ministry’s Department for the Prevention of Extremism has also said that young Muslims who refuse to participate in the official MSDs thereby “transformed themselves” into anti-government militants.

Russia’s 2002 Extremism Law broadly defines extremist activity in a religious context. It refers to “propaganda of the exclusivity, superiority or inferiority of citizens according to their attitude towards religion or religious affiliation; incitement of religious hatred; obstruction of the lawful activity of religious associations accompanied by violence or the threat of violence; committing a crime motivated by religious hatred.” Russian government officials have used this provision to deny the verbal claims of the superiority of religious ideas, which is a basic tenet of religious freedom. In 2006, the legal definition of extremism was expanded to encompass “violation of the rights and freedoms of the person and citizen” and “harm to the health or property of citizens in connection with their beliefs.” In 2007, the definition was expanded to include “obstruction of the lawful activity (...) of social, religious or other organizations” without requiring the threat or application of actual violence. In addition, those alleged to have defended or even expressed sympathy with individuals charged with extremism were also made liable to charges of extremism.

The Extremism Law also empowers the Procurator-General to file a suit against private organizations, including religious ones, after just one warning. The organization has two months after the warning to correct the alleged violation, and, if it does not do so, the Procurator-General may then file suit to close the organization.

Under the Extremism Law, any Russian court may rule literature extremist. After such a ruling, the text is automatically added to the Justice Ministry’s official list of extremist materials and is banned throughout Russia. Anyone who publishes or distributes a banned text on the list faces a potential four-year prison term. The list, which was established in July 2007 with 14 titles, included 573 items as of February 2010. Islamic materials reportedly constitute the majority of the religious items; 52 Jehovah’s Witnesses publications were added in the past year. Although the extremism law does not expressly prohibit private ownership of such material, the Russian police have interpreted the law in that fashion. The mass distribution, preparation, or storage of titles banned as extremist may also result in prosecution under Criminal Code Article 282 (“incitement of ethnic, racial or religious hatred”), with potential penalties ranging from a fine to up to five years in prison. Violators may also be prosecuted under Article 20.29 of the Administrative Violations Code (“production and distribution of extremist material”), with penalties ranging from a fine to a maximum of a 15-day term of detention.

In 2003, the Russian Supreme Court banned 15 Muslim groups for alleged ties to international terrorism without adequate process, review, or transparency. It was not until 2006 that the official government newspaper *Rossiiskaya gazeta* published the Federal Security Service list of terrorist-designated organizations, even though such publication is a pre-condition for the ruling to have legal standing. Furthermore, the published list of the banned groups included 17 groups, without providing any reason for the inclusion of the two others. In May 2009, the *Tabligh Jamaat* was also officially banned in Russia for extremism. The Russian General Prosecutor maintained that *Tabligh Jamaat* is a radical organization whose goal is the re-establishment of an Islamic caliphate, but some human rights activists claimed that the organization scrupulously follows the law and exists only to educate people about Islam. According to the State Department, the *Tabligh Jamaat* is an “Islamic missionary organization” that is not known to have used or advocated violence.

Human rights groups are concerned that the 2003 ruling has facilitated arbitrary detentions, convictions and imprisonment of hundreds of individuals on extremism charges for unproven ties to the banned groups. Some Muslims have claimed that they were beaten or tortured by police in an effort to force them to testify against other suspects.

The chair of Russia's officially-approved Council of Muftis, Ravil Gainutdin, has accused some local courts of "poor understanding of religious and theological issues," noting that courts had banned as extremist books recommended by his own council, such as "The Personality of a Muslim," a Koran-based life guide that espouses kindness, including towards non-Muslims. In May 2008, a criminal case for "incitement of religious hatred" was brought against Aslambek Ezhayev, the head of the Publishing Department of the Moscow Islamic University, which had printed "The Personality of a Muslim." Authorities later dropped the incitement charge, but in March 2009 charged Ezhayev with copyright violations and use of harmful software.

In 2007, a Russian court banned as extremist the Russian translations of fourteen parts of Risale-i Nur (Messages of Light), Turkish theologian's Said Nursi's commentaries on the Koran and Islam. In 2008, a lawyer from Izhevsk filed a case in the ECtHR challenging the ban on Nursi's writings. Russia's Human Rights Ombudsman has denounced the ban on Nursi's writings, warning that "it is very important that we do not allow interference in the convictions and beliefs of millions of citizens on the poorly grounded, unproven pretext of fighting against extremism." Since the Nursi texts were first banned in 2007, there have been dozens of police raids throughout Russia of individuals suspected of reading or owning his works, and seizures of those works; criminal charges have also been initiated against some individuals.

More recently, official accusations of extremism have been leveled against Jehovah's Witnesses. In December 2009, the Russian Supreme Court upheld a court decision liquidating the Jehovah's Witness congregation in the city of Taganrog, partly on the grounds that 34 of its texts are extremist. As a result of this decision, all of the congregation's property will be seized and the congregation will not be allowed to meet as a community. In addition, in January 2009 a city court in Altai, in the Gorno-Altai republic, ruled 16 Jehovah's Witness publications extremist. Since these rulings, numerous members of the Jehovah's Witnesses community across Russia have been detained by police for up to several hours, usually without official documentation. In one recent example, a Jehovah's Witness who was driving on the main Moscow-Ryazan road in March 2010 was stopped by traffic police to check for the transport of extremist literature. Although he did not have literature on the federal list of banned texts, he nevertheless was ordered to report to local police.

In May 2009, authorities in the town of Ramon in the Voronezh region detained two Jehovah's Witnesses, allegedly on suspicion of involvement in local robberies. When the men denied the allegations, police reportedly forced one to confess by making him wear a gas mask to which they cut off the oxygen supply, subjecting him to electric shock, and threatening him with sexual assault. The police later released both men and dropped all charges.

Jehovah's Witnesses view their recent official treatment unfortunately as reminiscent of the Soviet era. In February 2010, 160,000 members of this community distributed 12 million copies of a publication making this comparison and refuting official allegations that they are extremist. In Nizhny Novgorod in late February 2010, two Jehovah's Witnesses, one a minor, were detained by police for distributing this leaflet. Although the father tried to enter the room in the police station where his son was detained, the son was first interrogated alone. When the boy refused to answer questions, he reportedly was told that documents confirming he had parents would be burnt and he would be sent to an orphanage.

In February 2010, armed police in the city of Kaluga, acting on a tip about a “sect” using “extremist” literature, raided a Lutheran ordination service attended by Archbishop Iosif Baron of the Augsburg Lutheran Church. During the one-hour search, copies of the Bible and hymnals were the only texts discovered; nevertheless, the church’s pastor was summoned to the local police station.

### *The Official Distinction between Traditional and Non-Traditional Religions*

Despite provisions in the Russian constitution establishing a secular state with equal legal status for all religions as well as the 1997 religion law’s declaration that all religions are equal under the law, the preface to that law claims that only four religions—Russian Orthodoxy, Islam, Judaism, and Buddhism—have traditional status in the country. The *de facto* favored status of the Moscow Patriarchate Russian Orthodox Church (MPROC) also results in official discrimination against other religious groups, including the other three officially traditional faiths. Russian government officials and police also have made frequent negative comments about Protestant and other religious communities. Official statements have stressed the alien character and foreign funding of these communities. Such statements have gone so far as to imply espionage, much as the Soviet system promoted suspicion of enemies, traitors and “wreckers” of society. Such allegations contribute to a climate of intolerance that has led to discrimination and hate crimes.

The MPROC claims adherents among 60 percent of Russians and has a special role in Russian history and culture. The MPROC receives the bulk of Russian state support for religious groups, including subsidies for church maintenance and construction. For example, Prime Minister Vladimir Putin announced on Orthodox Christmas in January 2010 that the Russian government would provide almost \$100 million to restore holy sites, monasteries and churches destroyed by the Soviet government. Nevertheless, Islam, Buddhism and Judaism also sometimes benefit from government funding, as do other groups. For example, the Moscow city government has funded major renovations of the buildings of Old Believers, which in the 1600s was Russia’s majority Orthodox community but is not part of the MPROC. In December 2009, the Kremlin signed a concordat with the Vatican.

The MPROC has special arrangements with numerous government agencies and bodies to conduct religious education and to provide spiritual counseling, including with the Ministries of Education, Defense, Health, Internal Affairs, and Emergency Situations. For example, the vast majority of religious facilities in Russian prisons are Russian Orthodox.

In July 2009, President Medvedev issued an executive order establishing state-funded military chaplains. By January 2010, 200 MPROC clergy had been appointed to Russian military units. Under the executive order, Muslims, Jews, or Buddhists must comprise 10 percent of a military unit before an official chaplain of that religion would be appointed. According to a Russian Defense Ministry survey, two-thirds of the country’s soldiers are religious adherents, and of these, 83 percent are Russian Orthodox, eight percent are Muslims, and the remaining nine percent are from other religions or denominations, including Protestants. The Slavic Center for Law and Justice observes that the survey is replete with “insulting remarks against those religious associations that do not belong to the announced four ‘traditional’ religions.”

In addition to the military chaplains paid by the Russian state, an estimated total of 2,000 MPROC priests also work in the Russian military, as do a small number of Muslim and Protestant clergy. Various Russian military units have adopted Russian Orthodox saints in official insignia and there are MPROC chapels on army bases, but authorities reportedly rarely allow Islamic services and often deny Muslim conscripts time for daily prayers or alternatives to pork-based meals.

Also in July 2009, President Medvedev issued an order that, beginning in September, fourth-grade students in 19 diverse regions of Russia -- ranging from the Muslim-majority North Caucasus to Russian Orthodox majority areas in Central Russia to the Jewish autonomous region in Siberia -- could, with parental permission, choose to study the new curriculum of "Foundations of Religious Cultures and Secular Ethics." The course is divided into three sections over six months: one on Orthodoxy, Islam, Buddhism, and Judaism; another on the history of religious cultures, and a third on secular ethics. Parents are supposed to be allowed to select, if they wish, one of the three sections for their children to study. The Russian Ministry of Education claims that the course is based on, and its teachers will rely on, scholarly information. Russian human rights groups have reported instances in which Russian Orthodox Church officials are alleged to have pressured parents not to allow their children to select the secular ethics portion of the course.

Parliament also continues its consideration of a draft law to transfer property of religious significance to religious organizations, including land, buildings and movable property. The draft law would grant religious organizations ownership of all historical property in their use. Currently, religious organizations have the right to use such property indefinitely, but that property remains Russian state property. If the draft law is passed -- and several informed observers think its chances of passage are good -- the MPROC would become one of Russia's major property holders and Muslim communities will also claim pre-1917 titles to land and other property. Many Russian cultural figures oppose this bill because it will remove, for example, many historical icons from public museums.

#### *Legal Status Issues*

Russia's 1997 Law on Freedom of Conscience is complex and contains numerous ambiguous provisions. The law defines three categories of religious communities with varying legal status and privileges: groups, local organizations, and centralized organizations. An unregistered "religious group" can hold worship services and teach religion to its members, but lacks legal status to open a bank account, own property, issue invitations to foreign guests, and publish literature; its individual members in theory can rent or buy property, and invite guests to engage in religious instruction, and import religious material. A "religious organization" requires at least 10 citizen members to register, either as part of a centralized organization or as a local organization that has existed for at least 15 years. Since such organizations are registered, they can conduct activities denied to unregistered groups, including operating houses of worship, and engage in religious activities in prisons, public hospitals and the military. "Centralized religious organizations" are comprised of a minimum of three local registered organizations and can open local organizations without a waiting period. A minimum of 50 years of existence is required for the use of "Russia" or "Russian" in the titles of religious organizations. Registered groups must re-register annually at both the national and local levels. The law also allows officials to bring court cases which may result in decisions to ban the activities of particular religious communities found to have violated Russian law.

The law's 15-year existence requirement for religious groups to register disfavors groups new to the country. Moreover, at the time the law was enacted it effectively meant that a group must have existed during the highly restrictive Soviet era. In October 2009, the ECtHR found that the 15-year requirement violated the European Convention on Human Rights' provisions on the freedoms of religion and association. The case, *Kimlya and Others v. Russia*, was brought by the Church of Scientology of Nizhnekamsk, which had been denied registration on the grounds that it had existed in that locality for less than 15 years. This ruling could have a major impact on the Russian religion law, since according to the Russian Constitution, international legal obligations take precedence over domestic law. Furthermore, in February 2010 the Russian Constitutional Court ordered Russian national courts to review and change legal decisions after a negative ECtHR ruling, rather than simply awarding monetary compensation to the plaintiffs, as had been the usual Russian government practice.

The 1997 law required all religious organizations previously registered under the more liberal 1990 law to reregister by December 31, 2000. This process, which involved simultaneous registration at both the federal and local levels, required considerable time, effort, and legal expense. Some Pentecostal and Baptist congregations refused to register out of religious conviction. Reportedly as many as half of the functioning Muslim communities decided not to undergo the cumbersome process and some Muslim clerics have reported that since 1999 it has become “much harder” to register new Muslim communities.

At the federal level, most religious organizations who have applied have been registered by federal officials and the Russian Constitutional Court. Religious groups that have gone to court to overturn denials of registration have often been successful, but local administrative authorities have sometimes delayed or refused to implement these rulings. The Salvation Army was finally re-registered in the city of Moscow in April 2009, as required by the Russian Constitutional Court in 2002 and the ECtHR in 2006. The Salvation Army case was the first case involving a religious community where the Russian state took the remedial action required by the ECtHR, rather than only paying compensation.

According to the Ministry of Justice, as of January 1, 2009 there were 23,078 registered religious groups operating in Russia, of which 55 percent are affiliated with the MPROC. In 2005 (the last year for which statistics are available), authorities investigated the activities of 3,526 religious organizations. The Ministry of Justice sent notifications of violations to 2,996 such organizations. The courts issued rulings to liquidate 59 local organizations for alleged violations of constitutional norms and federal legislation during that period.

Reports indicate that in 2009 no religious group has been denied registration due to its lack of required documentation, although some communities were asked to provide updated data. On other grounds, however, the Russian authorities continued to deny registration to certain religious communities, such as the Falun Gang and Scientologists.

After Aleksandr Konovalov was named Russian Minister of Justice in 2008, two individuals known for their intolerant views were appointed to senior positions: Aleksei Velichko, as Deputy Justice Minister, and Sergei Milushkin, as director of the Department of Noncommercial organizations. These two officials were dismissed in early 2010. The Justice Ministry, however, has expanded its activities in 2009 to include oversight over unregistered as well as registered religious communities. For example, in March 2009 the Ministry replaced a 1998 law on the status of representational offices of foreign religious organizations operating in Russia; the new law set complex registration procedures, including for proving registration and establishing an official register. In October 2009, the Ministry of Justice proposed amendments to the 1997 religion law to require every religious community, even if they do not plan to apply for registration, to provide the government a membership list, unlike the current law that requires religious organizations to provide such a list only during the registration process. The proposal also called for closer regulation of “missionary activity,” mandating that anyone engaged in missionary activity outside of designated religious sites must present proof of authorization by the relevant religious association or such activity would be banned. After protests from religious groups and by some Russian officials, in November 2009 the proposed amendments were removed from the Ministry of Justice’s website.

Russia’s 2006 NGO law granted the Ministry of Justice extensive oversight functions which also apply to religious communities. The law enables the Ministry to interfere with the activities of NGOs, examine their documents, attend their meetings with advance notice, and initiate court proceedings which may deny the registration of groups. NGOs are also required to submit detailed annual reports on their activities, governing bodies, and funding, including from foreign sources. In 2007, after lobbying by the Russian Orthodox Church, the reporting requirements for religious groups under the NGO law were reduced, but still required documentation of foreign donations, as well as the full names, addresses, and

passport details of executive board members. In July 2009, President Medvedev further amended the NGO law to ease registration and reporting requirements, particularly for small NGOs. Representatives of numerous religious communities in Moscow informed USCIRF staff in late 2008 that they had not encountered difficulties due to the requirements of the NGO law at that time.

### *Official Religious Affairs Agencies*

Governmental mechanisms to interact with religious communities and monitor implementation of the religion law exist at the national, regional, and local levels. At the national level, there is a Presidential Council on Cooperation with Religious Associations, chaired by the Presidential Administration chief. This Council is comprised of Presidential Administration officials, academic specialists, and representatives of traditional and major non-traditional communities. There also is a Governmental Commission for the Affairs of Religious Associations. In addition, in 2009 the Ministry of Justice established two new bodies in this area: an Expert Religious Studies Council and a Council for the Expert Analysis of Religious Literature with regard to Extremism.

The Expert Religious Studies Council has wide powers to recommend investigations of religious groups during the registration procedure, to assess if a registered community's activity is in accord with its charter, and to ascertain if an organization, one of its members, or the literature it produces or distributes is extremist. While governments must combat acts of violent extremism as part of their obligation to protect citizens, there have been numerous expressions of concern over the establishment, composition, and expansive mandate of this Council. Aleksandr Dvorkin, the Council's chairman, is Russia's most prominent "anti-cult" activist and lacks academic credentials as a religion specialist. His deputy, Roman Silantyev, has written numerous intolerant articles on Islam. The Council's members include five individuals known for their "anti-sect" activities. As a result, observers are concerned that the council may call for the closure of minority religious communities, although thus far the council's only known official recommendation has been to declare Russia's 70,000 member Yezidi community eligible for registration. Nevertheless, Council members continue to make intolerant (or absurd) public comments: in a May 2009 Radio Vesti interview, Dvorkin stated that the "tiny, totalitarian Church of Scientology was the government religion of the United States."

The Council for Expert Analysis of Religious Literature with Regard to Extremism is chaired by Vitaly Naumkin, a member of the Russian Academy Sciences Oriental Institute, with his deputy, Aleksandr Zaluzhny, a professor on the national security faculty at the Russian Academy of State Service. The role of this Council is advisory; it does not have the authority to counteract court decisions finding literature extremist

On the regional and local level, religious organizations interact with various authorities, including the sub-offices of some of the seven Plenipotentiary Presidential Representatives that address social and religious questions. In addition, regional administrations and many city administrations have named certain officials to interact with religious organizations.

### *Restrictions on Places of Worship*

Building or renting worship space remains difficult for a number of religious communities, including Jehovah's Witnesses, the Church of Jesus Christ of Latter-day Saints (Mormons), Pentecostal congregations, Orthodox groups that do not recognize the Moscow Patriarchate, Molokans, and Old Believer communities. Protestant, Catholic, Muslim and some Orthodox congregations also allege inordinate official interest in fire safety and other details in regard to their worship buildings, which may result in court-ordered fines, temporary closures or official demolition threats.

In 2009 and 2010, Russian regional and local officials denied building permits or confiscated buildings already in use by religious communities. In December 2009, the administration of the city of Izhevsk again refused, as it has since 2002, a permit to the Evangelical Christian community for church construction. Another case involved properties of the Russian Orthodox Autonomous Church (ROAC), which is not affiliated with the Moscow Patriarchate, in the town of Suzdal. In February 2009, a regional court ordered that 11 of the ROAC's historic churches must be returned to the state; one year later, three more churches in the Suzdal region were removed. Reportedly, the ROAC may be forced out of its Saint Petersburg church. The autonomous Russian Orthodox Church (AROC) was ordered by the Pacific coast city of Vladivostok in December 2009 to vacate its church building.

Nevertheless, several lengthy official refusals regarding houses of worship were reversed, including for the Lutheran community in Krasnodar. In addition, the Baptist community and the MPROC reached a positive settlement regarding a dispute over a house of worship in Lipetsk.

Muslims have also encountered difficulties in gaining official permission to open and maintain mosques. Although in 2009 local authorities in Balashikh allowed a local mosque to open and in Tambov Muslim communities were finally granted land for mosque construction, there reportedly has been no official response to longstanding requests for permission to build mosques from Muslim communities in the widely scattered regions of Perm, Oryol, and Komsomolsk in Chuvashia. In August 2006, the Russian Supreme Court upheld a lower court decision ordering that the local Muslim community in the city of Astrakhan on the Caspian pay for the demolition of its new mosque. In May 2007, the Supreme Court agreed to reconsider the case. Allegedly, the city's Muslim community had not received all the required building permits, although construction of the mosque had been partly funded by the previous local government. In July 2007, the ECtHR prioritized the Astrakhan case application and presently is still under consideration.

#### *Restrictions on Religious Education*

Under the 1997 religion law, religious organizations encounter confusing definitions over what type of religious activity requires an education license; educational activity might require a license, while teaching does not. The Smolensk Regional Court dissolved a local Methodist church for running an unlicensed Sunday school, but in June 2008 Russia's Supreme Court overturned that ruling. After they sang hymns in public, members of unregistered Baptist communities in Kaliningrad were twice detained in 2009 and fined for violating public assembly rules. In the Ryazan region, police raided an unregistered Baptist 2009 summer youth camp and charged them with ecological violations.

#### *Restrictions on Foreign Religious Workers*

The National Security Concept of the Russian Federation, last updated in 2000, states that "ensuring national security includes countering the negative influence of foreign religious organizations and missionaries." As in previous years, the Russian authorities in 2008 denied a visa request from the Dalai Lama to visit Buddhist-majority regions, such as Kalmykia. Over 50 foreign religious workers, including Catholics, Protestants, Muslims, Buddhists and Jews, have been barred from Russia since 1998 and only a small number have since been allowed to return. New visa rules introduced in October 2007 for business or humanitarian visas, including religious work, permit visa holders to spend only 90 out of every 180 days in Russia; procedures to extend visas are lengthy and complex. These visa regulations have had a harsh impact on many religious organizations, particularly those which for historical reasons depend upon foreigners, such as the Catholic Church and the Church of Jesus Christ of Latter Day Saints. Three rabbis, one from the Primorye region and two from Rostov-on-Don, were expelled from Russia in 2008 on charges of violating their visas by serving as religious leaders. In 2009, three Jehovah's Witnesses defense lawyers were deported from southern Russia.

*Hate Crimes against Persons and Property*

Russian officials, especially on the local level, continue to respond inadequately to numerous violent hate crimes directed against members of various religious communities. Moreover, chauvinist groups have stepped up their campaign against individuals, and some government officials, and groups who defend the rights of religious and ethnic minorities as well as migrants, including issuing death threats. Russian neo-Nazi and other hate groups maintain websites which post death threats against lawyers, judges, Russian human rights activists and journalists whom they view as enemies. While Russian police have offered some assistance to these defenders, their efforts usually are ineffective and inconsistent. In all too many cases involving members of Russia's ethnic and religious minorities -- not to mention the killings of human rights activists -- Russian authorities, particularly on the local level, have not treated hate crimes in a serious and consistent manner. Although police officials in Moscow stepped up arrests and prosecution of violent chauvinists in 2009, other regions, particularly Nizhny Novgorod, have lagged behind.

Human rights groups have expressed concern that hate crimes, often the result of attacks by "skinhead" racist groups, are growing dramatically in Russia, particularly against people from Central Asia, who are predominantly Muslim. It should be noted that the number of victims of racist and neo-Nazi motivated violence in Russia dropped slightly in 2009 from the very high levels of the six previous years. Some credit belongs to the Moscow region law enforcement agencies which in the latter half of 2008 and in 2009 undertook more decisive steps against the largest and most aggressive ultra-nationalist groups. Racists faced concerted and consistent official pressure, as seen in numerous detentions, arrests and trials, resulting in at least 45 successful prosecutions of violent crimes in which hate was as an aggravating factor (compared to 35 in 2008), for a total of 135 convictions.

In 2009, according to a leading Russian human rights group, at least 71 people were killed and at least 33 injured in racist/Neo Nazi violence. These numbers declined from a high of 109 and 486, respectively, in 2008. Individuals from Central Asia and the Caucasus, who are predominantly Muslim, were the most frequent victims in xenophobic attacks. There were 42 documented violent attacks motivated by religious hatred on individuals from January 2009 until April 2010: 20 on Jehovah's Witnesses, 17 on Muslims, two on Protestants, and two on Russian Orthodox priests.

In addition, from January 2009 until April 2010 there were 65 documented acts of vandalism against the property of religious communities: Russian Orthodox (27); Jehovah's Witnesses (23); Jewish (7); Muslim (3); and one each for Evangelical Protestants, Catholics, Armenian Orthodox, Mormons, and pagan. While such cases are usually prosecuted with appropriate charges, very few cases result in conviction. As a result, members of religious communities often feel that they lack protection even during religious services, and express concerns about the security of their organizations' property.

It is also important to note that neo-Nazi groups seem to be changing tactics from street attacks on minorities and migrants to targeted attacks on human rights activists and state facilities. These groups now more frequently direct their attacks against government buildings, police stations, military draft offices, and the homes of law enforcement personnel in efforts to pressure state authorities to adopt anti-immigrant measures or to take revenge for official prosecutions. These groups appear to have decided that the murders of minorities and migrants produce less publicity than the murders of judges, civil society activists, lawyers and journalists.

Most officials and NGOs agree that many of these attacks are motivated largely by ethnic intolerance, although religious and ethnic identities often overlap. Nevertheless, members of Muslim, Jewish, Russian Orthodox, Protestant, Catholic, and other religious communities have been subjected to attacks apparently motivated by religious factors. MPROC priest Daniil Sysoev was shot by a gunman at his Moscow

church in November 2009; Sysoev was known for his missionary activity, including among Russia's Muslim community, neo-pagans, and Protestants. In December 2009, a Moscow court sentenced a Muscovite to a 14-year term of imprisonment for the October 2008 murder of one of two Roman Catholic priests. Religious minority leaders have concerns that Russian government officials provide tacit or active support for a view held by many ethnic Russians that their country should be reserved for them. Civil society leaders link this to a perception that Russian identity is threatened by a declining birthrate and high mortality among ethnic Russians.

Russian officials also respond inconsistently—and often inadequately—to violent attacks associated with anti-Semitism. In December 2009, two Jews were subjected to a violent attack outside a Moscow yeshiva and a young Jewish man was assaulted by a neo-Nazi who shouted “Heil” in the Moscow subway. In the latter incident, the alleged attacker was detained by police but only charged with “minor hooliganism.” In the city of Khabarovsk, two Molotov cocktails were thrown at a synagogue in September 2009. Four young “skinheads” were arrested and charged with arson; on the same night, the home of a police officer in Khabarovsk who investigates racist crimes was also firebombed.

Protestant groups in Russia are frequent victims of hostile media attacks. Russian human rights groups report that journalists often seek guidance from the Russian Orthodox Church when researching articles about Protestants and the media tend to portray Protestants as dangerous “sectarians.”

Russian rights advocates say that senior Russian government officials should do more to support publicly the multi-ethnic and multi-confessional nature of the Russian state and society. In fact, some western and other observers have suggested that Russian authorities have manipulated xenophobia for political purposes. The Kremlin is believed, for example, to have supported the formation of the ultra-nationalist *Rodina* political party. It also backed the five-year-old nationalist youth movement *Nashi*, which has staged numerous anti-sectarian public protests. Others have observed that the Kremlin, by issuing nationalistic statements as well as demonstrating a tendency to blame non-Russians for crime, has encouraged intolerant attitudes toward non-Russians and those who do not identify with the Russian Orthodox Church. In USCIRF's view, more can and should be done to ensure that Russian law enforcement agencies do not dismiss hate crimes as “hooliganism,” but recognize them for what they are—human rights abuses—and take steps to prevent and punish such crimes, including those involving ethnicity and religion.

### *Defamation of Religions*

Free speech concerns also arise in connection with several recent law suits brought under Russia's law against “insulting religious feelings.” For example, two cases, allegedly instigated by elements within the Moscow Patriarchate of the Russian Orthodox Church, were brought against Andrei Erofeev, former curator of contemporary art at the Tretyakov Museum, and Yuri Samodurov, former director of the Sakharov Center, for art shows they organized in 2004 in the Sakharov Center. As of March 2010, their trial is ongoing. In addition, Russia's official Muslim community pressured the Russian version of “Newsweek” magazine to issue a public apology for reprinting one of the Danish cartoons of Mohammed in a special issue on Islam in Europe.

### **U.S. Policy**

U.S. Secretary of State Hillary Clinton traveled to Moscow in April 2009 and presented a “reset” button to her Russian counterpart Foreign Minister Sergey Lavrov, signaling that the Obama administration believes that the future possibilities in U.S.-Russian relations outweigh the past problems. Under Secretary of State William J. Burns, who was U.S. ambassador to Russia from 2005 until 2008, has

traveled to Moscow several times in his new role, mainly to broker a fourth UN Security Council resolution to sanction Iran over its nuclear program. In the past year, the United States and Russia reached an agreement to reduce their stockpiles of nuclear weapons. The United States imported \$18 billion in goods from Russia in 2009 and exported just over \$5 billion last year. The Obama administration supports Russia's accession to the WTO.

According to the State Department's 2009 *Advancing Freedom and Democracy Report*, the overall objective of U.S. human rights policy in Russia is to "support the country in becoming a more democratic, vibrant, and stable geopolitical partner that increasingly moves toward a free-market democratic system built on checks and balances, and acts as a strong and effective partner in areas of common interest within the international community." The State Department seeks "to strengthen and encourage the Russian government and society's own support for the development of civil society and respect for the rule of law," but admits there are serious impediments, including due to the Russian government's restrictions on and harassment of civil society groups and independent media. According to the 2009 *Annual Report on International Religious Freedom*, the U.S. government discusses freedom of religion or belief with the Russian government, religious groups, NGOs, and others, as part of its overall policy to promote human rights. The U.S. Embassy also supports the development of programs to sensitize officials to recognize discrimination, prejudice, and crimes motivated by ethnic or religious intolerance.

USCIRF believes that the issue of freedom of religion or belief should be given a high priority in the "reset" of bilateral relations, since it is both a human rights and security concern in Russia. Although Russia faces domestic security concerns, as evidenced most recently in the March Moscow Metro bombings, the government's sweeping anti-extremism efforts against even peaceful religious believers risk increasing radicalism and instability.

## Recommendations

### I. Strengthening U.S. Promotion of Human Rights, including Freedom of Religion or Belief

The U.S. government should:

- urge, in public and at high political levels, the Russian government to undertake programs and adopt legal reforms to ensure respect for international norms on freedom of religion or belief;
- implement the provisions of the "Smith Amendment" of the 2010 Consolidated Appropriations Act (Section 7074 of P.L. 111-117) to prohibit U.S. financial assistance to the Russian Federation government due to, inter alia, its discrimination against religious groups through laws and government actions, excessive application of the extremism law, and reported restrictions by regional and local officials on minority religious groups;
- maintain a mechanism to monitor publicly the status of human rights in Russia, including freedom of religion or belief, particularly in the case of repeal of the Jackson-Vanik amendment with respect to Russia, as well as establish a program to monitor implementation of Russia's law on non-commercial organizations (NGO Law), including its impact on religious organizations;
- organize regular roundtables in Washington with members of the National Security Council, and representatives of religious communities and civil society as well as academic specialists, on the status of freedom of religion or belief in Russia;

- ensure that U.S. government-funded grants to NGOs and other sectors in Russian society include projects to promote legal protections and respect for freedom of religion or belief and methods to combat xenophobia, such as by funding training programs on freedom of religion or belief, promoting inter-religious cooperation, encouraging pluralism, and combating hate crimes;
- support programs to train lawyers to contest violations of Russian and international law regarding freedom of religion or belief in Russian courts and before the European Court of Human Rights (ECtHR);
- translate into Russian and make available, including by posting on the U.S. Embassy Web site, U.S. Federal Bureau of Investigation and Department of Justice materials on combating hate crimes and information relating to international standards on freedom of religion or belief, xenophobia, and hate crimes, including relevant U.S. Department of State and USCIRF reports;
- ensure that Russia's citizens have access to U.S. government-funded radio and TV broadcasts, as well as Internet communications, including information on freedom of religion or belief and on combating xenophobia and hate crimes, in particular by:
  - restoring the previous levels of Russian-language radio broadcasts of Voice of America and Radio Free Europe/Radio Liberty (RFE/RL), restoring staffing levels, and considering new broadcast vehicles; and
  - increasing funding for programs in minority languages, including the RFE/RL Tatar and North Caucasus services;
- include in U.S.-funded exchange programs a wider ethnic and religious mix of students, including from the North Caucasus, Tatarstan, and other regions of Russia with sizeable Muslim and other religious and ethnic minority populations;
- implement a U.S. visa ban and asset freeze against Chechen President Ramzan Kadyrov due to: his leadership of the Chechen armed forces, which the ECtHR has found responsible for severe human rights abuses; his alleged killings of political opponents and local human rights activists; and his institution of strict sharia law in Chechnya in violation of international religious freedom standards;
- ensure that U.S.-funded conflict resolution and post-conflict reconstruction programs for the North Caucasus also fund credible local partners; and
- initiate International Visitor's Programs on the prevention and prosecution of hate crimes for Russian officials and other relevant figures and include training sessions by the Department of Justice and the Federal Bureau of Investigation as well as relevant NGOs and academic experts.

## **II. Prioritizing Freedom of Religion or Belief in U.S. Bilateral and Multilateral Diplomacy**

The U.S. government should:

- organize as part of the U.S.-Russia Bilateral Presidential Commission a working group comprised of legal experts on international norms on freedom of religion or belief;

- ensure that U.S. Embassy officials and programs engage with local officials throughout the Russian Federation and disseminate information on international norms on freedom of religion or belief, including regarding unregistered religious communities;
- urge the Russian government to invite and schedule dates for one or more of the three Organization for Security and Cooperation in Europe (OSCE) Personal Representatives on combating intolerance and the UN Special Rapporteur on Freedom of Religion or Belief to visit the country during 2010;
- ensure that human rights issues, including freedom of religion or belief, are raised in the context of negotiations on Russian accession to the World Trade Organization, and work with members of the G-8 to ensure that human rights issues, including concerning migration and counter-terrorism, are raised at bilateral and multilateral meetings;
- ensure that the humanitarian crisis in Chechnya and human rights abuses perpetrated by the Russian federal military and local security and police forces there, as well as in other North Caucasus republics, are issues raised in U.S.-Russian bilateral relations;
- urge that the governments of Germany, Austria, Belgium, Poland, France and Denmark do not accept the official Chechen culture centers that the republic would like to institute in those countries;
- urge the Russian government to respect all resolutions of the Parliamentary Assembly of the Council of Europe on the human rights and humanitarian situation in the North Caucasus and reinstate regular on-site visits by the Council of Europe's Special Rapporteur for Chechnya;
- urge the Russian government to address the issues raised by the UN Human Rights Council's Universal Periodic Review and relevant treaty bodies concerning Chechnya, accept visits to Chechnya by the UN Special Rapporteurs on Extrajudicial Executions and Torture, and fully cooperate with those Special Rapporteurs; and
- work with other OSCE States to ensure that human rights abuses in the North Caucasus receive greater attention in OSCE deliberations and encourage the OSCE to raise humanitarian and other assistance to the civilian populations affected by the decade-long conflict in Chechnya.

### **III. Addressing Russian Human Rights Issues**

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

- implement the February 2010 Constitutional Court decision that the Civil Procedural Code be amended to require Russian courts to implement decisions by the ECtHR rather than the payment of fines as is current practice;
- reform the Ministry of Internal Affairs system of quotas for arrests and detentions of alleged suspects which may result in denials of justice;
- amend the Russian extremism law to address acts that involve violence or incitement to imminent violence, and drop bans on non-violent organizations, literature and religious communities;
- halt current investigations, and reconsider previous legal cases, against individuals and organizations accused of extremism solely for their exercise of internationally protected rights, including freedom of religion or belief;

- withdraw or substantially amend the NGO law or, failing that, develop regulations consistent with international standards limiting the state's discretion to interfere with the activities of NGOs, including religious organizations; and
- cease and prosecute all alleged acts of involuntary detention, disappearances, torture, rape, and other human rights abuses by the Russian security services in Chechnya, including by pro-Kremlin Chechen forces, and in other republics of the North Caucasus.

#### **IV. Ensuring the Equal Legal Status and Treatment of Russia's Religious Communities**

The Russian government should:

- affirm publicly at a high political level the multi-ethnic and multi-confessional nature of Russian society and that all religious communities in Russia are equal under the law and entitled to equal treatment regardless of registration status, and direct government officials at all levels not to grant preferences to or discriminate against members of religious, ethnic and migrant groups;
- refrain from media attacks on any peaceful religious community and adopt administrative measures against government officials who engage in such attacks;
- cease interference in the internal affairs of religious communities, unless stipulated by law and in conformity with international human rights standards;
- ensure that law enforcement officials investigate and prosecute crimes against members of all religious communities and establish a fair and effective review mechanism outside the Procuracy to investigate and sanction any officials who are found to have encouraged or condoned such crimes;
- amend the legal provision of the extremism law whereby any court can rule the Russian translation of a text to constitute extremism, which automatically adds that text to the Federal List of Extremist Literature and bans that text throughout Russia, and re-examine recent court rulings deeming publications of the Jehovah's Witnesses and of the Turkish theologian Said Nursi extremist;
- undertake a thorough reform of the mandate and personnel of the Ministry of Justice's 2009 Expert Religious Studies Council so as to diversify its membership and to revoke its authority to recommend investigations of religious groups, including of their activities and literature;
- distribute on a regular basis updated information on freedom of religion or belief, including Russian constitutional provisions, relevant legislation and court decisions, to the Russian judiciary, religious affairs officials, the Justice Ministry, the Procuracy, and law enforcement bodies;
- extend the current annual training program for regional and local religious affairs officials to include the judiciary, Procuracy, law enforcement agencies, and the Justice Ministry;
- direct the Russian Federation Human Rights Ombudsman to set up a nationwide monitoring system on the status of freedom of religion or belief in the 84 regions of Russia; and
- accept visits from the three OSCE Tolerance Representatives and the UN Special Rapporteur on Freedom of Religion or Belief, and grant unrestricted access for these officials to religious communities and regions.

**V. Combating Xenophobia, Intolerance, and Hate Crimes**

The Russian government should:

- condemn, publicly, promptly and specifically, acts of xenophobia, anti-Semitism, intolerance, and hate crimes, and make clear that such acts will be fully and promptly investigated and prosecuted as human rights abuses and not “hooliganism;”
- while vigorously promoting freedom of expression, publicly condemn rhetoric that promotes xenophobia or intolerance, including religious intolerance;
- provide training programs for law enforcement officers and other officials to address ethnic and religious hatred and promote tolerance;
- establish a special nationwide anti-discrimination body that provides regular reports to the public, press, and parliament;
- implement recommendations on addressing anti-Semitism, xenophobia, and hate crimes from the Russia Federation Presidential Council on Human Rights, the Russian Federation Human Rights Ombudsman, the Council of Europe’s Commission against Racism and Intolerance, and implement the decisions of the ECtHR; and
- report, as required, to the OSCE on national measures to address hate crimes, including legislative initiatives and statistics, and participate in relevant OSCE training programs for law enforcement and judicial officials.

## Somalia

**FINDINGS:** Serious religious freedom abuses continue in Somalia. These violations are the result of: an on-going conflict with a strong sectarian nature; the implementation of a strict interpretation of Islamic law reminiscent of the Taliban, under which practices deemed “un-Islamic” are repressed, Sufi clerics and non-Muslims are killed, and Sufi religious sites are desecrated; and an increase in manifestations of radical interpretations of Islam and growth of extremist Islamic schools. The internationally recognized Transitional Federal Government (TFG) only controls a small area of the capital and does not have the capacity to enforce religious freedom protections or address religious freedom violations.

Based on these concerns, USCIRF again places Somalia on its Watch List for 2010. Somalia has been on the Commission’s Watch List since 2009.

Somalia has not had an effective, central government since the fall of former dictator Siad Barre in 1991. The ensuing civil war and continuing conflicts have destroyed all national governing structures. In the absence of the rule of law, freedom of religion or belief, like all other human rights, is undermined by insurgents, warlords, self-appointed officials, local authorities, and prevailing societal attitudes. Throughout 2009, the U.S.-designated “foreign terrorist organization” al-Shabaab (the Youth) and Hizbul Islam (Party of Islam) mounted an increasingly successful insurgency against the TFG. Despite efforts by the TFG to placate these groups, including by establishing sharia law as state law, the two militias continued to oppose the new government. A third Islamic militia, which finalized a cooperation agreement with the TFG in March 2010, Ahlu Summa waa Jaama (ASWJ), also committed a small number of religious freedom violations.

**PRIORITY RECOMMENDATIONS:** The promotion of freedom of religion or belief is not adequately addressed in U.S.-Somalia policy, especially given the sectarian elements of the conflict and the increasing manifestations of radical Islam. USCIRF understands the emphasis on providing security assistance to the TFG, which addresses significant U.S. national security concerns by helping the TFG exert control over Somalia to attempt to govern the country. However, radical interpretations of Islam continue to perpetuate severe violations of religious freedom and related human rights, as well as turn Somalia into a safe haven for terrorists. To address this phenomenon, USCIRF recommends that the U.S. government increase efforts to promote freedom of religion or belief in Somalia through support of civil society organizations and engagement with Somali government officials, clerics, elders, and diaspora communities as well as increase assistance to develop an education and rule of law sector in Somalia. Additional recommendations for U.S. policy towards Somalia can be found at the end of this chapter.

## Religious Freedom Conditions

### *Governing and Legal Environment*

The TFG was formed in January and February of 2009, following the election of President Sheik Sharif Ahmed, TFG Prime Minister Omar Abdirashid Ali Sharmarke, and the TFG parliament. President Sheik Sharif was previously the leader of the Union of Islamic Courts (UIC), a group that ruled Somalia for a short period of time in 2006 before being ousted by U.S.-backed Ethiopian troops. Although considered unacceptable to the international community when he was the UIC leader (due to concerns about radical elements within that body), President Sheik Sharif and the current iteration of the TFG are internationally recognized as the legitimate Somali government. By the end of the year, the TFG controlled only a small number of districts in Mogadishu and is reliant on a 5,300 strong African Union peacekeeping force for survival. In June, President Sheik Sharif declared a state of emergency in the country and sought increased international support to strengthen the TFG's security forces.

The TFG is governed by a hybrid legal system based on the Transitional Federal Charter and the 1960 constitution. Despite the passage of the Charter in 2006, the 1960 constitution continues to have legal standing to address issues not found in the Charter, such as freedom of religion or belief. The constitution guarantees the rights to worship, discuss, and study one's religion of choice, although the Charter establishes Islam as the official state religion and proselytizing for any other religion is strictly prohibited. However, the lack of a functioning government and the TFG's limited control over the country make these provisions unenforceable and hence irrelevant at the present time.

The informal process for adjudicating disputes varies by region and relies on some combination of sharia, customary law, and the former Barre regime's penal code. On May 10, 2009, the TFG Parliament unanimously approved the implementation of sharia law nationwide. However, Somali officials have given little insight as to what sharia law would look like in practice. Agreement on sharia law will likely be difficult to achieve, given the differing opinions by Somali officials, opposition groups and clerics, as well as international partners. President Sheik Sharif said sharia law will respect democracy, human rights, and women's rights, and that he would appoint legal experts to nullify differences between sharia and state law, so as to implement it "properly." The ongoing constitution drafting process will work through these challenges, although it is severely delayed and sharia law will be one of the last issues addressed.

### *Al-Shabaab*

The vast majority of religious freedom abuses in Somalia were carried out by al-Shabaab (also known as the Harakat Shabaab al-Mujahidin, Shabaab, Mujahidin al-Shabaab Movement, Mujahideen Youth Movement, Mujahidin Youth Movement), which constitutes the greatest threat to the TFG. The goal of this extremist militia, which came to prominence as the military wing of the UIC in 2006, is to turn Somalia into an Islamic state, build a greater Somalia (incorporating regional areas with large ethnically-Somali populations such as Djibouti, the Ogaden region of Ethiopia, and the Northern Frontier District of Kenya), and spread its strict version of Islam throughout the region. The movement is opposed to democracy, desiring a theocracy, and has assassinated its opponents. For many al-Shabaab and other extremist leaders, the formation of a Somali Islamic state has been a goal for more than 20 years. A number of movement leaders reportedly received military training in the 1990s in Afghanistan and fought with the Somalia-based militia al-Ittihad al-Islami (AIAI), which had loose ties with al-Qaeda and was designated a foreign terrorist organization by the United States. Al-Shabaab announced a formal alliance with al-Qaeda in February 2010 although questions still remain about the extent of financial and military support and coordination between the two groups. According to the UN Monitoring Group on Somalia, al-Shabaab is financed by donations from the Somali diaspora, other jihad groups, and sources in Eritrea

and the Middle East. Control over several ports along the southern coast also provides the movement with significant resources.

Al-Shabaab's ideologues are believed to be a small number of Somalis and an unknown number of foreigners, primarily from the Somali diaspora in the United States, Canada, and Europe, but also from South Asia. A large number of al-Shabaab soldiers are either unemployed youth who were forcefully recruited or bribed into joining into the militia, mercenaries, or individuals indoctrinated and/or recruited from mosque study circles or other electronic media that popularize martyrdom. The militia also incorporates clan militias and various business leaders and their militias.

Despite having a central decision-making council, or *shura*, al-Shabaab is highly fractured along ideological and clan lines, and there were several leadership changes during the past year. Reports indicate there are divisions over the role of foreign fighters, use of suicide bombers, and political dialogue with the TFG. Al-Shabaab is divided into regional units, with regional leaders who are given flexibility in administering their territories. Some leaders employ a more hard-line interpretation of sharia, implementing their agenda by violent means, dispensing punishments such as stoning for adultery and amputations for theft, and forbidding the presence of international humanitarian organizations. Other more "moderate" al-Shabaab leaders favor engaging in talks with rivals and the local community to maintain popular support. Despite these divisions, the movement is able to overcome internal disagreements to remain militarily unified against the TFG. Reports indicate that foreigners in the movement may now be making decisions.

#### *Sharia Law*

Although different al-Shabaab administrations vary somewhat, overall the militia continues to pursue its goal to turn Somalia into an Islamic state, stop "un-Islamic" behavior, and to "cleanse" Somali society of so-called "moral pollution."

Some al-Shabaab administrations have implemented hudood punishments for adultery and theft. Such punishments are carried out without minimum due process guarantees or adequate legal proceedings and constitute torture. Most amputations and stonings occurred along the southern coast, where the most radical of al-Shabaab's leadership is located. Witnesses report they were forced to observe the punishments. On November 18, 2009 in Kismayo, a woman accused of adultery was stoned to death after she gave birth to her baby. The man with whom she was accused of having an adulterous affair was also tortured to death by stoning. Also in November 2009, in the southern coastal town of Merka, a man accused of rape was stoned to death. Another man accused of rape and murder was stoned to death northwest of Mogadishu in Wanlaweyn in June 2009. In January 2010 in Mogadishu, al-Shabaab amputated the right hand of a man accused of stealing cell phones. In October 2009, three boys accused of theft in Kismayo had limbs amputated. Similar amputations were held throughout the year.

Persons deemed to have deviated from "accepted" behavior are punished through detentions and floggings. Women are required to wear the veil and socks, and in October, al-Shabaab members flogged more than 200 women for wearing brassieres. Men are forbidden to shave their beards or wear their pants below their ankles; those deemed as having "inappropriate hairstyles" have had their heads forcibly shaved. The militia forcibly removed gold and silver teeth. It closed cinemas, set fire to markets selling the mild stimulant khat, forbade cell phone ringtones unless they were verses from the Koran, forbade all forms of smoking, banned videogames, dancing at weddings, watching and in some places playing soccer, and listening to non-Islamic music. Radio stations nationwide were ordered to close or play only the call for prayer. Businesses are ordered to close during prayer times, when all residents are required to be praying. Public transporters in Mogadishu and Kismayo must segregate passengers by sex, with male passengers sitting in the front and female passengers in the rear seats.

### *Attacks on Sufis*

The majority of Somalis follow the Sufi tradition. Islam arrived in Somalia at the time of the Prophet Mohammed when several of his followers fled Mecca and sought refuge in the Horn of Africa. Sufi orders and rituals play a significant role in Somalia Islam, principally the Qadiriyyah, Ahmadiyah-Idrisiyah, and Salihyah orders. Observance of Islam is stronger in the more settled regions in Southern Somalia, as opposed to the more nomadic areas in the North.

Al-Shabaab views Sufis as apostates, and attacked the Sufi religion and assaulted its followers, including destroying and closing Sufi mosques and attacking and killing Sufi clerics, including those who speak out against al-Shabaab and its interpretation of Islam. In January 2010, al-Shabaab was accused of attempting to assassinate a Somaliland Sufi cleric who was highly critical of the group's use of suicide bombings and interpretation of Islam. Two Sufi clerics from Mogadishu were kidnapped in June 2009. Al-Shabaab members kidnapped another Sufi cleric from a refugee camp in Kenya. The State Department reports that on March 19, 2009 two Sufi clerics in Balad were beheaded by al-Shabaab.

Within the Somali Sufi tradition, Somali saints are venerated, and their tombs are considered national shrines that are often highly decorated. Religious ceremonies, including annual pilgrimages, frequently occur at these sites. Al-Shabaab has deemed it "un-Islamic" to honor the shrines of sheiks, accusing those who do of being idol worshippers, blasphemous, or heretics. In 2009 and 2010, al-Shabaab engaged in a campaign of desecrating gravesites, including those of some of the most revered religious leaders in Somalia. Most recently, despite large public protests, in March 2010 al-Shabaab destroyed the graves of seven Sufi clerics in Mogadishu. In March 2009, in the southern coastal town of Brave, the militia destroyed the graves of five saints and removed their remains and told grave caretakers that if they return to work they will be arrested. During the following two months, al-Shabaab destroyed more than 100 gravesites, almost 100 near Kismayo. Similar actions have been taken in the south-central Somalia towns of Bardhere and Biyoley, where the remains of Sheik Aweys a-Qadiri, a founder of one of the Somali Sufi orders, are buried.

Additionally, al-Shabaab has stopped Sufis from participating in religious rituals and pilgrimages, including most recently on December 6, 2009 when militia members attacked a mosque in Basra where people were gathering for a pilgrimage. Seven people, including two al-Shabaab members, were killed in the ensuing fight. On September 21, 2009, two clerics from a pro-TFG militia were killed when al-Shabaab opened fire on a group gathered for Eid prayers. The militia has also officially banned commemoration of Maulid (the Prophet's birth) celebrations, stating that some of the traditions that take place during these celebrations are "un-Islamic." The State Department reports that in 2009, two people were killed when al-Shabaab raided a mosque in Bardhere where worshippers congregated for the commemoration. In another location on the same day, 50 Sufi clerics were arrested for their role in the celebrations; they were released after public protest.

### *Killings of Christians/Converts*

The small, extremely quiet, and low-profile Christian and Christian convert community in Somalia is also under attack by al-Shabaab. Although conversion is not illegal in Somali, it is not accepted socially. The TFG Charter has banned proselytization. The few remaining Christians worship secretly in house churches. Reportedly, more than a dozen Christians were killed during this reporting period. Christians in Somalia and those who have sought refuge in neighboring countries report receiving death threats from al-Shabaab.

One of the most gruesome killings of Christians was the February 2009 beheading of two boys in Yonday, west of Kismayo, because their father refused to divulge information about members of their church. After the father fled the town, al-Shabaab soldiers took his three sons from their mother, beheaded two, and sent the third boy to warn the father they were looking for him. In another incident, on July 27, 2009 in Merka, four Christian converts were beheaded after they refused to renounce their faith. In November 2008, two Italian nuns were kidnapped from Kenya by al-Shabaab and held in Mogadishu until they were freed in February 2009.

### *Hizbul Islam*

The other Islamic militia opposed to the TFG that engaged in religious freedom violations during this reporting period is Hizbul Islam. This umbrella group, formed in April 2009, was composed of four militias: Alliance for the Re-Liberation of Somalia – Asmara Wing (ARS-A), Somali Islamic Front, Raas Kaambooni Forces, and Anoolle Forces. Each militia is structured along clan lines. Hizbul Islam's leader, Sheik Hassan Dahir Aweys, has been designated a terrorist by the United States for his activities with the 1990s AIAI. Hizbul Islam has a nationalist focus, seeking a unified, Islamic Somali state. Hizbul Islam opposes the TFG because of its backing by Ethiopia and Western powers, believing that these outside influences will prevent the TFG from fully implementing sharia law. It receives support from Eritrea.

Hizbul Islam is less organized and coordinated than al-Shabaab. According to the UN Monitoring Group on Somalia, it had "all but disintegrated by the end of 2009" due to internal division; however individual leaders continue to exert control over areas of central Somalia. For part of 2009, Hizbul Islam and al-Shabaab were united in their fight against the TFG, but a falling out in Kismayo at the end of September left the two groups fighting each other. During the fight, according to the UN Monitoring Group, key members of the Hizbul Islam alliance either remained neutral or joined with al-Shabaab.

Also like al-Shabaab, Hizbul Islam implements sharia law in the territories under its control, although with less frequency. Women are ordered to wear the veil and businessmen are required to close their shops at the time of praying. In July 2009, Hizbul Islam banned *Istun*, (the traditional ceremony) and later arrested nine clerics for violating the ban.

### *Ahlu Sunna waa Jamma*

Ahlu Sunna waa Jamma (ASWJ) was created in 1991 as an apolitical organization to represent the practice of Sufi Islam in Somalia in response to the growth of radical Islam and the activities of AIAI. ASWJ is the only group thus far to effectively battle al-Shabaab, despite lacking a unified chain of command and having a fractured structure. Following the desecration of Sufi gravesites and killing of Sufi clerics in 2008, ASWJ took up arms to fight al-Shabaab's strict interpretation of Islam.

ASWJ is composed of Sufi clerics and various clan militias, and controls large parts of central Somalia, including Galguduud, the Middle Shabelle regions, Gedo, and most recently Hiraan. ASWJ signed an agreement with the TFG in March to integrate its forces with TFG security forces and to take up five ministerial posts in the TFG cabinet. Some ASWJ parties objected to the agreement. ASWJ receives financial support and training from Ethiopia.

ASWJ also wants to implement sharia law nationwide, but according to its leadership, their version would only be implemented by a state, not militias, and would take into account traditional Somali Islam and "mitigating circumstances." However, even in areas under ASWJ administration, there have been some restrictions on behavior. In November 2009, the Abudwaq district administration banned the watching of films, stating that they would lead people in "wrong and evil deeds." In December 2009, an ASWJ administration forbade the wearing of veils, calling them a security risk.

### *Somaliland and Puntland*

In the north, the two regional governments of the self-declared “Republic of Somaliland” and Puntland are governed by their own constitutions. Both establish Islam as the official religion of their regions, prohibit promotion of another religion (though the right to study and discuss one’s religion is permitted), prohibit and set penalties for conversion from Islam, and require presidential candidates be Muslim.

The Somaliland Constitution requires Islamic education and mandates that laws must derive from and not contradict Islam. Religious schools and places of worship in Somaliland must be approved by the Ministry of Religion. Christian-based NGOs are free to operate so long as they refrain from proselytizing.

The Puntland Constitution, established in May 2009, provides non-Muslims the freedom to practice their religion, yet Puntland officials closely monitor religion and only the Shaf’iyyah Sufi order is allowed to practice publicly. Schools and places of worship must receive permission for activities from the Ministry of Justice and Religious Affairs. Permission for activities espousing Shaf’iyyah is frequently provided.

Religious freedom violations by both state and non-state actors occurred in these two regions in this reporting period. Many of these events were the result of spillover violence by al-Shabaab, which has cells in the two regions. In September 2009, an al-Shabaab leader stated that the militia planned to wage “jihad battles” in Puntland and Somaliland. In Somaliland, however, a border official beat a pastor trying to enter Somaliland with a Bible and other Christian literature in February 2009.

In Puntland, all reported violations were by non-state actors. In October 2009, a Somali Christian who refused to wear the veil was killed. In August, unknown masked gunmen killed five men from a Pakistani Tabliiq group in a mosque. There were a number of killings in Puntland attributed to al-Shabaab in which government officials, including the security minister, police officers, and parliamentarian Ibrahim Elmi Warsame, were murdered. Warsame had sought reforms to address the growth of radical Islam in Puntland, including requiring the registration of religious schools. There also was an assassination attempt on a judge who had recently sentenced five al-Shabaab suspects to five to 10 years imprisonment. On February 8, 2010, al-Shabaab was accused of attempting to kill a police force commander and a mayor.

### *Humanitarian crisis*

Continuing and escalating violence in Somalia has created a humanitarian crisis that is among the worst in the world. Half of the population, or more than three million people, is dependent on international assistance for food. There are 1.4 million internally displaced persons (IDPs) and 560,000 refugees in the region.

Attacks on aid workers and low funding levels make it difficult for humanitarian and refugee assistance organizations to provide adequate aid to IDPs within Somalia and to refugees in neighboring countries. The population of Kenya’s Dadaab refugee camp is three times its capacity; built in 1990 to hold 90,000 refugees, the camp currently holds almost 270,000. An expected increase in violence in Mogadishu in 2010 will make assistance resources scarcer.

### **U.S. Policy**

The United States has had no embassy or on-the-ground presence in Somalia since 1992. Outreach to Somali TFG officials, and operation of U.S. government programs, is conducted through a Somalia unit at the U.S. Embassy in Nairobi, Kenya. Given the poor security situation in the country, U.S. government

officials are prohibited from traveling to Somalia, including to the relatively stable autonomous areas of Somaliland and Puntland.

The U.S. government recognizes and supports the TFG. In a July 2009 meeting with President Sheikh Sharif, Secretary of State Clinton pledged to provide military and diplomatic support and called the TFG Somalia's "best hope" for stability not only for Somalia, but also for the Horn of Africa.

In June 2009, the State Department announced it was providing cash, ammunition, and equipment to the TFG, as well as training TFG security officers in neighboring Djibouti. The UN Monitoring Group on Somalia reports that the U.S. government contributed a total of 94 tons of weapons and ammunition and \$2 million in assistance to the TFG. The U.S. government also supports the African Union peacekeeping force in Mogadishu, with \$185 million in funds the past two years. In the administration's budget request for fiscal year 2010, peacekeeping operations receive the largest share, at an estimated \$82 million.

The security assistance programs while controversial, seek to further the U.S. government's priorities of eliminating terrorist threats, supporting peace and stability, and rebuilding law enforcement institutions in Somalia. Additionally, in this reporting period both the UN Monitoring Group on Somalia and Amnesty International reported on the lack of professionalization among the security forces. Because many officers are not properly paid or fed, reports surfaced of many selling their weapons and ammunition to militias, including al-Shabaab.

The United States also funds efforts to increase livelihood opportunities for young Somali men, support for disarmament, demobilization, and reintegration activities, support local peace building efforts, governance, and democracy building programs. These programs include: capacity-building and training programs for TFG officials; supporting the constitution drafting process, the preparations for national elections scheduled for 2011, and efforts to build local and national judicial systems; and funding human rights awareness programs by indigenous civil society organizations. In fiscal year 2010, the administration requested only \$12.5 million for these programs. The United States also funds programs to increase democratization, the rule of law, and economic development in Somaliland and Puntland. Funding for these programs is within the overall budget for Somalia.

Finally, the U.S. government significantly contributes to appeals addressing the humanitarian crisis in Somalia. In fiscal year 2009, it donated \$174 million in humanitarian assistance, including \$150 million in food aid. In 2009 there were reports, confirmed by the UN Monitoring Group on Somalia, that humanitarian organizations operating in territories controlled by al-Shabaab or other opposition groups were required to pay "taxes" or forced to surrender assistance goods at checkpoints. Department of Treasury regulations prohibit U.S. funds from going to terrorists or terrorist organizations. Concerned by these reports, the U.S. government withheld some funding and worked with relief groups to temporarily suspend non-food related programs, so that they could monitor and review operations to ensure that they abided by U.S. regulations and no U.S. assistance reached al-Shabaab.

## Recommendations

USCIRF recommends that the U.S. government address human rights violations, increasing religious extremism and the humanitarian situation in Somalia and in Dadaab refugee camps in neighboring Kenya and take prompt measures to promote good governance, reconciliation, and respect for universal human rights, including freedom of religion or belief.

### I. Improving Human Rights, including Freedom of Religion or Belief

The U.S. government should:

- press the TFG not to tolerate human rights abuses by security personnel and to hold perpetrators accountable;
- ensure that the new constitution incorporates international human rights standards, including freedom of religion or belief as defined in Article 18 of the Universal Declaration of Human Rights;
- fund rule of law programs by the UN and non-governmental organizations in Somalia, Somaliland, and Puntland to establish a legal system that respects international legal standards, including freedom of religion or belief;
- engage government officials, religious leaders, and clan elders in Somalia, Somaliland, and Puntland on universal human rights, including freedom of religion or belief, and good governance;
- increase funding for indigenous civil society organizations that promote human rights, including freedom of religion or belief;
- fund non-governmental organizations that operate education programs in Somalia, Somaliland, Puntland, and in Dadaab refugee camps, ensuring that such programs include lessons on the promotion of freedom of religion or belief, tolerance, and human rights to limit religious extremism;
- increase International Visitor Program opportunities for Somalis from Somalia and the diaspora to learn about human rights, religious freedom, and democracy;
- encourage Radio Mogadishu and Voice of America to increase coverage of issues related to freedom of religion or belief and religious tolerance;
- support human rights training and monitoring programs by the UN Office of the High Commissioner for Human Rights;
- support livelihood and education opportunities for young Somali men to discourage them from joining militias and being co-opted by religious extremism; and
- assess existing U.S. training programs involving Somali security officials as to whether or not they adequately include universal human rights and religious freedom standards and ensure the findings are publicly reported in Congress.

## **II. Ensuring High-Level and Consistent U.S. and International Engagement in Somalia**

The U.S. government should:

- appoint a Special Envoy to the Horn of Africa region to ensure that Somalia receives attention at the highest levels of government and sustained U.S. engagement to address security, terrorism, governance, human rights, humanitarian, and piracy concerns; support grassroots and international peace and reconciliation efforts; and work with regional partners to address the regional aspects of the problem;
- increase engagement by U.S. Department of State and other relevant agencies with the Somali diaspora community in the United States on human rights, freedom of religion or belief, rule of law, and good governance;
- encourage international partners to engage with Somali diaspora communities in their countries on human rights, freedom of religion or belief, rule of law, and good governance; and
- encourage international partners, including the UN, to increase support and funding for programs to promote human rights, reconciliation, and security in Somalia.

## **III. Addressing the Humanitarian Situation**

The U.S. government should:

- press Kenya to approve land for the building of a fourth refugee camp site in Dadaab, to address the overcrowded conditions in the current camps;
- increase support for UN and non-governmental agencies providing elementary and secondary education and humanitarian assistance inside Somalia; and
- increase funding to UNHCR, and encourage international partners to do likewise, to provide humanitarian assistance in the Dadaab refugee camps.

## Tajikistan

**FINDINGS:** There are serious restrictions, in both law and practice, on freedom of religion or belief in Tajikistan. The religious freedom situation in Tajikistan has deteriorated significantly over the past several years. In 2009, the Tajik government passed a new religion law that codified some restrictions that had been informally implemented and introduced a framework for further restrictions. The Tajik government's restrictions on religious freedom primarily affect Muslims, but also single out minority communities viewed as "foreign influenced," particularly Protestants and Jehovah's Witnesses. In 2008, a synagogue, three mosques and a church were bulldozed. In June 2009 a court ordered a Protestant church to vacate its building and its property by the Dushanbe city government expropriated its property.

Based on this downward trend, USCIRF in 2010, as it first did in 2009, again places Tajikistan on its Watch List. While conditions in Tajikistan do not support designation as a "country of particular concern," they require close monitoring due to the nature and extent of the violations engaged in or tolerated by the government.

The Tajik government "expanded its efforts to control virtually all aspects of religious life, and government officials actively monitored religious groups, institutions, and figures," the State Department reported in 2009, noting a decline in respect for the right to religious freedom for the third year in a row. The 2009 religion law extended these policies aimed at the country's majority Muslim population. The law includes provisions that violate international standards on the freedom of religion or belief, such as onerous and intrusive registration requirements; criminalization of unregistered religious activity, private religious education, and proselytism; strict limits on mosque construction; state interference with the appointment of imams; the requirement of official permission for religious organizations to provide religious instruction and for contacts with foreign co-religionists; and state censorship of religious literature and controls on its import. Previous bans remain in effect on women attending mosque, the public wearing of religious dress as well as Jehovah's Witnesses and two Protestant churches. Eleven Jehovah's Witnesses currently face criminal charges of inciting inter-religious discord.

**PRIORITY RECOMMENDATIONS:** U.S. policy towards Tajikistan should place greater priority on the importance of the issue of freedom of religion or belief, especially because of the potentially destabilizing impact of the new religion law on the many observant Muslims in Tajikistan. The religion law's severe restrictions on Tajikistan's majority population should also be seen as a regional security issue. The U.S. government should work with Tajik officials and civil society to assist in amending the new religion law to bring it into conformity with international commitments, particularly because some officials have indicated that the new law could be amended. U.S. Embassy representatives should continue to monitor the trials of those charged in connection with religion, and work with the international community to provide training for judges and prosecutors in civil law and international human rights standards. U.S. officials should publicly criticize violations by the Tajik government of its international and Organization for Security and Cooperation in Europe (OSCE) human rights commitments, including on freedom of religion or belief. Additional recommendations for U.S. policy towards Tajikistan can be found at the end of this chapter.

## Religious Freedom Conditions

### *Restrictive Legal Framework*

Tajikistan enacted a problematic new religion law in March 2009. According to observers, due to political considerations the Tajik government was expected to begin implementing the new religion law's provisions after the February 28, 2010 parliamentary elections, but has yet to do so. Tajikistan has the only legal Islamic political party in Central Asia, and, as the law will impose particularly serious restrictions on the rights of the country's Muslim majority, its implementation could increase support for the Tajik political opposition.

The law singles out mosques for specific regulation, including population quotas. According to the State Department, Friday prayer mosques can function in districts with 10,000-20,000 persons; five-time prayer mosques can function in areas with populations of 100-1,000 (the quotas are higher for Dushanbe). The law stipulates that imams and imam-khatibs of mosques are selected by "the appropriate state bodies in charge of religious affairs," as the State Department notes, while other religions appear to be allowed to appoint their own leaders. Further, the place of Muslim worship is restricted to mosques, homes and cemeteries, and specifically excludes places of work and streets around mosques. Moreover, while any mosque previously could hold Koran study classes, in the future only central mosques licensed by the government will have permission to do so. Further, the preamble of the law notes the "special role of the Hanafi school of Islam" in Tajik culture, ignoring the important role of the country's Ismaili Shi'a, who constitute about ten percent of the country's population.

More generally, the new law prohibits private religious education and requires state permits before an institution or organization can provide religious instruction. The law also requires both parents' written permission for a child to receive religious education. Police already try to prevent children from praying at mosques after school hours on Fridays, and it is unclear whether children attending a religious service will be viewed as involving them in religious education.

The law further mandates government approval of all published or "appropriate quantities" of imported religious literature, bans proselytism, and requires religious organizations to obtain government consent to invite foreigners to the country or attend religious conferences outside the country. The law also forbids religious associations from participating in political activities.

### *Registration*

The new law increases to 400 the number of members required for a religious group to register. The law also requires the legal founders of a religious organization seeking registration to present a document from their local government attesting that they have lived in the area for at least five years and adhered to the same religion. Under the new law, all religious communities in the country were required to re-register by January 1, 2010. As the State Department noted in 2009, the Tajik government "continued to use the registration process to hinder, influence, or intimidate religious organizations and communities." Groups that do not register or are denied registration will become illegal.

On December 10, 2009, Tajik government officials reportedly said that as of that date, only 1,500 of the country's 3,500 mosques and less than ten of the 84 non-Muslim organizations had been re-registered. As of March 2010, even Tajikistan's highest officially-approved Islamic body, the Council of Ulema (Council of Islamic Scholars), also reportedly had not been reregistered.

Tajikistan also has a Law on Observing National Traditions and Rituals that regulates private celebrations allegedly to protect the public from spending excessive amounts of money. This law also restricts the

manner in which individuals can conduct private celebrations, including those with religious significance, such as weddings, funerals, and the birthday of the Prophet Muhammad.

#### *Criticism of the 2009 Religion Law and Response*

The international community, including the OSCE and USCIRF, raised numerous concerns about various aspects of the new law while it was under consideration. In March 2009, the UN Special Rapporteur on Freedom of Religion or Belief told the UN Human Rights Council that the law “could lead to undue limitations on the rights of religious communities and could impermissibly restrict religious activities of minority communities.” The OSCE’s Advisory Panel of Experts on Freedom of Religion or Belief also found that many of the law’s provisions do not meet international standards regarding the freedom of religion or belief.

The country’s former chief mufti Akbar Turajonzoda—who is a leading member of the Islamic Renaissance Party (the legal Islamic political party)—offered an alternative, more liberal, draft religion law in parliament. His bill did not pass and he has condemned the new law because of its severe restrictions on the rights of both Muslims and non-Muslims. As a result, Turajonzoda was deprived of his official transportation, on which he relies due to his severe disabilities, and he resigned from the Tajik parliament. Members of various Tajik minority religious communities have expressed similar concerns about the law’s impact on freedom of religion or belief.

Tajik officials have made contradictory statements on possible future amendments to the new religion law. While President Rahmon has said that the law “will not be changed,” Mavlon Mukhtarov, the Deputy Ministry of Culture, told USCIRF staff that the law is “not a dogma.” In March 2010, President Rakhmon announced a reorganization of Tajik government bodies under which the Religious Affairs Committee will be moved from the Ministry of Culture to the Presidential Administration.

#### *Restrictions on Muslims*

Government policies reflected official anxiety about Islamic extremism which was used to justify imposing restrictions, engaging in surveillance, and passing the 2009 religion law that included major restrictions on religious expression, particularly on the majority Muslim population. Authorities unofficially were implementing some provisions before the law was passed in 2009, but they were not enforced uniformly throughout Tajikistan.

Tajik officials, including those from the State Committee on National Security, monitor mosques throughout the country. Officials attend services to listen to imams and observe individuals attending the mosques, as well as monitor audio and video cassettes for possible extremist and anti-government views. Officials also monitor weddings and funerals for compliance with the law on traditions and rituals.

The Tajik government attempts to control Islamic clergy through the Council of Ulamo, a group of scholars and imams that interprets religious practice. While state officials refer to the Council as an independent body, it usually is seen being under government influence or control. Therefore, the Council’s “decisions and *fatwas* are viewed as government policies,” according to the State Department. In addition, Council members draft and approve sermons for distribution to imams throughout Tajikistan so that these texts will be read as Friday sermons.

In recent years, the Tajik government has closed many unregistered mosques and prayer rooms, ordered the demolition of three unregistered mosques in the capital, Dushanbe, and allowed sermons at Friday prayers to take place only in central mosques. The government also indirectly controls the selection and retention of imams, including through “attestations” on Islamic teachings and religious principles. In

addition, the government controls and limits the numbers of those who participate in the *hajj*; in early 2009 that number was reduced from 5,200 to 4,800. In contrast, the first center for Ismaili Muslims in Central Asia, the Aga Khan Cultural Center, opened in Dushanbe in October 2009.

The Tajik government “continued to enforce official and unofficial dress codes that hindered religious expression, including an unevenly enforced ban on girls wearing the *hijab* at public schools and universities,” the State Department noted in 2009. Although four women students reportedly were expelled from Tajikistan State University for wearing the *hijab* in 2009, government and university officials have made conflicting comments on the existence of an official *hijab* ban. Women wearing the *hijab* may be photographed for official identification purposes, particularly on the *hajj*, but authorities reportedly prevented women from wearing “non-traditional” headscarves and men from wearing Islamic-style beards in public. The Minister of Education told the founders of a private *madrassa* in Dushanbe that they would not obtain an education license if they allowed women or girls to wear the *hijab*. Tajik authorities also have told observant Muslim men they would have to shave their beards if they wanted to work in bazaars, obtain passports, or work in government offices, the State Department reported. Government officials also harassed a prominent imam-khatib, Eshoni Nuriddin, who leads a large mosque in the Dushanbe area, in part because of his comments during Friday sermons, including criticism of *hijab* bans. A *fatwa* that bans women from praying in mosques was issued by the government-influenced Council of Ulema in 2004 and remains in effect, although reportedly some unregistered mosques still allow women to pray there.

In 2008, the government nationalized the previously independent Islamic University, the country’s only religious institution of higher learning. Teachers underwent a vetting process, and the institution was downgraded from a university to an “Islamic institute.” The Tajik president also established a Center for Islamic Studies to direct religious policy under the Presidential Administration, headed by the former Committee on Religious Affairs director, Murodullo Dovlatov, who reportedly is also linked to the security services. During a meeting with USCIRF staff in May 2009, he denied that the new religion law violated international law, but expressed interest in cooperating with the international community.

There are 19 private post-secondary school *madrassas* in Tajikistan, including one that opened in May 2009 in Dushanbe. The religion law permits parents to teach religious beliefs to their own children at home, but religious homeschooling outside the nuclear family is forbidden. In southern Tajikistan, officials have ordered Muslim leaders to prevent school-age boys from attending any prayers at local mosques.

The government has, however, relaxed a ban on printing in Arabic script by government publishing houses. However, state censors still review texts to determine whether the material is nonthreatening. In 2009, the Tajik government printed Tajik-language versions of the Koran and several Koranic commentaries in Tajik and Arabic.

### *Restrictions on Religious Minorities*

Bans imposed in 2007 continue in effect on Jehovah’s Witnesses and two Protestant churches, Ehyo Church and Abundant Life Christian Center. Although the Jehovah’s Witnesses had been registered in Tajikistan since 1994, the Ministry of Culture banned the group in 2007 for alleged violations of the Constitution and the religion law. In 2008, a higher court in Dushanbe upheld the ban. In October 2009, a court in Dushanbe banned an unregistered Baptist group because it had met for worship in a private home and also because it was not registered.

The Grace Sunmin Church, the country’s largest Protestant congregation, lost its appeal to save its property from repossession by Dushanbe city authorities, and the congregation was ordered to vacate its church in July 2009. Church leaders told USCIRF staff that the courts finally gave in to pressure from the

Dushanbe mayor who wanted to take over the property that the congregation had renovated. Another registered Protestant church in Dushanbe, whose building was demolished in 2008, had not received compensation after ten months, and the Culture Ministry still had not approved its rented place of worship, Forum 18 reported in June 2009.

The Ministry of Culture also has banned the religious literature of organizations it considered inappropriate, including from the Jehovah's Witnesses. In September 2009, 16 Jehovah's Witnesses in the city of Khujand face possible criminal prosecution on charges of inciting inter-religious hatred, with a maximum sentence of nine years; in June religious literature was confiscated from them, Forum 18 reported. In April 2008, the Tajik government refused to allow into the country a shipment of books by a Baptist organization because the size of the shipment was deemed disproportionate to the organization's membership.

In 2008, the nation's only synagogue, located in Dushanbe, was bulldozed. The Tajik delegation at a 2008 OSCE meeting stated that the government could not provide compensation for the building, citing "separation of church and state." Dushanbe's Jewish community received a building for use as a synagogue, which is now being used for worship services. The new building, however, was not provided as compensation by the city of Dushanbe, but donated by one of the country's richest bankers who is also President Rakhmon's brother-in-law.

An estimated 15,000 Jews lived in Tajikistan during the Soviet period; today the community is estimated at a few hundred. Although there were no confirmed public anti-Semitic acts, some imams and mullahs preached anti-Semitic messages in mosques, according to the State Department. In addition, Tajik government officials have occasionally stated to the press that minority religious groups undermine national unity.

### **U.S. Policy**

Tajikistan has strategic importance for the U.S., due in part to the key role that ethnic Tajiks also play in Afghanistan, the country's southern neighbor. Tajiks are the second largest ethnic group in Afghanistan and have included such major figures as that country's former president, as well as Ahmad Shah Masoud, the head of the Northern Alliance who fought the Soviets and the Taliban. Moreover, Tajikistan resembles Afghanistan, in that it is a weak state with an inadequate and highly corrupt government. Tajikistan also is an isolated and impoverished country that experienced a five-year civil war in the 1990s that resulted in as many as 100,000 deaths. In the aftermath of the civil war, most Tajik officials, allegedly responsible for torture and maltreatment of detainees and prisoners, were amnestied. The UN Committee against Torture called on the Tajik government in 2006 to establish an independent body to investigate numerous allegations of torture and to punish those found responsible for such acts including during the civil war.

The country's economy is heavily dependent on labor remittances, mainly from migrant laborers in Russia, which, due to the economic crisis, have decreased sharply. Many Tajik migrant workers have returned, giving rise to new social tensions in the country. U.S. foreign, humanitarian, and security assistance to Tajikistan amounted to approximately \$30 million in fiscal year 2009; more than \$50 million has been requested for fiscal year 2010. According to the State Department, the U.S.'s priority in terms of human rights and democracy promotion in Tajikistan is the development of democracy over the long term—a difficult task "due to the country's isolation, isolation and other environmental challenges, citizens' lack of exposure to democratic principles, and government resistance to meaningful democratic reforms." U.S. programs focus on efforts to improve government capacity to function more fairly and competently, develop mutual accountability between local government and civil society, and assist the country in making needed legal reforms. The United States also would like to

establish a Peace Corps program in Tajikistan. The United States also assists in funding legal support for NGOs in their efforts to meet highly technical official registration requirements. U.S. projects also focus on reforming local law in Tajikistan in four key areas: criminal justice, land use, basic freedoms, and the business environment.

The State Department's 2009 *Annual Report on International Religious Freedom* stated that, "respect for religious freedom continued to decline during the reporting period," the third consecutive year that the Department has noted a marked deterioration. The State Department also highlighted the following human rights problems: torture and abuse of detainees and other persons by security forces; impunity for security forces; denial of right to fair trial; harsh and life-threatening prison conditions; prohibition of international monitor access to prisons; and restrictions on freedoms of speech, press, association, and religion. Specific to religious freedom, the U.S. Embassy reported that it held programs intended to foster a better understanding of how democracies address secularism and religious freedom, including roundtables with students, journalists, religious leaders, and political figures, as well as sending key individuals on exchange and International Visitors Programs to the United States.

### **Recommendations**

The U.S. government should:

- work with Tajik government officials responsible for religious affairs, human rights, and legal issues, as well as Tajik parliamentarians, civil society representatives, and the international community, to assist Tajikistan in amending the new religion law to bring it into conformity with Tajikistan's international commitments on freedom of religion or belief, including those of the OSCE;
- publicly criticize Tajik government violations of international and OSCE commitments on human rights, including respect for freedom of religion or belief, in Tajikistan and at international meetings;
- continue to monitor the trials of leaders or members of religious communities that lose their registration and urge that appropriate legal measures be adopted;
- work with the international community in Tajikistan to improve judicial standards as well as provide training for judges and prosecutors in civil law and international human rights standards;
- urge the OSCE Mission in Tajikistan to pay particular attention to violations of freedom of religion or belief and to undertake programs in that regard, including by conducting training sessions with local media on international obligations; and
- urge the Tajik government, particularly President Rakhmon, to publicly affirm his intention to fully comply with Tajikistan's international commitments to respect freedom of religion or belief, as well as the rights of members of all peaceful religious communities in his country.

## Turkey

**FINDINGS:** Serious limitations on the freedom of religion or belief continue to occur in Turkey. Turkey's active civil society, media, and political parties influence the climate for religious freedom and help define the debate about the appropriate role of religion in society. Turkey has a democratic government, and the country's constitution calls for the protection of the freedom of belief and worship and the private dissemination of religious ideas. Nonetheless, the Turkish government's attempt to control religion and its effort to exclude religion from the public sphere based on its interpretation of secularism result in serious religious freedom violations for many of the country's citizens, including members of majority and, especially, minority religious communities. The European Union (EU) continues to find that, despite some improvements since its 2001 bid to join the EU, "Turkey needs to make additional efforts to create an environment conducive to full respect for freedom of religion in practice." An additional factor influencing the climate during the past year includes the alleged involvement of state and military officials in the Ergenekon plot, which included alleged plans to assassinate the Greek Orthodox and Armenian Orthodox patriarchs and to bomb mosques.

Due to these concerns, USCIRF continues to place Turkey on its Watch List in 2010.\* Turkey was first placed on the USCIRF Watch List in 2009.

State secularism in Turkey continues to depend on full government control over all religions, and has resulted in significant restrictions on religious freedom, including for the majority Sunni Muslim community, the minority Alevis (usually viewed as a unique sect of Islam), as well as Christian and other minority communities, such as the Greek, Armenian, and Syriac Orthodox Churches and others. Only Sunni Islam is officially permitted, and the state controls all official mosques, training of Muslim clergy and the content of sermons. Despite Turkey's obligations under the 1923 Lausanne Treaty, the government legally has not recognized minority religious communities as independent entities with full legal status, such as the Ecumenical Patriarchate of the Greek Orthodox Church. The resulting restrictions on religious minority communities, including state policies and actions that effectively deny non-Muslim communities the right to own and maintain property, train religious clergy, obtain and renew visas for religious personnel working for these communities, and offer religious education, have led to the decline—and in some cases the virtual disappearance—of these communities.

The Turkish government, in recent years, has responded quickly to arrest those suspected of violent hate crimes against members of religious minorities, such as individuals believed to be involved in several high profile murders of Christians. However, the resulting trials, like all Turkish trials, are protracted. The ruling party has instituted legal reforms aimed at preventing military involvement in civilian politics and providing a greater role for religion in public life; a constitutional reform package was before the parliament in March 2010. Anti-Semitism remains a problem in the media and public discourse, due in some measure to statements and gestures of the Prime Minister that have been reported publicly.

**PRIORITY RECOMMENDATIONS:** The United States regards Turkey as an important strategic partner, especially in light of its NATO membership, shared borders with Iraq and Iran, and emerging leadership role in the Middle East and Central Asia. The United States also continues to support Turkey's bid to join the European Union. U.S. policy should place greater emphasis on Turkey's compliance with its international commitments regarding freedom of religion or belief. For instance, the United States should encourage the Turkish government to address the long-standing lack of full legal recognition for religious minorities, including Alevis; Greek, Armenian, and Georgian Orthodox; Roman and Syriac Catholics; Protestants; and Jews. As President Obama noted in his April 2009 address to the Turkish parliament, the United States should continue to urge Turkey to permit all religious minorities to train religious clergy in Turkey, including by reopening the Greek Orthodox Theological Seminary of Halki. The United States also should work with Turkish authorities to allow women the freedom to express their religious or non-religious views through dress in order to respect both their beliefs and the secular status of the Turkish republic, as well as to remove legal restrictions on the wearing of clerical garb by non-Muslims in public. Additional recommendations for U.S. policy towards Turkey can be found at the end of this chapter.

\* Commissioner Eid abstained from the Watch List recommendation, concluding that the situation in Turkey is not as serious as in Greece, which is not on USCIRF's Watch List.

## Religious Freedom Conditions

### *Secularism in Turkish Politics*

According to the founding constitution of the Republic of Turkey established in 1923, Turkey is a secular state. Secularism, equated as the ideology of Mustafa Kemal Atatürk, has been a continuous source of political-social tension, and sometimes violence. Turkey has experienced four military coups since 1923. Atatürk and subsequent Turkish leaders adopted policies to subject religion to state control and remove the public influence of religion, including expressions of personal belief. The election of the Justice and Development Party (known in Turkish as the AKP, or the AK Party) in 2002 was viewed by some as the start of the rejection of secularism as the limitation of religion in public life, although the AKP's leader, Prime Minister Recep Tayyip Erdoğan, has made repeated public statements that his party supports secularism.

Over the decades, political parties that disagreed with the state's definition of secularism have been suppressed or banned, even though many Turks disagree with the absence of religion from public life. In 1960, 1971, and 1980, the Turkish military ousted governments, in part, due to concerns that secularism was under threat. In the 1990s, the *Refah* (Welfare) Party confronted Turkish secularism and won a plurality in elections, but in 1997 was maneuvered out of power by a soft coup by the military and forced to disband.

Despite its roots in the Islamist *Refah* Party, the AKP platform includes Turkey's accession to the EU and the democratic integration of Islam into public life. Nevertheless, while some view the AKP as a moderate party that espouses Islamic religious values within a modern, democratic society, others contend that it has more radical intentions, such as the eventual introduction of Islamic law in Turkey. In July 2008, the constitutional court ruled that the AKP had violated the constitution by serving as a center for "anti-secularist activities," but rather than ban the AKP, the constitutional court reduced the party's state funding by half, a more moderate action than in the past.

In March 2010, the AKP announced a constitutional reform package focused on judicial reform. The changes would restructure Turkish judicial institutions, increase presidential appointments to the judiciary, thereby weakening the role of the courts vis-à-vis AKP legislative initiatives, and grant parliament power to prevent the closure of political parties. In a speech that month to parliament, Prime Minister Erdoğan said that the proposed constitutional amendments would "pave the way to EU accession and global integration for Turkey." Critics, however, note that the proposed measures appear to be aimed at solidifying AKP power before the 2011 elections. The prime minister threatened to take the proposed amendments to a popular referendum if the parliament does not ratify them. Although the AKP has a majority of votes in the parliament, it lacks the two-thirds majority needed to pass constitutional amendments. Observers believe that the parliament is unlikely to vote on these issues before mid-April; a popular referendum is likely by mid-June.

During the past year, Turkish authorities have taken action against an underground ultra-nationalist organization known as "Ergenekon," which is a constellation of military groups, organized crime operations, right-wing political actors, and hyper-secularist groups. Viewed as part of the "deep state," the Ergenekon network allegedly planned several actions that, taken together, were aimed at fomenting domestic societal unrest, in order to lead to a collapse of the government and/or a military coup. In addition, authorities alleged the group kept lists of potential targets, including Christians and Jews, and it

has been implicated in the murders of a Catholic priest in Trabzon in February 2006, three Protestants working for an evangelical Christian publishing house in Malatya in April 2007, and the ethnic Armenian journalist, Hrant Dink, in 2007. Under the so-called Cage plan, non-Muslim community leaders allegedly were named for assassination, including the Ecumenical Patriarch Bartholomew of the Greek Orthodox Church, Patriarch Mutafyan of the Armenian Orthodox Church, and Ishak Alaton of the Jewish community in Turkey. In one Ergenekon-related case, a Turkish army general is alleged to have plotted to plant weapons in the homes of followers of Muslim preacher Fethullah Gulen to create fears of Islamic militancy.

In early 2010, more than 30 current and retired military officers were arrested in 13 Turkish cities in connection with allegations of another separate plot to overthrow the AKP government, known as the “Sledgehammer Plot.” First revealed by the little known *Taraf* newspaper and then widely circulated in many of the country’s best known newspapers, this plot allegedly included plans to bomb two Istanbul mosques, to bring down Turkish military aircraft and blame the event as a provocation by Greece, and to attack NATO facilities. Some Turkish military representatives have denied institutional involvement by the army in any plans for a coup.

By March 2010, nearly 200 alleged Ergenekon members reportedly had been charged in Turkish courts, including police and retired and active army officials, businesspeople, lawyers, academics, politicians, journalists, and organized crime figures. Some analysts have criticized the Ergenekon investigation, noting that numerous detainees are prominent critics of Erdoğan’s government and individuals known to support strict secularism. The Ergenekon controversy has deeply polarized Turkish politics and society regarding the role of Islam in politics and public life; the safety of non-Muslim religious and ethnic minorities in Turkey; and the role of the military in civilian political institutions. Observers have widely divergent views on whether the Ergenekon case represents progress or regression on the Turkish road to democratization and the rule of law. In the first instance, the investigation and arrests of alleged members of a coup against a democratically elected government shows the strengthening of Turkish democracy. By the same token, the allegations of a plot could be used to arrest individuals opposed to the AKP and its political agenda. Furthermore, the case underscores the continuing challenges to the full civilianization of politics in Turkey.

#### *Restrictions on the Expression of Islam*

The Directorate of Religious Affairs, or the *Diyanet*, a taxpayer-funded government body under the prime minister’s office, controls all 80,000 mosques in Turkey and employs imams as state functionaries. The *Diyanet* only allows propagation of the Hanafi Sunni school of Islam, including through its control of the content of sermons in Turkey’s mosques. Religious practice and education (compulsory in state schools for Muslim children) only follow Hanafi doctrines, although up to 20 percent of Turkey’s Muslims are Alevi. Only the *Diyanet* is allowed to provide religious education courses outside of school for children above the age of 12. The practice of Islam outside of government-regulated institutions is not condoned. Turkey’s renowned Sufi orders were officially prohibited in the 1920s, though some still operate unofficially.

Turkish secularism bans religious dress as well as the wearing of head scarves in state buildings, including public and private universities, the parliament, courts, and schools. Women who wear headscarves, and those who advocate on their behalf, have lost public sector jobs such as nursing and teaching. Headscarf-wearing students officially are not permitted to register even for classes at private institutions. In December 2008, authorities charged five members of the military with “lack of discipline” for allowing their wives to wear headscarves or for performing Muslim prayers. In 2006, a court upheld a school’s decision to fire a teacher who wore the headscarf outside of school hours. More recently, in

March 2009, the Supreme Election Committee declared that workers at polling stations could not wear the headscarf during work hours.

The “headscarf issue” (*turban*) has long been the focus of political debate in Turkey. In 2005, the European Court of Human Rights (ECtHR) ruled that in view of Turkey’s constitutional legal definition of secularism the headscarf ban by a Turkish university did not violate the European Convention on Human Rights, even though it contravened religious freedom standards. In February 2008, the Turkish parliament voted overwhelmingly to change the 1982 constitution (written by a military-led caretaker government following the military coup of 1980) to guarantee all citizens the right to attend university, regardless of dress. Under the amendment, only traditional scarves—tied loosely under the chin—would be allowed. Headscarves that cover the neck, as well as the full veil, would still be banned. In June 2008, however, the Turkish constitutional court ruled that these amendments were unconstitutional because they violated the Turkish requirement of secularism. As a result, the headscarf ban remains in effect, and only uncovered women are permitted access to public and private universities in Turkey.

In February 2010, the ECtHR ruled that a Turkish court violated the rights of 127 members of an Islamic group, *Aczimendi tarikaty*, by sentencing them for wearing religious dress in public. According to the ECtHR, the plaintiffs had been punished for wearing these traditional clothes in the street as they walked to a mosque, not in public institutional buildings, where religious neutrality is permitted and can override the right to express one’s religion. The ECtHR also ruled that the Turkish authorities had not proven that the plaintiffs’ dress constituted a danger to public order or that they had proselytized en route to the mosque, putting inappropriate pressure on passersby. The ban on public religious dress is more extensively targeted at non-Muslim groups, as all Christians (Orthodox, Catholic, and Protestant) and Jews are prohibited from wearing clerical garb in the public sphere in general, not only in state buildings.

#### *Restrictions on Alevis*

The Alevis are Turkey’s largest religious minority community, comprising 15 to 25 percent of the population, though not recognized as an official minority by the state. The beliefs and practices of the Alevis remain a source of debate within Islam, and some Muslims consider the Alevis to be a sect of Twelver Shi’a Islam that has assimilated some elements of Sufi Islam, Gnostic, and Zoroastrian theology and rituals. The Turkish government generally views the Alevis as heterodox Muslims, although many Sunni Muslims and some Alevis maintain that Alevis are not Muslims. Though not granted status as a religious minority, Alevis reportedly are able to practice their beliefs relatively freely. Nevertheless, the Alevis are still subject to some discriminatory state practices, though their situation has improved in recent years.

Alevi worship in what are called “gathering places” (or “*cem evleri*,” in Turkish). The Turkish government does not officially recognize *cem* houses as houses of worship, but rather considers them “cultural centers.” Alevis have reported denials and protracted delays in receiving permission to build *cem* houses. These problems reportedly have decreased in recent years. In 2008, a Turkish regional court ruled that *cem evleri* are not houses of worship, while the same year two Turkish municipalities ruled that they will be considered places of worship in their jurisdiction. Moreover, Alevis note that while all Turkish taxpayers, including Alevis, fund the construction of Sunni mosques in Alevi villages, Alevis are sometimes denied permission to build *cem* houses even in areas where they are in the majority. Some of the 300 groups within the large Alevi community have called for the abolition of the *Diyanet* because it exercises state control over Islamic religious life, promotes only Sunni Islam, and is funded by taxes from all Turkish citizens. Alevi leaders – called “Dede” or elders – are not entitled to that title under a 1925 law, which, under the Turkish Constitution, cannot be amended.

Alevi object to their children having to take part in compulsory religious education for Muslims. Some Alevi believe that these classes should be optional for members of their community, others have advocated for curriculum reform so that their religion is accurately presented, while others advocate the abolition of required religion courses. A member of the Turkish Alevi community brought the issue of compulsory Muslim education before the ECtHR, which ruled in 2007 that religious education should be optional for Alevi since the curriculum was limited to Sunni Islam. A Turkish regional court later upheld that ECtHR opinion. The religion curriculum for Turkish schools was modified in 2008, but some Alevi maintain that the new texts are still inadequate as they treat their community as a mystic order within Islam.

In the past several years, and most recently in June 2009, the Turkish government held several workshops with the Alevi community to discuss their concerns. The Alevi are seeking to address five key issues: legal status for Alevi houses of worship; the abolishment of compulsory religious education classes; an end to the building of mosques in Alevi villages; the return of Alevi properties confiscated under a 1925 law; and the establishment of a museum at the Madimak Hotel in Sivas where Alevi were killed in a 1993 arson attack. In late 2009, as many as 200,000 Alevi demonstrated peacefully in Istanbul to urge the Turkish government to implement these five requests. According to information received in February 2010 from the Turkish embassy in Washington, DC, a final document from these workshops will be submitted to Prime Minister Erdogan in the spring of 2010.

#### *Restrictions on Legal Status of Non-Muslim Minorities*

The 1923 Treaty of Lausanne, a peace treaty signed between Turkish military forces and several European powers that formally established the Republic of Turkey, contained specific guarantees and protections for all non-Muslim religious minorities in Turkey.<sup>19</sup> Since that time, however, the Turkish government has interpreted those treaty obligations as limited to the Greek Orthodox, Armenian Orthodox, and Jewish communities. Nevertheless, despite this unique status, legal recognition of these three religious minority communities, and guarantees cited, have not been implemented in Turkish law or practice, and the Turkish government continues to use the denial of legal personality to these groups as a mechanism to restrict their rights of religious freedom.

Furthermore, religious groups that fall outside the Turkish government's view of the Lausanne Treaty's definition of religious minorities are severely limited in their right to freedom of religion or belief. Over the decades, the absence of legal personality has resulted in serious problems with regard to minority communities' right to own, maintain, and transfer both communal and individual property. They also face major obstacles in deciding internal arrangements and training religious clergy. In some cases, these obstacles have led to a critical decline in these communities on their historic lands. The problems for the Christian minorities—including on property rights, education, and in some instances, physical security—partly arise from the fact that most are both religious and ethnic minorities, and therefore are viewed with suspicion by some ethnic Turks.

In Turkey today, there are about 65,000 Armenian Orthodox Christians, 23,000 Jews, and approximately 1,700 Greek Orthodox Christians. When Turkey was founded in 1923, there were 200,000 Greek Orthodox Christians in the country. By 1955, the number had fallen to 100,000; that year, pogroms

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<sup>19</sup> “Article 40 – Turkish nationals belonging to non-Moslem minorities shall enjoy the same treatment and security in law and in fact as other Turkish nationals. In particular, they shall have an equal right to establish, manage and control at their own expense, any charitable, religious and social institutions, any schools and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein.”

against the Greek Orthodox resulted in the destruction of private and commercial properties, desecration of religious sites, and killings. Due to ongoing threats, the Greek Orthodox community's numbers continued to decline to their present level. In addition to the three so-called "Lausanne minorities," at present, there are approximately 15,000 Syriac Christians, 10,000 Baha'is, 5,000 Yezidis, 3,300 Jehovah's Witnesses, and 3,000 Protestant Christians in Turkey, as well as small Georgian Orthodox, Bulgarian Orthodox, Maronite, Chaldean, Nestorian Assyrian, and Roman Catholic communities. The number of Syriac Christians in southeastern Turkey was once much higher, but government pressures and the war against secessionist Kurdish forces resulted in a major emigration.

A government agency, the General Directorate for Foundations (*Vakiflar*), regulates all activities of non-Muslim religious groups and their affiliated houses of worship and other property. According to the State Department, 161 religious community foundations that existed during the Ottoman Empire were legislated into the foundation system. The *Vakiflar* recognizes these 161 "minority community foundations," which include Greek Orthodox with some 74 sites; Armenian Orthodox with 48 sites, and Jewish foundations with 12 sites, as well as Syriac, Bulgarian and Georgian Orthodox, and Chaldean and Maronite Catholics. Establishing a foundation enables a religious community to gain the status of a collective legal entity, but rules on foundations are intrusive and onerous. Contrary to the Lausanne provisions, however, the properties of religious minorities in Turkey, including on the islands of Imvros and Tenedos, have been expropriated—private property of individuals and communal properties such as schools, cultural buildings, churches, and orphanages—and legal personality requirements irregularly are applied or suspended, with arbitrary, and sometimes, no access to the judicial system for recourse.

A religious organization also may apply to register for official status as a non-profit association, but such associations cannot own property. Obtaining association status is simpler and faster than gaining foundation status. Nevertheless, it is granted and also may be denied by provincial governors and provides fewer long-term protections.

For more than fifty years, the Turkish government has used convoluted regulations and undemocratic laws to confiscate hundreds of religious minority properties, primarily those belonging to the Greek and Armenian Orthodox communities, as well as those of the Catholic and Jewish communities. In 1936, the government required all foundations to declare their sources of income. Since the time of Turkey's invasion of Cyprus in 1974, the Turkish High Court of Appeals ruled that minority foundations had no right to acquire properties other than those recognized by the state in 1936. Since that time, the government has seized control of hundreds of properties acquired after 1936. Although religious minority foundations can acquire property, previously expropriated property cannot be reclaimed, nor is there any state compensation for expropriated properties. Moreover, these government actions are not subject to appeal. Greek, Armenian, and Syriac Christians also have been restricted in the maintenance of religious and cultural sites, partly due to the complex process for acquiring necessary official documents. Additionally, minority groups cannot use funds from their properties in one part of Turkey to support their population elsewhere in the country.

In recent years, some older members of the Syriac Christian community have returned to Turkey, and in one case, the Turkish government helped to evict a local group which had occupied homes that belonged to Syriac Christians. Metropolitan Yusuf Çetin of the Syrian Orthodox Church told USCIRF in 2006 that the Turkish government had provided some assistance in restoring churches and monasteries. More recently, however, a dispute has arisen over the attempted seizure by Turkish authorities of some territory of the 1,600-year-old Mor Gabriel monastery, the Syriac Patriarch's residence from 1160 to 1932. Turkish officials reportedly have attempted to redraw the monastery's boundary lines, claiming that the current boundaries impinge on the land of three neighboring, primarily Kurdish, villages. Some village leaders also have accused the local monks of "proselytism" for talking with students about their beliefs

and in their Aramaic language. There have been two court hearings related to the case, which began in early 2009 and are ongoing.

Roman Catholics also have had their property confiscated by the Turkish government. In January 2010, Pope Benedict noted that the Catholic Church in Turkey still lacks legal status.

Protestants in Turkey, who number about 3,000, are primarily ethnic Turkish converts from Islam. They often meet in the churches of other denominations, homes, and in other venues. Meeting in homes is often viewed with suspicion and police sometimes prevent such services, including by detaining and prosecuting participants. In February 2009, the ECtHR ruled that a Protestant church in Izmir had the right to legal status as an association and, according to the State Department, the Turkish government has complied with that ruling.

Jehovah's Witnesses reportedly experience continuing harassment of their worship services, even though they gained the legal status of an association in 2007, thereby enabling the group to rent meeting space and collectively defend its legal interests in court. The State Department reported that in early 2009, court decisions, based on zoning laws against the use of two Jehovah's Witnesses places of worship, were reversed on appeal and two other similar cases were appealed and are awaiting a verdict.

In November 2006, the Turkish parliament, as part of EU accession reforms, passed a new law on Lausanne religious minority foundations, easing procedures and allowing non-Turkish citizens to establish such foundations. Although the law permitted the *Vakiflar* to continue to expropriate properties, it enabled religious minorities to recover limited categories of expropriated property, not including those that had been sold to third parties or were under government control. Then-President Ahmet Necdet Sezer, vetoed the law. In February 2008, the parliament passed a similar law on the return of non-Muslim minority properties, including orphanages, hospitals, and churches. However, the 2008 law still exempts property sold to third parties and the *Vakiflar*'s expropriation authority continues. President Gul signed this legislation, supported by Prime Minister Erdoğan.<sup>20</sup>

#### *Other Restrictions on Non-Muslim Minorities*

The three officially-designated "Lausanne minorities" may operate primary and secondary schools as communities under the supervision of the Ministry of Education. Until 2007, in violation of the Lausanne Treaty, these schools were required to appoint a Muslim as deputy principal. However, in 2007, a new law allowed non-Muslims to take up the position. Nevertheless, regulations make it difficult for non-Muslim children to register and attend their community schools, thereby leading to the gradual disappearance of the community schools protected under Lausanne. School registration must be carried out in the presence of Ministry of National Education inspectors, who reportedly ensure that the child's father is from the relevant minority community.

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<sup>20</sup> On July 22, 2009, USCIRF received a delegation led by Ambassador Andreas Kakouris from the Embassy of the Republic of Cyprus to the United States, which consisted of Dr. Charalampos Chotzakoglou (Professor of Byzantine Art and Archaeology, Hellenic Open University and Museum of Kykkos Monastery), Dr. Klaus Gallas (art historian and Byzantine expert), and Michael Jansen (author, "War and Cultural Heritage: Cyprus After the 1974 Turkish Invasion"). These individuals, accompanied by the Ambassador, made a presentation respecting the actions of Turkish Cypriot officials and the Turkish military in connection with the destruction and/or vandalism of Greek Orthodox churches, monasteries and cemeteries in northern Cyprus, as well as with ongoing limitations on access to and worship at Greek Orthodox Christian religious sites in Northern Cyprus. USCIRF has not examined this issue and cannot address it at the present time, but is in the process of considering what action, if any, the Commission should undertake.

The Turkish state also has closed minority communities' seminaries, denying these communities the right to train clergy, and has interfered with their internal arrangements and leadership decisions. For example, the Turkish government still does not recognize the Greek Ecumenical Patriarchate as a legal entity. Moreover, it only acknowledges the Patriarch as head of the Greek Orthodox community in Turkey, not as Ecumenical Patriarch, despite Prime Minister Erdoğan's January 2008 statement in parliament that Patriarch Bartholomew's "Ecumenical" title was an internal church issue. In March 2010, the Venice Commission, a Council of Europe advisory body, stated that there is no factual or legal reason, including the 1923 Treaty of Lausanne, for the Turkish government not to acknowledge the status of the Patriarch as "ecumenical," based on the historically recognized title and prerogatives. The Turkish government also maintains that only Turkish citizens can be candidates to be Patriarch or hierarchs in the Church's Holy Synod. The Turkish embassy in Washington, DC informed USCIRF in February 2010 that the government had discussed the possible application for Turkish citizenship of the relevant Greek Orthodox Metropolitans in August 2009 in a meeting with the Patriarchate, but no action has been taken.

In 1971, the government's nationalization of higher education institutions included the Greek Orthodox Theological School of Halki on the island of Heybeli, thereby depriving the Greek Orthodox community of its only educational institution for its religious leadership in Turkey. Furthermore, in November 1998, the school's Board of Trustees was dismissed by the General Authority for Public Institutions. The Halki seminary remains closed; according to the Turkish embassy in Washington, DC, as of early 2010, the Turkish authorities continued to explore with the Patriarchate possible venues for its reopening.

In 2008, the ECtHR ruled in a case brought by the Greek Orthodox Ecumenical Patriarchate that Turkey was in violation of Article 1 of Protocol No. 1 (protection of property) of the European Convention on Human Rights. The case concerned the Turkish government's expropriation of the Greek Orthodox orphanage on the Turkish island of Buyukada. The court unanimously ruled against the Turkish state for improperly taking the orphanage owned by the Ecumenical Patriarchate. The Turkish government has yet to implement the court's ruling.

The Armenian Orthodox community, which is Turkey's largest non-Muslim religious minority, also lacks a seminary in Turkey to educate its clerics and today only has 26 priests. In 2006, the Armenian Patriarch submitted a proposal to the Minister of Education to enable the Armenian Orthodox community to establish at a state university a faculty on Christian theology with instruction by the Patriarch. To date, the Turkish government has not responded to this request. Additionally, like the Greek Orthodox Patriarch, the Armenian Patriarch lacks legal personality. The Armenian Patriarch reportedly receives about 300 email threats daily, and has two secret police bodyguards who accompany him at all times.

Due to the Turkish law banning the public wearing of clerical garb, foreign Christian clergy, including Georgian, Greek and Russian Orthodox, were required in 2009 to remove their church vestments before they were allowed to enter Turkey. Christian clerics in Turkey who are Turkish citizens cannot wear their clerical dress anywhere in public.

#### *Hate Crimes and Intolerance against Members of Non-Muslim Minorities*

Hrant Dink, a prominent journalist of Armenian background, was murdered in January 2007. Dink had been convicted under Article 301 of the Turkish Penal Code for "insulting" the Turkish state by publicly referring to the "Armenian genocide." Due to international pressure, his conviction was changed to a suspended sentence. Some reports suggested that Dink had been targeted for murder because he was a Christian. When a USCIRF delegation met with Dink in Istanbul in 2006, he referred to repeated threats against his life. The trial of Dink's alleged killer, who now has been linked to the Ergenekon plot, continues. According to Reporters without Borders, the trial is being conducted in a "disappointing"

manner. In February 2010, seven hundred activists, who called themselves Dink's "deep family," called for a parliamentary investigation into the murder.

Roman Catholics in Turkey occasionally have been subjected to violent societal attacks. In February 2006, an Italian Catholic priest was shot to death in his church in Trabzon by a youth angered over the caricatures of the Muslim prophet in Danish newspapers. Prime Minister Erdoğan and other government officials strongly condemned the killing. A 16 year-old boy later was charged with the murder, tried, and sentenced to 19 years in prison. In July 2009, Gregor Kerkeling, a Catholic German businessman, was murdered in an anti-Christian hate crime by a mentally disturbed young man who later confessed and has gone on trial.

Although Protestants and their property have, in the past, been subject to violent attacks, reports indicated that there had been a decline in such incidents in 2009. Yet in August 2009, Ismail Aydin, who belongs to a Protestant church in Istanbul, was taken hostage at knife point. His captor announced he intended to kill Aydin for his missionary activities, but police persuaded the attacker to release him without harm. As of this writing, the trial is ongoing. Another trial also continues of two Muslim converts to Christianity who were charged in 2006 under Criminal Code Article 301 with "insulting Turkishness," inciting hatred against Islam, and secretly compiling data on private citizens for a Bible correspondence course. In April 2007, three employees of an Evangelical Protestant publishing house in the city of Malatya were murdered. A total of 10 suspects have been arrested. Later evidence indicated that the five who confessed to the murders were linked to local political officers, the special military forces, and regional members of Turkey's nationalist political party allegedly involved with the Ergenekon plot. In December 2007, Turkey's Interior Ministry also opened a judicial investigation into the alleged collusion of public officials in these murders; the trial is ongoing.

Although engaging in public religious expression and persuasion is not illegal in Turkey, those who do so are sometimes harassed and arrested. Two Christians went on trial in October 2009 for "insulting" Turkish identity after being arrested for discussing their faith. The issue is also the subject of public discussion. A day after the 2007 Malatya murders, a senior Justice Ministry official told the *Milliyet* newspaper that "missionary work is even more dangerous than terrorism and unfortunately is not considered a crime in Turkey." Missionary activity also has been on the agenda of the National Security Council, but the major Turkish media has reduced intolerant coverage of religious minorities since the 2007 Malatya murders. For example, ATV, a popular national TV channel, reportedly has dropped broadcasts on "illegal" churches or the conversion of Turks to Christianity. Nevertheless, intolerant reports continue in local and ultra-nationalist newspapers, as well as on Web sites and blogs, according to sources in Turkey. In addition, "missionary activity" is listed as a national threat linked to foreign funding in compulsory eighth-grade public school texts on the History of Turkish Republican Reforms and Atatürkism.

Approximately 96 percent of Jews in Turkey are descendants of those who fled religious persecution in Spain or Portugal in 1492. According to Jewish community representatives in Turkey, their situation is better than in other majority Muslim countries. They are able to worship freely and their places of worship generally receive government protection if needed. Jews also operate their own schools, hospitals, two elderly persons' homes, and welfare institutions, as well as a newspaper.

Nevertheless, in 2003 and 2004, extremists attacked synagogues in Turkey, and in recent years there has been growing anti-Semitism in some sectors of Turkish media and society. Some link increased anti-Semitism to Turkish opposition to the U.S. invasion of Iraq, the 2009 Israeli military campaign in Gaza, and an incident in which Prime Minister Erdoğan left a roundtable at the G-8 meeting in Davos to protest comments by Israeli President Peres about the Gaza campaign. During the Gaza campaign, virulently anti-Semitic signs, posters, and caricatures appeared at anti-Israel demonstrations and in many Turkish

newspapers. Jewish community organizations reportedly received anti-Semitic mailings and phone calls. Nevertheless, in a 2009 interview with Turkey's *Milliyet* newspaper, the president of the Turkish Jewish community said that he "does not believe that anti-Semitism exists throughout Turkey." He also praised Prime Minister Erdoğan for publicly denouncing anti-Semitism, stating that the Jewish community's "only problem is the majority's tendency to view minorities as removed from the general population."

### *National Identity Cards*

Religious affiliation is listed on Turkish national identity cards, but some religious groups, such as the Baha'is, are unable to state their religion because it is not on the official list of options. Although a 2006 law allowed individuals to leave the religion section of their identity cards blank or apply to change the religious designation, the Turkish government reportedly continued to restrict applicants' choice of religion. These denials cause difficulties for religious minority students to opt out of Islamic religion classes in public schools. In a case brought by an Alevi librarian, the ECtHR ruled in February 2010 that Turkish identity cards should not require the listing of religious affiliation.

### *Conscientious Objectors*

Turkish law does not include a provision for alternative military service. Although a draft law was introduced in late 2008, it is considered unlikely to be adopted. A July 2008 Ministry of Justice decree states that deserters can only be arrested and detained by police with a court warrant, so that conscientious objectors no longer can be arrested by the military at a recruitment office. Nevertheless, if an objector refuses conscription, or to wear a military uniform, these acts are treated under the Military Criminal Code as a refusal to obey orders and may initiate a cycle of prosecution and imprisonment.

Conscientious objectors fall mainly into two groups: pacifists who totally refuse any compulsory state service, including civilian service, and Jehovah's Witnesses, who reject military service but are willing to serve in an alternative capacity that is strictly civilian. Although Turkish law does not provide for official conscientious objector status, reportedly there are about 89 conscientious objectors in Turkey who are not Jehovah's Witnesses, and about 30 Jehovah's Witnesses. In December 2009, a Muslim man, Enver Aydemir, who refused to serve in the secular Turkish army was arrested and put in military detention. In March 2010, he was sentenced to 10 months imprisonment for desertion. Aydemir alleged torture while in detention and his father sent a letter of complaint to the Turkish parliament's Human Rights Commission which is investigating the claim. In recent years, young Jehovah's Witnesses have been maltreated and repeatedly prosecuted for conscientious objection to military service. At the end of this reporting period, there are no known Jehovah's Witnesses in detention.

### *EU Accession and Legal Reforms*

In March 2001, the EU adopted the Accession Partnership as a roadmap for the process of Turkey's bid to join the Union, requiring the Turkish government to implement numerous reforms to ensure that its laws are consistent with EU standards. In accord with his goal of EU membership, since 2002 Prime Minister Erdoğan has instituted a number of unprecedented democratic reforms, including domestic human rights reforms. The Turkish constitution was amended to ensure the primacy of international and European human rights conventions over domestic law. Various laws, including the Penal Code, Anti-Terror Law, and the Press Law, also have been amended. Changes to the Penal Code limited convictions on incitement charges, narrowed the scope of defamation, and strengthened the principle of equality between men and women. In addition, Turkey has boosted efforts since 2002 to comply with the decisions of the ECtHR.

Due to Turkey's failure to implement the customs union arrangement with Cyprus, however, the European Union suspended eight chapters of the Accession Protocol in 2006. In February 2008, the Council of the European Union issued a revised accession partnership with Turkey and set goals that include human rights and religious freedom.

The Turkish government has ratified three major international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR). However, the Turkish government placed a reservation on Article 27 of the ICCPR, thereby setting conditions on its commitment to cultural, religious, and linguistic rights for members of those religious minority groups to which the Lausanne Treaty refers. Article 27 reads, "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language." The Turkish government reservation states, "The Republic of Turkey reserves the right to interpret and apply the provisions of Article 27 of the International Covenant on Civil and Political Rights in accordance with the related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendixes." Considering the government's narrow definition of the rights and status of those minorities under the treaty, the reservation potentially undermines the guarantees to "profess and practice" religion in Article 27, and possibly the more extensive religious freedom guarantees found in Article 18.

In a set of EU-related reforms passed in April 2008, the parliament amended Article 301 of the Turkish Criminal Code, which criminalizes alleged insults to the Turkish state or "Turkish identity." While the amendment appears to expand free speech protections, its vague language increases the possibility of abuse as has occurred in the past. Although EU concerns with this provision focused on freedom of expression, there also are implications for freedom of religion or belief. Turkish prosecutors have brought charges under Article 301 to restrict the rights of religious expression and persuasion of members of minority religious and ethnic groups.

In 2009, according to the Turkish embassy, the Turkish government announced the establishment of an autonomous National Human Rights Institution that will serve also as the national preventive mechanism when parliament adopts the Optional Protocol to the UN Convention on the Prevention of Torture. The Turkish government also reportedly plans to establish a Commission against Discrimination, as well as a complaints mechanism on the work of law enforcement authorities.

Nevertheless, in its most recent progress report on Turkey, issued in October 2009, the European Union concluded that, although there had been some progress, serious religious freedom problems remained. The report stated: "Overall, implementation of the 2008 law on foundations has been smooth. The Government has undertaken a dialogue with the Alevi and non-Muslim religious communities. However, their specific problems have yet to be addressed. Attacks against minority religions still occur. A legal framework in line with the [European Convention on Human Rights] has yet to be established, so that all non-Muslim religious communities and Alevi community can function without undue constraints, including as regards training of clergy. Further efforts are needed to create an environment conducive to full respect of freedom of religion in practice."

## **U.S. Policy**

The U.S. government has long viewed Turkey as an important strategic partner: Turkey is a NATO ally and there is a U.S. airbase in Incirlik, Turkey; the country has partnered with Azerbaijan and Georgia to open an oil pipeline from the Caspian Sea, thereby avoiding Russian-owned transit routes; and Turkey's proximity to Iraq and Iran put it literally on the frontlines of U.S. foreign policy. Although bilateral relations were strained in 2003 when Turkey refused to allow U.S. troops to deploy through its territory to

Iraq, relations have since improved. The United States strongly supports Turkey's accession into the European Union. There also is significant U.S. trade and direct investment in Turkey.

According to the State Department's 2009 religious freedom report, the government of Turkey "generally respected religious freedom in practice; however, the government imposes limitations on Islamic and other religious groups and significant restrictions on Islamic religious expression in government offices and state-run institutions, including universities, for the stated reason of preserving the 'secular state.'" The primary goals of U.S. human rights policy in Turkey are to promote a more democratic government and to support relevant legal reforms, including constitutional revisions, an independent, professional press, and greater religious freedom. The United States also emphasizes that it is important to express and discuss minority viewpoints or controversial topics. In March 2010, the Foreign Affairs Committee of the U.S. House of Representatives narrowly condemned, by a 23 to 22 vote, as genocide the deaths of as many as 1.5 million Armenians by the Ottoman Turks in 1915 during World War I. The Turkish government, which has long denied that those mass killings constituted planned genocide, protested the resolution by recalling its ambassador from the United States and calling on the Obama administration to prevent the resolution from reaching the House floor.

The United States also promotes policies to protect freedom of religion and to allow the free functioning of non-Muslim religious institutions, and U.S. presidents have called consistently since the 1970s for Turkey to re-open the Greek Orthodox Theological School of Halki under the auspices of the Ecumenical Patriarchate and to take specific steps to address concerns of the ethnic Kurdish population and other minority communities. The U.S. government cooperates with Turkey to assist in the advancement of freedom of expression and religion, respect for individual human rights, civil society, and promotion of ethnic diversity. Several Congressional resolutions reiterate this focus. On March 6, 2009, H.Res.220 was introduced, urging Turkey to respect the rights and freedoms of the Ecumenical Patriarchate. Congress also called upon the government of Turkey to facilitate the reopening of the Ecumenical Patriarchate's Theological School of Halki (H.Res.356).

On April 6, 2009, President Obama visited Turkey and addressed Turkish Parliament. He emphasized the U.S. interest in Turkey's recognition of the importance of religious freedom, for example by reopening the Halki seminary. While in the country, President Obama also met with the leaders of Turkey's majority and diverse religious minority communities.

## **Recommendations**

### **I. Pressing for Immediate Improvements to End Religious Freedom Violations**

In its bilateral relations with Turkey, the U.S. government should urge the Turkish government to bring its laws and practices into compliance with international standards on freedom of religion or belief, including by promptly taking the following steps:

- allow for the independent and peaceful practice of Islam outside of the *Diyanet* and end the legal prohibition on Sufi spiritual orders;
- allow women the freedom to express their religious or nonreligious views through dress so as to respect their beliefs as well as the secular status of the Turkish republic, while ensuring a lack of coercion for those choosing not to wear headscarves and protecting the rights and freedoms of others, and providing access to public education and to public sector employment for those choosing to wear a headscarf;

- remove restrictions on the ability of leaders of majority and religious minority communities to wear clerical garb in public areas, state institutions, and public and private universities, and remove additional restrictions on leaders of the minority Christian, Jewish, or other communities from wearing clerical garb in the public space;
- encourage the Prime Minister's office and the *Diyanet* to work with the Alevi community regarding the recognition of that community in Turkey; grant official status to Alevi *cem* houses of worship for those communities which have applied for such status; amend school curricula on religion in line with the 2010 European Court of Human Rights ruling; and act in accordance with international human rights obligations to protect and punish discrimination against Alevis;
- grant full legal recognition for religious minorities, including Alevis; Greek, Armenian, Georgian and Syrian Orthodox; Roman and Syriac Catholics; Protestants; and Jews; by
  - fully implementing the 1923 Lausanne Treaty and providing all non-Muslim communities with legal status that affords them full property rights including the right to inherit, purchase, possess, maintain, and sell property; or
  - amending the Law on Associations so that it provides religious communities with legal status that affords them the right to inherit, purchase, possess, maintain, and sell property;
- expand the process to regain clear title or fair compensation for expropriated holdings to include properties sold to third parties or held by the government, and to end the authority of the *Vakiflar* or any government agency to seize the property of any religious community;
- instruct officials to drop their legal case to seize some of the land which is the property of the Mor Gabriel Syrian Orthodox monastery;
- instruct officials to uphold the decision of the European Court of Human Rights and return the orphanage on the Turkish island of Buyukada to the Greek Orthodox Church;
- carry out Prime Minister Erdoğan's 2008 statement that the Ecumenical status of the Greek Orthodox Patriarchate should be an internal church issue by granting official recognition to the Ecumenical status of the Patriarch, in line with the 2010 opinion by the Council of Europe Venice Commission;
- permit all religious minorities, including those not covered by the Lausanne Treaty, to train religious clergy, including by:
  - as repeatedly and formally requested by every U.S. President since 1971, permitting the reopening of the Halki Seminary, according to Turkey's international obligations, and allowing for religious training to occur; and
  - encouraging the Ministry of Education to respond favorably to the official request of the Armenian Patriarch to permit his community to establish a theological faculty on Christian theology that incorporates instruction from the Patriarch, as required under Turkey's international obligations;
- permit religious communities to select and appoint their leadership in accordance with their internal guidelines and beliefs, according to Turkey's international obligations, and end Turkish citizenship requirements for the Ecumenical Patriarchate and Holy Synod;

- continue to condemn violent hate crimes against members of religious and ethnic communities and ensure prompt investigation and prosecutions of such crimes;
- take all appropriate steps to prevent and punish acts of anti-Semitism, including condemnation of anti-Semitic acts, and, while vigorously protecting freedom of expression, counteract anti-Semitic rhetoric and other organized anti-Semitic activities;
- further amend Article 301 of the Turkish Penal Code, which restricts freedom of expression and has associated negative effects on freedom of religion or belief;
- omit the legal requirement to list religious affiliation on official identification cards, in line with the March 2010 ruling by the European Court of Human Rights; and
- continue to undertake practical initiatives to establish and enhance trust among the country's diverse religious and ethnic communities, including convening public roundtables on the local and national levels; at a high political level, publicly expressing commitments to a democratic and diverse Turkish society; and developing civic education programs that reflect the religious and ethnic diversity of Turkish society, past and present.

## **II. Advancing Religious Freedom through Multilateral Efforts**

The U.S. government should:

- encourage the Turkish government, in view of its standing invitation to receive visits by UN human rights special rapporteurs, and, in the near future, actively to schedule and receive such visits, by relevant rapporteurs, including the UN Special Rapporteur on Freedom of Religion or Belief and the UN Independent Expert on Minority Issues;
- to ensure full respect for the protection of freedom of religion or belief to minority communities, encourage the Turkish government to remove its reservation to Article 27 of the ICCPR;
- speak out publicly at Organization for Security and Cooperation in Europe (OSCE) meetings and events about violations by the government of Turkey of OSCE human rights commitments, including those concerning respect for freedom of religion or belief;
- urge the Turkish government to request that the OSCE Office of Democratic Institutions and Human Rights (ODIHR) Panel of Experts on Freedom of Religion or Belief to:
  - provide an assessment of Turkey's legislation relating to that issue;
  - conduct conferences with relevant government officials, leaders of religious communities, and members of civil society on teaching about religion in public schools from a human rights perspective; and
  - provide training sessions for members of the Turkish judiciary and law enforcement on how to combat hate crimes, including those motivated by religious prejudice; and

- interpret the Turkish Constitution and the Lausanne Treaty consistent with international obligations, such as Article 18 of the International Covenant on Civil and Political Rights and OSCE commitments on freedom of religion or belief.

## Venezuela

**FINDINGS:** Violations of freedom of religion or belief continue in Venezuela. These violations include: government rhetoric, and in some cases government actions, against the Jewish and Catholic communities and certain Protestant groups; virulent anti-Semitic statements by President Hugo Chavez, senior government officials, state media, and pro-Chavez media; societal attacks on Jewish and Catholic institutions and Catholic leaders and the Venezuelan government's failure to investigate or hold accountable the perpetrators of these attacks; and the potential negative impact of new laws on religious communities.

Based on these concerns, USCIRF again places Venezuela on its Watch List in 2010. In 2009, the Commission placed Venezuela on its Watch List for the first time.

Since 1998, the country has witnessed a steady increase in government rhetoric, and in some cases government actions, directed against the Venezuelan Jewish and Catholic communities and Protestant groups supported by U.S.-based counterparts. These developments occurred against a backdrop of efforts by President Hugo Chavez to extend his political control over government institutions, the economy, and society; his backtracking on democracy; and the imposition of his state-run programs on "Bolivarian socialist" doctrine. While there are no official restrictions on religious practice, actions by President Chavez and other government officials have created an environment in which Jewish and Catholic religious leaders and institutions are at risk of attack. Furthermore, the Venezuelan government has failed to take adequate measures to bring to justice perpetrators of attacks on Jewish and Catholic religious leaders and institutions.

**PRIORITY RECOMMENDATIONS:** The U.S. government should increase its efforts to promote freedom of religion or belief in Venezuela, but this must be done in a way so as not to put religious communities in danger, considering the poor state of relations between the two countries and President Chavez's efforts to stand in opposition to the United States. The U.S. government should continue its policy of speaking out against attacks on religious leaders and institutions as they occur. The U.S. government should also work with countries such as Spain and Brazil that may have influence with the Venezuelan government to encourage it to end its anti-Semitic statements; fully investigate attacks on religious communities, institutions, and leaders; and hold perpetrators accountable. Additional recommendations for U.S. policy towards Venezuela can be found at the end of this chapter.

## Religious Freedom Conditions

### *Legal Environment*

The Constitution of Venezuela provides for freedom of religion on the condition that its practice does not violate public morality, decency, or public order. Religious groups are required to register with the Directorate of Justice and Religion (DJR) in the Ministry of Interior and Justice, but this is largely an administrative requirement. The DJR provides religious groups with subsidies to conduct educational and social programs, which has historically been distributed to Catholic organizations. Recent years have seen a reduction in subsidies provided to Catholic organizations and the Episcopal Conference of Venezuela, and an increase in funding to evangelical groups implementing government-approved social programs, as well as larger shares of government revenue directed to state-operated social programs.

In the past year, there have been some legislative initiatives that, if implemented, would negatively impact religious communities in Venezuela. The Catholic Church feels particularly threatened by these initiatives, viewing them as punitive measures in the government's effort to silence voices critical of Venezuelan government policies.

In August 2009, the National Assembly passed an education reform bill that if fully implemented would negatively impact religious instruction in Venezuelan private schools. The law creates "communal councils" to supervise and control all public and private schools, including religious schools. These councils, which are to be dominated by the ruling party, will have the authority to determine curriculum, teachers, and school administrators. The law also prohibits the teaching of lessons which run counter to the state's Bolivarian socialist doctrine. Given that the Venezuelan government has severed relations with the state of Israel and frequently denounces Israeli foreign and regional policy, Jewish schools are concerned that this prohibition against certain topics deemed contrary to the Bolivarian doctrine would impact their lessons on Israel and the Jewish people. The law also calls for the promotion of indigenous languages in schools. Jewish institutions are concerned this could negatively impact Hebrew language courses.

The Catholic Church is also concerned that a law passed in 2009 to protect nationally important historic buildings would allow the government to confiscate Church property, including churches, schools, and other ecclesiastical buildings. The Church reports that in Caracas, the local district council leader in October announced plans to seize several church-run schools as part of this initiative.

Finally, the National Assembly is currently working on draft legislation that would increase oversight of all non-governmental organizations, including religious organizations. At the time of this writing, the current draft would reportedly require organizations that receive at least 10 percent of their support from foreign sources to obtain advanced government approval of their activities and funding sources. The legislation would also require such organizations to provide the government with information on their sources of funding, organizational leadership, and activities.

### *Anti-Semitism*

Thousands of Jews have left the country in the 10 years since President Chavez came to power, and the population today is estimated to be between 10,000 and 15,000, down from an estimated 22,000 in 1998. The emigration has resulted in part due to fear of potential negative results of the president's socialist agenda, but more recently because of anti-Semitism and targeting of the Jewish community. Notably, prior to President Chavez's rule, the country was not known to have problems of anti-Semitism; rather it enjoyed a reputation of welcoming Jews during and after the Holocaust. However, increased incidents of

societal anti-Semitism and the increasing rate of verbal attacks on the community by government officials is undermining that legacy and is creating fear of future attacks in the Venezuelan Jewish community.

For many years, President Chavez, government officials, government-controlled media, and President Chavez's supporters have used a variety of methods to intimidate the country's Jewish community. Anti-Semitism in the country has appeared in waves, with upsurges corresponding with important international events or domestic political periods, such as the 2006 Israel-Lebanon conflict and the lead-up to a 2007 national referendum on proposed changes to the Venezuelan constitution. Anti-Semitic rhetoric and acts in Venezuela escalated to a new level at the end of 2008 and in the early months of 2009, corresponding to the Israel-Gaza conflict, fostering a climate permissive of anti-Semitic actions.

President Chavez and other senior government officials' severe criticisms of the state of Israel frequently cross the line to be anti-Semitic, including comparing the actions of Israeli officials to those of Nazis, blaming Israel and Jews for the world's problems, and promoting stereotypes of Jewish financial influence and control. Government media echo anti-Semitic sentiments across the country that can be found in cartoons and opinion pieces, heard on radio programs and in rallies. Anti-Semitic cartoons and graffiti repeatedly have equated the Star of David with a swastika. Often, the actions of the state of Israel are conflated with Venezuelan Jews, who are in turn held responsible for Israel's policies. While reports of anti-Semitism in Venezuela have decreased since February 2009, this pattern suggests that government and societal anti-Semitic statements and actions can target Venezuelan Jews at any time, especially if Israel undertakes policies opposed by the Venezuelan government.

While it is not anti-Semitic to criticize the policies of the state of Israel, such criticism can take on anti-Semitic qualities. Several international organizations in Europe have noted that anti-Semitism can include actions beyond verbal and physical assaults, such as promoting the stereotype that Jews control the media, economy, government and social institutions; questioning the loyalty of Jews to their own nations; comparing Israel's actions to those of Nazis; and holding Jews responsible for Israeli actions.

Such statements and government raids against the Jewish community center La Hebraica in Caracas in 2004 and 2007 led the State Department to list Venezuela as a state sponsor of anti-Semitism in the March 2008 *Contemporary Global Anti-Semitism Report*.

In its February 2010 report documenting human rights violations in Venezuela, the Organization for American States' Inter-American Commission on Human Rights also expressed concern for increasing anti-Semitism and attacks on the Jewish community in Venezuela. The report concludes that the state's actions are "creating an atmosphere of intimidation and violence against the Jewish community in Venezuela," and calls on the Venezuelan government to investigate attacks on the Jewish community and hold perpetrators accountable.

President Chavez continued to make anti-Semitic statements throughout 2009, including comparing the actions of Israel in Gaza to genocide and stating that Israel aims to "terminate the Palestinian people." For example, President Chavez made these statements in Venezuela as well as on state trips to Syria and France in September.

In July and August 2009, President Chavez and pro-Chavez media in Venezuela made several statements in connection with the removal of Honduran President Manuel Zelaya, accusing Israel and Jews of playing a role in the ouster and working with the de facto Honduran president, Robert Micheletti. Many of these statements were perceived as anti-Semitic; some compared the activities in Honduras to Israeli actions in the Middle East, as well as expounded conspiracy theories such as that Israel controlled the UN and Organization of American States.

There were no new violent attacks on Jewish institutions since the Commission's May 2009 annual report. However, there also was no progress in investigating or prosecuting individuals responsible for the attacks on the Tiferet Israel Synagogue and the Beth Shmuel synagogue, which occurred in January and February 2009, respectively.

The Venezuelan Jewish community also is concerned by the increasing diplomatic, military, financial, and trade ties between Iran and Venezuela and the growing relationship between Iranian President Mahmoud Ahmadinejad and President Chavez. Head of state visits are frequent and joint ventures are estimated to be worth \$20 billion. In April 2008, the two countries signed a Memorandum of Understanding pledging full military support and cooperation. Former Manhattan District Attorney Robert Morgenthau has said that investigations by his office show Iran is using Venezuela's established banking network to skirt international sanctions and acquire the materials needed for its nuclear program and fund terrorist groups. Of particular concern is the fact that direct flights between Caracas and Tehran undergo less stringent security checks than other flights to Caracas. The State Department has warned that these flights may allow Hezbollah agents to enter Venezuela. Hezbollah is cited on the U.S. terrorism list.

#### *Government-Catholic Church Tensions*

There are also tensions between the Catholic Church and the Venezuelan government over Catholic leaders' criticism of the government's actions and direction. In response to such criticism, President Chavez has claimed that Venezuela's Catholic Church and the Vatican are conspiring with the United States against his government. On several occasions, he has accused the Church of attempting a coup or being party to plans to assassinate him, and has called Catholic leaders "oligarchs" and "the devil."

As is the case with the Jewish community, the Venezuelan government's posture toward the Catholic Church has been reflected in some societal attacks on Catholic institutions. On several occasions, pro-Chavez supporters have forcefully entered and occupied the residence of Catholic leaders or staged protests outside of their churches to hold a press conference to denounce leaders of the Catholic Church and the Papal Nunciature. No arrests have been made in these incidents. Additionally, no arrests have been made in the January 2009 attack on the house of the Apostolic Nunciature.

In November 2009, in Los Teques, Chavez supporters played loud music outside of the church of a priest critical of the government to drown out his preaching. In August 2009, a similar event took place outside of the church of Cardinal Jose Urosa Savino of Caracas, who has been very critical of the President and helped lead opposition to a new education law. In addition, some priests have been threatened for preaching against Chavez's proposed reforms.

#### **U.S. Policy**

U.S.-Venezuelan relations remained poor in 2009, although the two nations returned their ambassadors to their posts in June and July, after recalling them to their respective capitals in 2008. In April 2009, Presidents Obama and Chavez had some brief exchanges at the Fifth Summit of the Americas, but no one-on-one meeting took place. However, the brief encounters drew attention when the Venezuelan president gave President Obama a book describing the European and U.S. "pillaging" of Latin America. Since bilateral relations first deteriorated in 2002, Venezuelan President Chavez has continued to insult the United States and seek relations with nations, including those with numerous dictators and human rights abusers, to stand in opposition to "the Empire."

There are some areas of cooperation between the two nations, principally on trade, and notably oil. The United States is Venezuela's most important trading partner, with approximately 60 percent of Venezuelan exports going to the United States. Venezuela is the United States' third-largest export market in Latin America. Previously, the two nations cooperated extensively to stop narcotics trafficking, but in 2005, the Venezuelan government accused the U.S. Drug Enforcement Administration of espionage and ended its cooperation with the agency.

The U.S. government continues to be concerned by President Chavez's efforts to increase his control over state institutions and silence independent and critical voices, including opposition politicians and independent media. U.S. government assistance in Venezuela is relatively small, standing at only \$6 million in fiscal year 2009. There is no USAID presence in the country; programs are carried out by U.S.-based and indigenous non-governmental organizations. U.S. funds support both pro-government and opposition civil society organizations in order to increase dialogue and positive debates between the two sides. Funds to civil society groups support efforts to promote and protect human rights in the country through training in community activism, increase civic engagement, and develop strategies to protect human rights defenders. One-fifth of the funds were devoted to increasing political competition and pluralism in the nation.

The U.S. government routinely meets with religious communities and speaks out against anti-Semitic attacks as they occur. Given the poor state of relations between the two nations, there is little interaction between U.S. Embassy officials and Venezuelan officials, preventing a thorough discussion of freedom of religion or belief between the two nations.

## **Recommendations**

### **I. Advancing Religious Freedom through U.S. Programs and Policies**

The U.S. government should:

- at the highest levels, publicly denounce Venezuelan government rhetoric and raids against, as well as societal attacks on, religious communities, institutions, and leaders, and urge the Venezuelan government to promptly investigate, arrest, vigorously prosecute, and hold to account all perpetrators of such attacks;
- at the highest levels, speak out publicly and continue to draw international attention to state-sponsored anti-Semitism in Venezuela;
- work within the current overall policy framework to ensure that violations of freedom of religion and belief, and related human rights, are included in all bilateral discussions with the Venezuelan government, including economic and energy sector discussions;
- ensure that funding for democracy and human rights promotion in Venezuela includes support for activities advancing freedom of religion or belief; and
- dispatch the Ambassador-at-Large for Religious Freedom and the Special Envoy to Monitor and Combat Anti-Semitism to Venezuela and report on religious freedom abuses in that country.

## **II. Advancing Religious Freedom through Multilateral Efforts**

The U.S. government should:

- work with countries that may have influence with the Venezuelan government to encourage the government to end its instigation, complicity, promotion of, or acquiescence in anti-Semitic activities taking place in the country, including anti-Semitic statements by government officials and anti-Semitic cartoons and statements in the state media, as well as to fully investigate all reported incidents of anti-Semitism and bring perpetrators to justice;
- work with countries who may have influence with the Venezuelan government to encourage the government to fully investigate attacks on religious communities, institutions, and leaders, and hold perpetrators accountable, including prosecuting those persons arrested for the attack on the Tiferet Israel Synagogue and arresting and prosecuting individuals of La Piedra, the group that took credit for the January 2009 attack on the house of the Apostolic Nunciature;
- work with the Organization of American States, including the OAS General Assembly and the Inter-American Commission on Human Rights, to investigate and condemn religious freedom violations in Venezuela, including state-sponsored anti-Semitism and attacks on religious communities, institutions, and leaders;
- encourage the UN Special Rapporteur on the Freedom of Religion or Belief and the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression to request a visit to the country; and
- support a UN General Assembly resolution condemning severe violations of human rights, including freedom of religion or belief, in Venezuela, and calling for impartial and effective investigations and for officials responsible for such violations to be held accountable.

## **Additional Countries Closely Monitored**

### **Bangladesh**

USCIRF placed Bangladesh on the Watch List from 2005 to 2008. That placement was due to past election-related violence targeting religious minorities and the then-government's failure to investigate or prosecute perpetrators of such violence; attacks by Islamist extremists on the country's secular judicial system, civil society, and democratic political institutions; religiously-motivated threats to freedom of expression to discuss sensitive social issues; the seizure of Hindu-owned property and continued failure to restore such properties or to reimburse the rightful owners; and the greater vulnerability of members of religious minority communities, particularly women, to exploitation or violence.

In December 2008, free and fair elections restored democratic government in Bangladesh, following a two-year interruption by a military-backed caretaker regime. The 2008 elections brought to power the Awami League, considered to be the most secular and favorably disposed toward minority rights among Bangladesh's major political parties. The 2008 elections were free of the anti-minority violence that followed the last national elections in October 2001. Following those earlier elections, the then-government, composed of the Bangladesh Nationalist Party (BNP) and its Islamist coalition partners, failed to investigate or prosecute acts of severe violence, including killings, rape, land seizures, arson, and extortion against religious minorities, particularly Hindus, who were perceived to be allied with the then-opposition Awami League.

The new government, headed by Sheikh Hasina Wajed, included three non-Muslims among the 38 ministerial positions. Members of minority communities also were appointed to other senior government and diplomatic positions. In April 2009, the Prime Minister made a public commitment that her government would repeal all laws that discriminate against members of minority communities, ensure freedom of expression for members of all religious communities, and uphold equality of opportunity and equal rights for all citizens. The Prime Minister also declared that the government would keep past commitments to the predominantly non-Muslim indigenous peoples of the Chittagong Hill Tracts (CHT) region. In light of these positive developments, USCIRF removed Bangladesh from its Watch List in 2009.

Despite some improvements, the government of Bangladesh nevertheless continues to show serious weaknesses in protecting human rights, including religious freedom, and religious extremism remains a persistent threat to rule of law and democratic institutions. Accordingly, USCIRF continues to urge the government to strengthen protections for all Bangladeshis to enjoy the right to freedom of religion or belief, and to undertake further efforts to improve conditions for minority religious communities. USCIRF hopes that the government of Bangladesh will investigate and to the fullest extent of the law prosecute perpetrators of violent acts against members of minority religious communities, women, and non-governmental organizations. Reforms of the judiciary and the police also are necessary to ensure that law enforcement and security services are equally protective of the rights of all, including Hindus, Buddhists, Christians, Ahmadis, tribal peoples, and other minorities. Additional efforts are needed to counter societal and governmental discrimination in access to public services, the legal system, and government, military, and police employment.

Since assuming office, the Awami League government has initiated a number of steps affecting freedom of religion or belief. The government's appointments and public statements have given increased confidence to members of religious minority communities and have put Islamist groups on the defensive. For example, in October 2009, President Zillur Rahman called publicly for inter-religious harmony as a means of combating religious extremism. President Rahman is the widower of the Awami League

women's affairs secretary who was among the victims of a grenade attack by Islamist extremists in 2004. Despite opposition criticism, the government passed legislation that could lead to trials of pro-Pakistan Islamists implicated in war crimes during Bangladesh's 1971 war for independence, including former cabinet member and Jamaat-e-Islami leader Motiur Rahman Nizami. The government also welcomed recent court rulings restoring pro-secular provisions in Bangladesh's constitution. These rulings could provide a legal basis for banning existing Islamist political parties, even those that espouse achieving Islamist goals through democratic means.

The government has continued the process, begun under the previous caretaker government, of establishing a National Human Rights Commission. Although human rights conditions have improved since the return of democratic government, the security forces continue to be implicated in extrajudicial killings, arbitrary detentions, torture, and intimidation of the media. The Commission, chaired by a former Supreme Court justice, has the authority to investigate and request reports from the government on such abuses, whether by military personnel, police, or members of other security forces. As of this writing, the Commission has not established a high public profile, perhaps due to its having only three members and limited staff. The Commission has publicly expressed concern at reports of extrajudicial killings, calling in one case for the establishment of an impartial high-level inquiry and making specific recommendations regarding the conduct of such inquiries. The Commission does not appear to have taken on any cases involving religious freedom issues or concerning members of religious minority communities.

Despite the existence of the Human Rights Commission and in response to a court order, the government in December 2009 announced that it would establish another official commission to investigate the violence, primarily against Hindus, that followed the October 2001 elections. Since beginning its activities in February 2010, this commission has sent letters to political figures and to human rights and other civil society groups seeking information on the 2001 violence, held several public meetings, and undertaken field visits to the most affected areas. . Originally given four months to complete its work, this commission has requested that the government extend its mandate until July 2010 due to the number and serious nature of the reported abuses.

The government also has pursued action in the courts to restore, to some degree, the original secular character of Bangladesh's constitution by removing some of the changes introduced by previous military regimes. Court decisions in January and February 2010 appeared to support this policy. Following independence from Pakistan in 1971, Bangladesh was established as a secular state in which national identity was based on Bengali language and culture. The 1972 constitution established a secular state and guaranteed freedom of religion and conscience and equality before the law. Other provisions banned "all kinds of communalism," the misuse of religion for political purposes, and the forming of groups that "in the name of or on the basis of any religion has for its object or pursues a political purpose." Subsequent military regimes removed these restrictions, added in Arabic the traditional Islamic invocation customarily translated as "In the name of God the compassionate, the merciful," and substituted "absolute trust and faith in Allah" for "secularism" as one of the fundamental principles of state policy. "Absolute trust and faith in Allah" was furthermore to be "the basis for all [government] actions." Islam was made Bangladesh's state religion in 1988 under H.M. Ershad's military dictatorship. The Prime Minister has indicated, however, that she has no intention of disestablishing Islam as the state religion or removing the Islamic invocation added to the constitution by her military predecessors.

Aided by the expansion of *madrassas* (Islamic schools) and charities, many of which receive foreign funding with varying degrees of government oversight, Islamist activists have gained political, economic, and social influence. When in power during the coalition with the larger BNP between 2001 and 2006, members of Jamaat-e-Islami allegedly used their positions to deny funding to or otherwise disadvantage groups viewed as opposing Jamaat's Islamist political and social agenda. Although some calling for a

more Islamist Bangladesh have engaged in peaceful political and social activities, others have adopted an approach sanctioning violence towards perceived opponents of Islam.

Even during periods of democratic governance, Bangladesh's high levels of political violence and instability have provided opportunities for religious and other extremist groups to engage in criminal activities with relative impunity. Authors, journalists, academics, and women's rights and civil society activists debating sensitive social or political issues, or expressing opinions deemed by radical Islamists to be offensive to Islam, have been subject to violent, sometimes fatal, attacks. Some Muslim clerics, especially in rural areas, have also sanctioned vigilante punishments against women for alleged moral transgressions. Rape is reportedly a common form of anti-minority violence. The government often fails to punish perpetrators, since the law enforcement and the judicial systems, especially at the local level, are vulnerable to corruption, intimidation, and political interference. Bangladesh was ranked at the bottom of Transparency International's Corruption Perceptions Index between 2001 and 2005. Bangladesh improved its ranking significantly by 2009 to 139<sup>th</sup> of 180 countries listed.

During the past year, Bangladesh generally was free of Islamist violence that had escalated earlier in the decade, reaching a peak when Islamist extremists coordinated a wave of hundreds of almost simultaneous bomb attacks on August 17, 2005 in all but one of Bangladesh's 64 districts. These extremists also were implicated in a series of bomb attacks on Bangladesh's judiciary in October-November 2005 which accompanied a demand to substitute sharia law for Bangladesh's secular jurisprudence system. In March 2007, six members of an armed Islamist group were executed for their involvement in the 2005 bombings.

Attacks on members of religious or ethnic minorities or their properties, including thefts and vandalism at Hindu temples, continue to be a problem, although it is difficult to distinguish criminal intent from religious animosity or other possible motives. Weak and corrupt law enforcement leaves members of religious minority communities vulnerable to harassment and sometimes violence, particularly sexual violence against women, by members of the Muslim majority. Although the constitution provides protections for women and minorities, Hindus, Buddhists, Christians, Ahmadis, tribal peoples, and other minorities must regularly grapple with societal discrimination, as well as face prejudice that hinders their ability to access public services, the legal system, and government, military, and police employment. Religious minorities are also underrepresented in elected political offices, including the national parliament.

Since the Pakistan era, Muslims, particularly those who are well-connected politically, have used The Vested Property Act (VPA) to seize Hindu-owned land. The VPA's implicit presumption that Hindus do not belong in Bangladesh contributes to the perception that Hindu-owned property can be seized with impunity. Bangladesh's National Assembly began consideration in January 2010 of government-backed legislation on this issue and minority-group representatives were permitted to express their concerns in testimony before parliament. USCIRF welcomed this development in a public statement urging the government to consult legal scholars and representatives of the affected communities in order to devise remedies for past abuses and prevent further property seizures based on the owners' religious affiliation. However, as of this writing, no new legislation has been passed. Despite attention to this issue at the national political level, Hindu-owned property continued to be seized. In the Sutrapu district of Dhaka in March/April 2009, police reportedly stood by as Muslims violently disposed poor Hindus of land given to them by Hindu landowners leaving for India in 1947. In March 2010, local officials of the governing Awami League were reported to have seized land belonging to a temple in Kaliazuri in the remote northern district of Netrakona.

Ethnically, Bangladesh is highly homogeneous, with more than 98 percent of the population being Bengali. Members of ethnic minority communities, mostly tribal peoples in the north and in the east, are often non-Muslim. The most serious and sustained conflict along ethnic and religious lines has been in the

CHT, an area with a high concentration of non-Bengali, non-Muslim indigenous peoples. Resentment among members of indigenous groups remains strong over settler encroachment on traditional tribal lands, human rights abuses by the Bangladeshi military, and the slow, inconsistent implementation of the 1997 CHT Peace Accords. Muslim Bengalis, once a tiny minority in the CHT, now reportedly equal or outnumber indigenous groups. In February 2010, ethnic Bengali settlers reportedly attacked indigenous inhabitants of the CHT's Rangamati Hill District, leaving two indigenous Chakma dead and a number of homes and shops destroyed. The government sent senior central and local government officials, including members of indigenous groups, to investigate. They determined that the conflict originated in a land dispute. In what appears to have been another land dispute with ethnic/religious overtones in northern Bangladesh's Rangpur district in March 2010, Catholics who were members of a tribal community were attacked by neighboring Muslims after a local court favored a church over a Muslim-run school regarding ownership of some property. There were also credible reports in early 2010 of Bangladeshi security forces using violence to force members of the Rohingya ethnic group back into Burma, from which members of this Muslim minority community had fled due to severe persecution.

Bangladesh's small Ahmadi community of about 100,000 has been the target of a campaign to designate the Ahmadis as "non-Muslim" heretics. In January 2004, the then-government, led by the BNP in coalition with Jamaat-e-Islami Bangladesh and a smaller Islamist party, banned the publication and distribution of Ahmadi religious literature. Police seized Ahmadi publications on a few occasions before the courts in December 2004 stayed the ban. . Since then, the ban has not been enforced, although it has never been officially rescinded. In some instances, local anti-Ahmadi agitation has been accompanied by mob violence in which Ahmadi homes have been destroyed and Ahmadis are held against their will and pressured to recant. However, violence against Ahmadis has diminished in recent years due to improved and more vigorous police protection. Bangladeshi Ahmadis were able to hold their annual national convention in March 2010, in the eastern city of Brahmanbaria, although they received death threats from anti-Ahmadi groups. They also were subject to written restrictions from the police (including regarding religious content), who entered the Ahmadi mosque to order the cutting off the mosque's internal sound system.

Based on the foregoing concerns, USCIRF continues to recommend that the U.S. government encourage the government of Bangladesh to take action on the following issues and ensure consistent implementation: investigate and prosecute to the fullest extent of the law perpetrators of violent acts against members of religious minority communities, women, and non-governmental organizations promoting international human rights standards; repeal the Vested Property Act and commit to restoring or compensating for properties seized, including to the heirs of original owners; rescind the 2004 order banning Ahmadi publications, and ensure adequate police response to attacks against Ahmadis; enforce all provisions of the Chittagong Hill Tracts Peace Accords and ensure that members of all tribal communities are afforded the full rights of Bangladeshi citizenship; ensure that the National Human Rights Commission is truly independent, adequately funded, inclusive of women and minorities, and possessed of a broad mandate that includes freedom of religion or belief; include in all public and *madrassa* school curricula, textbooks, and teacher trainings information on tolerance and respect for freedom of religion or belief; and ensure that members of minority communities have equal access to government services and public employment, including in the judiciary and high-level government positions.

## **Kazakhstan**

USCIRF reported on Kazakhstan in its 2008 and 2009 Annual Reports, but did not place the country on either its "country of particular concern" (CPC) or Watch Lists. In recent years, Kazakhstan's human rights practices, including regarding freedom of religion or belief, have come under increased international scrutiny partly due to its 2010 chairmanship of the 56-nation Organization for Security and Cooperation in

Europe (OSCE). The Kazakh government had been known for its relatively good human rights record and tolerant policies towards its more than 90 ethnic minorities. However, the country's policies on religious freedom recently have regressed and its civil society sector has come under increased pressure, most notably due to the 2009 imprisonment of leading human rights defender, Evgeny Zhovtis. The government also has tightened its control over Kazakhstan's highly diverse religious communities.

In 2008, the Kazakh parliament enacted restrictive amendments to the country's existing religion law, establishing stricter registration procedures and requiring all existing religious groups to re-register, banning unregistered religious activity and private religious education, prohibiting proselytism and the production of religious literature, prohibiting groups from opening worship facilities to the public, and significantly increasing fines and penalties for violating the law. Both the OSCE Panel of Experts on Freedom of Religion or Belief and the UN Special Rapporteur on the Freedom of Religion or Belief found the amendments inconsistent with international human rights standards. In February 2009, Kazakhstan's Constitutional Council declared the amendments unconstitutional for violating the Kazakh constitutional guarantee of equality before the law.

However, even without the rejected amendments, Kazakh law allows fines and detentions to be imposed against individuals who lead or participate in unregistered religious organizations or otherwise violate the religion law. The Kazakh authorities continue to enforce these penalties, particularly against unregistered Baptists, registered Ahmadi Muslims, and Jehovah's Witnesses. For example, in January 2010 Zhanna-Tereza Raudovich, a Baptist from the Kyzylorda region, was fined 100 times the minimum monthly wage for hosting a worship service in her home. In addition, the Kazakh parliament currently is considering amendments to the administrative code provisions that set penalties for such infractions that would establish minimum as well as maximum penalties.

Kazakhstan's criminal law includes a broad and vague provision (Article 164.1) criminalizing "deliberate actions aimed at the incitement of social, national, clan, racial, or religious enmity or antagonism, or at offence to the national honor and dignity, or religious feelings of citizens, as well as propaganda of exclusiveness, superiority, or inferiority of citizens based on their attitude towards religion, or their genetic or racial belonging, if these acts are committed publicly or with the use of the mass information media." In June 2009, a Protestant preacher in the city of Taraz, Sarybai Tanabaev, was sentenced to a two-year suspended term for violating this provision. Last year, Elizaveta Drenicheva, a Russian missionary for the registered Unification Church, was sentenced under this provision to a two-year prison term that was later commuted to a fine.

The Law on Extremism, effective since February 2005, gives the government wide latitude to identify and designate religious or other groups as extremist organizations, ban a designated group's activities, and criminalize membership in a banned organization. Government officials have expressed concern about possible political and religious extremism, particularly in southern Kazakhstan, where many Uzbeks reside. The Kazakh government has imprisoned individuals alleged to be members of certain Muslim groups, including some groups that espouse extremist political agendas. Human rights groups have expressed concerns that the government has also used this law to punish non-extremist Muslims for independent views. Kazakh civil society activists maintain that due process is not followed in many of these trials, and that police, and investigatory and judicial officials have not provided public access either to trials or information about these cases. Indeed, according to some leading Kazakh human rights activists, several hundred Muslim individuals may be imprisoned in Kazakhstan on religion-related charges, although it is impossible to ascertain the veracity of these claims.

Although the Kazakh Constitution bans discrimination on the basis of religion and the religion law states that all religious communities are equal under the law, official rhetoric often describes the state-backed Muslim Board and the Russian Orthodox Church as "traditional" faiths. Government officials often seem to

divide other communities into those they tolerate, such as Jews, Catholics and small communities of Buddhists, from other groups they deem "sects," including independent Muslims, Ahmadi Muslims, most Protestants, Hare Krishna devotees and Jehovah's Witnesses.

The National Administration of Muslims in Kazakhstan (SAMK), directed by the Muslim Board and headed by the Chief Mufti, exerts significant influence over the country's practice of Islam, including selecting imams and regulating the construction of mosques. In 2002, however, the Kazakh Constitutional Council ruled against a proposed legal requirement that the SAMK must approve the registration of any Muslim group. Nevertheless, the SAMK reportedly occasionally pressures non-aligned imams and congregations to join it. However, according to the State Department, the Kazakh government continues to register some mosques and Muslim communities not affiliated with the SAMK.

The government's 2007-2009 "Program for Ensuring Religious Freedom and Improvement of Relations between the Government and Religions" outlined plans for "increasing the stability of the religious situation" and called for new laws to increase control over activities by foreign religious workers and the dissemination of religious materials. The Internal Policy Department in the capital Astana reportedly is funding a center for work with "victims of destructive sects" that opened in September 2009, although the Department has refused to name any "destructive sect."

Nevertheless, in practice, most minority religious communities registered with the government without difficulty, although some Protestant groups and other groups viewed by officials as non-traditional have experienced long delays. There were no reported incidents of official anti-Semitism. Although local officials may attempt to limit the practice of religion by some "non-traditional" groups, higher-level officials or courts, at least until recently, have usually overturned such actions.

Members of unregistered religious communities—including the Council of Churches Baptists who refuse on principle to register any of their congregations with the state—continue to face official harassment. In a notable case, authorities fined the pastor of a Council of Churches Baptist congregation in the Akmola region for unregistered religious activity, and in February 2009, a court order permanently banned his church, the first time that such a ban has been imposed in Kazakhstan. In March 2010, the Akmola regional police conducted a seminar on combating religious extremism. According to an article posted on the Kazakh interior ministry's website, participants included officials from the secret police, the regional prosecutor's office, the regional justice department, the state-funded "Centre for Assistance to Victims of Destructive Religious Movements," unnamed representatives of "traditional religions," and members of parliament and the President's political party. Unregistered Baptists were reportedly mentioned by name by police officials as the "main lawbreakers on religion" and the targets of the anti-extremism campaign. The police noted that "six regional [Evangelical Baptist] leaders had been punished under the Administrative Code."

Council of Churches Baptist churches continue to report being subject to surveillance, secret recordings of services and sermons, raids, short-term detentions, and court-ordered fines for unregistered religious activity that they usually refuse to pay. Baptist pastor Vasily Kliver, who had been repeatedly fined for leading unregistered worship, was imprisoned for five days in June 2009 for refusing to pay the fines. He is the fourth Baptist leader to be subject to short-term detention since 2006. Police raided Council of Churches Baptist churches in Rudny in August 2009 and Kostanai in September. A Baptist pastor from Rudny was fined in September 2009. In early 2010, ten Baptists in Oral (Uralsk) were questioned, fingerprinted, and photographed by police: four members of the same group were fined for administrative offenses in the autumn of 2009.

Other unregistered Protestant communities are increasingly subject to official harassment. In late 2009, Pastor Vissa Kim of the Grace Light of Love Protestant Church in the city of Taraz faced criminal charges

brought by the Jambyl regional secret police for “causing severe damage to health due to negligence” after he allegedly harmed a woman’s health by praying for her. In late 2009, a criminal case was brought against Sergei Mironov, a Protestant Christian who founded a drug and alcohol rehabilitation center in the city of Semey. That center was closed after a September 2009 raid by 25 police carrying sub-machine guns.

Although the Hare Krishna movement is registered at the national and local levels, its leaders report continuing harassment, including destruction of buildings. The problems date back to an April 2006 appeals court decision that the community’s farm outside Almaty must revert to the county government, allegedly because the farmer from whom the Hare Krishnas bought the land in 1999 did not hold title.

Even though the Jehovah’s Witnesses were registered in January 2009, in September 2009 the Kazakh Justice Ministry’s Committee for Religious Affairs accused the Jehovah’s Witness magazines, “The Watchtower” and “Awake,” of “creat[ing] preconditions for the development of conflicts on inter-confessional grounds [and] present[ing] a potential threat for the security of the state.” However, after meetings with government officials and human rights organizations, the Jehovah’s Witnesses announced at an October 2009 session of the OSCE Human Dimension conference in Warsaw that they had resolved this dispute with the government of Kazakhstan.

In 2008, President Nursultan Nazarbayev publicly criticized foreign religious workers, noting that they should not be allowed to operate freely, as “we don’t know their purposes and intentions.” He also declared that “religion is separate from the state, but it does not mean that Kazakhstan should become a dumping ground for various religious movements.” The President has not retracted these remarks, and since the speech, there has been a marked increase in governmental restrictions targeting unregistered and minority religious communities.

In December 2009, the Kazakh government announced visa requirements for foreign religious workers. As of March 1, 2010, temporary residence for foreigners engaged in religious educational activities in Kazakhstan is limited to 180 days.

Several groups reported difficulty registering foreign religious workers, while others reported greater difficulties than in previous years with being issued visas, and denied special or shorter-term visas. The registered Ahmadi Muslim community has encountered major delays in being granted visas to bring foreign religious workers to Kazakhstan. Under Kazakh law, non-citizens who are found to have engaged in “missionary activity without local registration” are liable to pay a fine and are subject to deportation from the country. Viktor Leven, a Kazakh-born Baptist from Akmola who later became a German citizen, is currently facing deportation for preaching at a September 2009 worship service. An Uzbek citizen who gave a 12-year-old girl a Christian children’s magazine was deported in November 2009 and the New Life Church, to which the Uzbek citizen belonged, was banned for six-months.

In recent years, however, the Kazakh government also has organized numerous international events to showcase what it views as its record of official religious tolerance. President Nazarbayev has hosted three high-profile conferences hundreds of leaders of “traditional” religious communities from around the world attended. In February 2009 several official Kazakh organizations and the OSCE Astana Center also hosted a meeting for representatives of several registered religious organizations, civil society groups, and the diplomatic community that highlighted Kazakhstan’s “unique experience of interethnic and interdenominational accord.”

After a hasty and unfair trial in September 2009, Evgeny Zhovtis, a leading Kazakh human rights defender who had also been active on religious freedom, was sentenced to four years imprisonment for a traffic accident that resulted in a pedestrian’s death. Zhovtis was denied an adequate legal defense, and serious procedural flaws marked the investigation and the trial that led to his conviction. In December 2009, a Kazakh appellate court rejected his appeal. A complaint concerning Zhovtis’ case has been filed with the

UN Human Rights Committee. President Obama raised the Zhovtis case when he met with President Nazarbayev in April 2010.

Despite official Kazakh promotion of its record of tolerance, USCIRF concludes that, in view of Kazakhstan's OSCE chairmanship, the Kazakh government should publicly clarify its policies on human rights, including on freedom of religion or belief, and ensure that its laws conform to OSCE and other international commitments. Such official clarifications are particularly necessary in light of President Nazarbayev's hostile public statements about various religious groups and the Kazakh government's publications that reflect these statements. . Moreover, although the Constitutional Council rejected the stricter religion law as unconstitutional, Kazakh law enforcement entities have indicated they will again consider major revisions to the religion law in late 2012, and Kazakh authorities have taken repressive actions against various religious groups that fly in the face of that constitutional ruling. USCIRF also calls on the Kazakh government to include relevant government officials and Kazakh legal and other experts in official exchange programs and allow them to participate in international conferences, particularly those of the OSCE. Finally, Kazakh authorities should unconditionally pardon Mr. Zhovtis in light of the serious mishandling of his case.

### **Sri Lanka**

In recent years, USCIRF has been concerned about religious freedom in Sri Lanka because of attacks targeting religious minorities and proposed legislation on religious conversion that, if enacted, would violate international norms regarding freedom of thought, conscience, and religion or belief. Although USCIRF has never placed Sri Lanka on its CPC or Watch Lists, the Commission continued to monitor Sri Lanka in 2009-10.

Until 2009, Sri Lanka was ravaged by a 26-year civil war between government troops and the Liberation Tigers of Tamil Eelam (LTTE), an ethnically-based insurgent movement seeking an independent state in the north and east of the country. In January 2009, the ongoing violence escalated dramatically, as government forces successfully attacked LTTE positions, pushing them into an area of about 36 square miles. In May 2009, the government declared victory announcing that it had killed LTTE leader Prabhakaran. During the final days of fighting in April and May 2009, there were unconfirmed reports both of the LTTE locating artillery pieces next to religious facilities and the army firing heavy weapons at the same sites, often while they were in use as shelters for civilians.

In the context of the civil war, violence against civilians based on ethnicity and/or religion occurred throughout the country. Both sides in the conflict failed to take steps to prevent or stop incidents of communal violence involving Buddhist Sinhalese, Hindu Tamils, Muslims, and Christians. Both government and LTTE forces targeted places of worship of various faith communities, and attacks took place during religious holidays and festivals.

Moreover, for years, entire communities of Sri Lankan Muslims in the north and northeastern parts of the country were displaced by LTTE forces seeking to consolidate Tamil hold over certain areas. Since the government defeated the LTTE, many of the more than 100,000 Muslims who were displaced have still not returned. Many fled as long ago as 1990 and do not have the proper documentation required to reclaim their homes and ancestral lands.

Over the course of the conflict, severe restrictions on the movement of journalists and humanitarian workers also were routine. While human rights groups frequently cite a cumulative conflict death toll of 70,000, the Sri Lankan government suppresses evidence of the death of its own troops, making impossible an accurate count of casualties. The frequent "disappearances" of Sinhalese and civilian and insurgent Tamils by government forces also are underreported. Despite harassment, killings, and

restrictions placed on the movement of human rights activists and journalists, evidence of severe atrocities carried out on both sides of the conflict has been well-documented. The UN long has called for an investigation of human rights abuses, but the Sri Lankan government continues to insist it did nothing wrong and calls allegations of human rights abuses “misinterpretations.”

While not directly connected to the civil conflict, violent attacks on churches, clergy, and individual Christians have taken place during the past few years, reportedly carried out by members of, or persons affiliated with, extremist groups espousing Buddhist nationalism. Attacks on Christians have ranged from harassment and threats to vandalizing properties and arson. Cases were rarely investigated and perpetrators rarely brought to justice, resulting in a culture of impunity. This problem is compounded by wider, more chronic deficiencies in the judicial system in Sri Lanka, including corruption, an absence of police training, and inadequate infrastructure.

There are continuing reports that in the rural areas, churches have been attacked and Christians (who comprise approximately 7 percent of the country’s population) have been physically assaulted by individuals or groups, particularly for alleged attempts to convert Buddhists to Christianity. Examples in 2009-10 include the March 2009 attack by a man wielding a machete of an assistant pastor and a church worker of the Vineyard Community Church at Pannala in Kurunegala district. Although the crime was reported, the police failed to make any arrests. In April 2009, a pastor in Weeraketiya, Hambanthota district was harassed and threatened by four people. The harassment escalated and one of the attackers was taken into police custody, but released the next day. The attacker then gathered Buddhist monks and other villagers to sign a petition against the church. In response, the pastor canceled Good Friday and Easter Sunday celebrations and relocated his children to a safer location. A mob of more than 100 people, including Buddhist monks, in June 2009 surrounded the home of a female pastor in a Foursquare Gospel Church in Radawana village, Gampaha district, and vandalized her house. When the police called her in for questioning on July 11, protestors tried to bar her and other pastors from entering the police station. She was later forced in the presence of Buddhist monks and protestors to sign a document promising not to host worship services for non-family members.

In recent years, and particularly in the period immediately after the December 2004 tsunami, there have been allegations that groups and individuals have engaged in “unethical practices” to encourage people to change their religion, and that these actions take advantage of impoverished and unemployed populations and lead to increased tensions among religious communities in Sri Lanka. These practices allegedly have included, for example, the offering of money, employment, access to education or health care, or some other material good as an incentive to convert or join a particular church. However, the UN Special Rapporteur on Freedom of Religion or Belief was unable to confirm any such cases when she visited Sri Lanka in 2005.

In January 2009, in response to this purported problem, the Jathika Hela Urumaya (JHU) party, which is comprised of nationalist Buddhist monks, brought to parliament a draft anti-conversion law, the Prohibition of Forcible Conversion of Religion Bill. The bill was largely the same proposal the JHU put forth in 2004, minus several provisions the Sri Lankan Supreme Court had ruled unconstitutional. The UN Special Rapporteur indicated that the 2004 bill was neither an appropriate response to religious tensions nor compatible with international human rights law.

The 2009 bill, if enacted, would provide for prison terms of up to five years for anyone who, by “the use of force or by allurements or by any fraudulent means,” converts or attempts to convert a person from one religion to another, or aids or abets such a conversion. Because the bill’s proponents consider women, minors, inmates, the poor, and the physically or mentally disabled to be particularly vulnerable, their conversion would warrant even harsher prison terms of up to seven years.

The bill defines “allurement” as the offer of any temptation for the purpose of converting, including any gift, gratification, or material benefit. It describes “force” as including not only threat of physical harm, but also the “threat of religious disgrace or condemnation of any religion for the purpose of converting.” The bill defines “fraudulent” as “any willful misinterpretation or any other fraudulent contrivance.” Opponents of the bill are concerned that its broad language would encompass all religious conversions, not just “unethical conversions,” and would criminalize the charitable activities of religious groups.

In February 2009, the anti-conversion bill was submitted back to parliament for its third reading, and a vote was expected to take place in March 2009. However, amidst international pressure, including from members of the U.S. Congress, the Sri Lankan government referred the bill for discussion to the Consultative Committee on Religious Affairs and Moral Upliftment. The Committee’s meeting, and therefore any further discussion of the bill, has been indefinitely postponed. The JHU has indicated that it would like to bring up the bill again in 2010, but this has not yet happened. USCIRF will continue to monitor closely the status of this draft bill.

## **Promoting International Religious Freedom through Multilateral Institutions**

The International Religious Freedom Act of 1998 (IRFA) specifically cites U.S. participation in multilateral organizations as an avenue for advancing freedom of religion or belief, which is enshrined in numerous international conventions and declarations, including those of the United Nations (UN) and the Organization for Security and Cooperation in Europe (OSCE).

At the UN, religious freedom issues are addressed primarily at the Human Rights Council, including through its new Universal Periodic Review (UPR) process, as well as through monitoring by its Special Rapporteur (independent expert) on Freedom of Religion or Belief. The UPR process provides rights-supporting states the opportunity to ask questions of, and make strong recommendations to, nations whose records on human rights, including religious freedom, do not meet international standards. USCIRF urges the United States to continue to use the UPR process to raise serious concerns, particularly when “countries of particular concern” are reviewed. USCIRF also recommends that the United States seek additional UN scrutiny of countries violating religious freedom and related human rights, such as through Human Rights Council and General Assembly resolutions, monitoring by relevant thematic experts including the Special Rapporteur on Freedom of Religion or Belief, and the appointment or continuation of country-specific Special Rapporteurs.

In recent years, USCIRF has been increasingly concerned about initiatives by some UN member states that threaten to endanger religious freedom and related human rights worldwide. Some states have been campaigning in various UN fora to create an international legal norm, or redefine existing norms, to protect religions, rather than individuals, from alleged “defamation.” Instead of helping to address religious persecution and discrimination, as its proponents allege, a global ban on “defamation of religions” would exacerbate these problems and undermine fundamental individual rights, including religious freedom and free expression. Essentially, it would be an international blasphemy law. Rather than banning speech that “defames” religions, governments should address religious intolerance through education, public diplomacy, and the enforcement of laws against bias-motivated violence and discrimination. The United States should reaffirm unequivocally that it does not support speech bans, except where speech incites imminent violence, and thereby clarify the language used in the 2009 Human Rights Council resolution it co-sponsored with Egypt that seems to suggest otherwise. In addition, the United States and other rights-supporting governments should work to ensure that the mandate of the Special Rapporteur on Freedom of Religion or Belief, and the person who holds that mandate, will continue to focus on the individual right to religious freedom, not the purported rights of religions.

After the fall of the Soviet Union, the OSCE continues to be an important forum where the 56 participating States are held accountable for their extensive religious freedom commitments. In recent years, however, some participating States, particularly Russia, have sought to curtail or derail the organization’s focus on human rights activities. These activities are particularly important at a time when Russia and other countries of the former Soviet Union are demonstrating an increasing lack of commitment to their human rights and religious freedom obligations, including efforts to combat racism, xenophobia, and other forms of intolerance and discrimination. USCIRF urges the United States to lead an effort to revitalize the OSCE’s human rights activities and help it build on its ability to address urgent societal problems such as violent hate crimes. The U.S. should resist proposals by Kazakhstan, the 2010 OSCE Chair, to organize an OSCE security summit in 2010.

## **The United Nations**

### **UN Religious Freedom and Tolerance Commitments**

The 192 member states of the United Nations have agreed, by signing the UN Charter, to “practice tolerance” and to “promot[e] and encourag[e] respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.” These fundamental freedoms include the freedom of thought, conscience, and religion or belief, which is protected and affirmed in numerous international human rights instruments, including the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights (ICCPR), and the 1981 Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

### **UN Venues for Addressing Religious Freedom Issues**

#### *The UN Human Rights Council and UPR*

In 2006, the UN Commission on Human Rights was replaced by a new body, the UN Human Rights Council, which meets more often, is marginally smaller, and has certain new procedures such as the Universal Periodic Review (UPR). The Human Rights Council was intended to address and correct the perception that the Commission on Human Rights unfairly singled out some states for repeated scrutiny while ignoring many others. Through the UPR process, which commenced in 2008, UN members will assess the human rights performance of every UN member state, some of whose records have never before been subject to human rights review by an intergovernmental body. The first cycle of review of all 192 UN member states will be complete in late 2011.

The UPR process provides the United States, and other rights-supporting UN member states, the opportunity to ask hard questions of nations whose records on religious freedom and related human rights do not meet international standards. Although the Bush administration participated in the initial UPR session, it did not do so later in 2008 as part of its policy of not engaging with the Human Rights Council except in narrow circumstances. The Obama administration did not speak at the February 2009 UPR session, which was also regrettable since several countries with particularly poor religious freedom records and designated as “countries of particular concern,” or CPCs under IRFA, including China and Saudi Arabia, were reviewed. Beginning with the May 2009 session, however, the Obama administration has participated actively in the UPR process, including raising religious freedom concerns during the reviews of Vietnam, Egypt, Iran, Iraq, and Kazakhstan. The United States raised individual cases of religious prisoners at the Vietnam UPR and sent the Assistant Secretary for Democracy, Human Rights and Labor to Geneva to participate in the UPR of Iran.

USCIRF urges the United States to continue to use the UPR process to ask probing questions and make strong recommendations concerning religious freedom in key countries, particularly those designated as CPCs. USCIRF also recommends that the United States seek additional UN scrutiny of states violating religious freedom and related human rights, for example through Human Rights Council and General Assembly resolutions, monitoring by the Special Rapporteur on Freedom of Religion or Belief, and the appointment or continuation of country-specific Special Rapporteurs.

#### *The UN Special Rapporteur on Freedom of Religion or Belief*

In 1986, on the initiative of the United States, the Human Rights Council’s predecessor appointed an independent expert, or Special Rapporteur, to investigate and report on instances of religious intolerance and violations of the internationally-protected right to freedom of religion or belief around the world. The

Special Rapporteur on Freedom of Religion or Belief monitors this fundamental freedom worldwide, communicates with governments about alleged violations, conducts country visits, and, perhaps most importantly, brings religious freedom concerns to the UN and public attention.

The Special Rapporteur's mandate was last renewed by the Human Rights Council in December 2007. USCIRF participated as part of the U.S. delegation. The mandate is next up for renewal in June 2010. Additionally, the term of the current mandate holder, Ms. Asma Jahangir, will expire at the end of June. Ms. Jahangir was appointed in 2004 and has now served the maximum two consecutive three-year terms. The United States and other rights-supporting states must work to ensure that both the Special Rapporteur's mandate and the next person who holds it will continue to focus on protecting individuals from violations of the right to freedom of religion or belief, not on protecting religions from alleged "defamation" as sought by the proponents of the campaign discussed below.

### **The Campaign to Protect Religions from Alleged "Defamation"**

#### *The Flawed "Defamation of Religions" Concept*

Since 1999, the Organization of the Islamic Conference (OIC)—a regional organization of 57 nations with Muslim majority or significant Muslim populations—annually has sponsored non-binding resolutions in the Human Rights Council and its predecessor calling on UN member states to outlaw the so-called "defamation of religions." Similar resolutions have been adopted at the General Assembly each year since 2005. At the Human Rights Council, these efforts have been led by Pakistan; at the General Assembly, Egypt has played a leading role. The OIC's stated goal is the adoption of a binding UN document protecting religions from "defamation"—which it is now pursuing in a subsidiary body called the "Ad Hoc Committee on the Elaboration of Complementary Standards" (see *The Erroneous Efforts to Conflate "Defamation of Religions" and Incitement*, below).

The "defamation of religions" resolutions continue to be adopted each year in both the General Assembly and the Human Rights Council, most recently in March 2010. Since 2008, however, the support for these problematic resolutions has eroded. The last five times they were considered (in 2008 and 2009 in both bodies and 2010 in the Council), the votes in favor decreased from a majority to only a plurality of member governments, and the combined number of no votes and abstentions outnumbered the yes votes. In fact, the March 2010 Human Rights Council vote saw the fewest yes votes and most no votes ever cast on this issue in that body or its predecessor. More than half of the Council's members did not vote in favor, and the resolution came within only 3 votes of a tie and 4 votes of defeat.<sup>21</sup>

The "defamation of religions" resolutions purport to seek protection for religions in general, but the only religion and religious adherents specifically mentioned are Islam and Muslims. Aside from Islam, the resolutions do not specify which religions are deserving of protection, or explain how or by whom this would be determined. The resolutions also do not define what would make a statement defamatory to religions or explain who decides this question. For its part, the OIC appears to consider any speech that the organization, or even a single cleric or individual, deems critical of or offensive to Islam or Muslims to automatically constitute religiously defamatory speech.<sup>22</sup> This view goes far beyond the existing

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<sup>21</sup> The March 25, 2010 vote was 20 in favor, 17 against, 8 abstentions.

<sup>22</sup>For example, the March 2008 First OIC Observatory Report on Islamophobia cites as religiously defamatory speech the publication of cartoons depicting the Prophet Mohammed or Allah in newspapers in several European countries and South Africa, Pope Benedict's quotation of a fourteenth-century Byzantine emperor's allegation that Mohammed was "bad and inhuman" for commanding his followers to spread Islam by the sword, and comments critical of Islam or Muslims by Dutch, Austrian, Norwegian, Italian, and Swiss politicians, mostly from far-right parties. Also mentioned is right-wing Dutch MP Geert Wilders' production of a then-unreleased film that the OIC

domestic legal concept of defamation, which protects *individuals* against false statements of fact that damage their reputation and livelihood. Implementing this approach would violate international human rights guarantees that protect, with only narrow exceptions, every individual's right to receive and impart information and speak out.

In essence, the “defamation of religions” campaign is an attempt to export to the international level the repressive blasphemy laws found in some OIC countries. Under these laws, criminal charges can be levied against individuals for allegedly defaming, denigrating, insulting, offending, disparaging, and blaspheming Islam—often resulting in gross human rights violations. These laws allow repressive governments and religious extremists to suppress and punish whatever they deem to be offensive or unacceptable speech about a particular favored religion or sect. Laws of this type have been used in various countries, including Pakistan and Egypt, to restrict peaceful discussion of the appropriate role of religion in state and society, prevent criticism of specific figures or parties, curb dissent from prevailing views and beliefs, and even incite and justify violence.

In Pakistan, for example, domestic law makes blasphemy against Islam a criminal offense subject to severe penalties, including death. Blasphemy allegations in Pakistan, which are often false, have resulted in imprisonment on the basis of religion or belief and/or vigilante violence. These broad provisions have been used by extremists to intimidate and detain arbitrarily members of religious minority communities, including disfavored minority Muslim sects, and by the unscrupulous to settle personal scores. In Egypt, the government has used charges of blaspheming or insulting Islam to imprison purportedly “unorthodox” Muslims and individuals, including bloggers, who have called for political and religious reforms.

UN members from North America, Europe, and Asia, including the Holy See, have consistently voted or spoken out against the “defamation of religions” concept. By early 2010, those voting against the concept also grew to include a number of Latin American countries (Argentina, Chile, Mexico, Panama, and Uruguay), as well as the African countries of Liberia and Zambia.

International human rights experts also oppose the concept. In December 2008, the freedom of expression rapporteurs of the UN, OSCE, Organization of American States (OAS), and African Commission on Human and Peoples' Rights (ACHPR) issued a joint statement urging international organizations to stop supporting the idea of “defamation of religions,” because it “does not accord with international standards accepted by pluralistic and free societies.”<sup>23</sup> The UN Special Rapporteur on Freedom of Religion or Belief likewise has criticized the concept, pointing out that international human rights law protects individuals, not belief systems, and the individual right to freedom of religion or belief does not include the right to have one's religion or belief be free from criticism. To the contrary, as Ms. Jahangir noted, “the recognition, respect and practice of religious pluralism . . . encompasses criticism, discussion and questioning of each other's values.”<sup>24</sup>

### *The Erroneous Efforts to Conflate “Defamation of Religions” and Incitement*

Countries advancing the flawed “defamation of religions” concept also have sought, in various UN contexts, to redefine existing international standards that prohibit incitement so as to outlaw speech

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believed would “vilify” the Koran, and an article by a British columnist that called Islam “an uncompromising seventh-century ideology.”

<sup>23</sup> Joint Declaration on Defamation of Religions and Anti-Terrorism and Anti-Extremism Legislation, Frank La Rue, UN Special Rapporteur on Freedom of Opinion and Expression, Miklos Haraszti, OSCE Representative on Freedom of the Media, Catalina Botero, OAS Special Rapporteur on Freedom of Expression, and Faith Pansy Tlakula, ACHPR Special Rapporteur on Freedom of Expression, page 2 (December 10, 2008).

<sup>24</sup> UN Document A/HRC/2/3, para. 65 (2006).

insulting or criticizing religions. The current focus of these efforts is primarily in two bodies. These are: 1) the Human Rights Council's "Ad Hoc Committee on the Elaboration of Complementary Standards" which is considering whether to amend or make additions to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and 2) the Human Rights Committee, the ICCPR treaty body which is working on a new General Comment explaining its interpretation of that covenant's freedom of expression guarantee.

In these efforts, the "defamation" proponents mainly look to ICCPR Article 20(2), which prohibits "advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence." They also cite Article 4 of ICERD, despite the fact that this treaty addresses race, not religion.<sup>25</sup> ICERD Article 4 prohibits the "dissemination of ideas based on racial superiority or hatred" and "incitement to racial discrimination, as well as acts of violence or incitement to such acts."<sup>26</sup> The United States has reservations to both ICCPR Article 20 and ICERD Article 4 to the extent that they interfere with rights protected under the U.S. Constitution.<sup>27</sup>

The efforts by the "defamation" proponents to redefine and broaden significantly these two provisions to encompass allegedly religiously defamatory speech are of serious concern. ICCPR Article 20(2) and ICERD Article 4 provide only limited exceptions to the fundamental freedoms of expression and religion. Triggering them requires more than just the expression of critical, or even insulting, views on religious matters. These provisions are intended to protect individuals from acts of violence or discrimination, not to protect religious institutions or ideas from criticism. In addition, they have always been interpreted together with treaty provisions protecting the freedoms of religion and expression, ensuring equality before the law, and prohibiting any measures that would destroy guaranteed rights.

In addition, conflating race and religion to bring "defamation of religions" within ICERD's ambit would raise serious religious freedom problems. A person's race is immutable, but his or her religion is not. Indeed, the individual right to freedom of religion or belief includes the right to freely choose to change one's religion, whether to another religion or no religion at all.<sup>28</sup> Moreover, deeming speech that is critical of or insulting to religions as equivalent to racist hate speech would suppress any discussion of truth claims about, among, or within religions—the peaceful sharing of which is an integral part of the freedom of religion or belief.

Unfortunately, the OIC-led efforts to reinterpret the incitement provisions may have been lent support by language in an October 2009 Human Rights Council resolution on freedom of expression which the United States co-sponsored with Egypt. The resolution urged states to "take effective measures, consistent with their international human rights obligations" to address and combat incidents of "negative racial and religious stereotyping" and of "advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence." This broad language can be read as urging legal measures against speech "defaming" religions, and OIC members, from their statements since the resolution was introduced, clearly have interpreted it that way. The United States previously had always

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<sup>25</sup> In fact, as the UN Committee on the Elimination of Racial Discrimination (the ICERD treaty body) has noted, the treaty's drafting history shows that the General Assembly expressly "rejected the proposal to include racial discrimination and religious intolerance in a single instrument, and decided in the ICERD to focus exclusively on racial discrimination." *P.S.N. v. Denmark*, UN Document CERD/C/71/D/36/2006, para. 6.3 (2007)

<sup>26</sup> The 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, which is not a treaty, does not contain a prohibition on incitement to religious discrimination.

<sup>27</sup> A number of other countries also have made reservations or declarations to these provisions, for various reasons. In addition to the United States, 15 countries have reservations or declarations on all or part of ICCPR Article 20, and 19 countries have reservations or declarations on ICERD Article 4.

<sup>28</sup> Article 18, Universal Declaration of Human Rights; Article 18, ICCPR; UN Human Rights Committee, General Comment 22, UN Document CCPR/C/21/Rev.1/Add.4 (1993).

opposed UN resolutions calling for laws banning speech, even hateful speech, except where it incites imminent violence. While the State Department's position is that the resolution does not require the United States to enact or enforce hate speech laws,<sup>29</sup> USCIRF is concerned that it gives the United States' imprimatur, for the first time, to a demand in a UN resolution that other countries do so. In the wake of this resolution, the United States needs to clarify its position and reaffirm its strong opposition to both domestic and international bans on speech that does not amount to incitement to imminent violence.

### **USCIRF Activities**

In 2009-10, USCIRF actively sought to counter the OIC's dangerous campaign to protect religions from "defamation." These activities included raising awareness in Congressional offices, including through staff briefings and meetings. In October 2009, USCIRF Chair Leonard Leo testified before the Tom Lantos Human Rights Commission on *Implications of the Promotion of "Defamation of Religions."* As a result of these efforts, in March and December 2009 and February 2010, members of Congress wrote letters to numerous UN Human Rights Council and General Assembly members, urging them to oppose the concept in upcoming votes. In addition, in November 2009, USCIRF and Representative Chris Smith (R-NJ), a Congressional member of the U.S. General Assembly delegation, hosted a meeting for selected UN ambassadors in New York, at which Commissioners urged them to vote against the concept.

In November 2009, USCIRF issued a Policy Focus entitled *The Dangerous Idea of Protecting Religions from "Defamation": A Threat to Universal Human Rights Standards.* The document describes the dangers in outlawing speech criticizing religions, explains why international incitement prohibitions do not encompass such speech, and makes recommendations on how to combat religious intolerance without speech bans.

In 2009-10, USCIRF also raised "defamation of religions" concerns in letters to and/or meetings with U.S. executive branch officials, including President Obama and Secretary of State Clinton, as well as the Prime Minister of Bangladesh and the President and Ambassador to the United States of the Philippines. In addition, Commissioners discussed these concerns in meetings with an Egyptian foreign ministry representative, European Union officials, and officials from the Holy See.

### **Recommendations**

In order to ensure that the United Nations fully upholds its crucial mandate to protect and promote freedom of thought, conscience, and religion or belief, the U.S. government should:

- participate actively in the UN Human Rights Council, including its Universal Periodic Review (UPR) process, and in particular seek to ensure that each country's compliance with international religious freedom standards constitutes an important part of the UPR and any country-specific resolutions in both the Human Rights Council and the UN General Assembly;
- continue firmly and unequivocally to support a mandate and mandate-holder for the position of UN Special Rapporteur on Freedom of Religion or Belief that focuses on the universal right of every individual to the freedom of thought, conscience and religion or belief, rather than on the purported rights of religions;
- continue to support the existing UN Special Rapporteur positions that focus on the human rights situations in countries that have been designated as "countries of particular concern" under IRFA and,

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<sup>29</sup> This position is based on the resolution's "consistent with their international human rights obligations" language and the U.S. reservation to Article 20(2).

for the other countries on that list, seek either 1) the creation of additional Special Rapporteur positions and other country specific measures or 2) visits to those countries by teams of thematic Special Rapporteurs, including the Special Rapporteurs on Freedom of Religion or Belief and Freedom of Opinion and Expression;

- at the highest levels, both in Geneva and in capitals, formally demarche the Organization of the Islamic Conference (OIC) Secretary General and the governments of Pakistan and Egypt, among others, to raise concerns about the problematic “defamation of religions,” ICCPR Article 20, and ICERD Article 4 initiatives, and make clear that their continued support will negatively impact the emerging relationship between the OIC and the United States, as well as the bilateral relationships between other such governments and the United States; and
- include in the mandate of the Special Envoy to the OIC the task of raising with OIC countries U.S. opposition to the “defamation of religions” concept and any efforts to reinterpret ICCPR Article 20 and ICERD Article 4.

The U.S. government and all other UN members that support universal human rights, including freedom of religion, should:

- emphasize, at every possible opportunity, the vital importance of the intertwined rights to freedom of thought, conscience and religion or belief and freedom of opinion and expression to the enjoyment of all other rights, as well as to stability, development, and democracy;
- continue to oppose efforts in international fora to establish an international legal principle that would claim to protect religions from “defamation” or criticism, offering new rights to religions that would undermine many fundamental, individual human rights;
- educate member states who have not voted against past “defamation” resolutions, as well as moderate OIC countries, about the human rights abuses perpetrated under this concept and urge them to oppose the resolutions and any attempts to reinterpret ICCPR Article 20 or ICERD Article 4;
- work diplomatically and more diligently to persuade OIC members and others who support the “defamation” concept that religious intolerance can best be fought not through national or international laws prohibiting speech that “defames” religions, but rather through efforts, including education, public diplomacy, and the enforcement of laws against bias-motivated violence and discrimination, to ensure respect for the human rights of every individual; and
- reaffirm and clarify to independent expert members of the Human Rights Committee and the Committee on the Elimination of Racial Discrimination and to governmental representatives on the Ad Hoc Committee on the Elaboration of Complementary Standards the extent and content of specific concerns over any reinterpretation or expansion of ICCPR Article 20 or ICERD Article 4.

## **The Organization for Security and Cooperation in Europe**

### **OSCE Religious Freedom and Tolerance Commitments**

The 56 participating States of the Organization for Security and Cooperation in Europe (OSCE), comprising Eastern and Western Europe, the states of the former Soviet Union, the United States, and Canada, have committed themselves to uphold extensive standards to protect freedom of religion or belief and to combat discrimination, xenophobia, intolerance, and anti-Semitism. Freedom of thought, conscience, and religion or belief is singled out for protection in the OSCE founding document, the 1975 Helsinki Final Act, and in many subsequent political agreements.

In recent years, however, some participating states have sought to curtail or derail the organization's focus on human rights activities. Russia, in particular, has often protested that the OSCE focuses too much of its criticism on the countries of the former USSR, while downplaying human rights problems in the West. The Kremlin has proposed that the OSCE should be primarily concerned with military security, and has launched a major "Helsinki Plus" initiative to negotiate a new treaty on European security, ostensibly based on the OSCE. Russia in the past has also withheld needed consensus for the OSCE budget, thereby jeopardizing many OSCE human rights activities. These OSCE activities are key when the governments of Russia and many other former Soviet states are demonstrating increasing disdain for their human rights and religious freedom obligations, including efforts to combat racism, xenophobia, as well as religious and other forms of intolerance and discrimination.

In light of the OSCE's origin during the Cold War, USCIRF views as hopeful the March 2010 appointment of Ian Kelly, former State Department spokesman and Russia specialist, as U.S. ambassador to the OSCE. USCIRF recommends that Ambassador Kelly lead a U.S. effort to revitalize the OSCE by building on its institutional strengths, such as its activities to promote human rights, including freedom of religion or belief, and to combat violent hate crimes, its field presences, and its cooperation with civil society. In light of Kazakhstan's legal restrictions on freedom of religion or belief and the imprisonment of its leading human rights activist, Evgeny Zhovtis, the United States should oppose proposals by Kazakhstan, the 2010 OSCE Chair-in-Office, to organize a summit of the 56 OSCE participating States in 2010.

### **OSCE Venues to Address Religious Freedom Issues**

Participating States are held accountable to their OSCE commitments, including those on freedom of religion or belief, through a variety of mechanisms. These include review meetings by the OSCE and its Office of Democratic Institutions and Human Rights (ODIHR), ODIHR reports, and the activities of many of the 18 OSCE Field Presences.

#### *ODIHR Meetings*

ODIHR sponsors an annual conference, usually held in Warsaw in October, to review OSCE participating States' implementation of their human rights commitments, including freedom of religion or belief. Known as Human Dimension Implementation Meetings (HDIMs), these 10-day meetings bring together diplomats, representatives of other international organizations, and hundreds of NGOs. The most recent HDIM, which is said to be the largest European human rights conference, was held in October 2009.

Under ODIHR auspices, the OSCE convened a Supplementary Human Dimension Meeting (SHDM) on Freedom of Religion or Belief in Vienna in July 2009. The meeting brought together 288 participants, including 136 representatives of 47 governmental delegations, as well as 116 representatives of 100 civil

society organizations, six OSCE field operations, two OSCE institutions plus ODIHR, and four international organizations. The SHDM provided an opportunity to evaluate more thoroughly the status of freedom of religion or belief in the OSCE region since the last SHDM on this topic in 2003. Another two-day SHDM on freedom of religion or belief is scheduled for November 2010.

*The ODIHR Advisory Panel of Experts on Freedom of Religion or Belief*

The ODIHR also provides technical assistance to participating States on religious freedom issues through its Advisory Panel of Experts on Freedom of Religion or Belief. This Panel is comprised of 60 persons nominated by OSCE countries, including a 15-member Advisory Council appointed by the ODIHR Director. The Panel is primarily a consultative resource for OSCE governments considering new or amended legislation affecting freedom of religion, but also provides expert opinions on individual cases. The Panel's Advisory Council reviews both proposed and enacted legislation under guidelines developed by the ODIHR and the Council of Europe's Venice Commission and presents recommendations that would bring legislation into conformity with these international and OSCE standards. The Panel also issues publications, such as the 2007 "Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools," which offers a human rights framework for the development of curricula and was officially approved by the 2008 OSCE Ministerial. The Panel is currently updating its 2004 publication, "Guidelines for Review of Legislation Pertaining to Religion or Belief."

The Panel has advised governments, including those of Macedonia, Romania, Serbia, Tajikistan, Kazakhstan, and Kyrgyzstan, on relevant legislation. The Bulgarian government adopted some of the Panel's recommendations on legislation, but the Uzbek government has not responded to recommendations on its religion laws offered in 2003. In 2008, two expert reviews by the Panel found problems with a draft religion law then being considered in Kazakhstan. Although it had requested the reviews, the Kazakh government refused to make them public. While the Kazakh parliament passed the problematic draft law and President Nazarbayev signed it, the Kazakh Constitutional Council in February 2009 ruled that it was unconstitutional. Tajikistan and Kyrgyzstan also largely disregarded the Panel's recommendations. In 2009, these governments passed highly restrictive new religion laws that USCIRF criticized. In addition, USCIRF in 2009 criticized restrictive amendments to the Azeri religion law and urged Azerbaijan to request a Panel review. However, the government of Azerbaijan did not turn to the Panel for recommendations on these draft provisions.

In an example of an expert opinion on a specific case, the Panel noted that the situation of Jehovah's Witnesses in Moscow illustrates the systemic problem in many post-Soviet countries of strict registration requirements being used to control non-violent religious groups.

USCIRF recommends that the Panel should better publicize its activities and make them more transparent, in particular with respect to those governments that ignore its recommendations. In addition, the OSCE should provide the Panel with sufficient staff and funding so that it can hold at least one annual meeting of its entire membership.

**The OSCE Response to Racism, Xenophobia, Discrimination, and Intolerance**

The past few years have witnessed a sharp rise in incidents of discrimination, xenophobia, intolerance and violent hate crimes directed toward members of ethnic and religious minorities, particularly Muslims and Jews, in a number of countries in the OSCE region. By not contesting extremist rhetoric, political and societal leaders contribute to an intolerant environment for ethnic and religious minorities. Even worse, in some OSCE countries, officials and state-run media have inflamed public opinion against minority groups. While violent acts against minority individuals and their property often are well documented, they rarely are investigated and prosecuted as hate crimes. All too often, particularly in Russia, such acts

are treated as mere “hooliganism.” When acts of violence or discrimination target members of a particular group because of who they are and what they believe, such acts should be viewed as human rights violations that require an unequivocal response.

In recent years, the OSCE has set up several mechanisms to address intolerance and related human rights issues. Due in part to U.S. diplomatic leadership, the OSCE has convened since 2003 at least 10 high-level and expert conferences to address racism, xenophobia, anti-Semitism, discrimination against religious groups including Muslims and Christians, and other tolerance-related issues. As USCIRF recommended, the OSCE Chairman-in-Office in late 2004 appointed three Personal Representatives to monitor anti-Semitism, intolerance toward Muslims, and intolerance toward Christians and members of other religions, respectively. A new Tolerance Program within ODIHR also was created in 2004 to monitor and encourage compliance with OSCE commitments to combat xenophobia, anti-Semitism, and Islamophobia, as well as to promote freedom of religion or belief.

#### *OSCE Meetings on Tolerance and Related Topics*

The OSCE Ministerial Council in 2003 mandated a major international conference in Vienna to address anti-Semitism in the then-55 states of the OSCE region and in 2004, a ministerial-level conference in Berlin. Since then, OSCE has held many other high level meetings on racism, xenophobia, discrimination against Muslims, anti-Semitism, and other forms of intolerance. In 2007, two tolerance-related OSCE conferences were held, one in Romania on Combating Discrimination and Promoting Mutual Respect and Understanding, and the other in Spain where the Spanish OSCE Chair hosted a conference on Intolerance and Discrimination against Muslims. In May 2009, an OSCE Supplementary Human Dimension Meeting focused on ways to implement effectively hate crimes legislation and the challenges posed by violent hate groups. The 2010 Kazakh Chair-in-Office has proposed a high-level ODIHR meeting to discuss tolerance issues in late June 2010 in Astana, the capital of Kazakhstan.

These conferences have generated political support within the OSCE to address anti-Semitism and other forms of intolerance. They also have raised awareness among NGOs and the public about discrimination against Muslims and related issues. However, challenges remain for the OSCE and all its 56 participating States to translate these ideas into concrete policies that will combat intolerance. Regrettably, participating States in 2009 could not reach consensus on a draft declaration proposed by the United States and Canada that would have expressed concern about hate incidents and trends in the OSCE region.

#### *OSCE Personal Representatives*

In December 2004, the 55 OSCE participating States authorized the then-Chair-in-Office (CiO), Bulgarian Foreign Minister Solomon Passy, to name three Personal Representatives to promote tolerance. The mandates of the three Personal Representatives address separate but interrelated issues that call for distinct, yet coordinated, responses that focus on improving the implementation of decisions on tolerance and non-discrimination that the OSCE Ministerial and Permanent Councils makes. . The persons selected by the OSCE CiO for these part-time and unpaid positions come from a variety of backgrounds.

In 2009, the Greek Chair-in-Office appointed three new Personal Representatives: Rabbi Andrew Baker, Director of International Jewish Affairs at the American Jewish Committee, as the Personal Representative on Combating Anti-Semitism; Adil Akhmetov, a member of the Kazakh Senate and former First Vice-Minister of Foreign Affairs, as the Personal Representative on Combating Intolerance and Discrimination against Muslims; and Mario Mauro, an Italian member of the European Parliament, as the Personal Representative on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions.

During 2009, the Personal Representatives contributed to relevant OSCE meetings, including the Warsaw HDIM, and made several country visits. For example, Rabbi Baker visited Slovakia, Hungary, and Romania and issued public reports that were posted on the OSCE website. Invitations from additional participating States to the Personal Representatives would enable them to raise issues of concern directly with government officials, as well as hold direct meetings with NGOs and community and religious leaders. Also during 2009, Ambassador Akhmetov discussed methods to combat anti-Muslim discrimination at meetings with the ODIHR, the Permanent Council, and the CiO. In October 2009, the three Personal Representatives visited the United States and testified at a Helsinki Commission hearing on their role in promoting tolerance in the OSCE region.

USCIRF remains concerned that the Representatives' work has been hampered by inadequate funding for staff and travel expenses. The OSCE also should give more prominence to the activities of the Personal Representatives to increase the impact of their findings and recommendations. For example, the Representatives should report in person to the annual OSCE ministerial meetings and their reports should be published and distributed throughout and beyond the OSCE system. USCIRF welcomes the U.S. OSCE Mission's initiative in November 2009 to invite the three Personal Tolerance Representatives to the Permanent Council in Vienna.

#### *The ODIHR Tolerance Program*

One major OSCE institutional response to growing concerns on religious intolerance was creating in late 2004 the ODIHR Tolerance Program. Its mandate includes promoting tolerance, combating xenophobia, and advancing freedom of religion or belief. The Tolerance Program's staff monitors tolerance-related issues and provides staff support for both the three Personal Representatives and the ODIHR Advisory Panel of Experts on Freedom of Religion or Belief. The Tolerance Program was charged with setting up a database, collecting data on hate crimes legislation, training police on hate crimes, and providing Holocaust education in specific countries. The Program also serves as a focal point for various national contact points on hate crimes set up by the OSCE states. Although the United States had been an early advocate of the Tolerance Program and provided much of its initial funding, USCIRF is concerned that the U.S. is not funding this important program at an appropriate level.

The Tolerance Program also has developed a "Web Site Guide to Tolerance Education," a curriculum unit on "Holocaust Education and Anti-Semitism," and "Teaching Materials on the History of Jews and Anti-Semitism in Europe." A "Reference Guide on Muslims in Spain" was released in April 2009 as the first in a series intended to raise awareness about anti-Muslim prejudices and stereotypes. The Tolerance Program also continues to issue publications on priorities in various OSCE States. In October 2009, ODIHR released a publication, "Preventing and Responding to Hate Crimes," to provide information to NGOs on how to recognize, monitor, and prevent hate crimes. In November 2009, ODIHR released its hate crimes annual report. The Tolerance Program translates many of its publications into Russian, which is particularly useful in light of the rising levels of xenophobia, racism, and various forms of intolerance in Russia and other former Soviet republics. In March 2010, ODIHR brought together 100 experts from 56 OSCE states in Warsaw to address the need for increased efforts to combat hate crimes inspired by Internet content without interfering with freedom of expression.

To date, the ODIHR's Tolerance Program has emphasized activities with external organizations, although the Program could expand its work with the 18 OSCE Field Presences and other OSCE institutions. As noted, the Tolerance Program's current mandate includes the issue of freedom of religion or belief which had been addressed by the ODIHR Human Rights Department until 2004. USCIRF remains concerned that freedom of religion or belief is treated mainly under the rubric of tolerance activities and not human rights. The Tolerance Program should better coordinate freedom of religion activities with the Human

Rights Department, particularly because only one staff person in the Tolerance Program is assigned part-time to the issue of freedom of religion or belief. Furthermore, in 2007, this position was removed from the unified budget, thus endangering its permanent status and changing its recruitment basis.

### **USCIRF Activities**

Since 2001, the Commission has participated in U.S. delegations to numerous OSCE meetings and has issued extensive recommendations on OSCE activities to protect freedom of religion or belief and combat intolerance and anti-Semitism. USCIRF was one of the first official bodies to speak out against the rise in anti-Semitic violence in Europe, and has addressed anti-Semitism and other intolerance issues in countries including Belarus, Belgium, Egypt, France, Russia, and Uzbekistan.

In the current reporting period, Commission Chair Leonard Leo and Commissioners Cromartie, Gaer, Eid and Prodromou were members of the U.S. delegation to the OSCE Supplementary Human Dimension Meeting (SHDM) on Freedom of Religion or Belief in July 2009. USCIRF Chair Leo delivered a plenary statement on behalf of the United States about the status of religious or belief communities in the OSCE region. Commissioner Eid discussed the status of freedom of religion or belief in Central Asia at a meeting organized by Freedom House. USCIRF hosted a meeting with delegates from EU countries, including Germany, Greece, Lithuania, and the United Kingdom. Members of the USCIRF delegation also held bilateral meetings with the Belarusian, Greek, Kazakh Tajik, and Turkish delegations, as well as with representatives of the Greek Chairman-in-Office, the ODIHR Panel of Experts on Freedom of Religion or Belief, and the two Personal Tolerance Representatives who were present at the SHDM.

In September-October 2009, Commission Chair Leo and Commissioner Argue served on the official U.S. delegation to the Warsaw HDIM conference. They met with delegations including those from Russia, Uzbekistan and Belarus, the Personal Representatives on Tolerance, and ODIHR staff.

During 2009, Commission staff visited OSCE participating States Tajikistan, Kazakhstan, and Azerbaijan to assess the status of freedom of religion or belief in those countries and meet with government officials, academic experts, journalists, representatives of diverse religious communities, and civil society groups.

### **Recommendations**

#### **I. Supporting the OSCE**

The U.S. government should:

- oppose efforts by the 2010 OSCE Chair-in-Office Kazakhstan to organize a security summit of the 56 OSCE participating States in 2010 in light of its legal restrictions on religious activity and imprisonment of leading human rights activist Evgeny Zhovtis;
- express strong support for the OSCE at the highest levels of the U.S. government in the face of attacks by other participating States, particularly against the OSCE's human rights, freedom of religion or belief, and tolerance activities carried out by the Office of Democratic Institutions and Human Rights (ODIHR);
- authorize and appropriate specially designated funds, in addition to the 2010 U.S. contributions to the OSCE, to expand programs that advance freedom of thought, conscience, and religion or belief and that combat anti-Semitism, racism, xenophobia, and discrimination against Muslims, Christians, and members of other religions;

- hold regular consultations at the State Department for members of the U.S. government and NGO community concerned with OSCE issues and expand the number and range of invitees;
- include in official U.S. OSCE delegations representatives of relevant U.S. government agencies in addition to the State Department, such as the Homeland Security and the Justice Departments, as well as increase the number and variety of civil society groups involved in the OSCE process; and
- ensure that U.S. OSCE delegations organize regular informational briefings on U.S. priorities for the civil society groups at OSCE meetings.

## **II. Promoting Religious Freedom and Tolerance within the OSCE's Participating States**

The U.S. government should urge that OSCE participating States undertake the following measures:

- ensure compliance with their commitments to protect freedom of religion or belief, as well as combat discrimination, xenophobia, and anti-Semitism, as detailed in the Vienna and Copenhagen Documents on the Human Dimension;
- engage in a regular public review of compliance with OSCE commitments on freedom of religion or belief, racial and religious discrimination, and anti-Semitism, including by facilitating a more active role by NGOs as part of that process;
- commit promptly, publicly, and specifically to condemn hate crimes and investigate and prosecute their perpetrators;
- take all appropriate steps to prevent and punish acts of anti-Semitism, such as condemning publicly specific anti-Semitic acts, pursuing and prosecuting the perpetrators of attacks against Jews, and, while vigorously protecting freedom of expression, counteracting anti-Semitic rhetoric and organized anti-Semitic activities;
- condemn in a public fashion, while vigorously protecting freedom of expression, attacks targeting Muslims and pursue and prosecute the perpetrators of such attacks;
- ensure that efforts to combat terrorism not be used as a justification to restrict the human rights, including freedom of religion or belief, of members of religious minorities;
- bring national legislation and practice, as well as local laws, into conformity with international human rights standards and OSCE commitments by: permitting all religious groups to organize and conduct their activities without undue interference; discontinuing excessive regulation of the free practice of religion, including registration or recognition requirements that effectively prevent members of religious communities from exercising their freedom to manifest religion or belief; and permitting limitations on the right to freedom of religion or belief only as provided by law and consistent with participating States' obligations under international law;
- monitor the actions of regional and local officials who violate the right to freedom of religion or belief and provide effective remedies for any such violations; and
- establish mechanisms to review the cases of persons detained under suspicion of, or charged with, religious, political, or security offenses and release those who have been imprisoned solely because of

their religious beliefs or practices, as well as any others who have been unjustly detained or sentenced.

### **III. Promoting Religious Freedom and Tolerance through the OSCE's Institutional Mechanisms**

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

- promote freedom of thought, conscience, religion and belief throughout the OSCE region, both east and west of Vienna, including focusing on issues such as discriminatory registration systems, limitations on religious expression, state interference in the internal hierarchical and property arrangements of religious communities, and limitations on the rights of parents to ensure the religious and moral education of their children in conformity with their own peaceful religious or other beliefs;
- consider ways to bring greater public attention to the activities of the OSCE Panel of Experts on Freedom of Religion or Belief, such as enhancing the transparency of its activities, providing funds to enable the Panel to hold training seminars, including in the Mediterranean Partner States, about OSCE commitments on freedom of religious or belief;
- encourage the convening of an annual meeting of the OSCE Panel of Experts on Freedom of Religion or Belief that is open to its entire membership;
- ensure, as a matter of priority, the reappointment of the three Chair-in-Office Personal Representatives on tolerance issues and make the country-specific reports of the three Personal Representatives available to the public;
- urge the Personal Representative on Combating Intolerance and Discrimination against Muslims to report on conditions in OSCE participating States in which Muslims constitute a majority population, focusing particularly on government repression of peaceful religious expression;
- request that the three Personal Representatives report in person to the annual OSCE ministerial meetings, and that the OSCE Chairman-in-Office invite the three Personal Representatives to participate on his or her official visits and refer to their work and conclusions in speeches and other presentations;
- encourage OSCE participating States and the 18 OSCE Field Presences to invite the Personal Representatives on official visits;
- convene on a regular basis public review meetings to assess compliance by OSCE participating States of their commitments to combat discrimination, xenophobia, and anti-Semitism;
- ensure that all participating States take concrete actions to meet their commitments to combat discrimination and intolerance, including measures to combat anti-Semitism, as detailed in the 1990 Copenhagen Document; these measures should include adopting laws to protect against incitement to violence based on discrimination, including anti-Semitism, and providing individuals with effective remedies to initiate complaints against acts of discrimination;
- convene expert conferences on anti-Semitism and freedom of religion or belief, as well as other tolerance issues, during 2010 and 2011;

- assist ODIHR in making it possible for the OSCE Field Presences and the ODIHR to hold public roundtables with local government officials, NGOs, and community leaders to discuss commitments on freedom of religion or belief, as well as the concept and definition of hate crimes and the implementation of hate crimes legislation;
- provide voluntary, extra-budgetary funding for additional staff to deal with freedom of religion or belief, working within the ODIHR Human Rights Program, and encourage the ODIHR Tolerance Program staff take part in ODIHR training of Field Presences and other OSCE staff;
- provide the ODIHR with the necessary mandate and adequate resources to hire as part of the Unified Budget experienced staff at the working level, to direct the Tolerance Program, monitor compliance with OSCE obligations on freedom of religion or belief, and combat discrimination, xenophobia, and anti-Semitism; and
- provide funding for the translation of additional ODIHR Tolerance Program reports into OSCE languages, particularly Russian, and for the employment of at least one ODIHR Tolerance Program staffer with Russian-language capability.

## **USCIRF's Expedited Removal Study**

In 2003 and 2004, USCIRF conducted a major research study, as authorized by the International Religious Freedom Act of 1998 (IRFA), to examine whether asylum seekers subject to Expedited Removal are being detained under inappropriate conditions and whether they are being returned to countries where they might face persecution. Specifically, IRFA authorized USCIRF to appoint experts to examine whether immigration officers, in exercising Expedited Removal authority over aliens who may be eligible for asylum, were:

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

USCIRF released its findings in the 2005 *Report on Asylum Seekers in Expedited Removal* (hereafter referred to as the Study).

The Study identified serious flaws that place asylum seekers at risk of being returned to countries where they may face persecution and being mistreated while in detention. To address these concerns, USCIRF issued recommendations, none of which require congressional action, to agencies in the Departments of Homeland Security (DHS) and Justice (DOJ). The recommendations were geared to help protect U.S. borders and ensure fair and humane treatment for *bona fide* asylum seekers, two goals of the 1996 immigration reform law that established the Expedited Removal procedure. In 2007, two years after the release of the Study, USCIRF released a “report card” grading the federal agencies on their implementation of the Study’s recommendations.

Prior to 2009, DHS had failed to adequately address several areas of concern the Study had identified, including the low profile and absence of inter-bureau coordination of asylum issues; the use of jail-like facilities to house asylum seekers; the absence of parole policies to ensure that asylum seekers who pose no risk of flight or danger are not subject to unnecessary detention; and insufficient oversight of the Expedited Removal process. In 2009, DHS announced efforts to reform its immigration detention policies which, if fully implemented, would address several of these areas of concern. . In addition, two bills were introduced in the Senate in 2009 that, if enacted, would significantly reform the system by which asylum seekers are detained and implement several of USCIRF’s recommendations related to the treatment of asylum seekers in detention. USCIRF welcomes the efforts of DHS and Congress.

## **The Expedited Removal Process**

The Expedited Removal process authorizes immigration officials to summarily return people arriving in the United States without proper documentation to their country of origin. Congress was concerned that *bona fide* asylum seekers, who often travel without proper documents, might mistakenly be returned to their persecutors. In response, Congress included provisions to prevent the Expedited Removal of refugees fleeing persecution. Under these provisions, asylum seekers are detained while a determination is made if they have a “credible fear” of persecution. If credible fear is found, the case is sent to an immigration judge (IJ), and the asylum seeker may be paroled while the case is pending. However, if credible fear of persecution is not found, the asylum seeker is put back in the Expedited Removal process and removed promptly.

At least five separate agencies play a role in Expedited Removal. Within DHS, Customs and Border Protection (CBP) first encounters aliens, either at a port of entry or anywhere within 100 miles of U.S. land or sea borders. CBP then identifies those subject to Expedited Removal, and from that group, those seeking asylum. Immigration and Customs Enforcement (ICE) is responsible for detaining asylum seekers until Citizenship and Immigration Services (USCIS) makes the credible fear determination. For those asylum seekers found to have a credible fear, the Department of Justice’s (DOJ) Executive Office for Immigration Review (EOIR) takes over; IJs hear the cases, and the Board of Immigration Appeals (BIA) reviews any appeals. With so many agencies and immigration officers involved in so many locations, coordination has been and remains a major challenge within DHS and between DHS and DOJ.

### **Customs and Border Protection (CBP): Identifying Asylum Seekers**

In more than half of the Expedited Removal interviews observed, the Study found that immigration officers failed to read a script advising aliens that they should ask for protection without delay if they have any reason to fear being returned home. The Study further found that in 72 percent of the cases reviewed, asylum seekers were not given an opportunity before signing to review and correct sworn statements taken by immigration officers. The Study also found that, although they resemble verbatim transcripts, these sworn statements are neither verbatim nor verifiable, often suggest that information was conveyed to the asylum seeker which was in fact never conveyed, and sometimes contain questions that never were asked. The Study found that these unreliable documents often are used against asylum seekers when their cases come before an immigration judge.

DHS regulations require that, when asylum seekers express a fear of return, they must be referred to an Asylum Officer to determine whether the fear is “credible.” Yet, in nearly 15 percent of the cases that Study experts observed in person, asylum seekers who expressed a fear of return were nevertheless removed without being referred to an Asylum Officer. Of those cases, nearly half of the files indicated that the asylum seeker had not expressed any fear.

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

Since the Study was released in 2005, CBP has implemented few of USCIRF’s recommendations. DHS has told the Commission that CBP took steps to increase enforcement and review of its procedures and

field guidance related to cases of Expedited Removal, and improve and enhance field officer training. CBP also informed USCIRF that it is willing to train IJs, as well as other DHS officers, on the sworn statements. However, USCIRF's primary recommendations, expanding existing videotape systems and employing "testers" to verify that procedures are correctly followed, have yet to be implemented.

### **Immigration and Customs Enforcement (ICE): Detaining Asylum Seekers**

Despite the existence of national criteria that determines when asylum seekers in Expedited Removal should be released from detention pending their asylum hearing, the Study found that the criteria were not being implemented. The Study also found wide variations in release rates nationwide: from 0.5 percent in New Orleans and 4 percent in New Jersey, to 81 percent in Chicago and 94 percent in San Antonio. Additionally, the Study found that the overwhelming majority of asylum seekers referred for credible fear are detained—for weeks or months and occasionally years—in penal or penitentiary-like facilities. On average, asylum seekers with a credible fear of persecution are detained for 60 days, and one third for 90 days or more. The non-governmental organization Human Rights First (HRF) also reported in 2009 that asylum seekers are detained for months, if not years, before being granted asylum. In some of the jails and prisons in which they are detained, the Study and HRF also found that asylum seekers live alongside U.S. citizens serving criminal sentences or criminal aliens, even though ICE detention standards do not permit non-criminal detainees to be co-mingled with criminals. The Study found that some asylum seekers in these facilities were required to wear prison uniforms and were handcuffed and shackled like regular criminals. Similar findings are reported by HRF. ICE has experimented with alternatives to detention, and at the time of the Study was operating one secure facility in Broward County, Florida, that resembled a refugee center rather than a penal institution. Unfortunately, since the Study was released, changes at Broward have made it more institutional.

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

After the release of the 2007 report card, ICE took some steps to address concerns raised in the Study, but also enacted policies contrary to recommendations in the Study. In December 2007, ICE and the DHS Office of Civil Rights and Civil Liberties jointly released a training module on cultural awareness and asylum issues for detention officers. USCIRF welcomed this module, the fact that it is available to all USCIS staff, and that it has been integrated into some CBP training programs. This training, however, is not mandatory for intergovernmental service agreement (IGSA) staff, who work at facilities where more than 50 percent of asylum seekers are held.

ICE in 2009 undertook steps to change many of their policies and more closely follow USCIRF's recommendations. In December 2009, ICE issued new parole guidelines for asylum seekers in Expedited Removal that are more in line with the Study's recommendations than the policy the agency had followed for the past several years. Under the new directive, parole may be granted once asylum seekers establish credible fear, identity, community ties, and that they are not security risks, unless there are "exceptional overriding factors." The directive also establishes procedures for informing all asylum seekers of their right to request parole, documenting parole decisions, and reviewing and reporting on adjudications. This directive supersedes a November 2007 ICE directive which, contrary to USCIRF's recommendations, had expanded the criteria asylum seekers must meet to be granted parole.

Until 2009, ICE was unwilling to develop alternatives to detention. Rather, contrary to USCIRF's recommendation, the use of jails and jail-like detention facilities increased after the release of the Study in 2005. ICE then responded that new performance-based standards for detention facilities had been implemented. However, since these new standards still were correction-based, they did not address USCIRF's concerns.

In the fall of 2009, ICE announced planned reforms which, if fully implemented, would address some of the problems related to the detention of asylum seekers identified in the Study and not addressed by ICE's performance-based standards. Specifically, ICE announced that it plans over the next three to five years to design facilities located and operated solely for immigration detention purposes. By the end of fiscal year 2010, DHS plans to have revised its immigration detention standards to reflect the conditions appropriate for various immigration detainee populations, to have reviewed its contracts with detention facilities to ensure that they are in compliance with the new standards, and to have devised a risk assessment and custody classification to place detainees in appropriate facilities. ICE also plans to establish an Office of Detention Policy and Planning (ODPP) to help the agency develop standards for new immigration facilities that are based on civil, not penal, models, including considerations such as access to legal services, emergency rooms and transportation hubs. DHS also plans to hire new ICE detention managers to work at and monitor facilities housing immigration detainees and create an Office of Detention Oversight to conduct more routine and random investigations of detainee grievances. Finally, ICE is forming two advisory groups (one on general policies and practices, and another on detainee health care) of local and national organizations interested in ICE's detention system. Several of these recommendations were included in an internal review of U.S. immigration detention policies issued by the Special Advisor on Detention and Removal Operations, Dora Schriro, whose position DHS Secretary Janet Napolitano created in early 2009. Special Advisor Schriro's report, released that September, identified several problems the Study also raised, including the use of correctional models for asylum seekers.

DHS has already instituted one reform of importance to USCIRF. As of September 18, 2009, ICE began housing non-criminal, non-violent populations, including asylum seekers, at less penal facilities based on risk, including Broward, and near immigration service providers.

### **U.S. Citizenship and Immigration Services (USCIS): Making Credible Fear Determinations**

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

The Study made three recommendations to USCIS: 1) subject both positive and negative credible fear findings to similar review procedures; 2) expand the existing *pro bono* program for the credible fear process to all eight asylum offices; and 3) allow Asylum Officers to grant asylum at the credible fear stage.

USCIRF commends USCIS for its April 2006 memorandum increasing quality assurance review for positive credible fear determinations, its 2007 release of an updated Asylum Officer Basic Training Course Lesson Plan, and its announcement in December 2006 that it welcomes approaches by non-governmental organizations (NGOs) to expand the existing *pro bono* legal program to the other seven asylum offices.

In 2008, DHS informed USCIRF, contrary to one of the Commission's key recommendations, that it had concluded that allowing Asylum Officers to grant asylum at the credible fear stage would be too resource-intensive, would benefit only a small number of asylum seekers and may disadvantage others, and therefore, it would not implement that recommendation.

### **Department of Homeland Security (DHS) Agency-Wide: Management and Coordination**

The Study found extensive problems with DHS's overall management and coordination of the Expedited Removal process, including insufficient quality assurance practices, inadequate data management systems, poor communication between responsible bureaus, and no mechanism to address system-wide issues. USCIRF made four recommendations to address these flaws: 1) create a high-level refugee coordinator position; 2) address implementation and coordination issues before expanding the Expedited Removal program; 3) create a reliable data management system that allows for real-time information on asylum seekers in Expedited Removal; and 4) allow Asylum Officers to grant asylum at the credible fear stage.

While former Secretary Chertoff appointed a Senior Advisor for Refugee and Asylum Policy in February 2006, no other of the USCIRF recommendations noted above were implemented. Moreover, USCIRF remains concerned that, unless supported by a fully staffed office and with the necessary authority within DHS to make needed changes, the Senior Advisor cannot implement the Study's recommendations, ensure consistent asylum policy and legal interpretations, and monitor the Expedited Removal system to ensure that reforms remain in place and problems are addressed as they arise. USCIRF is further concerned that the Senior Advisor was given the additional responsibility of addressing broader immigration reform and recently was moved under the jurisdiction of the Senior Advisor on Immigration, impairing the advisor's ability to address effectively refugee and asylum policy.

USCIRF's overarching recommendation was that Expedited Removal should not be expanded until the serious problems identified in the Study were resolved. Despite this recommendation—and the failure to resolve the problems cited in the Study—in 2006 DHS expanded Expedited Removal from a port of entry program to encompass the entire land and sea border of the United States to a distance of 100 miles inland. USCIRF has expressed concern about this expansion of Expedited Removal.

The Commission learned from the April 2006 DHS OIG Audit Report that ICE lacks data analysis capabilities to manage the detention and removal program in an efficient and effective manner. DHS has informed USCIRF that in 2008, it began using a computer program called the ENFORCE Alien Removal Module to allow for real-time tracking of asylum seekers as they moved through the Expedited Removal process. USCIRF tentatively welcomed this move, but urges regular reviews of the system to ensure that information sharing takes place.

### **Department of Justice (DOJ) Executive Office for Immigration Review (EOIR): Hearing and Reviewing Cases**

The Study found that sworn statements taken at ports of entry and the border are inaccurate and incomplete, and that credible fear determination records do not document the asylum seeker's entire claim. Nevertheless, the Study found that in 57 percent of all cases, IJs allowed sworn statements and/or

credible fear determination records to be used to impeach the asylum seeker. In 39 percent of all cases, the IJs cited these documents in denying the claim. The Study also found that one in four asylum seekers who are represented by *pro bono* attorneys are granted asylum, compared to only one in 40 unrepresented asylum seekers. The U.S. Government Accountability Office (GAO) also has found that having an attorney more than doubled an asylum seeker's chance of being granted asylum.

The outcome of an asylum seeker's case depends largely on chance; namely, the IJ who happens to be assigned to hear the case. Among IJs sitting in the same city who hear a significant number of asylum cases, the Study found that some grant almost zero percent of the applications, while others grant 80 percent. The GAO found similar discrepancies. Of the asylum cases appealed to the BIA, only two to four percent were reversed. Of particular concern is the use of "summary affirmances without opinion," whereby a single Board member can endorse an IJ decision without providing a reasoned written opinion discussing the issues raised on appeal. This practice, while allowing the Board to work through some of its backlog, can reduce confidence in the rigor of the Board's review and has led to an increase in appeals of BIA decisions to federal circuit courts. Another drawback of summary affirmances is that they do not provide any guidance to IJs, since the Board does not correct any errors other than those requiring reversal of the decision.

USCIRF made six recommendations to improve consistency in asylum determinations by IJs: 1) reinstate funding for immigration judge training; 2) expand the Legal Orientation Program (LOP), conducted by NGOs under EOIR's direction in order to provide legal information to detained aliens, improve their access to *pro bono* counsel, reduce detention costs, and increase immigration cost efficiency; 3) improve the quality of immigration court decisions; 4) work with ICE to ensure that detained aliens in Expedited Removal, including those who have not been referred for a credible fear determination, have access to legal service providers; 5) improve administrative review of asylum appeals; and 6) allow Asylum Officers to grant asylum at the credible fear stage.

USCIRF welcomes the efforts EOIR has made to address the concerns raised in the Study. In August 2006, DOJ made a number of reforms based on USCIRF's recommendations including: implementing performance and supervision measures to promote better consistency and quality of IJ decisions; improving and increasing the explanation of BIA decisions; increasing training of IJs, BIA members, and EOIR staff; and expanding and improving EOIR's *pro bono* programs.

EOIR also has increased training opportunities provided to all IJs, including some country-specific trainings; expanded training and mentorship opportunities for new judges; and provided judges with more resource materials. In August 2006, 2007, and 2009, all IJs participated in a five-day training conference, which included presentations on religious freedom by USCIRF and the State Department's Office of International Religious Freedom, and mandatory workshops on asylum law and procedures and improving oral decisions. Additionally, a one-week training course for new IJs was held in March 2007 that included lectures on asylum, withholding of removal and protection under the Convention against Torture, a discussion of credibility issues, and a mock asylum hearing.

USCIRF was pleased to learn that EOIR in January 2007 doubled the number of LOP sites from six to 12, with an additional four pilot sites for unaccompanied minors in the custody of the Office of Refugee Resettlement. The Commission has further learned that 13 new LOP sites were opened in 2008, and that EOIR formed a *pro bono* committee to oversee expansion and improvement of its *pro bono* programs.

USCIRF further notes that the BIA has decreased the number of summary affirmances and also has added new Board members. It continues to urge the BIA to increase the number of written opinions in asylum cases.

## **Congressional Action**

Members of Congress have long sought to address problems in the U.S. government's treatment of asylum seekers. Two bills introduced in the Senate in 2009 that would significantly reform the system by which asylum seekers are detained reflect key USCIRF recommendations. In the 111<sup>th</sup> Congress, Senators Joseph Lieberman (I-CT), Edward Kennedy (D-MA), and Daniel Akaka (D-HI) introduced S. 1594, the Secure and Safe Detention and Asylum Act, earlier versions of which were introduced in 2006, 2007, and 2008. Senators Patrick Leahy (D-VT) and Carl Levin (D-MI) introduced S. 3113, the Refugee Protection Act of 2010. Both bills would increase protections for asylum seekers and address flaws in the conditions under which they are detained. Both bills also would authorize USCIRF to undertake another study on the effect of Expedited Removal provisions, practice and procedures on asylum claimants.

## **Recommendations**

### **I. Recommendations to the Department of Homeland Security**

The Department of Homeland Security should:

- maintain and strengthen the position of Senior Advisor for Refugee and Asylum Affairs, including giving the position the necessary status and resources, including staff, to coordinate DHS policy and regulations and monitor the implementation of procedures affecting refugees or asylum seekers, particularly those in Expedited Removal, and tasking this position only with addressing refugee and asylum policy, not broader immigration reform efforts;
- ensure that, as planned, revised immigration detention facilities and standards reflect the conditions appropriate for asylum seekers and review contracts with detention facilities to ensure that they are in compliance with the new standards;
- decrease the use of jails and jail-like facilities to detain asylum seekers, develop a small number of centrally-managed facilities specific to and appropriate for these individuals, and ensure that asylum seekers are placed in these appropriate centers;
- allow asylum officers to grant asylum to asylum seekers in Expedited Removal at the time of the credible fear interview, just as they are already trained and authorized to do for other asylum seekers;
- ensure that parole criteria are applied consistently nation-wide;
- require intergovernmental service agreement (IGSA) staff to take the training course on cultural awareness and the unique characteristics of asylum seekers developed by the Office of Civil Rights and Civil Liberties, and continue to require that this course be taken by personnel at Contract Detention Facilities;
- expand and enhance the videotape systems currently used at only two locations to all major ports of entry and Border Patrol stations to record all secondary interviews, and employ undercover "testers" to verify that Expedited Removal procedures are being properly followed;
- require CBP and Border Protection to include an explanation on Sworn Statement Form I-867B stating the document's purpose and limitations, and conduct training for immigration judges and other DHS personnel on the statement as offered in the past;

- monitor more vigorously current DHS procedures concerning the administration of the Forms I-867A and B;
- exercise the discretion to not place a properly documented alien in Expedited Removal and mandatory detention when the sole basis for doing so is the alien's expression of a desire to apply for asylum at the port of entry;
- continue to work with the EOIR within the DOJ to ensure that detained asylum seekers in Expedited Removal, including those who have not been referred for a credible fear determination, have access to legal service providers.

## **II. Recommendations to the Department of Justice**

The Department of Justice should:

- expand existing *pro bono* legal programs for the credible fear process from Arlington, Virginia, San Francisco, California, and Atlanta, Georgia, to all eight asylum offices;
- increase funding for IJ training;
- continue to expand the LOP nationwide, in partnership with NGOs, and further expand the program to asylum seekers not yet in proceedings;
- continue to work with ICE t within DHS to ensure that detained asylum seekers in Expedited Removal, including those who have not been referred for a credible fear determination, have access to legal service providers;
- continue to improve the quality of immigration court decisions through training IJs and the decreased use of summary affirmances; and
- continue to improve administrative review of asylum appeals.

## APPENDIX 1

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

#### **Leonard A. Leo, Chair**

Leonard A. Leo serves as the Executive Vice President of the Federalist Society for Law & Public Policy Studies, an organization of over 40,000 conservatives and libertarians dedicated to limited, constitutional government and interested in the current state of the legal order. He manages the projects, programs and publications of the Lawyers Division. He also helps manage the Federalist Society's government, media, and corporate relations, as well as special initiatives such as the organization's Supreme Court Project and International Law Project.

Mr. Leo has participated actively in a number of international forums. He served as a U.S. delegate to the UN Commission on Human Rights in 2005, has been an observer to the World Intellectual Property Organization, participated in two World Health Organization delegations in 2007, and is involved with the U.S. National Commission to UNESCO.

Mr. Leo has published articles on religious liberty under the U.S. Constitution, presidential war powers, executive privilege, legislative responses to judicial activism, property rights, and several federal civil procedure issues. With James Taranto of *The Wall Street Journal*, he is the co-editor of *Presidential Leadership: Rating the Best and Worst in the White House* (Simon & Shuster, 2004).

Mr. Leo received his undergraduate degree with high honors from Cornell University in 1987 and his law degree from Cornell Law School with honors in 1989.

Mr. Leo is active in the affairs of the Catholic Church, serving as a member of the Sovereign Military Order of Malta and a member of the board of the National Catholic Prayer Breakfast.

Commissioner Leo was first appointed to the Commission in 2007 and reappointed in August 2008 by President George W. Bush.

#### **Michael Cromartie, Vice Chair**

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

Mr. Cromartie has contributed book reviews and articles to *First Things*, *Books and Culture*, *The Washington Post*, the *Washington Times*, *The Reformed Journal*, *Insight*, *Christianity Today*, *Stewardship Journal*, and *World*. He is the editor of 16 books including, most recently, *Religion, Culture, and International Conflict: A Conversation*; *Religion and Politics in America: A Conversation*; and *A Public Faith: Evangelicals and Civic Engagement*.

He is an advisory editor at *Christianity Today* and an adjunct professor at Reformed Theological Seminary, and was an advisor to the PBS documentary series “With God on Our Side: The Rise of the Christian Right in America.”

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

Mr. Cromartie served as chair of the Commission for 2005-06 and for 2007-08. He was appointed to the Commission in September 2004 by President George W. Bush and reappointed in May 2006 and August 2008 by President Bush.

#### **Dr. Elizabeth H. Prodromou, Vice Chair**

Dr. Elizabeth H. Prodromou is Asst. Professor in the Department of International Relations at Boston University, where she is also the Coordinator of the M.A. Program in International Relations and Religion and a Research Associate at the Institute on Culture, Religion and World Affairs. She holds a Ph.D. and an M.S. in Political Science from the Massachusetts Institute of Technology; she received her M.A.L.D. from The Fletcher School of Law and Diplomacy, as well as a B.A. in International Relations and History from Tufts University.

She has published widely on issues of religion and human rights, democracy, and security in Europe and the United States. Her publications have appeared in scholarly and policy journals, such as *European Journal of Political Research*, *Social Compass*, *Journal of the American Academy of Religion*, *Journal of Democracy*, *Orbis*, *Survival*, and *Journal of Faith & International Affairs*, as well as in numerous edited volumes on human rights and religious freedom and on politics and culture in Southeastern Europe.

She has a forthcoming book dealing with religion and politics (a monograph on Church-State Relations in Greece: Pluralism, Democracy and European Integration), and has published the volume (as co-editor and contributor) *Thinking through Faith: Perspectives from Orthodox Christian Scholars*.

A regional expert on Southeastern Europe and the Eastern Mediterranean, Dr. Prodromou has been an invited policy consultant in the U.S., with the U.S. National Intelligence Council, Department of State, Defense Intelligence Agency, and Central Intelligence Agency; and in Europe, with NATO and Ministries and non-governmental organizations in various EU member-states.

She was appointed to the Commission in October 2004 by now-Speaker of the House and Congresswoman Nancy Pelosi (D-CA) and is serving her third term as Commissioner. She is currently Vice Chair for 2009-2010, and previously served as Vice Chair for 2008-2009 and 2006-2007.

#### **Dr. Don Argue**

Don Argue, Ed.D., was appointed Chancellor of Northwest University in Kirkland, Washington, on August 15, 2007, after serving as President of Northwest for nine years. During his tenure as President, Northwest experienced substantial growth, including an increase in the number of faculty and

the addition of 14 new buildings, including the Center for Graduate and Professional Studies and the Health and Sciences Center. During his tenure, enrollment also grew by 52 percent.

Dr. Argue previously served as president of the National Association of Evangelicals (NAE). The NAE is comprised of approximately 42,500 congregations nationwide from 51 member denominations, and individual congregations from an additional 26 denominations, as well as several hundred independent churches.

He also served as President of North Central University in Minneapolis, Minnesota, for 16 years. Under his leadership, the university received the *Christianity Today* “Decade of Growth Award” in recognition of being the fastest-growing college of its kind in the nation.

Dr. Argue earned a Bachelor’s degree at Central Bible College in Springfield, Missouri, a Master's degree at Santa Clara University in Santa Clara, California, and a Doctorate in Education at the University of the Pacific in Stockton, California.

President Bill Clinton and Secretary of State Madeleine Albright invited Dr. Argue to serve on the President's Advisory Committee on International Religious Freedom, for which he chaired the subcommittee dealing with international religious persecution.

President Clinton appointed Dr. Argue, Theodore Cardinal McCarrick (Washington, D.C.) and Rabbi Arthur Schneier (New York City, New York) to the first official delegation of religious leaders from the United States to visit The People's Republic of China to discuss religious freedom and religious persecution with high-ranking officials including President Jiang Zemin.

Dr. Argue has served as pastor of churches in Missouri and California.

Dr. Argue was appointed to the Commission by Senate Majority Leader Harry Reid (D-NV) in 2007.

### **Imam Talal Y. Eid**

Imam Dr. Talal Y. Eid is Founder and Executive/Religious Director of the Islamic Institute of Boston. He is also the Muslim chaplain at Brandeis University and at the Massachusetts General Hospital. He is Adjunct Professor of Arts of Ministry at Hartford Seminary. A native of Lebanon, he served as Imam at Al-Naaser Mosque in Tripoli for six years and as Imam and Religious Director of the Islamic Center of New England (MA) for 23 years.

Imam Eid earned a Master of Theological Studies (MTS) in 1991 from Harvard Divinity School, where he also earned his Doctor of Theology (Th.D.) in Comparative Religion in 2005. He wrote his thesis on “Marriage, Divorce, and Child Custody as Experienced by American Muslims: Religious, Social, and Legal Considerations.” Imam Eid also holds a degree in Islamic Law (sharia), which he received in 1974 from Al-Azhar University in Cairo, Egypt.

Imam Eid is a well-known Muslim scholar, activist, and lecturer on Islam and Muslims, and on Christian, Jewish, and Muslim relations in North America and around the globe. He promotes the knowledge of Islam through local and national radio and television programs, and through articles published in local and national magazines. He is a marital and family therapist and acts as an expert consultant on Islamic law, including on issues of marital dispute, marital violence, divorce, and child custody.

Imam Eid has served for a period of 20 years as the Chairman of Majlis Ash-Shura (Committee on Islamic Consultation) of the Islamic Council of New England in Massachusetts. He is also a member of the Quincy and Boston Clergy associations. He co-chaired the *Archives for Historical Documentation* of Boston, Massachusetts. He has received recognition awards from many local and national institutions, including the Massachusetts State Senate; the office of the District Attorney of Norfolk, Massachusetts; the Quincy (MA) City Council; the Quincy Human Rights Commission, Partners in Excellence Award (MGH); and Toastmasters International.

Imam Eid was appointed to the Commission by President George W. Bush in May 2007.

### **Felice D. Gaer**

Felice D. Gaer directs the Jacob Blaustein Institute for the Advancement of Human Rights of the American Jewish Committee, which conducts research and advocacy to strengthen international human rights protections and institutions worldwide.

Gaer was a 2010 Regents Professor at the University of California at Los Angeles (UCLA). She was and remains the first American to serve as an Independent Expert on the UN Committee against Torture, a body which monitors compliance of 146 countries with the Convention against Torture. Ms. Gaer has been a member of the Committee since she was nominated by the Clinton Administration in 1999, and has been elected to three terms on it, serving as Vice Chair (2004-2006), as General Rapporteur (2006-2008), and as year-round Rapporteur on Follow-up to Country Conclusions (2003 to present).

In 2010, Gaer was awarded the National Religious Freedom award by the First Freedom Center in Richmond, Virginia. Encyclopedia Judaica describes Ms. Gaer as having “played the key role in assuring passage by consensus of the UN General Assembly’s first-ever condemnation of anti-Semitism” in 1998, and being an “architect of many initiatives linking women’s rights to human rights.”

Ms. Gaer writes and lectures widely on U.S. and UN human rights policy, addressing issues including protecting civilians under threat, advancing the human rights of women, eradicating religious persecution abroad, resolving ethnic conflicts, and preventing genocide. One of the first to call for the issue of rape in armed conflicts to be addressed by the international war crimes tribunal on former Yugoslavia, she was a key negotiator on the U.S. delegation to the Beijing World Conference on Women. Two recent articles on freedom of religion and human rights include “Echoes of the Future? Religious Repression as a Challenge to US Human Rights Policy” in the volume, *The Future of Human Rights: US Policy for a New Era* (U. of Penn. Press, 2008), and “Religious Freedom,” in the *Encyclopedia of Human Rights*, (Oxford Univ. Press, 2009).

In 2009, the Obama Administration asked Ms. Gaer to serve on a delegation to the UN in Geneva to assess the Durban Review Conference negotiations, and to be a delegate to the UN Commission on the Status of Women. Ms. Gaer was a public member of nine U.S. delegations to UN human rights negotiations, including the Commission on Human Rights and the Beijing World Conference on Women in the 1990s. More recently, she served on several OSCE delegations in her capacities as Chair or Vice Chair of the Commission.

A member of the Council on Foreign Relations, Ms. Gaer serves on the advisory committee of Human Rights Watch/Europe and Central Asia. She is a member of the board of the Andrei Sakharov Foundation and the Franklin and Eleanor Roosevelt Institute. In 2002 and 2003 she was cited in the annual Forward 50 list of Jewish Americans who are making a difference.

Ms. Gaer is a graduate of Wellesley College, from which she received the Alumni Achievement Award in 1995. She also received advanced degrees from Columbia University.

Ms. Gaer, who has served on the Commission since 2001, including three times as Chair, three times as Vice Chair, and one time on the Executive Committee, was appointed by now-Speaker of the House and Congresswoman Nancy Pelosi (D-CA).

### **Dr. Richard D. Land**

Richard Land has served as president of the Southern Baptist Convention's Ethics & Religious Liberty Commission since 1988. During his tenure as representative for the largest Protestant denomination in the country, Dr. Land has represented Southern Baptist and other Evangelicals' interests in the halls of Congress, before U.S. Presidents, and in the major media.

As host of *For Faith & Family*, *For Faith & Family's Insight* and *Richard Land Live!*, three nationally syndicated radio programs, Dr. Land has spoken widely on the social, ethical, and public policy issues facing the United States. He is also Executive Editor of *FFV*, a national magazine dedicated to coverage of traditional religious values, Christian ethics, and cultural trends.

Dr. Land was featured in *Time* magazine in 2005 as one of "The Twenty-five Most Influential Evangelicals in America." The previous year, he was recognized by the *National Journal* as one of the 10 top church-state experts "politicians will call on when they get serious about addressing an important public policy issue."

Dr. Land's latest book is *The Divided States of America? What Liberals and Conservatives Are Missing in the God-and-Country Shouting Match* (2007). Dr. Land has also recently authored *Imagine! A God-Blessed America* (2005) and *Real Homeland Security: The America God Will Bless* (2004). He earned his A.B. *magna cum laude* at Princeton University and his D.Phil. at Oxford University.

Then-Senate Majority Leader Bill Frist (R-TN) reappointed Dr. Land to the Commission in 2005. President George W. Bush selected him for his two previous terms at the Commission (September 2001 to September 2004). Dr. Land was reappointed in October 2007 by Senate Republican leader Mitch McConnell (R-KY).

Dr. Land served as Vice Chair of the Commission for 2007-2008.

### **Nina Shea**

An international human-rights lawyer for 25 years, Nina Shea joined Hudson Institute as a senior scholar, where she directs the Center for Religious Freedom, in November 2006.

For the 10 years prior to joining Hudson, Ms. Shea worked at Freedom House, where she directed the Center for Religious Freedom, an office which she had helped found in 1986 as the Puebla Institute.

Ms. Shea has served as a Commissioner since the Commission's founding in 1999. She was appointed as a U.S. delegate to the United Nations' Commission on Human Rights by both Republican and Democratic administrations.

For over a decade, she has worked extensively for the advancement of individual religious freedom and other human rights in U.S. foreign policy as it confronts Islamist extremism, as well as authoritarian regimes. For seven years, until 2005, she helped organize and lead a coalition of churches and religious groups that worked to end a religious war against Christians, traditional African believers, and dissident Muslims in southern Sudan; in 2004 and 2005, she contributed to the drafting of the Iraqi Constitution's religious freedom provision; and she authored and edited two widely acclaimed reports, *Saudi Arabia's Curriculum of Intolerance* (2006) and *Saudi Publications on Hate Ideology Invade American Mosques* (2005), both of which translated and analyzed Saudi governmental publications that teach hatred and violence against the religious "other." She regularly presents testimony before Congress, delivers public lectures, organizes briefings and conferences, and writes frequently on religious freedom issues. Her 1997 book on anti-Christian persecution, *In the Lion's Den*, remains a standard in the field.

In January 2009, Ms. Shea was appointed as a commissioner on the U.S. National Commission to UNESCO.

Ms. Shea is a member of the bar of the District of Columbia. She is a graduate of Smith College and American University's Washington College of Law.

Commissioner Shea was first appointed to the Commission in 1999 by then-Speaker of the House Dennis Hastert (R-IL) and was reappointed in July 2007 by Rep. John Boehner (R-OH).

**APPENDIX 2**  
**THE INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998<sup>30</sup>**

**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<sup>31</sup> 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.

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<sup>30</sup> P.L. 105-292, as amended, 22 U.S.C. § 6401, et seq. The full text of IRFA can be found on the Commission’s Web site, [www.uscirf.gov](http://www.uscirf.gov).

<sup>31</sup> The authority to make decisions and take actions under IRFA has been delegated by the President to the Secretary of State.

**Section 405. DESCRIPTION OF PRESIDENTIAL ACTIONS (22 U.S.C. § 6445)**

[With respect to each country named a “country of particular concern” (CPC), the President shall, according to section 402(c)(1)(a) and, in general, following an attempt to carry out consultations with the foreign government in question, carry out one or more of the actions described in paragraphs (9) through (15) of section 405(a), as determined by the President. The President may substitute a commensurate action. IRFA § 405(b).]

- 405(a)(9) The withdrawal, limitation, or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act of 1961;
- 405(a)(10) Directing the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the Trade and Development Agency not to approve the issuance of any (or a specified number of ) guarantees, insurance, extensions of credit, or participations in the extension of credit with respect to the specific government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402;
- 405(a)(11) The withdrawal, limitation, or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act of 1961;
- 405(a)(12) Consistent with section 701 of the International Financial Institutions Act of 1977, directing the United States executive directors of international financial institutions to oppose and vote against loans primarily benefiting the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402;
- 405(a)(13) Ordering the heads of the appropriate United States agencies not to issue any (or a specified number of ) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402, under—
  - (A) the Export Administration Act of 1979;
  - (B) the Arms Export Control Act;
  - (C) the Atomic Energy Act of 1954; or
  - (D) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services;
- 405(a)(14) Prohibiting any United States financial institution from making loans or providing credits totaling more than \$10,000,000 in any 12-month period to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402; and/or
- 405(a)(15) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from the foreign government, entities, or officials found or determined by the President to be responsible for violations under section 401 or 402.

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

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

(a) In General.--Subject to subsection (b), the President may waive the application of any of the actions described in paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution

thereto) with respect to a country, if the President determines and so reports to the appropriate congressional committees that--

- (1) the respective foreign government has ceased the violations giving rise to the Presidential action;
- (2) the exercise of such waiver authority would further the purposes of this Act; or
- (3) the important national interest of the United States requires the exercise of such waiver authority.

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

### APPENDIX 3

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

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

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

- **Universal Declaration of Human Rights 1948 (UDHR), Art. 18:**

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

- **International Covenant on Civil and Political Rights 1966 (ICCPR), Art. 18:**

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

- In general, according to the UN Human Rights Committee (HRC), the treaty body that reviews compliance with the ICCPR, Article 18 of the ICCPR protects:

theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms "belief" and "religion" are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community.

—*Human Rights Committee (HRC) General Comment No. 22*

- **European Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (ECHR), Art. 9:**

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

- **Helsinki Final Act 1975, Principle VII:**

The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

- **UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief 1981** (UN 1981 Dec.), Art. 1:

(1) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or belief in worship, observance, practice and teaching. (2) No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice. (3) Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

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

### **1. Freedom to Change One's Religion or Belief**

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

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

[ICCPR Art. 18(1)]

- Necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief;
- No limitations permitted on this freedom; and
- No individual shall be compelled to reveal his or her thoughts or adherence to a religion or belief.  
—*HRC General Comment No. 22 (paras. 3, 5)*

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

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

- No limitations are permitted on this freedom.
- The same protection is enjoyed by holders of all beliefs of a non-religious nature.
- Examples of impermissible coercion that would impair the right to have or adopt a religion or belief include:
  - (a) The use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to specific beliefs and congregations, to recant their religion or belief, or to convert; and
  - (b) Policies or practices having the same intention or effect, such as, for example, those restricting political rights protected under article 25 of the ICCPR or access to education, medical care or employment

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

### **4. Freedom to Manifest Religion or Belief in Worship, Observance, Practice, and Teaching**

[UDHR, Art. 18, ICCPR, Art. 18(1), UN 1981 Dec., Art. 1, OSCE Vienna Document, Art. 16(d)]

- This freedom may be exercised in public or in private, individually or in community with others.
- This freedom, at a minimum, encompasses the following freedoms:
  - (a) To worship or assemble in connection with a religion or belief, and to establish and maintain, including the building of places of worship, freely accessible places for these purposes;

- (b) To establish and maintain appropriate charitable or humanitarian institutions, and seminaries or religious schools;
- (c) To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief, including the use of ritual formulae and objects, the display of symbols, observance of dietary regulations, the wearing of distinctive clothing or head coverings, participation in rituals associated with certain stages of life, and the use of a particular language customarily spoken by a group;
- (d) To write, issue and disseminate relevant publications in these areas;
- (e) To teach a religion or belief in places suitable for these purposes;
- (f) To solicit and receive voluntary financial and other contributions from individuals and institutions;
- (g) To organize, train, appoint, elect, designate by succession, or replace appropriate leaders, priests and teachers called for by the requirements and standards of any religion or belief;
- (h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief; and
- (i) To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.<sup>32</sup>

### 5. Permissible Limitations on the Freedom to Manifest Religion or Belief

[ICCPR, Art. 18(3) and UN 1981 Dec., Art. 1(3)]

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

- No derogation<sup>33</sup> may be made from freedom of thought, conscience and religion, even during “time of public emergency which threatens the life of the nation.” (*ICCPR, Art. 4(2) and UDHR, Arts. 29 & 30*)
- Limitations must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in article 18.
- Paragraph 3 of article 18 is to be strictly interpreted: limitations are not allowed on grounds not specified there, even if they would be allowed as limitations to other rights protected in the Covenant (for example, a limitation based on national security is impermissible).
- Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated.
- Limitations may not be imposed for discriminatory purposes or applied in a discriminatory manner.
- Limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition or religion.
- Persons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint.  
—*HRC General Comment No. 22 (para. 8)*
- Nothing in the UDHR shall be interpreted as implying for any State, group, or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth therein.  
— *UDHR Art. 30*

<sup>32</sup> See Para. 4, UN HRC General Comment No. 22; Art. 6, UN 1981 Dec.; Art. 16(h-j), Vienna Document.

<sup>33</sup> Derogation of rights is different than a limitation. Under the ICCPR, a state can, in a case of war or serious public emergency, take measures that limit the applicability of certain rights for the period of the emergency. Such measures could go well beyond the scope of limitations to rights that are permissible at any other time.

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

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

- In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language  
—*ICCPR, Article 27*
- States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories, shall encourage conditions for the promotion of that identity, and shall adopt appropriate legislative and other measures to achieve those ends.  
—*UN Declaration on the Rights of Minorities*
- The State “will protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory. They will respect the free exercise of rights by persons belonging to such minorities and ensure their full equality with others.”  
—*OSCE Vienna Document*

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

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

This right includes the following components:

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

[ICCPR Art. 2(1)]

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

[ICCPR, Art. 26]

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

[ICCPR, Art. 26]

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

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

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

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

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

- States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.
- States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination.
- States shall take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.
- Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all nations, racial or religious groups ....
- State parties will “foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers.”

—UN 1981 Dec., Arts. 4(1) and 4(2)

—*UDHR Art. 26(2)*

—*OSCE Vienna Document, principle 16b*

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

[ICCPR, Art. 20]

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

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

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

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

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

—*United States reservation to ICCPR Art. 20*

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

—*OSCE Copenhagen Document*

- States commit themselves to take appropriate and proportionate measures to protect persons or groups who may be subject to threats or acts of discrimination, hostility or violence as a result of their racial, ethnic, cultural, linguistic or religious identity, and to protect their property;

—*OSCE Copenhagen Document*

## **E. THE RIGHTS OF PARENTS IN RELATION TO FREEDOM OF RELIGION OR BELIEF**

[ICCPR Art. 18(4), OSCE Vienna Document Art. 16(f) and 16(g)]

- State Parties undertake to respect the liberty of parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

—*ICCPR Article 18(4)*

- The liberty of parents and guardians to ensure religious and moral education cannot be restricted.
- Public school instruction in subjects such as the general history of religions and ethics is permitted if it is given in a neutral and objective way.
- Public education that includes instruction in a particular religion or belief is inconsistent with ICCPR Art. 18 (4) unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.

—*HRC General Comment No. 22 (paras. 6 & 8)*

- Parents or legal guardians have the right to organize family life in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.
- Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.
- The child shall be protected from any form of discrimination on the ground of religion or belief.
- In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.
- Practices of a religion or belief in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account article 1(3) of the present Declaration.

—*UN 1981 Dec., art. 5*

## **F. FURTHER ELABORATION ON SELECTED TOPICS**

### **1. Obligation to Ensure Rights/Provide Remedies for Violations**

[ICCPR Arts. 2(2) and 2(3), UDHR Art. 8, UN 1981 Dec. Art. 7]

The ICCPR requires State parties to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the Covenant. This obligation includes ensuring:

- effective remedies for any person whose rights or freedoms are violated;
- that such remedies are determined by competent judicial, administrative or legislative authorities; and
- that such remedies are enforced when granted.

### **2. Relationship between Religion and the State**

- The fact that a religion is recognized as a state religion or established as official or traditional, or that its followers comprise the majority of the population, shall not result in any impairment of

the enjoyment of any of the rights under the ICCPR, nor in any discrimination against adherents to other religions or non-believers.

- In particular, measures restricting eligibility for government service to members of the predominant religion, or giving economic privileges to them, or imposing special restrictions on the practice of other faiths are not in accordance with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under ICCPR article 26.
- If a set of beliefs is treated as official ideology in constitutions, statutes, proclamations of ruling parties, etc., or in actual practice, this shall not result in any impairment of the freedoms under article 18 or any other rights recognized under the ICCPR nor in any discrimination against persons who do not accept the official ideology or who oppose it.  
—*HRC General Comment No. 22 (para. 9)*
- State parties are required to grant communities of believers, practicing or prepared to practice their faith within constitutional boundaries, “recognition of the status provided for them in their respective countries.”  
—*OSCE Vienna Document*

### 3. Women’s Equal Right to Freedom of Religion or Belief

- The principle of non-discrimination is so basic that each State party is obligated to ensure the equal right of men and women to the enjoyment of the rights set forth in the ICCPR.  
—*HRC General Comment No. 18 (para. 2)*
- Inequality in the enjoyment of rights by women throughout the world is deeply embedded in tradition, history and culture, including religious attitudes. The subordinate role of women in some countries is illustrated by the high incidence of prenatal sex selection and abortion of female fetuses. States parties should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women’s right to equality before the law and to equal enjoyment of all ICCPR rights.
- State parties should report and provide data on a number of issues related to religion and women’s rights, including:
  - pregnancy- and childbirth-related deaths of women, as well as gender-disaggregated data on infant mortality rates;
  - information on the extent of any practice of genital mutilation, and on measures to eliminate it;
  - measures to protect women from practices that violate their right to life, such as female infanticide, the burning of widows and dowry killings;
  - regulation of clothing to be worn by women in public; and
  - whether women may give evidence as witnesses on the same terms as men; whether measures are taken to ensure women equal access to legal aid, in particular in family matters; and whether certain categories of women are denied the enjoyment of the presumption of innocence.
- Freedoms protected by article 18 must not be subject to restrictions other than those authorized by the ICCPR and must not be constrained by, inter alia, rules requiring permission from third parties, or by interference from fathers, husbands, brothers or others. Article 18 may not be relied upon to justify discrimination against women by reference to freedom of thought, conscience and religion;
- The commission of so-called “honor crimes” which remain unpunished constitutes a serious violation of the ICCPR and laws which impose more severe penalties on women than on men for adultery or other offences also violate the requirement of equal treatment.  
—*HRC General Comment No. 28 (paras. 5, 10, 11, 13, 18, 21, 31)*
- Certain religious practices have an adverse effect on women’s rights. These practices include :

- cultural stereotypes, including preference for male children, religious extremism, and regulation of women's clothing;
- discrimination in medical well-being, including genital mutilation, traditional childbirth practices, and dietary restrictions;
- discrimination resulting from the condition of women within the family, including practices related to marriage and divorce (e.g.: polygamy, family planning, division of responsibilities);
- discrimination related to transmission of nationality;
- discrimination related to inheritance and independent management of finances;
- discrimination related to right to life, including infanticide, cruel treatment of widows, and honor crimes,
- attacks on dignity, including sexual abuse;
- social ostracism, including denial of the right to education, and denial of access to professional fields such as politics and religion; and
- aggravated discrimination against women who also are members of a minority community.

To ensure that freedom of religion does not undermine the rights of women, it is essential that this freedom not be understood as a right of indifference with respect to the status of women.

—*UN Special Rapporteur on Freedom of Religion or Belief, Study on Freedom of Religion or Belief and the Status of Women with Regard to Religion and Traditions (Amor Report)*<sup>34</sup>

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<sup>34</sup> Commission staff translation.