



# UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

ANNUAL REPORT 2011



**Annual Report of the**  
**United States Commission on International Religious Freedom**  
**May 2011**  
**(Covering April 1, 2010 – March 31, 2011)**

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Front Cover: KHUSHPUR, Pakistan, March 4, 2011 – Pakistanis carry the coffin of Shahbaz Bhatti, Pakistan's slain minister of minorities, who was assassinated March 2 by the Pakistani Taliban for campaigning against the country's blasphemy laws. Bhatti, 42, a close friend of USCIRF, warned in a Washington visit just one month before his death that he had received numerous death threats. More than 15,000 persons attended his funeral. (Photo by Aamir Qureshi/AFP/Getty Images)

Back Cover: JUBA, Sudan, January 9, 2011 – Southern Sudanese line up at dawn in the first hours of the week-long independence referendum to create the world's newest state. The referendum vote was the final milestone in the implementation of the 2005 Comprehensive Peace Agreement, which ended more than 20 years of north-south civil war in Sudan. (Photo by Roberto Schmidt/AFP/Getty Images)

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The 2011 Annual Report is dedicated to the memory of Shahbaz Bhatti, the Pakistani Federal Minister for Minorities Affairs. Shahbaz was a courageous advocate for the religious freedoms of all Pakistanis, and he was assassinated on March 2 by the Pakistani Taliban for those efforts.



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## INTRODUCTION

In January of this year, the world witnessed a stunning triumph for the right to freedom of religion or belief when the people of southern Sudan voted on a historic referendum on independence. The referendum resulted from a peace agreement signed in 2005 which ended the 20-year north/south civil war which had been triggered by the Khartoum regime's militant attempts to impose its radical version of Islam on southern Sudanese Christians and animists.

Religious freedom won another victory in March when the UN Human Rights Council rebuffed a drive for an international blasphemy law, instead adopting a resolution against religious intolerance that excluded the infamous "defamation-of-religions" language of prior years.

Both of these developments were the fruit of years of intensive effort by the United States Commission on International Religious Freedom (USCIRF), as well as members of Congress and the executive branch.

These triumphs notwithstanding, USCIRF documented severe violations of religious freedom and related human rights over the past year. Three weeks before the UN Human Rights Council's action concerning blasphemy, Shahbaz Bhatti, a Christian who was Pakistan's Minister for Minority Affairs and a longtime champion of religious freedom for all people, was assassinated for opposing his own country's blasphemy law. Bhatti's murder followed the assassination in January of another Pakistani government official, Punjab Governor Salman Taseer, a Muslim, for similar opposition.

These terrible murders signify an alarming rise in religiously-related violence that governments have failed to redress through effective investigation, prosecution, and punishment of the perpetrators. Fueled by blasphemy laws that encourage vigilante attacks on perceived violators, this problem of impunity has shown no sign of subsiding over the past year, and, in many places, it has worsened considerably.

With public attention focused on the unfolding political drama in Egypt, a number of world leaders, including President Obama and Pope Benedict XVI, have expressed serious concern about the dramatic upsurge in attacks against that nation's largest religious minority, the Coptic Orthodox Christian community. Since 2008, the Copts have endured dozens of assaults, including the 2011 New Year's Day church bombing in Alexandria, the worst sectarian strike against Egypt's Christians in a decade, leaving at least 23 dead and scores wounded.

For years, President Hosni Mubarak's government tolerated widespread discrimination against religious minorities, from Copts to Baha'is and dissident Muslims, while allowing state-controlled media and state-funded mosques to deliver incendiary messages against them. Materials vilifying Jews have appeared regularly in the state-controlled and semi-official media. Egypt's government not only neglected to protect religious minorities against violence, but failed to punish those responsible for it. In late February 2011, an emergency court acquitted two of three individuals indicted in last year's drive-by shooting of six Christians and a Muslim guard in Naga Hammadi on Coptic Christmas Eve. Even since Mubarak's departure, conditions have failed to improve.

In Nigeria, Muslims and Christians remain locked in escalating cycles of violence. On Christmas Eve of 2010, churches were attacked in Madiuguri, allegedly by Muslim militants, killing a pastor and others. This was accompanied by bombings in Jos which killed 32 people and injured at least 70. Bouts of retributive violence followed, raising Jos' toll of the dead and injured higher. Earlier that year, in April 2010, Christian youth barricaded a road in Riyom Local Government Authority, stopped vehicles, and killed seven people after interrogating passengers on their religious and ethnic identity. Nigeria's government has failed even to attempt to stem the violence by bringing the perpetrators of these atrocities to justice.



Christians, Mandaean, Yazidis, and other vulnerable religious minorities in Iraq face similar problems to those in Egypt, and the government's failure to protect them against attacks or to bring the guilty to justice has created a climate of impunity which clouds their future.

Since 2004, members of these minorities have been kidnapped, raped, tortured, beheaded, and evicted from their homes. Christians have seen their churches repeatedly bombed. The worst single attack against Christians was launched on October 31, 2010, during Sunday Mass. An al Qaeda affiliate assaulted Our Lady of Perpetual Help Church in Baghdad, killing or wounding nearly all of the more than 100 worshippers inside. Wijdan Michael, then Iraq's human rights minister and a Christian, said that the goal of the perpetrators was "to empty Iraq of Christians." Since 2004, there has been a mass exodus of Christians from Iraq, reducing its Christian community by more than half. Significant declines also have occurred among smaller religious minorities such as the Yazidis and also the Mandaean, who have lost more than 80 percent of their members, mostly through emigration.

In Pakistan, the government has similarly failed to protect religious minorities, from Sufi and Shi'a Muslims to Ahmadis and Christians, from religiously-motivated violence, or to bring the perpetrators to justice. A climate of impunity is fostered by laws, such as the anti-Ahmadi and blasphemy laws, which not only violate religious freedom directly, but indirectly by energizing extremists who threaten the freedoms of all Pakistanis.

Scores of Ahmadis were slain in May 2010 by gunmen in Lahore during Friday prayers. In July, 40 Sufis were slaughtered, and hundreds wounded, in a bombing of a shrine, also in Lahore. In September 2010, bombers attacked a Shi'a religious procession in Lahore, murdering at least 40 worshippers and wounding as many as 200 others, and a similar procession in Quetta, killing 43 and wounding 78.

Despite its developing democracy and civil society, Indonesia has seen numerous instances of religiously-related violence against Ahmadis and Christians, including the burning of houses of worship. Indonesia's blasphemy law and a decree that permits discrimination against the Ahmadis have not furthered religious harmony as the government claims, but instead have encouraged radical Islamist groups to engage in violence.

The United States needs to demonstrate grave concern about impunity's rise in these and other countries, as well as other threats to religious freedom. It needs to stand firmly against two other forms of religious freedom violations: state exportation of extremist ideology by nations like Saudi Arabia and state sponsorship of religious persecution of its own citizens in countries like China and Iran. China ruthlessly suppresses, among others, the Falun Gong, the house church movement, Tibetan Buddhists and Uighur Muslims; and Iran detains, tortures, and even kills Shi'a reformers, as well as Sunni and Sufi Muslims, Baha'is, and Christians, while promoting Holocaust denial and other forms of hatred against Jews. The United States has long been a critical defender of the Universal Declaration of Human Rights and other international instruments that protect the freedom of religion or belief.

Moreover, many of the countries where there are serious challenges to freedom of religion or belief are strategically vital to their neighbors, our own nation, and the world. Egypt has long been a Mideast leader and crucial to the quest for regional peace. Nigeria, Africa's most populous country, remains a linchpin in western Africa. Iraq is critical to democracy's future in the Middle East. Pakistan is a longtime U.S. partner, borders Afghanistan, where the U.S. has an obvious stake, and retains nuclear weapons capability. Indonesia, with the largest Muslim population in the world, is a vital experiment in democracy.

How can our government help combat impunity? We must call upon governments around the world to redouble their efforts to protect their people, including religious minorities, and, where necessary and appropriate, help provide the capacity and technical expertise to do the job. Second, when attacks happen, we must urge these governments to hold the culprits accountable.

The United States also should urge governments to eliminate laws that provide a pretext for religiously-motivated violence. This includes laws targeting certain religious groups, either directly by restricting or banning their activities, or indirectly through prohibitions on blasphemy and apostasy.

There is no better way to spotlight the global challenge of impunity than to use this annual report to remember the courage and convictions of Minister Bhatti, whom USCIRF's commissioners and staff were honored to know as a friend and co-laborer for religious freedom. His tragic murder, coupled by the UN Human Rights Council's recent action, should spur Pakistan and other countries to abolish their blasphemy laws, confront their impunity problems, and uphold freedom of religion or belief, both as a universal human right and a pivotal security concern. It is also an important reminder for the United States of the need to weave religious freedom tightly into the fabric of its own foreign policy, national security, and economic development initiatives.

## REPORT OVERVIEW AND IRFA IMPLEMENTATION

The U.S. Commission on International Religious Freedom (USCIRF), created by the International Religious Freedom Act of 1998 (IRFA) as an entity separate and distinct from the State Department, is an independent U.S. government body that monitors religious freedom worldwide and makes policy recommendations to the President, Secretary of State, and Congress. USCIRF bases these recommendations on the standards found in the Universal Declaration of Human Rights and other international documents. The 2011 Annual Report represents the culmination of a year's work by Commissioners and staff to document abuses on the ground and make independent policy recommendations to the U.S. government, as mandated by Congress.

With a reporting period of April 2010 through March 2011, this Annual Report addresses 28 countries from around the world. Country chapters provide a one-page overview of USCIRF's findings, the justification for the country's designation, and priority recommendations for action. Each chapter then reports more fully on events transpiring during the reporting period, emphasizes key elements of the bilateral relationship with the United States, and provides recommendations that would better integrate the promotion of freedom of religion or belief into U.S. foreign policy. The report is divided into four sections: the first section highlights countries which USCIRF has recommended that the State Department designate as "countries of particular concern" (CPCs) under IRFA for particularly severe violations of religious freedom; the second focuses on countries USCIRF has placed on a Watch List for violations of religious freedom that do not meet the CPC threshold but require very close attention; the third on other countries USCIRF is closely monitoring; and the fourth on multilateral organizations.

To carry out its work, USCIRF has sent delegations of Commissioners and staff to Indonesia, Morocco, Nigeria, Saudi Arabia, Sudan, Turkey, and Cyprus during the past year, as well as engaged in consultations at the Council of Europe, the OSCE, and in Berlin. Staff members traveled to Afghanistan, Kazakhstan, Malaysia, Thailand, Pakistan, and the Philippines. USCIRF has also convened civil society roundtables to monitor progress in implementing the Comprehensive Peace Agreement in Sudan; held press events focused on Iran; organized Congressional and NGO action before Sudan's May 2011 Universal Periodic Review session at the UN; and testified on the status of human rights and religious freedom in Iran, Vietnam, and the Middle East, 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 in Pakistan and Indonesia; Baha'is, Christians and dissident Muslims in Iran and Pakistan; Buddhists in Vietnam and China; and a range of indigenous faiths and spiritual movements in China, Egypt, Iraq, and Vietnam.

Additionally, USCIRF continued to play a leading role in mobilizing Congress on a range of issues, including engaging key countries on the problematic "defamation of religions" resolutions when they came before the UN Human Rights Council and General Assembly. In part because of this engagement, the UN Human Rights Council did not adopt a defamation of religions resolution at its March 2011 session. Instead, the Council adopted a consensus resolution on "combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence, and violence against persons based on religion or belief." The new resolution properly focuses on protecting individuals from discrimination and violence instead of protecting religions from criticism.

During the reporting period, USCIRF engaged the Obama administration at high levels to discuss how the United States can promote religious freedom more effectively on a number of issues critical to U.S. foreign policy. USCIRF met with high-ranking officials from the State Department and National Security Council and with U.S. ambassadors to key countries. In addition, 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 public events and published op-eds in the *Huffington Post*, the *Washington Post* online, the *Washington Times*, and the *Wall Street Journal-Europe*.

### Selected Accomplishments

USCIRF has a history of successfully focusing high-level U.S. government attention on conditions for religious freedom around the world, and that tradition has continued over the past reporting period. In this respect, some recent accomplishments include:

- Sudan: The long-term sustainability of freedom of religion in Sudan depended upon a free and fair referendum concerning independence for the South. USCIRF was the first entity to call for Secretary of State Clinton's direct engagement in the implementation of the Comprehensive Peace Agreement (CPA) and was instrumental in strengthening working ties between the government of South Sudan and religious groups that proved essential for facilitating voter education and turnout in the referendum process. USCIRF also has been a critical bridge in bringing the Southern Sudanese together with the U.S. judiciary and other public and private U.S. institutions in order to begin the process of providing capacity- building and technical assistance in an independent South Sudan.
- Saudi Arabia: Due to USCIRF's engagement, six young Shi'a Muslims in Saudi Arabia were released in February 2011. USCIRF raised concerns about these individuals during their January/February 2011 visit. The individuals ranged between the ages of 17 and 22, and were detained in February 2010 by authorities, allegedly for passing out sweets on a Shi'a religious holiday. Authorities reportedly claim the youths defaced a Saudi flag and threw stones at police. In January 2011, the six youths were transferred to a state security detention facility in Riyadh. The six were released on February 23 after a year in detention without charges, despite a limit of six months for pretrial detention under the Saudi criminal procedure code.
- Philippines: USCIRF's sustained engagement with Philippine religious leaders has resulted in a movement to seek Philippine government approval for creating an institution similar to USCIRF in the Philippines. Such an institution could address the religious rights of overseas Philippine workers and utilize the unique role of the Philippines within the non-aligned movement and in southeast Asia.
- Pakistan: Pakistan is rife with attacks against minority religious communities, as well as members of the majority faith, and its laws penalizing blasphemy with the death penalty foster a climate of impunity. USCIRF was instrumental in introducing the U.S. Government to Pakistan's Minister of Minorities Affairs, Shahbaz Bhatti, who was an ardent defender of human rights reform within the Pakistani government. These connections provided Minister Bhatti with important leverage with his own government colleagues in Islamabad. Tragically, Minister Bhatti was assassinated in March 2011 by Pakistani Taliban. After his death, USCIRF worked with congressional offices to have a resolution introduced in his honor that pressed for improvements on these issues.
- Nigeria: There has been a severe escalation in sectarian violence in Nigeria driven by religiously-motivated actions. After USCIRF visited the country, the Nigerian government brought prosecutions against the perpetrators of a recent incident of violence for the first time in a decade. In addition, USAID is awarding a non-competitive, five-year, \$4.5 million cooperative agreement to the Interfaith Mediation Center in Kaduna to provide conflict mitigation and management assistance in northern and middle belt Nigerian states. The agreement will be carried out over a five-year period with the

last two years being optional. USCIRF's recommendation to create programming for conflict prevention and reconciliation played a catalyzing role in helping bring the USAID project into fruition.

- Morocco: A USCIRF delegation traveled to Morocco in October 2010 at the invitation of the government of Morocco. Earlier in 2010, the Moroccan government had summarily expelled or denied re-entry to approximately 150 expatriate Christians, including 45 Americans, allegedly for proselytizing. The expulsions, which contrast with the government's general respect for due process and religious tolerance, deeply concerned several members of the U.S. Congress, who asked USCIRF to engage the Moroccan government on the issue. USCIRF's visit resulted in Moroccan government officials making a number of procedural concessions related to the deportations so that the lawyers of those expelled would have access to the dossiers containing evidence supporting the deportations and those seeking a fair appeal would receive one.
- Iran: The government of Iran continues to engage in systematic, ongoing, and egregious violations of religious freedom, including prolonged detention, torture, and executions based primarily or entirely upon the religion of the accused. USCIRF has long called for the U.S. government to identify Iranian officials and entities responsible for severe religious freedom violations and impose travel bans and asset freezes on those individuals. Previously, no sanctions measures against Iran had provisions dealing with human rights violations; USCIRF worked with Congressional offices on the need to develop such sanctions. These sanctions are included in CISADA, the Comprehensive Iran Sanctions, Accountability, and Divestment Act (P.L. 111-195). CISADA requires the President to submit to Congress a list of Iranian government officials or persons acting on their behalf who are responsible for human rights and religious freedom abuses, bars their entry into the United States, and freezes their assets. The Executive Order President Obama issued in September 2010 sanctioned eight Iranian officials for having committed serious human rights abuses after the Iranian Presidential election in June 2009. Two more Iranian officials were sanctioned in February 2011, bringing the total to 10. USCIRF had recommended that seven of these officials be sanctioned.
- Intolerance Resolution Takes the Place of Defamation Resolution: Over the past decade, resolutions in the UN General Assembly and UN Human Rights Council on the so-called defamation of religions sought to establish a global blasphemy law. USCIRF's engagement with both the U.S. Congress and specific UN member states helped bring about a notable decrease in support for these resolutions over the past three years. Since 2008, the resolutions have been supported by only a plurality of member states. Due to this loss of support, the UN Human Rights Council in March 2011 adopted, in place of the divisive "combating defamation of religions" resolution, a consensus resolution on "combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence, and violence against persons based on religion or belief." The resolution properly focuses on protecting individuals from discrimination or violence, instead of protecting religions from criticism. The new resolution protects the adherents of all religions or beliefs, instead of focusing on one religion. Unlike the defamation of religions resolution, the new consensus resolution does not call for legal restrictions on peaceful expression, but rather, for positive measures, such as education and awareness-building, to address intolerance, discrimination, and violence based on religion or belief.
- Indonesia: Prior to visiting Indonesia, USCIRF had urged Indonesian government officials and members of the country's House of Representatives to speak out publicly about the threats posed by extremist groups espousing intolerance and extremism under the banner of Islamic orthodoxy and to hold police and government officials accountable for failures to protect religious communities. After the USCIRF delegation's visit in May 2010, President Yudhoyono and Coordinating Minister for Political, Legal and Security Affairs Djoko Suyanto spoke out publicly about the need to protect

religious minorities, called for the arrest of those who instigate and participate in sectarian violence, and removed police commanders who failed to protect the Ahmadiyah community of Cikeusik, Banten, East Java in February 2011. In addition, USCIRF worked with members of the Indonesian House of Representatives and civil society groups who introduced measures to strengthen provisions in the criminal code regarding attacks on religious gatherings and amend the law governing the building of religious venues. USCIRF also continues to help network human rights and legal advocates working to defend individuals accused of “blasphemy” and religious minorities facing intimidation and violence from extremist groups.

- Germany: USCIRF visited Berlin in March 2011 and met with Bundestag members and other senior officials to continue discussions about how religious freedom concerns are best incorporated within a nation’s foreign policy agenda, and to review the German government’s recent initiatives to incorporate religious freedom into foreign policy. In December 2010, the Bundestag passed a resolution underscoring that religious freedom needed a prominent place in foreign policy. Because of prior outreach to the German foreign policy apparatus, including two conferences featuring USCIRF at the German Council on Foreign Relations and sustained engagement with Bundestag members and other policy makers, USCIRF was mentioned as a model for the German government to emulate.

USCIRF’s work is accomplished through the leadership of its Commissioners and the 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. The Commission is bipartisan: Congressional leaders of the party that is not the President’s party appoints four Commissioners, and the party in the White House appoints five. 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. On July 1, 2010, Leonard Leo became Chair of USCIRF, and Dr. Don Argue and Dr. Elizabeth H. Prodromou became Vice Chairs, after their election in June.

### **Countries of Particular Concern and the Watch List**

IRFA requires the President, who has delegated this authority to the Secretary of State, to designate as “countries of particular concern,” or CPCs, those governments that 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.

For the 2011 Annual Report, USCIRF recommends that the Secretary of State designate the following 14 countries as CPCs: Burma, the Democratic People’s Republic of Korea (North Korea), Egypt, Eritrea, Iran, Iraq, Nigeria, Pakistan, the People’s Republic of China, Saudi Arabia, Sudan, Turkmenistan, Uzbekistan, and Vietnam.

As of the end of the reporting period on March 31, 2011, the Obama administration had yet to make any CPC designations since it came into office. Consequently, the designations of eight countries issued by then-Secretary of State Condoleezza Rice in January 2009 still stand: 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 has not implemented any policy response to the particularly severe violations of religious freedom in either country. Moreover, because

of the more-than-two-year gap in any designations, the Presidential actions that were levied against the other current CPC designees have expired.

USCIRF also maintains a Watch List of countries where the serious violations of religious freedom engaged in or tolerated by the governments do not meet the CPC threshold but require close monitoring. 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. The following countries are on USCIRF's Watch List in this reporting period: Afghanistan, Belarus, Cuba, India, Indonesia, Laos, Russia, Somalia, Tajikistan, Turkey, 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	India
North Korea	North Korea	Indonesia
Saudi Arabia	Saudi Arabia	Laos
Sudan	Sudan	Russia
Uzbekistan	Uzbekistan	Somalia
	Egypt	Tajikistan
	Iraq	Turkey
	Nigeria	Venezuela
	Pakistan	
	Turkmenistan	
	Vietnam	

IRFA provides the Secretary of State with a unique toolbox with which to promote religious freedom more effectively and with greater impact. The Act includes a menu of options for countries designated as CPCs and a list of actions to help encourage improvements in countries that violate religious freedom but do not meet the CPC threshold. The specific policy options to address severe violations of religious

freedom include sanctions (referred to as Presidential actions in IRFA) that 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. IRFA also permits the development of either a binding agreement with a 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 “commensurate action.” The Secretary may additionally 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. Generally, no new Presidential actions pursuant to CPC designations have been levied, with the State Department relying 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, but has generally failed to do so. 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 mentioned, the Obama administration has yet to make its CPC designations. It is important that the Obama administration issue designations soon, in order 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

### *Justification of Commission Recommendations for CPC Designation*

**Burma:** The State Peace and Development Council (SPDC), the military junta that governs 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.

**China:** Unregistered religious groups or those deemed by the Chinese government to threaten national security or social harmony continue to face severe restrictions, although the government tolerates some religious activity within approved organizations. Religious freedom conditions for Tibetan Buddhists and Uighur Muslims remain particularly acute as the government broadened its efforts to discredit and imprison religious leaders, control the selection of clergy, ban religious gatherings, and control the distribution of religious literature by members of these groups. The government also detained over five hundred unregistered Protestants in the past year, and stepped up efforts to destroy churches and close "illegal" meeting points. Dozens of unregistered Catholic clergy remain in detention or home confinement, or have disappeared. Falun Gong adherents continue to be targeted by extralegal security forces and tortured and mistreated in detention. The Chinese government also continues to harass, detain, intimidate, disbar, and forcibly disappear attorneys who defend the Falun Gong, Tibetans, Uighurs, and unregistered Protestants.

**Egypt:** The Egyptian government engaged in and tolerated religious freedom violations before and after President Hosni Mubarak stepped down on February 11, 2011. Serious problems of discrimination, intolerance, and other human rights violations against members of religious minorities, as well as disfavored Muslims, remain widespread in Egypt. Violence targeting Coptic Orthodox Christians remained high during the reporting period. This high level of violence and the failure to convict those responsible – including two of the three alleged perpetrators in the 2010 Naga Hammadi attack – continued to foster a climate of impunity, making further violence more likely. The Egyptian government has failed to protect religious minorities, particularly Coptic Christians, from violent attacks, including during the transitional period when minority communities are increasingly vulnerable. Since February 11, military and security forces reportedly have used excessive force and live ammunition in targeting Christian places of worship and Christian demonstrators. Implementation of previous court rulings – related to granting official identity documents to Baha'is and changing religious affiliation on identity documents for Christian converts

– continues to lag. In addition, the government has not responded adequately to combat widespread and virulent anti-Semitism in the government-controlled media.

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

**Iran:** The government of Iran continues to violate freedom of religion or belief, 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, religious freedom conditions continued to deteriorate, 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 protected under Iran's constitution – Jews, Armenian and Assyrian Christians, and Zoroastrians – faced increasing discrimination and repression. Majority Shi'a and minority Sunni Muslims, including clerics, who dissent were intimidated, harassed, and detained. Dissidents and human rights defenders were increasingly subject to abuse, and several were sentenced to death and even executed for the capital crime of "waging war against God." 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.

**Iraq:** In Iraq, members of the country's smallest religious minorities suffer from targeted violence, threats, and intimidation, against which the government does not provide effective protection. These violations are systematic, ongoing and egregious, and perpetrators are rarely identified, investigated, or punished, creating a climate of impunity. The smallest minorities also experience a pattern of official discrimination, marginalization, and neglect, particularly in areas of northern Iraq over which the Iraqi government and the Kurdistan Regional Government (KRG) dispute control. In addition, sectarian attacks continue between Shi'a and Sunni Iraqis, as well as religiously-motivated violence and intimidation against women and secular Iraqis.

**Nigeria:** The government of Nigeria continues tolerating systematic, ongoing, and egregious violations of religious freedom by failing to respond adequately and effectively to prevent and contain acts of religiously-related violence, prevent reprisal attacks, and bring those responsible for such violence to justice. Since 1999, 13,000 Nigerians, if not more, have been killed in religiously-related violence between Muslims and Christians. Years of inaction by Nigeria's federal and state governments have 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.

**North Korea:** The Democratic People's Republic of Korea (DPRK or North Korea) is one of the world's most repressive regimes, with a deplorable human rights and religious freedom record. Severe religious freedom abuses occur regularly, including: 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.

**Pakistan:** Pakistan continues to be responsible for systematic, ongoing, and egregious violations of freedom of religion or belief. Two high-profile members of the ruling party were assassinated during the reporting period for their advocacy against Pakistan's repressive blasphemy laws. These laws and other religiously discriminatory legislation, such as the anti-Ahmadi laws, have created an atmosphere of violent extremism and vigilantism. Sectarian and religiously-motivated violence is chronic, and the government has failed to protect members of the majority faith and religious minorities. Pakistani authorities have not consistently brought perpetrators to justice or taken action against societal leaders who incite violence. Growing religious extremism threatens the freedoms of religion and expression, as well as other human rights, for everyone in Pakistan, particularly women, members of religious minorities, and those in the majority Muslim community, including those who hold views deemed "un-Islamic" by extremists. It also threatens Pakistan's security and stability.

**Saudi Arabia:** During the reporting period, systematic, ongoing, and egregious violations of religious freedom continued in Saudi Arabia despite improvements. 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 related to religious practice and tolerance. 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; prohibits churches, synagogues, temples, and other non-Muslim places of worship; uses in schools state textbooks that continue to espouse intolerance and incite violence; and periodically interferes with private religious practice. Ismaili Muslims continue to suffer repression on account of their religious identity and there have been numerous arrests and detentions of Shi'a Muslim dissidents, in part as a result of increasing regional unrest. Members of the Commission to Promote Virtue and Prevent Vice (CPVPV) continue to commit abuses, although their public presence has diminished slightly and the number of reported incidents of abuse has decreased in some parts of the country. In addition, 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.

**Sudan:** Violations of religious freedom continue to occur in Sudan. These include: the efforts by the Arab Muslim-dominated government in Khartoum to impose its version of sharia law and enforce religiously-based morality laws through corporal punishment to limit the fundamental freedoms of Muslims and non-Muslims alike; the criminalization of conversion from Islam, a crime punishable by death, and the intense scrutiny, intimidation, and torture of suspected converts by government security personnel; the denial of the rights of non-Muslims to public religious expression and persuasion, while Muslims are allowed to proselytize; and the difficulty in obtaining permission to build churches, as compared to government funding of mosque construction.

**Turkmenistan:** Severe religious freedom violations and official harassment of religious adherents persist in Turkmenistan. Despite limited reforms undertaken by Turkmen President Berdimuhamedov since 2007, the country's laws, policies, and practices continue to violate international human rights norms, including those concerning freedom of religion or belief. Police raids and other harassment of registered and unregistered religious groups continue more than four years after the death of longtime dictator Saparmurat Niyazov. The repressive 2003 religion law remains in force, causing major difficulties for religious groups to function legally. Turkmen law does not allow a civilian alternative to military service, and Jehovah's Witnesses have been imprisoned for conscientious objection.

**Uzbekistan:** Since Uzbekistan gained independence in 1991, the government of Islam Karimov has systematically and egregiously violated freedom of religion or belief. The Uzbek government violates the full range of human rights and 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. To be sure, Uzbekistan faces security concerns as a result of serious threats from groups which advocate or perpetrate violence in the name of religion. Nevertheless, the Uzbek government's broad-brush approach to this situation is problematic, due to its arbitrary application of vague anti-extremism laws against religious adherents and others who pose no credible threat to security.

**Vietnam:** The government of Vietnam continues to control religious communities, severely restrict and penalize independent religious practice, and brutally repress individuals and groups viewed as challenging its 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, intimidation, and heavy pressure to renounce their faith.

#### *The Commission's Watch List*

**Afghanistan:** Conditions for religious freedom remain exceedingly poor for minority religious communities and dissenting members of the majority faith, despite the presence of U.S. armed forces in Afghanistan for almost 10 years and the substantial investment of lives, resources, and expertise by the United States and international community. The 2004 Afghan constitution has effectively established Islamic law as the law of the land. Afghan jurists and government officials do not view the guarantees to human rights that come later in the document as taking precedence. Individuals lack protection to dissent from state-imposed orthodoxy, debate the role and content of religion in law and society, advocate for the human rights of women and members of religious minorities, or question interpretations of Islamic precepts. The government has prosecuted individuals for religious "crimes" such as apostasy and blasphemy in violation of international standards. In addition, the Afghan government remains unable to protect citizens against violence and intimidation by the Taliban and other illegal armed groups.

**Belarus:** The government of Belarus continues to violate its citizens' freedom of thought, conscience, and religion or belief in law and practice. Belarus is ruled by an authoritarian regime, with political power concentrated largely in the hands of President Aleksandr Lukashenko and his small circle of advisors. Due to its extensive, intrusive structures to control and restrict religious communities, some human rights groups compare the current religious freedom situation in Belarus to that under Soviet rule. The government has also engaged in other human rights abuses, including strict controls on the media and civil society and the imprisonment and maltreatment of political opponents and journalists, particularly after the December 2010 presidential election.

**Cuba:** Serious religious freedom violations continue in Cuba despite some improvements. Violations by the Cuban government include: detention, sporadic arrests, and harassment of clergy and religious leaders affiliated with unregistered religious groups, as well as the control and monitoring of religious belief and practices including through surveillance, infiltration, and legal restrictions prohibiting religious communities from operating without government permission. These conditions exist under

the one-party rule of a Communist government that continues to have an overall poor record on human rights.

**India:** India is the world's largest democracy, has an extensive and deeply religious plural society, and occupies a key geopolitical position. While there has been no large-scale communal violence against religious minorities since 2008, India's progress in protecting and promoting religious freedom during the past year continued to be mixed. The Indian government at various levels has recognized the past problems of communal violence and has created some structures to address these issues. Also, the national government and several state governments have taken positive steps to improve religious freedom. However, as a whole, justice for the victims of large-scale communal violence in Orissa in 2007-2008, in Gujarat in 2002, and against Sikhs in 1984 remains slow and often ineffective. In some regions of India, law enforcement and judicial officials have proven unwilling or unable to seek redress consistently for victims of religiously-motivated violence or to challenge cultures of impunity in areas with a history of communal tensions, which in some cases has fostered a climate of impunity. During the reporting period, small-scale attacks on and harassment of Christians and Muslims and their places of worship continued. Further, several states have adopted "Freedom of Religion Act(s)," commonly referred to as "anti-conversion laws," that purportedly prohibit "forced," "induced," or "fraudulent" religious conversions away from Hinduism, but not towards it.

**Indonesia:** Over the past decade, Indonesia has evolved into a stable democracy with stronger human rights protections than at any time in its history. The government of President Susilo Bambang Yudhoyono has taken positive steps to address terrorism and past sectarian violence, end a civil war in Aceh, and curtail terrorist networks. However, religious tolerance has come under increasing strain in recent years. Religious minorities have experienced patterns of intimidation, discrimination, and societal violence often perpetuated by groups espousing intolerance and extremism under the banner of Islamic orthodoxy. The activities of extremist groups are sometimes tolerated by segments of the Indonesian government, including the police. In addition, despite legal protections for religious freedom, national laws and provincial decrees have been used to restrict rather than advance the freedom of religion and belief.

**Laos:** The Lao government continues to restrict religious practice through its legal code and has not curtailed religious freedom abuses in some rural areas. Over the past five years, conditions have incrementally improved for Lao Buddhists and for some religious minority groups in urban areas. Nevertheless, during the reporting period, provincial officials continued to severely violate freedom of religion or belief, particularly of ethnic minority Protestants, through detentions, surveillance, harassment, property confiscation, forced relocations, and forced renunciations of faith. However, Lao officials in charge of religious affairs have reportedly interceded at times with provincial officials to mitigate some of the worst mistreatment of ethnic minority religious groups.

**Russia:** Religious freedom conditions in Russia continue to deteriorate. In the past year, the government increased its use of anti-extremism legislation against religious groups and individuals not known to use or advocate violence. National and local government officials regularly apply other laws to harass Muslims and religious groups they view as non-traditional. Russian officials continue to deem certain religious and other groups alien to Russian culture and society, thereby contributing to a climate of intolerance. High levels of xenophobia and intolerance, including anti-Semitism, have resulted in violent and sometimes lethal hate crimes. Despite increased prosecution for these acts, the Russian government has failed to address these issues consistently or effectively.

**Somalia:** Serious religious freedom abuses persist in Somalia. These violations include: the killing of Sufi clerics and non-Muslims and the desecration of Sufi religious sites; the implementation of a strict

interpretation of Islamic law, under which hudood punishments are performed and practices deemed “un-Islamic” are repressed; and an increase in violent interpretations of Islam and the growth of extremist Islamic schools. Violations are conducted by the U.S.-designated foreign terrorist organization al-Shabaab. The internationally-recognized Transitional Federal Government (TFG) is dependent on the African Union peacekeeping force in Mogadishu (AMISOM) for survival, controls only portions of the capital, and lacks the capacity to enforce religious freedom protections or address religious freedom violations.

**Tajikistan:** The religious freedom situation in Tajikistan continued to deteriorate during the reporting period, as it has sharply over the past several years. The state suppresses and punishes all religious activity independent of state control. The government’s restrictions on the freedom of religion or belief primarily affect the country’s majority Muslim community, but also target minority communities viewed as foreign-influenced, particularly Protestants and Jehovah’s Witnesses. Jehovah’s Witnesses have been banned, and reportedly as many as 17 Jehovah’s Witnesses currently face criminal charges of inciting inter-religious discord. In recent years, the Tajik government has destroyed a synagogue, a church, and three mosques, and it has closed down nearly 75 mosques, including 50 in early 2011.

**Turkey:** The Turkish government continues to impose serious limitations on freedom of religion or belief, thereby threatening the continued vitality and survival of minority religious communities in Turkey. Turkey has a democratic government, with an energetic civil society and media, and the text of the country’s constitution protects the freedom of belief and worship and the private dissemination of religious ideas. However, the Turkish government’s formal, longstanding efforts to control religion by imposing suffocating regulations and by denying full legal status to religious institutions results in serious religious freedom violations. The government has failed to take decisive action to correct the climate of impunity against religious minorities and to make the necessary institutional reforms to reverse these conditions. Instead, Turkey continues to intervene in the internal governance and education of religious communities and to confiscate places of worship. The alleged involvement of state and military officials in the Ergenekon conspiracy, which included alleged plans to assassinate minority religious leaders and to bomb mosques, is also of serious concern, as is the alleged use of preventive arrests to repress critics of the AK Party. Also concerning is the rise in anti-Semitism in Turkish society and media. Additionally, Turkey’s military control over northern Cyprus supports a web of arbitrary regulations implemented by the local Turkish Cypriot authorities, which results in serious limitations on religious freedom

**Venezuela:** Violations of freedom of religion or belief are ongoing in Venezuela. These violations include: government failure to investigate and hold accountable perpetrators of attacks on religious leaders and houses of worship, and virulent rhetoric from President Hugo Chavez, government officials, state media, and pro-Chavez media directed episodically against the Venezuelan Jewish and Catholic communities.

## Implementation of IRFA

As USCIRF has noted previously, the promotion and protection of religious freedom is underutilized in U.S. foreign policy. This has been the case in both Democratic and Republican administrations, which is unfortunate, as IRFA provides the U.S. government with unique capabilities to address some of the most pressing foreign policy challenges the United States faces today. The U.S. government is working to encourage respect for human rights around the world, while at the same time engaging in conflicts where actors are motivated by ideas advancing violent religious extremism. In light of this, promoting religious freedom can help policymakers achieve crucial foreign policy goals, given that many egregious limitations on freedom of religious practice not only constitute human rights abuses but also can impact national security.

The national security implications of religious freedom violations are obvious, with, for example, the assassinations in Pakistan of high-level government officials due to their opposition to blasphemy laws, which has destabilized a critical U.S. ally and region. These blasphemy laws are repressive and exacerbate intolerance and violence against Muslims and non-Muslims. Many countries have “extremism laws” that are abusively applied against peaceful religious groups that have no connection to violent acts. In many places around the world, including South and Central Asia, the Middle East, and Africa, issues of religious freedom explicitly or implicitly are central factors in civil strife and violent extremism. The U.S. commitment in Afghanistan until at least 2014, as well as other commitments around the world, makes obvious the need for American policymakers to be better informed about the concept and conditions of religious freedom, as well as the role of the various religions in these nations.

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

Religious freedom promotion needs to be a central aspect of U.S. foreign policy strategic planning. 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.” President Obama’s administration has yet to break from the practice of previous administrations of keeping the issue of religious freedom on the margins of U.S. foreign policy.

During the reporting period, there has been a welcome emphasis on religious freedom in the administration’s statements on key countries. After the release of the USCIRF 2010 Annual Report, which had criticized the use of the term “freedom of worship,” the Obama administration returned to referencing the broader concept of religious freedom. Since then, the President has repeatedly noted the importance of religious freedom. Notably, during the January press conference with President Hu Jintao of China, President Obama on two occasions raised the importance of religious freedom. Comments by Secretary Clinton have included more references to religious freedom, such as in her August 2010 statement on the treatment of Baha’is in Iran.

There are some areas where more could have been said or done. The May 2010 National Security Strategy made only modest reference to human rights and only passing reference to freedom of worship. Also, during the past year, Secretary Clinton presented the first Quadrennial Diplomacy and Development Review as a strategic plan for the State Department to advance U.S. national interests and be “a better partner to the U.S. military.” Although it does recognize the need to engage religious groups along with others to create the partnerships needed to advance American interests, it did not reference religious freedom.

USCIRF welcomes the use of “freedom of religion” language in President Obama’s and Secretary Clinton’s statements and speeches, and encourages the administration to continue to use this broader,

more complete phraseology in all public statements. In doing so, high-level government officials would explicitly affirm their commitment to the broad protection of the freedom of thought, conscience, and religion or belief in all its manifestations and thus signal to administration officials the need to implement IRFA more fully through concrete policies.

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

During the reporting period, the Obama administration nominated in both the 111<sup>th</sup> and 112<sup>th</sup> Congresses Dr. Suzan D. Johnson Cook to be the State Department's Ambassador-at-Large for International Religious Freedom, the highest-ranking U.S. official on religious freedom. After the end of the reporting period but before the issuance of this report, the Senate confirmed her as the Ambassador-at-Large in April 2011. 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 absence of an Ambassador-at-Large for over two years left vacant an important policy position, while other positions with religion in their portfolio had long since been filled – 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 required Senate confirmation).

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 is not adequately placed within the State Department hierarchy. Since the position was established, every administration, including the current one, has situated the Ambassador-at-Large in the Bureau of Democracy, Human Rights and Labor (DRL) and therefore under its Assistant Secretary. This situation exists despite other Ambassadors-at-Large, such as those for Global Women's Issues, Counterterrorism, and War Crime Issues, as well as the AIDS Coordinator, being situated in the Secretary's office and having direct access to the Secretary. The Ambassador-at-Large for International Religious Freedom is the only such ambassador positioned this low in the hierarchy, reporting to the Secretary through three intermediate officials: the DRL Assistant Secretary, the Under Secretary for Democracy and Global Affairs, and the Deputy Secretary.

Also of concern are possible structural changes that have been reported in the press, but thus far not clearly implemented, that could break a decade of practice and result in the Ambassador-at-Large losing direct supervisory control over the staff of the Office of International Religious Freedom. The Office also currently staffs the Special Envoy to Monitor and Combat Anti-Semitism, and works closely with the Special Envoy to the Organization of the Islamic Conference and the Special Representative to Muslim Communities. It has, however, received no additional resources.

USCIRF encourages the Obama administration to fulfill IRFA's intent that the Ambassador-at-Large be “a principal adviser” and ensure that he or she has direct access to the President and the Secretary of State; ensure that the Ambassador and the Office of International Religious Freedom are provided the necessary resources for travel and staffing, similar to other offices with a global mandate; and continue the practice of having the Ambassador maintain direct oversight of the Office of International Religious Freedom.

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

Despite the long vacancy in the Ambassador-at-Large position, the administration has moved ahead with other activities, with several U.S. government offices and agencies focusing on inter-religious dialogue and engagement.



At the White House, the President continued his Advisory Council on Faith-Based and Neighborhood Partnerships, which has paid specific attention to interfaith dialogue at an international level. The Advisory Council, composed of individuals representing an array of religious communities and civil society groups, established several task forces to report on a variety of issues, including interreligious cooperation. While the previous Advisory Council did not focus on religious freedom overseas directly, USCIRF recommends that the new Council adopt this focus, as religious freedom provides the foundation for any successful interreligious dialogue or engagement of religious actors internationally.

During the reporting period, the United States cosponsored a regional conference at the Vatican on interfaith collaboration in October 2010 and a conference in February 2011 with Jordan at the Human Rights Council in Geneva in observance of World Interfaith Harmony Week. The United States also joined the Alliance of Civilizations group of friends in May 2010. USCIRF recommends that these activities maintain a clear component addressing and promoting the universal norm of freedom of religion or belief because religious freedom is central to meaningful interfaith dialogue and engagement.

In February 2010, the National Security Council launched the Interagency Working Group on Religion and Global Affairs (RGA). The RGA brings together 12 executive agencies to collaborate on religious engagement and help equip U.S. officials to engage religious communities effectively, while respecting constitutional limits on separation of church and state. As a first step, the RGA undertook a survey within the U.S. government to better understand how the federal government interacts with religious leaders abroad. The survey covered 12 agencies and 166 U.S. embassies, but its findings have not been made public. USCIRF recommends that the report, or at least a summary of its findings, be released, so that U.S. government officials will be better informed about how the United States engages religious actors abroad.

As reported last year, the Pentagon issued new regulations expanding the chaplaincy corps' role to include religious engagement. Under Joint Publication 1-05 issued in November 2009, commanders now have the option of deploying chaplains beyond their traditional pastoral roles to serve as liaisons to religious leaders in theaters of operation. Mindful of their noncombatant status, chaplains can engage religious leaders overseas in humanitarian efforts and advise commanders about the concerns of the local religious community in a foreign country. USCIRF has engaged the chaplaincy corps on the importance of religious freedom in the countries where they will be serving and the need for religious freedom to be a core component of training.

#### *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). The fiscal year 2010 budget did not include a specific earmark for additional DRL grants on religious freedom, but the human rights bureau set aside additional monies from its HRDF funds. Consequently, over the last three years, the Office of International Religious Freedom has managed over \$10 million of HRDF funds covering 15 programs, including seven NGO programs in Asia and the Middle East that include both legal training and grassroots support for religious freedom. In Iraq, DRL funds a program to promote religious freedom through a documentary competition among Iraqi youth focused on Iraq's pluralistic religious heritage.

Considering the statutory recognition of these programs and the demonstrated interest and capacity of human rights and religious freedom organizations, Congress should provide a specific carve-out of HRDF funds to ensure ongoing religious freedom programming that is managed by the Office of International Religious Freedom.

### *Monitoring Mechanisms*

IRFA mandated that the Secretary of State establish monitoring mechanisms “consisting of lists of persons believed to be imprisoned, detained, or placed under house arrest for their religious faith, together with brief evaluations and critiques of the policies of the respective country restricting religious freedom.” In 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. While the State Department has advocated for individual prisoner cases, USCIRF is unaware of the Department establishing or maintaining 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 to track prisoners, even while operating with substantially fewer resources and access to international information than the State Department, 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, Fan Yafeng, Liu Xiaobo, Fr. Zhang Li, Chen Zhenping, Alimjan Himit, Shi Enxiang, Dou Zhenyang, Yang Maodong, Jigme Zangpo, Tenzin Delek Rinpoche, Jiang Tianyong, Abdukadir Mahsum, Li Chang, Imam Adil Qarim, Xu Huayang, Perhatjan, Zhang Jianlin, Bishop Su Zhimin, and Gendun Choekyi Nyima
<b>Cuba:</b> Omar Gude Pérez, Robert Rodriguez
<b>Eritrea:</b> Abune Antonios, Paulos Eyassu, Isaac Mogos, Negede Teklemariam
<b>Iran:</b> Ayatollah Mohammad Kazemini Boroujerdi, Morteza Mahjoubi, Fariba Kamalabadi, Jamaloddin Khanjani, Afif Naemi, Saeid Rezaie, Mahvash Sabet, Behrouz Tavakkoli, Vahid Tizfahm, Youcef Nadarkhani, Vahik Abrahamian, Sonia Keshish-Avahesian, Arash Kermanjani, and Arezo Teymouri
<b>Pakistan:</b> Aasia Bibi, Wajihul Hassan, Rafiq from Punjab province, Mohammad Shafi, Mohammad Aslam, Ruqqiya Bibi, Munir Masih, Hector Aleem, Rehmat Masih
<b>Saudi Arabia:</b> Hadi Al-Mutif, Ali Sabat, Mussie Eyob, Yohan Nese, and Vasantha Sekhar Vara
<b>Tajikistan:</b> Igbolsho Davlatov, Amirali Davlatov, Murodali Davlatov, Nosir Rakhimov, Doniyor Khashimov, Saynurdin Kalugshoyev, Churabek Saidzoda, Jamshed Boyakov, Mahkamjon Azizov, Umarjon Azizov, Nasrullo Khisomov, Talabsho Abdusamadov, Abdumanon Sattorov, Khudaydod Alnazarov, Churakhon Mirzoyev, Toirjon Samadov, Abduvali Murodov
<b>Turkey:</b> Baris Gormez, Enver Aydemir
<b>Turkmenistan:</b> Matkarin Aminov, Sakhmetmurad and Mukhammedmurad Annamamedov, Shadurdi Ushotov, Navruz Nasyrlaev, Aziz Roziev, Dovleyet Byashimov, Ahmet Hundaybergenov, Nurmuhamed Agaev, Ilmurad Nurliev
<b>Uzbekistan:</b> Hairulla Khamidov, Akram Yuldashev, Suhrob Zokirov, Islom Alikulov, Islom Manopov, Alisher Karimov, Farhod Sarymsokov, Botyr Sheraliyev, Kudrat Sultonov, Nosyr Mamazhanov, Muhammad Yarmatov, Ramzhon Abdukodyrov, Nasibullo Karimov, Habibullah Madmarov, Sobit Zufarov, Yusuf Jumaev, Mehriniso Hamdamova, Zulkhumor Hamdamova, Shahlo Rakhmonova, Olim Turaev, Abdubannob Ahmedov, Sergey Ivanov, Tohar Haydarov
<b>Vietnam:</b> Nguyen Van Dai, Le Cong Dinh, Nguyen Thi Hong, Le Thi Cong Nhan, Nguyen Van Ly, Phan Van Loi, Thich Quang Do

### *Training and Planning*

IRFA calls for American diplomats to receive training on how to promote religious freedom effectively around the world. In the past, training for Foreign Service Officers on issues of religious freedom has been minimal, consisting mainly of ad hoc lectures on the subject. However, during this reporting period, the Foreign Service Institute, in consultation with the Office of International Religious Freedom, developed a two-day interagency policy seminar entitled *Engaging Communities of Faith to Advance*

*Policy Objectives* and a three-day course on *Religion and Foreign Policy*. USCIRF welcomes this initiative. However, while positive, these courses remain optional and are not yet part of the core curriculum for all diplomats in training.

Regarding planning, IRFA encourages U.S. embassies abroad to develop strategies on religious freedom promotion. In support of this effort, the Office of International Religious Freedom for the first time is drafting work plans that identify strategies for key countries of concern. These documents will provide guidance for Department principals and posts on how to raise religious freedom issues with their diplomatic counterparts. The Office also founded and chairs the Religion and Global Affairs Forum at the State Department. The goal of the RGA Forum is to encourage new thinking on the geo-political importance of religion by hosting open-invitation briefings with leading scholar-practitioners in the fields of religion and international affairs. Since its creation in April 2009, the Forum has hosted over 20 briefings on a wide variety of topics.

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

Another IRFA issue relevant 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. USCIRF 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.

#### **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 concerning religious freedom violations and formulate recommendations for U.S. policy responses. During the current reporting period, USCIRF delegations made trips to Cyprus, Indonesia, Morocco, Nigeria, Saudi Arabia, Sudan, and Turkey. USCIRF also participated in the OSCE Human Dimension Review conference in Warsaw. USCIRF delegations also raised religious freedom issues with the Council of Europe and European Court of Human Rights in Strasbourg, and in Berlin with German government officials, political party representatives, and members of the German Council on Foreign Relations. USCIRF staff visited Afghanistan, Kazakhstan, Malaysia, Morocco, Pakistan, the Philippines, and Thailand to learn about religious freedom conditions, meet with government officials, and gain firsthand information from religious groups and human rights defenders. USCIRF attempted to visit Turkmenistan, and Khartoum in Sudan, but no visas were granted.

Sudan – March 2011: Commissioners traveled to Juba, South Sudan to receive updates on Comprehensive Peace Agreement implementation, urge religious freedom protections in the South after its July 2011 independence, discuss the relationship between religious communities and Southern government officials, and discuss U.S. and international aid to improve the South’s rule-of-law sector. The USCIRF delegation met with government of South Sudan Vice President Reik Machar, Minister of Justice and Legal Affairs John Luk Jok, the Presidential Advisor on Religious Affairs, Southern religious leaders, and U.S. government officials.

Berlin – March 2011: USCIRF visited Berlin and met with Bundestag members and other senior officials to discuss the German government’s recent initiatives to incorporate religious freedom into domestic and foreign policy. In December 2010, the Bundestag passed a resolution articulating that religious freedom needed to be more prominent in foreign policy; several parliamentarians in their statements referred to USCIRF as a model for the German government in this respect.

Turkey – February 2011: USCIRF Commissioners and staff traveled to Turkey to learn more about the status of religious freedom. In Ankara, the USCIRF delegation met with high-level government officials including the Deputy Prime Minister, the Minister for EU Accession, the Directors General of the *Diyanet* (Religious Affairs Directorate) and *Vakıflar* (Minority Foundations Directorate), officials of the Ministries of Foreign Affairs and Education, the head of the Parliamentary Human Rights Commission, and officials of the Republican People’s Party (CHP). USCIRF Commissioners and staff also met with a wide range of religious leaders, communities, and civil society groups in Istanbul, including: the Ecumenical Patriarch of the Greek Orthodox Church; the Acting Armenian Orthodox Patriarch; the Syriac Metropolitan; the Chief Rabbi; Alevi, Protestant, Islamic, Jehovah’s Witnesses, and Mormon community representatives; human rights groups; journalists and academics; Hrant Dink Foundation representatives; and lawyers representing various religious minority community foundations.

Cyprus – February 2011: Commissioners and staff travelled to Cyprus after U.S. House Resolution 1631 called on USCIRF to investigate and make recommendations on violations of religious freedom in the areas of northern Cyprus under control of the Turkish military. The delegation met with Republic of Cyprus governmental officials in the south, including the Director of the Minister’s Office of the Ministry of Foreign Affairs and the head of the Department of Antiquities, as well as high-level Turkish Cypriot officials in the north, including the lead official on north-south issues, the “director-general” of the north, and the head of the north’s “religious affairs department.” Commissioners and staff also visited the Church of St. Synesios, the site of the December 2010 Christmas liturgy incident, and met with religious and community leaders from the Greek Orthodox, Maronite, and Jewish minority communities, and enclaved Greek Cypriots.

Saudi Arabia – January/February 2011: A USCIRF delegation traveled to Saudi Arabia to assess the Saudi government’s progress on a set of policies related to religious practice and tolerance that it had confirmed to the U.S. government in 2006. The delegation met in Riyadh, the Eastern Province, and Jeddah with a range of government and non-governmental interlocutors. In Riyadh, the delegation met with U.S. officials at Embassy Riyadh and with high-level Saudi government officials, including the Ministers of Justice, Education, and Islamic Affairs, and the Deputy Minister of Foreign Affairs. The delegation also met with the chair of the government-appointed National Human Rights Commission and representatives of the National Society for Human Rights in each region, as well as with a broad array of civil society leaders and activists.

Nigeria – January 2011: USCIRF went to Nigeria to assess the status of religious freedom and to engage Nigerian officials on USCIRF recommendations. The delegation met with a wide range of high-level government officials, including the Director General of the State Security Services, the Minister of Foreign Affairs, the Minister of Justice, the Inspector General of Police, and the Governor of Plateau State; Muslim and Christian leaders; the Gbong Gwom, a leading traditional ruler from Plateau State; and Rev. Tunde Bukari, Vice Presidential candidate of the Congress for Progressive Change (CPC) party, and a former Supreme Court justice.

Morocco – October 2010: Commissioners and staff traveled to Morocco to learn about the context of deportations of foreign Christians that occurred between March and July 2010. The delegation met in Rabat and Casablanca with a range of high-level Moroccan government officials, religious leaders, and

civil society activists, as well as U.S. Ambassador Samuel Kaplan and other U.S. Embassy staff. The delegation met with the Ministers of Interior, Justice, Islamic Affairs, and the Secretary-General from the Ministry of Foreign Affairs. In addition, the delegation met with the government-appointed Senior Council of Oulema, in which the King serves as chair. The delegation also visited the Village of Hope, an orphanage in Ein Leuh previously run by 16 expatriates, including Dutch, British, and American nationals, who were expelled by authorities in March 2010.

Sudan – October 2010: USCIRF held a conference on church-state relations in Juba, attended by, among others, South Sudan Vice President Reik Machar, the Presidential Advisor on Religious Affairs, the Presidential Advisor on CPA Implementation, Government of South Sudan parliamentarians, Sudan People’s Liberation Movement party leaders, and leaders of the Muslim, Catholic, Anglican, and other Christian communities. Commissioners and south Sudanese religious leaders made presentations on church-state relations in the United States, Kenya, and Uganda.

OSCE – October 2010: USCIRF participated in the U.S. delegation to the OSCE human rights review meeting in Warsaw, Poland, at which Commissioner Felice Gaer delivered the official U.S. intervention on behalf of the U.S. delegation on Freedom of Religion or Belief in the OSCE region. The USCIRF delegation also met with Turkish, Uzbek, and Tajik officials on the margins of the conference to discuss religious freedom concerns.

Sudan – July 2010: A USCIRF delegation visited Juba and met with senior officials of the government of South Sudan and the governing Sudan People’s Liberation Movement, U.S. officials in South Sudan, and representatives of civil society and religious communities. Discussions centered on South Sudan’s development needs, which are important to ensuring that sectarian and religious conflict does not resurface. During this trip, USCIRF hosted a half-day forum on development challenges facing Southern Sudan. USCIRF had sought to visit Khartoum during this trip, but visas were not granted.

Strasbourg, France and Berlin, Germany – May 2010: Returning from Indonesia, Commissioners and staff met in Strasbourg with officials from the Council of Europe and the European Court of Human Rights, and in Berlin with German government officials, political party representatives, and members of the German Council on Foreign Relations.

Indonesia – May 2010: USCIRF traveled to Indonesia to learn more about the status of religious freedom in the world’s most populous Muslim country. Commissioners visited Jakarta, Yogyakarta, and Ambon, previously the site of sectarian violence from 2000-2002. The delegation met with a wide range of high-level government officials and NGOs about issues pertaining to sectarian violence, blasphemy laws, and the protection of religious minorities in Indonesia. Government officials included: the Office of the President; the Ministries of Religious Affairs and Law and Human Rights; provincial governors including the Sultan of Yogyakarta; and parliamentarians including the heads of committees dealing with religious affairs, law and human rights, and security.

Commission staff travel: USCIRF staff made country visits to gain information about the status of freedom of religion or belief. In June 2010, USCIRF staff traveled to Kazakhstan to attend the OSCE high-level tolerance and non-discrimination conference and participated in a range of meetings with Kazakh officials from the Ministries of Internal Affairs and Judiciary. In July, USCIRF staff traveled to Morocco to learn about the context of the deportations that occurred in March 2010. In October, staff traveled to Thailand following a request from Congress to investigate the situation of 53 asylum seekers as a result of an incident in Con Dau, Vietnam. Staff also traveled to Malaysia to participate in a conference on law and religious freedom with 150 advocates from South and East Asia. In November, staff visited the Philippines to participate in a conference of 250 human rights defenders from East and

South Asia. USCIRF staff visited the Philippines again in December to participate in a conference on religious freedom. In December, USCIRF staff traveled to Afghanistan and Pakistan to learn more about religious freedom conditions in both countries, meeting with government ministers, as well as NGOs and religious groups.

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

During the reporting period, USCIRF played an active role in raising awareness of religious freedom concerns in the executive branch of the U.S. government. USCIRF had face-to-face meetings with a range of government representatives and wrote to U.S. officials, including President Obama and Secretary of State Hillary Clinton. USCIRF also engaged with representatives of foreign governments in Washington, D.C., including, in preparation for this Annual Report, writing to the embassies of countries covered in this report 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*

##### Meetings with U.S. government officials:

Assistant Secretary for the Bureau of Democracy, Human Rights, and Labor, Michael Posner: USCIRF met with Assistant Secretary Posner in November 2010 and January and March 2011 to discuss religious freedom concerns in China, Egypt, Nigeria, Pakistan, Saudi Arabia, Sudan, and Vietnam, as well as the status of CPC designations.

Deputy Assistant Secretary of State for Near East Affairs, Janet Sanderson: In March 2011, USCIRF met with Deputy Assistant Secretary Sanderson to discuss USCIRF's recent visit to Saudi Arabia, developments in Morocco, and other issues in the region.

U.S. Special Envoy to the OIC, Rashad Hussain: In January 2011, USCIRF met with Special Envoy Husain to discuss the OIC's role in the defamation of religions debate. Commissioners also discussed with SE Hussain how the United States could encourage the OIC to raise the religious freedom concerns of Muslims in non-OIC member states.

U.S. Department of State Acting Coordinator for Reconstruction and Stabilization, Ambassador Robert Loftis: In January 2011, USCIRF met with Ambassador Loftis to discuss U.S. development assistance to South Sudan.

Under Secretary for Political Affairs, William Burns: In December 2010, USCIRF met with Under Secretary Burns to discuss the indefinite waiver on Saudi Arabia, protection of religious minorities in Iraq and Egypt, religious freedom conditions in Pakistan and Vietnam, and Iran human rights sanctions.

Special Envoy to Monitor and Combat Anti-Semitism, Hannah Rosenthal: In December 2010, USCIRF met with Special Envoy Rosenthal to discuss anti-Semitism in Europe and the Middle East, her role at the State Department, and ways her office and the Commission could work together.

Assistant Secretary for South and Central Asia, Robert O. Blake: USCIRF met with Assistant Secretary Blake in August 2010 to discuss CPC designations for Turkmenistan and Uzbekistan and conditions in Tajikistan. USCIRF also met with Assistant Secretary Blake in December 2010 about the Turkmen government's refusal to offer USCIRF visas to visit for the third time.

Deputy Assistant Secretary of State for Near East Affairs, Michael Corbin: In December 2010, Deputy Assistant Secretary Corbin, who also serves as Special Coordinator for Iraqi Minority Communities, briefed Commissioners by phone about the situation in Iraq in the wake of an upsurge in attacks against Christians.

Treasury Assistant Secretary for Terrorist Financing, David Cohen: In November 2010, Commissioners met with Assistant Secretary Cohen, who sat in for Undersecretary Stuart Levey, to discuss Iran sanctions as well as Saudi extremist ideology and intolerance in textbooks.

Acting Special Representative on Afghanistan and Pakistan, Frank Ruggiero: In September 2010, Commissioners met with then-Acting Special Representative on Afghanistan and Pakistan Frank Ruggiero during the visit of Dr. Sima Samar, to discuss religious freedom and human rights conditions in Afghanistan.

U.S. Department of State Principal Deputy Assistant Secretary for African Affairs, Ambassador Don Yamamoto: USCIRF met with Ambassador Yamamoto in September 2010 to discuss U.S. policy in Sudan and Eritrea, as well as religious freedom issues in Africa more generally and the voting record of African countries at the United Nations.

Special Envoy to Sudan, Major General J. Scott Gration: Commissioners met with Special Envoy Gration in both July and August 2010 to discuss U.S. Sudan policy.

Under Secretary of State for Democracy and Global Affairs, Maria Otero: In July 2010, USCIRF met with Under Secretary Otero to introduce the Commission and present its Annual Report. Commissioners discussed her speech marking the one-year anniversary of President Obama's Cairo speech and the lack of any reference to religious freedom. Countries discussed included Indonesia, Nigeria, Saudi Arabia and Pakistan.

U.S. Military Chaplains: Commission staff met with chaplains from the U.S. armed services throughout the reporting period to discuss ways USCIRF could serve as a resource in the training of the chaplaincy corps on engaging religious leaders in areas of operation.

*Meetings with foreign government officials:*

Afghanistan: In December 2010, USCIRF met with a wide range of high-level officials in Afghanistan, including the Minister of Justice, the Deputy Minister for Hajj and Religious Affairs, the Director of Fatwas and Accounts at the Supreme Court, the Deputy Chair of the Ulema Council, personnel at the Ministry of Higher Madrasa Education, and six current and former members of parliament.

Cyprus: In February 2011, Commissioners met with Pavlos Anastasiades, Ambassador of the Republic of Cyprus to discuss the situation of religious freedom in northern Cyprus, and in June 2010, Commissioners met with his predecessor, Ambassador Andreas Kakouris, to discuss similar issues.

Indonesia/Philippines: In November 2010 USCIRF visited the Philippines to participate in a conference of 250 human rights defenders from East and South Asia. On the margins of the conference, USCIRF met with Indonesian and Philippine government officials and the UN Special Rapporteur on Human Rights Defenders.



Kazakhstan: In July 2010, USCIRF met with the head of the Kazakh Religious Affairs Committee and in January 2011 with the Ambassador of Kazakhstan to discuss the impact of the Kazakh Administrative Code on religious communities in Kazakhstan.

Morocco: In June 2010, USCIRF met with Aziz Mekouar, Ambassador of Morocco, to discuss the situation regarding the summary expulsion or denial of re-entry to approximately 150 expatriate Christians, including 45 Americans, allegedly for proselytizing.

Nigeria: In January 2011, USCIRF met with the National Security Advisor, the Ministers of Foreign Affairs and Justice, the Inspector General of Police, Senators, Members of the National Assembly, both the governor and traditional leader (Gbong Gwom) of Plateau State, and the Vice Presidential candidate of the ANCC. In March 2011, USCIRF met with the Plateau State Attorney General.

Pakistan: In December 2010 during a visit to Pakistan, USCIRF staff met with the cabinet ministers for Hajj, Human Rights, and Minorities Affairs, the equivalent to an assistant secretary at the Ministry of Foreign Affairs, the chair of the madrassa education board, and nine members of the parliament (six of whom were minorities) from both the ruling party and opposition parties. In February 2011, USCIRF also hosted the Federal Minister for Minorities Affairs during a Washington visit.

Russia: On the margins of an OSCE meeting in Warsaw in October 2010, USCIRF met with Boris Reznik, a member of the Russian public chamber, to discuss issues pertaining to religious freedom in Russia. In May 2010, USCIRF met with Ambassador Anatoly Safonov, Special Representative of Russia for International Cooperation in the fight against Terrorism and Transnational Organized Crime, to discuss the Russian definition of extremism and its inclusion of non-violent ideologies.

Saudi Arabia: During its visit in January/February 2011, USCIRF met with the Ministers of Justice, Education, and Islamic Affairs, the Deputy Minister for Foreign Affairs, the chair of the government-appointed Human Rights Commission, and representatives of the National Society for Human Rights in each region.

Sudan: During a USCIRF event in Juba in October 2010, Commissioners met with South Sudan President Salva Kiir, Vice President Reik Machar, the Presidential Advisor on Religious Affairs, the Presidential Advisor on CPA Implementation, South Sudan parliamentarians, and Sudan People's Liberation Movement party leaders. In August 2010, Commissioners also met with Southern Sudan's Envoy to the United States Ezekiel Lol Gatkuoth to discuss USCIRF's recent trip to Juba and to receive an update on the referendum and CPA implementation negotiations. In July 2010, USCIRF met with South Sudan Minister for CPA Implementation Pagan Amum. Throughout the reporting period, USCIRF met with government of South Sudan representatives based in Washington. In June 2010, USCIRF met with the Sudanese ambassador.

Tajikistan: In October 2010, USCIRF met with Tajik officials on the margins of the OSCE HDIM meeting in Warsaw, Poland to discuss issues pertaining to religious freedom in Tajikistan.

Turkey: In October 2010, USCIRF met with Turkish officials on the margins of the OSCE HDIM meeting in Warsaw, Poland to discuss issues pertaining to religious freedom in Turkey. USCIRF also met with high-level government officials while on a Commission visit in February 2011, including the Deputy Prime Minister, the Minister for EU Accession, the Directors General of the *Diyamet* (Religious Affairs Directorate) and *Vakiflar* (Minority Foundations Directorate), and officials of the Ministries of Foreign Affairs and Education.

Uzbekistan: On the margins of an OSCE meeting in Warsaw, Poland in October 2010, USCIRF met with the head and other members of the Uzbek delegation to discuss issues pertaining to religious freedom in Uzbekistan.

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

Letters to U.S. Officials:

Letter to Assistant Secretary for South and Central Asia Robert Blake – February 11, 2011: USCIRF wrote to Assistant Secretary Blake in advance of his visit to Turkmenistan and Uzbekistan to express concerns about the religious freedom situation in these two countries.

Letter to Secretary Clinton – January 25, 2011: USCIRF urged Secretary Clinton to make CPC designations, as January 16 marked the two-year anniversary of the last designation.

Letter to President Obama – January 14, 2011: USCIRF conveyed its appreciation for the President's statement condemning sectarian violence in Egypt and Nigeria and urged him to raise religious freedom issues during the visit of Chinese President Hu Jintao.

Congressional Letter to U.S. Ambassador to Pakistan Cameron Munter – January 6, 2011: USCIRF staff worked with congressional staff on a letter to Ambassador Munter expressing concern for the safety of Federal Minister of Minorities Affairs Shahbaz Bhatti and urging the U.S. Embassy in Islamabad to provide him with an armored car and a security detail.

Letter to U.S. Ambassador to Nigeria Terence McCulley – December 29, 2010: USCIRF forwarded to Ambassador McCulley USCIRF's statement on the Christmas Eve violence in Nigeria and emphasized the need for U.S. intervention.

Letter to Congressman Gus Bilirakis – December 10, 2010: USCIRF wrote to Congressman Bilirakis to inform him that USCIRF had begun efforts to investigate and make recommendations on violations of religious freedom in the areas of northern Cyprus under Turkish military control, as requested in H. Res 1631.

Senate Letter to Defense Department on Iraq Religious Minorities – December 1, 2010: USCIRF staff worked with the office of Senate Armed Services Committee Chairman Carl Levin on a letter to General Lloyd J. Austin expressing strong concern about Iraq's smallest religious minority communities.

Letter to U.S. Ambassador to Pakistan Cameron Munter – December 1, 2010: USCIRF urged the ambassador to press the Pakistani government to take immediate steps to ensure robust security protection for Federal Minister of Minorities Affairs Shahbaz Bhatti.

Letter to Secretary Clinton – November 18, 2010: USCIRF urged high-level State Department engagement with Pakistan regarding the repeal of their blasphemy law and the release of individuals accused or sentenced under its provisions.

Letter to Secretary Clinton – October 27, 2010: USCIRF sent a letter to Secretary Clinton expressing concern on the lack of progress on the Abyei referendum preparations in Sudan and urging increased senior-level U.S attention to the issue.

Letter to President Obama – October 14, 2010: USCIRF asked President Obama to address religious freedom on his trips to Indonesia and India.

Letter to Assistant Secretary Robert Blake – October 14, 2010: USCIRF expressed concern about the situation of Farid Tukhbatullin, a leading human rights activist from Turkmenistan and urged the Assistant Secretary to take action on the case.

Letter to Secretary Clinton – September 14, 2010: USCIRF wrote to request that the Secretary or other State Department officials raise concerns about religious freedom conditions in Turkey and Uzbekistan, as well as continue to lobby governments to vote against the flawed “defamation of religions” resolutions, during bilateral meetings at the UN General Assembly.

Letter to Under Secretary of State William Burns – September 3, 2010: Ahead of a scheduled trip by Under Secretary Burns to the Russian Federation, USCIRF urged him to raise specific religious freedom concerns in discussions with Russian officials.

Letters to Special Envoy for Afghanistan and Pakistan Richard C. Holbrooke and U.S. Agency for International Development Administrator Rajiv Shah – September 1, 2010: USCIRF wrote to both Special Envoy Holbrooke and Administrator Shah about alarming allegations that members of minority religious communities affected by the floods in Pakistan were being denied access to relief camps and lifesaving aid.

Letter to Assistant Secretary of State for South and Central Asia Robert O. Blake – August 30, 2010: Ahead of Secretary Blake’s travel to Tajikistan and Russia, USCIRF highlighted USCIRF concerns in these countries, including the Tajik government’s highly restrictive policies relating to religious communities, particularly Islam, and Russia’s use of its anti-extremist legislation.

Letter to President Obama – August 19, 2010: USCIRF urged the President to make Sudan and implementation of the Comprehensive Peace Agreement a key component of his remarks to the UN General Assembly in September.

Letter to Assistant Secretary of State for International Organization Affairs Esther Brimmer and Assistant Secretary of State for Democracy, Human Rights, and Labor Michael H. Posner – August 18, 2010: USCIRF expressed concern about the campaign to advance “defamation of religions” within the UN and urged the administration to reject any compromise approach that uses the term or accepts the “defamation of religions” concept.

Letter to Assistant Secretary of State for South and Central Asian Affairs Robert O. Blake – August 4, 2010: USCIRF urged the administration to continue to designate Uzbekistan a CPC, and also encouraged CPC designations for both Pakistan and Turkmenistan.

Assistant Secretary of State for East Asia and Pacific Affairs Kurt Campbell – July 12, 2010: USCIRF urged the administration to continue designating Burma, China, and North Korea as CPCs, and to re-designate Vietnam as a CPC.

Letter to President Obama – June 21, 2010: USCIRF urged President Obama to raise with King Abdullah revising the Saudi government-controlled curriculum and textbooks, reining in the government-funded religious police, and releasing Hadi Al-Mutif, the longest serving religious prisoner in Saudi Arabia.

Letter to President Obama – June 17, 2010: USCIRF urged the President to raise human rights problems publicly in Russia, particularly during his meeting with Russian President Dmitri Medvedev, and to urge reform of Russia’s law on extremism.

Letter to Assistant Secretary of State for South and Central Asia Robert O. Blake – June 11, 2010: USCIRF wrote to Assistant Secretary Blake urging the Obama administration to designate Uzbekistan as a “country of particular concern” and impose sanctions.

Letter to U.S. Ambassador to the Holy See, Miguel Diaz – June 8, 2010: USCIRF inquired about the Vatican’s response to human rights violations in Cuba.

Letter to President Obama – June 1, 2010: USCIRF urged the President to discuss ongoing religious freedom problems that weaken Indonesia’s democratic foundations and undermine its reputation for religious tolerance when he visits Indonesia to inaugurate the U.S.-Indonesia Comprehensive Partnership.

Letter to U.S. Ambassador to Morocco Samuel L. Kaplan – April 15, 2010: USCIRF wrote requesting an update on the approximately 40 expatriate Christian aid workers who were detained, interrogated, and summarily deported from Morocco in March, allegedly for proselytizing.

Letter to President Jimmy Carter – April 9, 2010: USCIRF urged former President Carter to continue raising the importance of respecting freedom of assembly and speech with all his interlocutors in Sudan, including with the Government of National Unity.

*Letters to Foreign Officials:*

Letter to Ambassador of the Islamic Republic of Pakistan Husain Haqqani – February 17, 2011: USCIRF expressed appreciation for the inclusion of Shahbaz Bhatti in the new Cabinet of Pakistan.

Letter to Ambassador of the Islamic Republic of Pakistan Husain Haqqani – February 10, 2011: USCIRF expressed concern that Shahbaz Bhatti might be excluded from Pakistan’s new cabinet.

Congressional Letter to Pakistani Prime Minister Syed Yusuf Raza Gilani – November 19, 2010: USCIRF staff worked with the offices of Representatives Eliot Engel and Chris Smith urging the Pakistani government to repeal or revise substantially Pakistan’s blasphemy law and to release Ms. Asia Bibi, sentenced to death for blasphemy, unconditionally.

Letter to Chinese Ambassador Zhang Yesui – November 1, 2010: USCIRF expressed concern over the Chinese government’s harassment and detentions of Chinese citizens invited as delegates to an international conference and asked for clarification of government statements that those trying to attend the conference were “threats to national security.”

Letter to Turkish Ambassador Namik Tan – October 20, 2010: USCIRF expressed concern about reports that the Turkish government authorized a Muslim religious event at the historic Armenian Orthodox Cathedral of Ani.

Congressional Letters to Foreign Heads of State – October 20, 2010: USCIRF worked with congressional staff to draft and send letters signed by 42 Members of the House to 158 countries, urging each to oppose the defamation of religions resolution when it comes before the UN General Assembly.

Letter to Ambassador of Afghanistan Said Tayeb Jawad – September 9, 2010: USCIRF wrote regarding reports of three Afghan citizens jailed on allegations of conversion from Islam, asking for clarification on the reports and information on the whereabouts of the individuals.

Letter to Ambassador of the Islamic Republic of Pakistan Husain Haqqani – September 1, 2010: USCIRF offered condolences about the floods affecting Pakistan and expressed concerns about reports that

members of minority religious communities affected by the floods were being denied access to relief camps. USCIRF asked for clarification and assurance that assistance be provided in a non-discriminatory manner to all Pakistanis.

Letter to South Sudan President Salva Kiir – August 25, 2010: USCIRF wrote President Kiir to offer guidance in the government of South Sudan's efforts to ensure a successful and agreeable outcome to the January 2011 referendum process and the post-2011 negotiations.

Letter to Ambassador of the Islamic Republic of Pakistan Husain Haqqani – July 23, 2010: USCIRF wrote in support of efforts of Shahbaz Bhatti, Federal Minister for Minorities Affairs, to promote religious freedom and interfaith harmony and expressed concern over threats against his life.

Letter to Ambassador of Nepal Shankar Sharma – July 9, 2010: USCIRF asked for information about the drafting of Nepal's permanent Constitution and expressed concern that the proposed language may not adequately protect religious freedom.

Letter to Ambassador of the Republic of Turkey Namik Tan – June 3, 2010: USCIRF wrote about reports of Turkish government interference in the election of the Armenian Orthodox Patriarch, requested additional information, and urged that any governmental constraints on such internal church matters be removed.

Letter to Ambassador of Colombia Carolina Barco Isakson – April 8, 2010: USCIRF wrote to seek clarification on reports that indigenous persons in Colombia who convert to Christianity are harassed by the federally appointed governors of indigenous reserves. Detained individuals reported being beaten, denied access to medical care, and forced to stand all day in the sun.

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

USCIRF has organized and participated in public hearings and events, including the following:

- Briefing on Sudan and the UPR Process – March 3, 2011: USCIRF held an off-the-record discussion on ways to leverage Sudan's upcoming Universal Periodic Review (UPR) session at the UN Human Rights Council to increase international attention to human rights and religious freedom violations there.
- Pakistan's Federal Minister for Minorities Affairs Shahbaz Bhatti, Briefings – February 2011: USCIRF facilitated a series of briefings by Federal Minister Bhatti for Members of Congress and their staff, as well as officials at the National Security Council, the White House, and the State Department, academic experts, and representatives of non-governmental organizations. The briefings focused on Pakistan's blasphemy laws, the situation on the ground in Pakistan, the status of Pakistan's religious minority communities, and the Pakistan government's response to the upsurge in religiously-motivated violence.
- Tom Lantos Human Rights Commission Briefing – January 19, 2011: USCIRF's Executive Director, Jackie Wolcott, briefed Congressional staff on USCIRF's mandate and agenda and the importance of religious freedom, both as a pivotal human right and as a key factor in establishing and consolidating democracies that protect the rule of law and minority rights.
- Briefing on Morocco – January 2011: Following a USCIRF visit to Morocco, USCIRF Commissioners and staff briefed Congressional offices on key findings.

- Speech at the International Archon Religious Freedom Conference – November 16, 2010: USCIRF Vice Chair Elizabeth Prodromou spoke about the status of freedom of religion or belief in Turkey at a conference in Brussels entitled “Religious Freedom: Turkey's Bridge to the European Union.”
- Speech at the European Parliament – November 15, 2010: USCIRF Vice Chair Elizabeth Prodromou spoke about the status of religious freedom or belief in Russia at a conference on Religious Freedom in Russia at the European Parliament.
- Dr. Sima Samar, Afghanistan Briefings – September 20-22, 2010: USCIRF Staff arranged for Afghan Independent Human Rights Commission Chairwoman Sima Samar to brief House and Senate staff on issues related to human rights and religious freedom in Afghanistan, including U.S. support for informal dispute resolution mechanisms.
- Dr. Sima Samar, Sudan Briefing – September 20, 2010: USCIRF staff arranged a roundtable at which Dr. Sima Samar briefed Congressional staff and NGOs about her work as UN Special Rapporteur on Human Rights in Sudan.
- Central Asia Briefing – September 14, 2010: USCIRF staff held a briefing for congressional staff and NGOs on “Religious Freedom in Central Asia: What’s at stake for the U.S?” Kathleen Kuehnast, Kyrgyz specialist and Gender Advisor for the U.S. Institute of Peace, participated.
- Vietnam Hearing – August 18, 2010: USCIRF Commissioner Ted Van Der Meid testified before the Tom Lantos Human Rights Commission on *Status Update: Religious Freedom in Vietnam*. Commissioner Van Der Meid focused on the overall decline of human rights and religious freedom in Vietnam, and urged the Secretary of State to designate Vietnam as Country of Particular Concern and to support internet freedom, civil society development, and passage of the Vietnam Human Rights Act.
- Sudan Forum – July 12, 2010: USCIRF held a half-day forum at which U.S. government officials, congressional staff, diplomats, and Sudan experts discussed specific development challenges in southern Sudan and ways to overcome those challenges. The keynote speaker was Major General J. Scott Gration, Special Envoy for Sudan.
- Uzbekistan Panel – June 23, 2010: USCIRF staff held a panel discussion with Freedom House about the poor human rights and religious freedom situation in Uzbekistan, as well as the crisis for ethnic Uzbeks in Kyrgyzstan. The session featured firsthand testimony from Abdusalam Ergashev, a human rights activist in Uzbekistan, and Gulnara Jumaeva, the wife of political prisoner Yusuf Juma.
- Sudan Roundtable – June 18, 2010: USCIRF held a roundtable on the future of the CPA, human rights, and religious freedom in Sudan. The panel included three Sudanese Catholic Bishops (Bishop Rudolf Deng Majak, Wau Diocese and President of the Sudan Catholic Bishops Conference; Bishop Daniel Adwok Kur, Auxiliary Bishop of Khartoum Archdiocese; and Bishop Eduardo Hiiboro Kussala, Diocese of Tombura-Yambio).
- USCIRF 2010 Annual Report Briefing for Senate Foreign Relations Committee – June 11, 2010: USCIRF staff briefed Senate Foreign Relations Committee staff about the major findings and recommendations in USCIRF’s 2010 Annual Report.
- Iran Briefings with Roxana Saberi – May 25, 2010: USCIRF, Roxana Saberi, an American journalist who was arrested and imprisoned in Iran in January 2009, and Hadi Ghaemi, Director of the

International Campaign for Human Rights in Iran, briefed Congressional staff and Members of Congress on Roxana's experience in an Iranian prison.

- Sudan Roundtable – May 3, 2010: USCIRF hosted a roundtable discussion on next steps for U.S.-Sudan policy after the April elections with panelists from the United States Institute of Peace and the Enough Project.

### **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 work with Congressional offices include:

- “Defamation of Religions” Letter Campaign – March 2011 and November 2010: USCIRF staff worked with House staff on letters that Representatives sent to 38 members of the U.N. Human Rights Council (March 2011) and 158 members of the General Assembly (November 2010) urging their opposition to the “defamation of religions” resolution.
- Religious Minorities in Pakistan – February and March 2011: USCIRF staff arranged meetings for Pakistan's Minister for Minorities Affairs Shahbaz Bhatti with Members of Congress and their staff in February, and worked with Congressional offices on H. Res. 164, a resolution that expressed condolences on his assassination and urged the U.S. and Pakistani governments to promote interreligious dialogue, tolerance, and religious freedom and related human rights.
- Lautenberg Amendment Reauthorization – February 2011: USCIRF staff briefed Hill offices on the importance of reauthorizing the Lautenberg Amendment, which establishes a presumption of refugee eligibility for certain categories of people from the Former Soviet Union and South East Asia and, as amended in 2004, covers religious minorities fleeing Iran.
- Iraq House Resolution– November 2010: USCIRF staff worked with House staff on H. Res. 1725, which condemned threats and attacks against vulnerable religious communities in Iraq and urged the U.S. government to, among other actions, assist the Government of Iraq to ensure security at places of worship and other sites where vulnerable religious communities congregate, and to establish, fund, and deploy police units that include officers who are representative of vulnerable religious communities.
- Engaging UN Ambassadors in New York – October 18, 2010: Commissioners and Representative Eliot Engel (D-NY) hosted a meeting for selected UN ambassadors in New York to urge them to vote against the “defamation of religions” resolution then being considered by the UN General Assembly.
- Sudan House Resolution: H. Res. 1588 – September 28, 2010: USCIRF staff worked with Congressional offices on a bipartisan resolution that expressed the sense of the House of Representatives on the importance of the full implementation of the CPA to help ensure peace and stability in Sudan during and after mandated referenda.
- Egypt – Congressional Letter on Benchmarks – March 9, 2010: USCIRF staff worked with staff of the Tom Lantos Commission on Human Rights on a letter to the Obama administration urging it to pressure the Egyptian government to investigate religious and sectarian-based violence, ensure non-partisan rule of law application to security and judiciary services, reform the issuance of official

documents to protect religious minorities, remove mention of religion on identification cards, and take steps to prevent anti-Semitism.

### **Raising Public Awareness through the Media**

From March 2010 to April 2011, USCIRF released 86 press releases regarding international religious freedom violations throughout the world, and its work has been noted in many articles in domestic and international media outlets. USCIRF press releases have received broad media exposure in the Washington Post, the Washington Times, USA Today, the Wall Street Journal, BBC, the New York Times, Fox News, CNN, the Toronto Star, All Africa, the Associated Press, Reuters, and Agence France Press, resulting in thousands of USCIRF mentions in the world's print, television and digital media. These press releases have focused on a wide range of issues including Christians in China, blasphemy laws in Pakistan, religious minorities in Iraq, religious conflict in Nigeria, Bahai's in Iran, Buddhists in Vietnam, and Copts in Egypt.

Commissioners have been interviewed on major networks including CNN and Fox. They also have authored opinion articles, which were published in the Washington Post, the Huffington Post, and the Wall Street Journal, on the plight of Christians in Iraq, China's failure to protect its religious minorities, and Nigeria's religious violence.

Reaching out to the foreign press is an important part of USCIRF press activities. In a recent month's sampling, USCIRF commissioners were quoted in the Press Trust of India, Times of India, India Journal, the Australian, Dawn, Japan Times, Newsweek Pakistan, Kristeglit Dagblad, Friesch Dagblad, Asia News, MSN India, Sudan Tribune, Mizoram Express, Eurasia Net, Ethiopian Journal, Humanistischer Pressedienst, Australia Network News, Europe News, Pakistan Christian TV, and many others.

Another important focus of USCIRF press activities is the religious media. USCIRF Commissioners and press releases have been quoted in Baptist Press, Christian Post, Catholic News Service, Compass Direct, Crosswalk, Catholic Culture, Organizer, Zenit, Christianity Today, Christian Telegraph, Christian Science Monitor, National Catholic Register, Catholic News Agency, Order of Saint Andrew the Apostle, and Pakistan Christian TV.

USCIRF also has worked to have a bigger presence on the Internet and in digital media. To that end, USCIRF now is on Twitter and has a Facebook account, and is regularly quoted on internet blogs such as Religion Clause and Beliefnet.

USCIRF's website – [www.uscirf.gov](http://www.uscirf.gov) – is a resource containing USCIRF 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 that governs 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 2011 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 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 through intimidation and harassment of religious groups. 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. But after flawed 2010 elections, administration officials have said that U.S. sanctions will not be lifted without concrete results on concerns such as nonproliferation assistance, release of all political prisoners, and humanitarian aid delivery. In USCIRF's view, religious freedom improvements and democratization are closely linked in Burma. Targeted sanctions should remain until the SPDC takes active steps to meet benchmarks established in UN resolutions and U.S. law. The administration should fully implement the provisions of the JADE Act and coordinate sanctions implementation and diplomatic actions with the EU and other regional allies, particularly the democracies of Southeast and South Asia. The administration announced its support for a UN commission of inquiry on Burma and has worked to build international backing for this mechanism. In addition, U.S. assistance funds should be targeted to empower Burmese civil society groups organizing humanitarian assistance, conducting human rights and religious freedom documentation efforts, and providing public advocacy, leadership, and legal training to Burmese living in and outside of Burma. Additional recommendations for U.S. policy toward Burma can be found at the end of this chapter.

## Religious Freedom Conditions

### *Ongoing Repression of Buddhists*

The SPDC 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 government 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 peaceful anti-government demonstrations in 2007, the regime also began systematically to repress Burmese Buddhist monks and monasteries viewed as epicenters of the protests and those publicly critical of government policies. Despite this crackdown, 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.

Government interference in Buddhist affairs predated the 2007 protests. 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, 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. There may be as many as 100 monks and novices in prison for activities that preceded the 2007 public demonstrations.

Understanding the importance of Buddhism in Burma's life and culture is critical to understanding the significance of the September 2007 protests and the government's harsh reaction. The monks broadened the scope of the initial protests and began calling for the release of all political prisoners and the initiation of a process leading to democratization in the country. As the protests broadened, the SPDC ordered the military to crack down on the monk-led demonstrations. At least 30 deaths were reported, although some experts say the actual number was much higher. At least 4,000 people, an unknown portion of whom were monks, were arrested during the crackdown, and between 500 and 1,000 were believed to remain 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 recent NGO report claims that 252 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.

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 about 50 of the original 180 monks in residence have been permitted to return. Government authorities continue to monitor closely monasteries viewed as focal points of the protests 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. At the end of the reporting period, they continue to be detained. 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.

Over the reporting period, authorities continued to block from meeting a group of Buddhist laypersons known as the Tuesday Prayer Group, who attempt to gather every week at Rangoon’s Shwedagon Pagoda to pray for the release of Aung San Suu Kyi. In October 2009, authorities arrested Tuesday Prayer Group leader Naw Ohn Hla and three of her colleagues for offering alms to monks at Magwe monastery in Rangoon, alleging they acted with intent to incite public unrest. The four were sentenced in February 2010 to two years’ confinement each for “disturbing public tranquility.”

#### *Active Repression of Religious Minorities*

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, especially ethnic minority groups whose religious affiliation is an identifying feature. 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 and there are credible reports of death and beatings of those who refused conscription.

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 continue to be credible reports that government officials compelled people to donate money, food, or materials to state-sponsored projects to build, renovate, or maintain Buddhist religious shrines or monuments.

#### *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. Approximately 800,000 Rohingya live in Burma, primarily in Rakhine state.

Without citizenship status, Rohingyas lack 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. 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 severely restricted Muslim marriage ceremonies 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.

Police often restricted the number of Muslims who could gather in one place. In some places, Muslims were only allowed to gather for worship and religious training during major Muslim holidays. 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 closed or destroyed. The government has, in recent years, ordered the destructions of mosques, 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.

As many as ten Muslim community leaders in Rakhine State continue to be detained on unspecified charges. Reports indicate that the group was arrested by the government to forestall a Muslim political organization, though NGOs and international media report that the group was meeting to document human rights and religious freedom abuses among the Rohingya ethnic minority community.

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. They also have faced forced repatriation to Burma from Bangladesh, and Thailand has pushed the boats of Rohingya asylum seekers back out to sea.

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, and import religious literature. In some areas around Rangoon, police restrict the number of times Burmese Christians can gather to worship or conduct religious training.

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 permission to build new churches. In 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 were 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. In addition to restrictions on meeting places and charitable activities, government authorities have started to prohibit Protestants from proselytizing in

some areas, particularly in places hardest hit by Cyclone Nargis. In the past year, local authorities sometimes refused residency permits for clergy seeking to move to new towns or villages.

### *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 Shatapu Baptist Church to build a Christian orphanage. In some 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 often denied or secured through bribes. In Chin areas, permission for ceremonies on religious holidays must be submitted months in advance, though Protestants report that they are often granted permission for these events.

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. Refugees continue to claim that government officials encourage conversion through promises of economic assistance or denial of government services, although reportedly such incidents have decreased in recent years. Chin families who agree to convert to Buddhism were offered monetary and material incentives, as well as exemption from forced labor. Burmese Buddhist soldiers are also offered financial and career incentives to marry and convert Chin Christian women. 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.

Chin Christians claim that the government operates a high school that only Buddhist students are permitted to attend. Students must convert to attend, but they are guaranteed jobs upon graduation. Also, Christian Solidarity Worldwide reports 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.

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, and killing civilians. According to the Asian Human Rights Commission and the Shan Women's Human Rights Network, ethnic minority women are particularly vulnerable as the Burmese military encourages or condones rape by its soldiers as an instrument of war. 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 2,000 Karen villagers were forced to flee following attacks by the Burmese Army.

### *UN 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 2010. The UN Human Rights Council also has issued similar annual condemnations, and extended the mandate of the Special Rapporteur on the situation of human rights in Burma in March 2011.

The UN Secretary General has not reappointed a Special Envoy for Burma. Critics assert that the previous Special Envoy was too solicitous of the SPDC and achieved only a few symbolic prisoner releases.

The UN Special Rapporteur on the situation of human rights in Burma 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 diplomatic options in the UN Security Council appear limited, as previous efforts to raise Burma there have been vetoed by China and Russia.

## **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” and State Department officials, notably Assistant Secretary of State Kurt Campbell, held numerous exchanges with SPDC officials prior to Burma’s 2010 elections. Assistant Secretary Campbell 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 the SPDC’s proliferation activities and ties with North Korea.

After the widely discredited 2010 elections, in which the main opposition party, the NLD, and several ethnic minority groups were not allowed to participate, diplomatic exchanges between the United States and SPDC leaders have been put on hold.

In the aftermath of the elections, there continue to be calls to rescind sanctions from a number of sources, including ASEAN nations. The NLD has stated publicly that sanctions should not be lifted, but called for a discussion on when to end international sanctions “in the interests of democracy, human rights and a healthy economic environment.” Aung San Sui Kyi, in a message to the World Economic Forum, echoed her party’s position and called for renewed and socially responsible investment in Burma. Secretary Campbell has said publicly that any discussion of lifting sanctions is “premature” until SPDC takes more “concrete steps” on the release of prisoners and democratization. This is a position favored by most members of Congress and Burmese exile groups.

The United States supports the proposal by the UN Special Rapporteur on human rights in Burma, mentioned above, that the United Nations should establish a commission of inquiry to address possible international criminal law violations in Burma. The United States has worked with the United Kingdom, Canada, Australia, and New Zealand to increase support for this mechanism.

## **Recommendations**

U.S. leadership is essential to bringing democratic change and ending human rights violations, including of religious freedom, in Burma. In addition to continuing to designate Burma as a CPC, the United States should 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. Any future 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, and the equal and transparent distribution of humanitarian assistance. In addition, the United States should work closely with Aung San Sui Kyi to develop a roadmap to greater democracy and socially responsible investment in 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:

- organize a coalition of democratic nations in Asia to replace the moribund Bangkok Process in order to construct a roadmap outlining concrete steps Burma must take to end economic and political sanctions and engage with Burma's top leader on issues of concern, including addressing humanitarian and human rights abuses, releasing all political and religious prisoners, finding a durable solution for refugees, and achieving both a peaceful transition to civilian rule and a truly representative government; and
- implement any provision of the JADE Act, particularly banking sanctions, that has yet to be fully applied.

## **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:

- release unconditionally 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 an estimated 250 Buddhist monks and others who led or participated in peaceful protests;
- 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, that are inconsistent with international standards, on the construction and renovation of churches and mosques and on the printing of religious literature, 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 instructs 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, in particular, the UN Special Rapporteur on Burma and the UN Special Rapporteur on Freedom of Religion or Belief; and
- ratify core international human rights instruments, beginning with the International Covenant on Civil and Political Rights.

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

The U.S. government should:

- continue to build international support for the creation of a UN commission of inquiry on Burma to investigate charges including murder, torture, rape, arbitrary detention, widespread forced relocations, forced labor, forced migration, forced renunciations of faith, and other religious freedom abuses;
- consider supporting the creation of a compensation commission on Burma, paid for by the Burmese government, to bring redress to victims of human rights abuses found by any future UN inquiry into human rights conditions in Burma;
- urge the Organization of the Islamic Conference (OIC) to issue public statements condemning religious freedom and related human rights violations experienced by Rohingya Muslims in Burma and work with the Burmese government, and other ASEAN nations, to end religious freedom violations and find a durable solution for Rohingya Muslim refugees; 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, with a deplorable human rights and religious freedom record. Severe religious freedom abuses occur regularly, including: 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 2011 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 controls nearly every aspect of its citizens' daily lives, including religious activity, which is allowed only in government-operated religious federations or a small number of government-approved house churches. All 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 *kwang-li-so* (North Korea's infamous penal labor camps), though the exact number is difficult to verify given the government's control over information. There were reports of three executions of religious prisoners in the past year.

The situation for North Korean refugees remains dire. The North Korean government interrogates asylum-seekers repatriated from China about their religious belief and affiliations, and mistreats and imprisons as security threats those suspected of distributing religious literature or having ongoing connections with South Korean religious groups. According to testimony from former North Korean refugees, clandestine religious activity in North Korea is increasing, as are the regime's attempts to halt its spread. In recent years, police and security agency offices have infiltrated Protestant churches in China, begun training police and soldiers about the dangers of religion, and set up fake prayer meetings to catch worshippers.

**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 urges that agreements on humanitarian and human rights concerns be included in negotiations with North Korea over nuclear security and regional stability. USCIRF urges the administration to work with regional allies at the Six-Party Talks to raise human rights concerns, including religious freedom, and to 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 largely 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, or disappeared, or have fled to South Korea.

The government forcibly 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. The government views any functioning religious belief or practice outside of *Juche* as a challenge to this personality cult surrounding the Kim family, and thus to the regime's authority. Under this system, 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. There are an estimated 100,000 *Juche* research centers throughout the country.

Religious activity is either tightly controlled or suppressed. In an attempt to blunt international criticism of North Korea's abysmal religious freedom record, in 1988 the government created "religious federations" for Buddhists, Chondokoyists, Protestants, and Catholics. These federations were intended to represent long-repressed religious communities 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 who conceal from international attention the government's repression of religious activity, maintain religious venues as both cultural relics and tourist attractions, and direct assistance programs from foreign donors.

### *Government Control of Buddhism*

According to former North Korean refugees, Buddhist temples and shrines are maintained as cultural heritage sites by *gwalliwon* (caretaker monks) who do not perform religious functions. Employed by the regime, these monks 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 culture. Refugee testimony provides little evidence of an actual underground Buddhist religious presence.

### *Government Control and Repression of Christianity*

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

attend services in the churches are not allowed to interact with foreign visitors. There is no Catholic clergy in North Korea, but visiting priests occasionally provide mass at Changchun Church.

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 unapproved religious materials are available and secret religious meetings occur, spurred by cross-border contact with individuals and groups in China. The North Korean government views such activity in the border regions as illegal and a threat to national security. It sees new religious growth as spurred by South Korean humanitarian and missionary groups based in China. Police and border security units are trained to halt the spread of religious ideas and root out clandestine activity. Anyone caught distributing religious materials, holding unapproved religious gatherings, or having ongoing contact with overseas religious groups is subject to severe punishment ranging from labor camp imprisonment to execution. In May 2010, 23 Christians were reportedly arrested for belonging to an underground church in Kuwol-dong, Pyongsong City, South Pyongan Province. It is claimed that three were executed, and the others were sent to the Yoduk political prison camp. However, these claims could not be verified. South Korean NGOs claim 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. In March 2006, Son Jong Nam was sentenced to death for spying reportedly based on evidence that he converted to Protestantism. According to Son's brother in July 2010, Son was tortured and died in prison in December 2008.

Imprisoning religious believers remains a common practice, according to numerous reports of former North Korean refugees. While it is difficult to corroborate the exact number of prisoners, it is estimated that 150,000 to 200,000 prisoners currently may languish in North Korea's network of political prison camps, some for religious reasons. North Korea experts in South Korea, using testimony from refugees, estimate that there may be 6,000 Christians incarcerated in "Prison No. 15" in the northern part of the country. Testimony from former North Korean prison inmates and prison guards alleges 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 a few corroborated reports on forced abortions and cases of infanticide in the prison camps.

### *North Korean Refugees in China*

Over the past decade, hundreds of thousands of people have fled to neighboring China and South Korea to escape persecution and famine in North Korea. With the number of North Korean refugees rising in China, issues of repatriation, trafficking, and general conditions are of international concern. The Chinese government continually labels North Korean refugees as "illegal" economic migrants and routinely repatriates them, despite China's international obligation to offer protection to asylum-seekers and the documented proof that repatriated refugees suffer mistreatment and imprisonment in North Korea when returned. According to the concluding observations of the UN Committee Against Torture's (CAT) 2008 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 Committee urged China to halt forced repatriations, to adopt legislation to protect asylum seekers

consistent with Article 3, and to provide precise data to the CAT. Although 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 or employment in China, the North Korean government had been forced to reduce punishments of those leaving for those reasons to short periods of detention and forced labor. However, over the past few years, refugees report that the government is returning to its implementation of harsher penalties for repatriated North Koreans, regardless of their reasons for fleeing. The harshest treatment is reserved reportedly for refugees suspected of becoming Christian, distributing illegal religious materials, or those refugees 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 credible 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. Former government security agents now abroad reported intensified police action aimed at halting religious activity at the border.

## **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 with 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 for direct negotiation with the United States on a treaty formally ending 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.

Although Ambassador Robert King, the Special Envoy for North Korean Human Rights, has stated that human rights will significantly impact the prospects for improved U.S.-North Korea relations and that specific improvements will be required for normalization of relations, there is no indication that a human rights agenda is any higher a priority now than under the previous administration. The Obama administration has sought to coordinate efforts between the two Special Envoys on North Korea, placing them together in the State Department's Bureau of East Asian Affairs. But given Pyongyang's recent acknowledgement of uranium enrichment facilities and international unease over the leadership transition in North Korea, human rights concerns have not been high on any diplomatic agenda.

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 Member States to inspect cargo to and from North Korea, instructs international financial and credit institutions to bar 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 preconditions.

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 seeks to facilitate resettlement of North Korean refugees to the United States. 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, Korean-American organizations are calling on the Special Envoy for North Korean Human Rights to take a larger role in coordinating resettlement of North Koreans in the United States.

According to the State Department's 2010 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**

USCIRF has concluded that negotiations with North Korea should be rooted in a broader security framework that includes human rights and humanitarian concerns within negotiations on nuclear non-proliferation. North Korea continues to be a regional security concern whether or not it possesses nuclear weapons. In addition to recommending the continued designation of North Korea as a CPC, USCIRF urges the Obama administration to coordinate the efforts of regional allies, including those at the Six-Party Talks, to raise human rights concerns, including concerns about religious freedom, and to link future economic, political, and diplomatic assistance to progress in these areas. The United States should not postpone discussion of human rights until nuclear security agreements are reached. Doing so would allow the North Koreans to allege that the United States and its allies are raising new obstacles to regional peace when progress on nuclear non-proliferation is made. The Obama administration should clearly signal that future political, diplomatic, or economic inducements will require improvements in both human and nuclear security issues and work with democratic allies in the region to put such a plan into action.

USCIRF also recommends that the U.S. government fully implement the North Korean Human Rights Act, and use funds from the Act to expand access to information and new media to counter government propaganda within North Korea and to support NGOs conducting democracy and human rights training in the North Korean diaspora. The U.S. government also should continue to protect and assist North Korean refugees, and the U.S. Congress should take action to promote religious freedom in North Korea.

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

The U.S. government should:

- in negotiations on nuclear security and stability on the Korean Peninsula, including 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, closure of political-penal labor camps, and the release of innocent children and family members of those convicted of political crimes, and link future economic assistance and diplomatic recognition to concrete progress in these areas;
- 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; and
- 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

(OSCE) – 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).

## **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, increase 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;
- target appropriated foreign assistance to build a cadre of experts and potential leaders among North Korean refugee populations, through the creation of scholarship, leadership, educational, and other programs in the United States; and
- ensure full implementation of the North Korean Human Rights Act’s provisions to facilitate North Korean refugee resettlement in the United States by, among other things, having the Special Envoy for North Korean Human Rights, working with other State Department offices and the Department of Homeland Security, assess and report on current implementation and obstacles.

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

The U.S. government should:

- urge the Chinese government to uphold its international obligations to protect asylum seekers by: allowing the UN High Commissioner for Refugees (UNHCR) to confer temporary asylum on those seeking asylum 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 relating to any bilateral agreement with North Korea 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, address growing social problems, abuses, and exploitation experienced by this vulnerable population, and work with regional and European allies to articulate a clear and consistent message about China’s need to protect North Korean refugees;
- continue to stress U.S. and international concerns about providing safe haven, secure transit, quick processing, and clear resettlement procedures for North Koreans in bilateral relations with China, Russia, Mongolia, Vietnam, Thailand, Cambodia, and other countries in East Asia;
- educate embassy personnel more thoroughly in countries where North Koreans have fled about the circumstances such refugees face, increase staffing levels particularly of Korean language speakers to assist North Korean refugees, and publicize the availability of support for North Koreans who seek resettlement in the United States; 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 carry out the recommendations of various UN bodies and special procedures, particularly those of the Human Rights Council's Special Rapporteur on North Korea;
- urge the Office of the UN High Commissioner on Human Rights to open an office in Seoul, South Korea in order to initiate 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 so 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.

## Egypt

**FINDINGS:** The Egyptian government engaged in and tolerated religious freedom violations before and after President Hosni Mubarak stepped down on February 11, 2011. Serious problems of discrimination, intolerance, and other human rights violations against members of religious minorities, as well as disfavored Muslims, remain widespread in Egypt. Violence targeting Coptic Orthodox Christians remained high during the reporting period. This high level of violence and the failure to convict those responsible – including two of the three alleged perpetrators in the 2010 Naga Hammadi attack – continued to foster a climate of impunity, making further violence more likely. The Egyptian government has failed to protect religious minorities, particularly Coptic Christians, from violent attacks, including during the transitional period when minority communities are increasingly vulnerable. Since February 11, military and security forces reportedly have used excessive force and live ammunition targeting Christian places of worship and Christian demonstrators. Implementation of previous court rulings – related to granting official identity documents to Baha’is and changing religious affiliation on identity documents for Christian converts – continues to lag. In addition, the government has not responded adequately to combat widespread and virulent anti-Semitism in the government-controlled media.

Based on these concerns, USCIRF recommends in 2011, for the first time, that Egypt be designated as a “country of particular concern,” or CPC, for systematic, ongoing, and egregious violations of religious freedom. Prior to this year’s recommendation, Egypt had been on USCIRF’s Watch list since 2002.

Religious freedom conditions in Egypt have deteriorated under the Mubarak regime over the past several years, particularly for religious minorities. Since February 11, religious freedom conditions have not improved and attacks targeting religious minorities have continued. In fact, attacks on minorities, particularly Coptic Christians, including by Islamist militants imposing extra-judicial punishments, have risen and have resulted in deaths and injuries. Despite initial efforts by the transitional government to dismantle the state security apparatus, the state of emergency remains in place and discriminatory laws and policies continue to have a negative impact on freedom of religion or belief in Egypt. Since February 11, the lack of adequate security in the streets has contributed to lawlessness in parts of the country, particularly in Upper Egypt.

**PRIORITY RECOMMENDATIONS:** Egypt is experiencing a period of unprecedented transition, the success of which hinges on full respect for the rule of law and compliance with international human rights standards, including freedom of religion or belief. During this period, the U.S. government should direct a portion of existing military assistance to provide heightened protection for Coptic Christians and other religious minorities. In addition, the U.S. government should increase economic assistance for organizations that provide democracy and governance training, as well as for Egyptian civil society groups working to advance human rights and religious freedom reforms. The U.S. government should press the transitional Egyptian government to undertake immediate reforms to improve religious freedom conditions, including repealing decrees banning religious minority faiths, removing religion from official identity documents, and passing a unified law for the construction and repair of places of worship. In addition, the United States should more aggressively press the Egyptian government to prosecute perpetrators of sectarian violence, including by creating a special unit in the Office of the Public Prosecutor, and to ensure that responsibility for religious affairs is not placed under the jurisdiction of the new domestic security agency. Additional recommendations for U.S. policy towards Egypt can be found at the end of this chapter.



## **Religious Freedom Conditions**

### *Revolution, Transition, and Heightened Concerns in Egypt*

On February 11, 2011, President Hosni Mubarak stepped down from power following 18 days of a peaceful, popular uprising by the Egyptian people. Subsequently, the Egyptian Supreme Council of Armed Forces (SCAF) took control of the country. Within days of taking over, the SCAF dissolved the parliament, suspended the constitution, formed a committee to recommend constitutional amendments, and called for presidential and parliamentary elections within six months. However, given the volatility of the current situation, it is unclear how this process will proceed.

During the first half of March, the SCAF appointed a new prime minister and new cabinet ministers. On March 19, 77 percent of those Egyptian citizens who cast ballots voted in favor of proposed constitutional amendments. In late March, the SCAF issued a decree incorporating the new amendments into an interim constitution that immediately went into effect. They also announced that the state of emergency would be lifted before parliamentary elections in September 2011, and that presidential elections would follow one or two months afterward. While many opposition groups in Egypt supported the constitutional referendum, some groups expressed concern that the accelerated timetable for the referendum and parliamentary and presidential elections could end up favoring remnants of the former ruling National Democratic Party and members of the Muslim Brotherhood and other Islamist groups.

Egypt continues to have a number of repressive policies and practices that violate the freedom of thought, conscience, and religion or belief. Activists inside Egypt increasingly are concerned that extremist groups continue to advance in the country, with detrimental effects on the prospects for genuine democratic reform or improvements in freedom of religion or belief. Some human rights groups advocate that the transitional government should repeal some of the repressive laws and policies related to religious freedom before parliamentary and presidential elections. Others believe that the transitional government is nothing more than a caretaker government which should take limited action until a permanent government is formed later in the year.

Since February 11, the transitional government claims it has begun to dismantle the state security apparatus which has operated under the Emergency Law, in effect since 1981 and most recently renewed for another two years in May 2010. Because Egypt continues to operate under a state of emergency, the government has the option to hear cases involving terrorism or drug trafficking in state security courts rather than criminal courts. The Emergency Laws restrict many human rights, including freedom of religion or belief as well as freedom of expression, assembly, and association. In addition, the state security courts do not provide the right to appeal guilty verdicts. Egyptian and international human rights groups have been critical of the courts' procedures and limits on the rule of law and due process.

Over the years, thousands of persons have been detained without charges under the Emergency Law on suspicion of illegal terrorist or political activity; others continue to serve sentences after being convicted on similar charges. Egyptian and international human rights groups have asserted that the primary purpose of the state security courts is to punish political activism and dissent, even when that dissent is peaceful. These courts also have been used to detain and try individuals deemed by the state to have "unorthodox" or "deviant" Islamic or other religious beliefs or practices. While some "security detainees," including those in detention on account of their religious belief, have been released since February 11, the Emergency Law remains in place.

In March, the new Interior Minister announced that the existing state security branches and offices throughout Egypt would be dissolved and replaced with a new domestic security agency tasked with

maintaining security inside the country and combating terrorism “in line with the constitution and principles of human rights.” While some human rights groups acknowledge this as a positive step, critics believe the new agency will simply re-package the old structure. Although the previous Minister of Interior, Habib El-Adly, and several other high-level security officials have been arrested and are under investigation for a number of crimes, including corruption and ordering the use of force against peaceful protestors, there continue to be accusations that military and security forces are engaging in arbitrary arrests, prolonged detentions, and physical abuse of detainees while in custody. Since February 11, human rights groups have accused the military of arresting hundreds of demonstrators and subsequently holding trials, convicting, and sentencing many to three to five year prison terms. Many of those convicted allegedly did not have access to legal counsel and some of the trials and convictions were carried out the same day.

### *Government Control of Islam and Violations against Muslims and Dissidents*

The government maintains 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.

Egyptian law forbids 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. Groups impacted in recent years include Ahmadis, Koranists, and Shi’a and Sufi Muslims.

Beginning in March 2010, government security officials arrested without charge 11 members of the country’s small Ahmadi community; all were subsequently released, with the final six freed on June 7, soon after USCIRF issued a public statement calling for their release. The Ahmadis were charged under Article 98(f) with “contempt for religion” and also on vague Emergency Law charges of undermining social cohesion. They were never prosecuted.

Koranists – a tiny group 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 – also have been targeted in recent years. Many from the Koranist community report discrimination in employment and continue to suffer from harassment and surveillance by security services. Authorities have prevented some members from leaving the country.

Over the years, the small Shi'a Muslim community has faced periodic discrimination, harassment, and arrests. In June 2009, a Shi'a Muslim cleric, Hassan Shehata Moussa, was arrested along with 11 other Shi'a Muslims on charges of 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. Shehata was released in March 2010; however, at least eight Shi'a Muslims remain in prison.

In July 2010, Hani Nazeer, a Coptic Christian blogger from Upper Egypt, was released from prison after nearly two years in detention for posting on his blog a cover of a book deemed insulting to Islam. Despite at least four court orders mandating his release, Nazeer had been detained since October 2008 under a succession of administrative detention orders issued by the Interior Minister using powers provided by the Emergency Law. According to his lawyers, prison officials mistreated Nazeer and pressured him to convert to Islam. In February 2007, a court in Alexandria convicted and sentenced Abdel Karim Suleiman, a 22 year-old 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 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. He was released in November 2010. During his time in prison, Suleiman allegedly suffered physical abuse and was placed in solitary confinement.

### *Islamists and Extremism*

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. While this prohibition remains in place even after new amendments to the constitution went into effect in March 2011, the Muslim Brotherhood and other Islamist groups now can form political parties on other platforms. In the November 2010 parliamentary elections, almost all members of the Muslim Brotherhood who ran as independents lost their seats during an election that was described as fraudulent and rigged. 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. Under the Mubarak regime, Egyptian security forces arrested hundreds, if not thousands, of suspected Islamists every year, and some were 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.

Since February 11, Egypt has witnessed an increase in crime and lawlessness due to a decrease in police and security presence. Consequently, some Islamist militant groups have used this lapse to impose extra-judicial punishments. For example, in March 2011, Islamist militants clashed with Muslim villagers south of Cairo over demands to close a liquor store and coffee shops. One villager was killed and eight others injured in Kasr el-Bassil, in Fayoum province, in fighting that broke out after militants ordered the owner to close the shops based on their strict interpretation of Islam. An investigation is ongoing.

During the reporting period, Sufi Muslims experienced increased attacks and harassment by Islamist militant groups. In Alexandria, militants targeted at least 16 historic mosques belonging to Sufi orders and attempted to deface and destroy tombs of important Sufi Islamic scholars. Since February 11, 2011, in Qalyoub, north of Cairo, militants attacked at least five Sufi shrines. Islamist militant groups in Egypt deem as heretical a number of Sufi religious practices, including the veneration of saints. By the end of the reporting period, no one had been brought to justice for any of the attacks on Sufi places of worship, and investigations are ongoing.

## *Violence Targeting Christians*

During the reporting period, there continued to be a high incidence of 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. The ongoing violence, and the failure to prosecute those responsible, continued to foster a 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. In some cases, authorities compelled victims to abandon their claims to any legal remedy. This continued during the reporting period. USCIRF has stated that reconciliation efforts should not be used to undermine enforcing the law and punishing perpetrators for wrongdoing. The State Department also has 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 are examples of violent incidents – primarily during the reporting period – impacting the Coptic Orthodox community, who comprise approximately 10 to 15 per cent of Egypt’s 80 million people.

In March 2011, in the Upper Egypt town of Qena, a group of extremists cut off the ear of a Coptic Christian man. The group claimed it was applying a *sharia* (Islamic law) punishment. The Christian man agreed to compensation during a subsequent reconciliation session instead of pursuing criminal charges because the extremists allegedly threatened his family.

In early March in Cairo, 13 people were killed and nearly 150 wounded in clashes that erupted during large-scale demonstrations by Christians protesting the destruction of a church in the provincial town of Sol. The demonstrators called for the rebuilding of the church, punishment of perpetrators, and better treatment by Egyptian authorities. Some of the demonstrations reportedly blocked major highways. According to some accounts, the Egyptian military stood by for as long as four hours without intervening in the clashes. Egyptian officials said that all of those killed died of gunshot wounds, although it is still unclear who was responsible for the killings. An investigation is ongoing. Some Coptic groups claimed that all the victims were Christians, while other reports indicated that as many as five Muslims were killed. Much of the violence took place in eastern Cairo in the well-known Christian neighborhood popularly known as “Garbage City.”

The church in Sol had been destroyed by arson several days earlier by local Muslims after clashes between Christians and Muslims left two dead. The clashes reportedly resulted from a feud between the families of a Christian man and a Muslim woman who allegedly were having a romantic relationship. On March 10, Ahmed al-Tayeb, the Grand Sheikh at Al-Azhar, condemned the attack on the church. In addition, the Egyptian military announced that it would rebuild the church by Easter. By the end of the reporting period, the military had completed initial construction and remained committed to meeting its self-imposed deadline.

In late February, one monk and six church workers were injured when the Egyptian military reportedly used excessive force and live ammunition at the Anba Bishoy monastery in Wadi Natroun, north of Cairo, to destroy a wall monks had built to defend their property from criminals recently set free from local prisons. According to reports, military forces used heavy machine guns and armored personnel carriers to bulldoze the wall. According to church authorities, as security diminished following the January 25 revolution, the monastery had come under increasing attacks from raiders and criminals. The military denied a request for protection from the monks, who subsequently built a brick wall with a metal gate to control access. The military claimed the monastery had not acquired the proper permits and issued a deadline for the wall to be torn down. After the deadline passed, the military demolished the wall.

On January 11, 2011, an off-duty police officer opened fire in a train in Minya province, killing one Christian and injuring five others. The shooter, a Muslim, was charged with murder and will be tried in a state security court. The Ministry of Interior denied the shooting was sectarian. Coptic activists have suggested that the attack was religiously motivated, although other groups have not been able to confirm this.

On January 1, 2011, a bomb detonated in front of a Coptic church, Al Qiddissin (Two Saints), in Alexandria, where a New Year's prayer service was being held. At least 23 Christians were killed and nearly 100 wounded in the worst sectarian attack on Christians in Egypt in more than a decade. On January 23, then-Interior Minister Habib El-Adly asserted that conclusive evidence pointed to a militant group, *Army of Islam*, as responsible for the attack. The group, based in Gaza and linked to al-Qaeda, denied responsibility. In February, after El-Adly was removed as Interior Minister, Egypt's general prosecutor initiated an investigation into whether the ex-Minister had a role in the January 1 attack. Investigations of the bombing and the role of the Ministry of Interior in the incident are ongoing.

In November 2010, police and Coptic Christians clashed in Giza after the government stopped construction on a church-owned building. At least two Christians died and dozens were injured. According to media reports, the building in question originally was licensed as a community center in 2009. The government ordered a halt on construction when it grew concerned that the building was being transformed into a place of worship, which would require a different kind of permit. The clashes began when police cordoned off the construction site and escalated when an estimated 700 Christians took their protests to the governor's headquarters, where the riot police responded with tear gas and rubber bullets. Also in November, more than a dozen Coptic Christian homes and several businesses were burned and looted in the Qena province of southern Egypt after rumors spread, including in local media, about a romantic relationship between a Christian man and a Muslim woman. Security officials imposed a curfew and arrested several Muslims, although no one has been charged with any crime.

In September 2010, in the Omraneya district of Cairo, Egyptian authorities reportedly used excessive force and live ammunition on peaceful demonstrators protesting the government's continued refusal to approve a license to build a local church extension. Two people, including a teenager, were killed, and dozens were wounded. No one has been brought to justice.

On January 6, 2010, in the town of Naga Hammadi, Qena Governorate, three men sprayed automatic gunfire on Coptic churchgoers leaving midnight Christmas Mass. At least seven people were killed – six Christians and one off-duty Muslim police officer – and several others were wounded. Some argued the attack was in retaliation for a November 2009 incident in which a 12-year-old Muslim girl was rumored to have been sexually assaulted by a Christian man in a nearby town (see below); others suggested that a political vendetta could have been a factor. Three men were arrested and tried in a state security court. The public prosecutor recommended that each of the three alleged perpetrators should receive the death penalty. On January 16, 2011, the court convicted and sentenced to death one of the three, Mohamed Ahmed Hussein. Hussein is widely identified as the man who pulled the trigger in the shooting. On February 20, 2011, the court ratified the verdict against Hussein but acquitted the two other men, who were known to be accomplices in the killings. Coptic activists and human rights groups were outraged by the acquittals, which further reinforced the climate of impunity for the killing of Christians in Egypt.

In November 2009, in Farshout and other villages in the Qena Governorate, rumors that a 20-year-old Coptic man had sexually assaulted 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. The rape case against the Christian man is ongoing.

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.

In 2004, the Court of Cassation upheld the acquittal of 94 out of the 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.

### *Incitement to Violence against Christians*

In the months leading up to the November 2010 parliamentary elections, an increase in incitement to violence in Egyptian media and government-funded mosques exacerbated sectarian tensions between Muslims and Christians. In September and October, Egyptian government officials spoke out against incitement to violence, particularly in the media, and temporarily shut down several satellite television stations, including Al-Nas and Al-Rahma, that aired programming espousing religious hatred and violence. In September, Qatar-owned Al-Jazeera broadcast a program which alleged that the Coptic Church has its own militia and hides weapons and ammunition in monasteries and churches and is preparing for a war against the Muslims. The program also accused Coptic Christians of “inciting sectarian strife and seeking to have their own separate state in Egypt.” Pope Shenouda expressed his concern over the “baseless” claims and dismissed the rumors of a separate “Coptic state.”

In July 2010, Camilia Shehata, the wife of a Coptic bishop in the Minya province, reportedly left her home after a family dispute. Rumors surfaced in the Christian community that she had been kidnapped and forced to convert to Islam, and Coptic Christians participated in large-scale demonstrations demanding her return. After a few days passed, representatives of the Coptic Church stated that she had never converted to Islam and that she had returned home safely and willingly. Nevertheless, the incident sparked outrage within Islamist and extremist circles. For example, weeks after the incident, some Islamist groups urged Bedouins in Sinai to kidnap and kill Christian tourists in retaliation for the alleged kidnapping of Shehata, who they claimed converted to Islam and was being held against her will by the Coptic Church. They also made reference to Wafaa Constantine, another wife of a Coptic priest, who they alleged also had converted to Islam and was kidnapped by the Coptic Church in December 2004. According to representatives of the Coptic Church, Constantine also had been involved in a dispute with her husband and never had converted to Islam. In addition, in its claim of responsibility for the October 31, 2010 attack on a church in Baghdad, an al Qaeda-affiliated group in Iraq stated that the attack was in retaliation for the Coptic Church in Egypt’s detention against their will of Shehata and Constantine, even though the women themselves disputed these allegations. The group stated that the Coptic Church had 48 hours to free Shehata and Constantine, otherwise al Qaeda would target Christians in Egypt and elsewhere in the region.

On March 12, 2010 in Marsa Matrouh, northern Egypt, the prayer leader of the Al-Rifayah mosque allegedly incited some 250 Muslim worshippers to demolish a wall that was under construction by a 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, approached the 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.

### *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 had 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, many churches continue to face delays in the issuance of permits. The Egyptian government claims most such requests are approved. 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.

In May 2010, the Coptic Orthodox Church stated that a Supreme Administrative court ruling breached the church's authority. The court's ruling permitted divorced Coptic Christians to remarry. According to government policy, the application of personal status law, including marriage and divorce, is subject to official church law, not the law of the state. The Coptic Church in Egypt only permits divorce in cases of adultery or the conversion of one spouse to another religion or another Christian denomination.

### *Converts and Reconverts to Christianity*

Although neither the Constitution nor the Penal Code prohibits proselytizing or conversion, the Egyptian government has used Article 98(f) of the Penal Code to prosecute 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 as a 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, 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. According to the State Department, on February 12, 2011, the court ruled that more than 500 reconverts to Christianity would be permitted to obtain new national identity documents indicating their Christian faith without having to be listed as "formerly declared Muslims." As of this writing, it is unclear if the reconverts have been able to obtain new identity documents.

In addition, reports in recent years support 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 recent years, human rights groups have 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 reports, 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 as 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 received death threats and currently is in hiding, has appealed the ruling. In April 2010, a Cairo court suspended the case indefinitely until the country's constitutional court rules on the constitutionality of a previous case on Article 47 of the civil code, which allows citizens the right to change their name and religion on identity documents.

The second such case was filed in August 2008 by Maher El-Gohary, who received threats from extremists and spent time in hiding. 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. In December 2010, a court ordered the Ministry of Interior to lift a travel ban on El-Gohary; the ban was lifted on February 13, 2011, and El-Gohary and his daughter Dina left the country.

### *Baha'is*

All Baha'i institutions and community activities have been banned since 1960 by a presidential decree. As a result, the approximately 2,000 Baha'is who live 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 it had been prompted by 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. More than two years after the incident, there has been no investigation or prosecution. In late February 2011, after rumors that the Baha'i families would be returning to the homes vandalized in 2009, several Baha'i homes in the Sohag province reportedly were set on fire by local villagers. An Egyptian human rights group alleged that at least two local security officers incited local villagers to attack the homes. An investigation is ongoing.

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 had refused to issue. In addition, approximately 20 to 30 single male and female Baha'is have received identity cards. Nevertheless, there continue to be delays in granting identity cards to Baha'is, and since the January 25, 2011 revolution, local state security offices are understaffed in many parts of the country and, therefore, have not been processing documents. Over the past few years, some Baha'is lost their jobs and a few young Baha'is were dismissed from universities because they did not have identity cards.

No married Baha'i couples have received identity cards because the Egyptian government does not recognize Baha'i marriages. According to sources in Egypt, in 2010 a committee of the National Council for Human Rights drafted an amendment that would enable the Ministry of Justice to register Baha'i marriages. The suggested amendment was to be presented to the parliament in early 2011. However, the January 25 revolution and subsequent dissolving of the parliament have put it on hold.

#### *Anti-Semitism and the Jewish Community*

In 2010, material vilifying Jews – with both historical and new anti-Semitic stereotypes – continued to appear regularly in the state-controlled and semi-official media. This material includes anti-Semitic cartoons, images of Jews and Jewish symbols that reference Israel or Zionism, comparisons of Israeli leaders to Hitler and the Nazis, 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. Egyptian officials claim that anti-Semitic statements in the media are a reaction to Israeli government policy toward Palestinians and do not reflect historical anti-Semitism. Human rights groups cite persistent, virulent anti-Semitism in the education system, which increasingly is 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 1,200 Jehovah's Witnesses living in Egypt. In recent years, Egyptian authorities monitored 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) by the UN Human Rights Council. The head of Egypt's delegation 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 occur. 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 and to eliminate the legal and bureaucratic restrictions that complicate an individual's right to choose his or her religion.

In January 2011, Al-Azhar University indefinitely suspended the annual dialogue between the Vatican's Joint Committee for Dialogue and the Permanent Committee of Al Azhar for Dialogue among the Monotheistic Religions. Al-Azhar cited public comments by Pope Benedict as "insulting... towards Islam" and stated that a speech by Pope Benedict suggested that "Muslims are discriminating against others who live with them in the Middle East." In addition, after Pope Benedict issued a January 2011 statement following the Alexandria church bombing urging governments in the region to protect their Christian minorities, the Egyptian government withdrew its Ambassador to the Vatican, citing interference in internal affairs. After more than a month, the Egyptian government returned its ambassador in late February.

In 2010, the National Council for Human Rights (NCHR), a government-appointed advisory body, released its sixth annual report expressing serious concern about rising sectarian tensions and discrimination against dissident Muslims, particularly Shi'a Muslims. Unlike in previous years, the report did not provide recommendations on religious freedom to the government.

In April 2010, Egyptian Education Minister Ahmed Zaki Badr announced that the religious curriculum in schools would be modified for the 2010-2011 school year. The government said it was responding to complaints that some content in textbooks incited extremism and violence. It is unclear if offending passages were removed from the textbooks currently being used in schools.

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

For years, U.S. policy toward Egypt has focused on fostering strong bilateral relations, continuing security and military cooperation, maintaining regional stability, and sustaining the 1979 Camp David

peace accords. Successive administrations 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. According to the State Department's 2010 *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."

In 2010, more frequently than in previous years, the U.S. government highlighted human rights and religious freedom concerns in Egypt through public statements and remarks. For example, on January 1, 2011, President Obama issued a strong statement condemning the New Year's Day bombing of a church targeting Christians in Alexandria and offered assistance to the Egyptian government to bring the perpetrators to justice. Also, in October 2010, Assistant Secretary of State for Democracy, Human Rights and Labor Michael Posner publicly raised in Cairo ongoing concerns about sectarian violence, urging accountability and the promotion of tolerance and religious freedom.

During the first few days of the January 25, 2011 revolution in Egypt, the Obama administration remained supportive of the Mubarak regime. Secretary of State Hillary Clinton expressed confidence that the regime was stable and urged peaceful protests by the Egyptian people. As the demonstrations continued and grew, high-level U.S. government officials expressed concern about incidents of government violence against peaceful protestors. President Obama advocated that Mubarak step down, which he did on February 11. In March 2011, Secretary of State Clinton visited Egypt and announced \$90 million in near-term emergency U.S. economic assistance and \$80 million in U.S. Export Import Bank insurance coverage to support letters of credit issued by Egyptian financial institutions. Secretary Clinton also pledged to secure quick congressional passage of a \$60 million U.S.-Egypt Enterprise Fund, a program to stimulate investment and provide Egyptian businesses with access to low-cost loans. Secretary Clinton did not raise religious freedom concerns publicly during her visit, although she was accompanied by Assistant Secretary of State for Democracy, Human Rights and Labor Michael Posner.

U.S. assistance reflects the recognition of Egypt's continued and crucial role in ensuring Arab-Israeli peace. In May 2010, it became publicly known that the U.S. government had been negotiating with Egypt about the possibility of creating a new endowment, the "Egyptian-American Friendship Foundation," that would replace traditional economic assistance and bypass congressional oversight. The Obama administration eventually distanced itself from these negotiations after public criticism, including by members of Congress.

Overall U.S. aid to Egypt has decreased from \$2.1 billion annually until the late 1990s to approximately \$1.5 billion in 2011. While Foreign Military Financing (FMF) assistance has remained steady 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 1990s known as the "Glide Path Agreement." As a result, economic aid to Egypt decreased approximately \$40 million each year from \$815 million in Fiscal Year 1998 to \$411 million in FY2008. In FY 2011, total ESF assistance was \$250 million and for FY2012, the administration again has requested \$250 million. For FY2010, \$25 million was allotted for democracy and governance, with \$10.5 million for rule of law and human rights programming, \$6 million for good governance and anticorruption programs, and \$8.5 million to support Egyptian civil society. This included \$4.6 million in direct grants to civil society organizations, with the remaining \$3.9 million under the "civil society" heading designated for a media development program run in conjunction with the Egyptian Ministry of Communications and Information Technology.

In recent years, experts 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. 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 ongoing concern about the degree of Egyptian government control over U.S. funding of civil society and human rights groups in Egypt. Direct grants to registered Egyptian NGOs are vetted by the Egyptian government. As a consequence, many new Egyptian NGOs do not seek formal registration, and instead form a civil corporation, to avoid unnecessary government interference and oversight. In the past, the Egyptian government claimed that even U.S. funding of civil corporations violates 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. Since Mubarak stepped down in February 2011, Congress has focused on emergency funding to encourage economic development and investment in Egypt.

In November 2010, the State Department concluded that religious freedom conditions remained poor, unchanged from 2009. The three previous years, 2007-2009, the State Department stated that religious freedom conditions in Egypt had declined. This assertion did not result in any significant change in U.S. policy towards Egypt other than through public comments and statements.

## **Recommendations**

As described above, the Egyptian government has engaged in and tolerated religious freedom violations before and after President Hosni Mubarak stepped down on February 11, 2011. During the reporting period, violence targeting Coptic Orthodox Christians remained high and the Egyptian government failed to convict those responsible for the violence. In addition, the Egyptian government has failed to protect religious minorities, particularly Coptic Christians, from violent attacks, including during the transitional period when minority communities are increasingly vulnerable. Since February 11, military and security forces reportedly have used excessive force and live ammunition targeting Christian places of worship and Christian demonstrators. Despite initial efforts by the transitional government to dismantle the state security apparatus, the state of emergency remains in place and discriminatory laws and policies continue to have a negative impact on freedom of religion or belief in Egypt.

Accordingly, based on the Egyptian government's systematic, ongoing, and egregious religious freedom violations, USCIRF is recommending for the first time that Egypt be designated a country of particular concern. As a consequence, the U.S. government should direct a portion of existing military assistance and emergency economic assistance to enhance security for religious minority communities and fund civil society groups who respect the rule of law and international human rights standards. In addition, the United States should press the Egyptian transitional government to implement a series of reforms over the next six months to advance freedom of religion or belief and related human rights, including election reform.

## **I. As a Consequence of CPC Designation, Directing a Targeted Amount of Military and Economic Assistance During Egypt's Transition**

The U.S. government should:

- ensure that a portion of the existing \$1.3 billion in Foreign Military Financing for the Egyptian government goes toward heightened security for religious minority communities and their places of worship, particularly Coptic Orthodox Christians, Sufi Muslims, and Jews;
- conduct or support specialized training, either in Egypt or abroad, for Egyptian military and police forces on human rights standards and non-lethal responses to crowd control and to quell sectarian violence;
- provide and increase Economic Support Funding for democracy and governance organizations for political party development and other training for Egyptian groups and parties, and require the democracy and governance organizations to certify to the U.S. government that no such funds shall be allocated to or dispersed for such groups and parties without first determining that each of them:

--does not advocate or use violence;

--does not discriminate against women or against individuals or groups on the basis of religious affiliation or religious belief with respect to equality before the law and equal protection of the law;

--demonstrates full respect for the rule of law;

--publicly pledges to uphold the individual right to freedom of thought, conscience, and religion, including the freedom to change one's religion or belief, and the freedom, either alone or in community with others and in public or in private, to manifest one's religion or belief in teaching, practice, worship, and observance; and

--publicly pledges to uphold the individual right to freedom of expression, including the right to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers.

The U.S. Congress should:

- require the Departments of State and Defense to report every 90 days on the Egyptian transitional government's progress on the issues described in this section, as well as on the U.S. government's progress in offering funding directly to Egyptian NGOs without prior Egyptian government approval.

## **II. Ensuring that Responsibility for Religious Affairs Not Fall Within the Jurisdiction of the New Egyptian Domestic Security Agency**

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

- repeal the state of emergency, in existence since 1981, in order to allow for the full consolidation of the rule of law in Egypt;
- ensure that *de facto* responsibility for religious affairs does not fall under the jurisdiction of the new domestic security agency, with the exception of espionage cases or cases involving violence or the advocacy of violence, including conspiracy to commit acts of terror;

- pass a unified law that would subject all places of worship to the same transparent, non-discriminatory, and efficient regulations regarding construction and maintenance, and take special measures to preserve and restore Coptic Orthodox and other Christian properties and antiquities that have been subject to societal violence and official neglect; and
- consistent with the UN Human Rights Council’s March 2011 resolution on “combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence, and violence against persons based on religion or belief,” repeal Article 98(f) of the Penal Code, which “prohibits citizens from ridiculing or insulting heavenly religions or inciting sectarian strife” and, in the interim, provide the constitutional and international guarantees of the rule of law and due process for those individuals charged with violating Article 98(f).

### **III. Implementing Additional Reform Within the Next 180 Days in Order to Comply with International Human Rights Standards**

The U.S. government should urge the transitional Egyptian government to:

- establish a special unit in the Office of the Public Prosecutor dedicated to investigating acts of violence against Egyptian citizens on the basis of religion or belief, particularly Coptic Orthodox Christians, vigorously prosecuting and bringing to justice perpetrators, and ensuring compensation for victims;
- address incitement to imminent violence and discrimination against disfavored Muslims and non-Muslims by:
  - prosecuting in regular criminal courts government-funded clerics, government officials, or individuals who incite violence against Muslim minority communities or individual members of non-Muslim religious minority communities;
  - disciplining or dismissing 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 previously-issued fatwas by Al-Azhar that are discriminatory toward or incite violence against Muslim minority communities or non-Muslim religious minority communities;
- 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;
- repeal 1960 presidential decrees banning members of the Baha’i faith and Jehovah’s Witnesses from practicing their faith, and officially recognize other minority faiths;
- remove mention of religious affiliation from national identity documents;
- cease all messages of hatred and intolerance in the government-controlled media and take active measures to promote understanding and respect for members of 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;
- 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.

#### **IV. 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:

- provide direct support to 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 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:
  - revising all textbooks and other educational materials to remove any language or images that promote enmity, intolerance, hatred, or violence toward any group of persons based on faith, gender, ethnicity, or nationality, and including in all school curricula, textbooks, and teacher training the concepts of tolerance and respect for human rights of all persons, including religious freedom;
  - 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
  - preserving and restoring Egyptian Jewish properties and antiquities in publicly accessible sites.

#### **V. 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; 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.

**Statement of Commissioner Nina Shea, with whom Chairman Leonard Leo and Vice Chair Elizabeth H. Prodromou Join:**

We write separately to underscore the concern that Egypt is on a trajectory that is part of a broader trend toward the irreparable and severe diminution of Christian and religious minority populations.

In several countries covered in this report – Egypt, Iran, Iraq, Saudi Arabia, and Turkey – the non-Muslim religious minority communities are facing existential threats while experiencing varying degrees and manifestations of religious intolerance and injustice. Every one of the religious minority communities in these countries – whether Jewish, Zoroastrian, Yazidi, Mandaean, Baha’i, Hindu, Buddhist, Christian or other – is rapidly shrinking. In these pivotal countries, this report paints a dire picture of ongoing religious cleansing and ineffectual American responses.

In most of these countries, religious demographics are kept as state secrets. However, while the data are imprecise, it is recognized that Christians are by far the largest remaining non-Muslim group, and that their numbers are greatest in Egypt and Iraq, as well as in Lebanon and Syria, which are not part of this report. It is estimated that region-wide, they number no more than 15 million, a small fraction of the overall population.

The most dramatic example of persecution is in Iraq. Since 2004, a relentless wave of Islamist terrorist attacks targeting Iraq's indigenous Christians and their churches, combined with government discrimination, has prompted them to flee en masse. At the time of Saddam Hussein’s fall, the number of Chaldean Catholics, Assyrian Orthodox, Armenians, Syriacs, and other Christians in Iraq was estimated at 1.4 million. Half of these have since fled, and some observers wonder how long it will be before the remaining half leaves.

The smallest religious minority communities have contracted even more sharply. Since the establishment of the state of Israel, some of the region’s Jews voluntarily left Muslim-majority countries; but as many as 850,000, such as the Jews of Baghdad sixty years ago, were driven out and forced to leave land and possessions behind, by freelance terror and government policies. The parts of Iraq and Egypt that had been great Jewish centers since Old Testament times now have Jewish populations numbering in single and triple digits, respectively. Sabean Mandeans, mostly based in Baghdad and Basra, are down to 5,000, one-tenth of their pre-2003 population of 50,000. Yazidis, who draw upon Zoroastrian beliefs, are found in northern Iraq; hundreds of thousands of them have fled in recent years, leaving half a million still in their native land.

The threats are not confined to Iraq. By far, the largest non-Muslim minority community among these countries is Egypt’s Copts, numbering between 8 and 12 million. A year and a half ago, Coptic worshippers were massacred during a Christmas Eve attack on their church in Naga Hammadi in southern Egypt. This year, a crowded church in Alexandria was bombed by militants at New Year, and several Coptic villages have been targeted by pogrom-like mob violence. Attacks against the Copts were carried out largely with impunity under an indifferent Mubarak regime. A recent announcement that the rising



Muslim Brotherhood movement would seek the imposition of Islamic law in Egypt is now sending shock waves through the Coptic community. Apart from the Christians, Egypt's religious minority population is down to about 2,000 Baha'is, 1,000 Jehovah's Witnesses, and 125 Jews.

Non-Muslim communities collectively have diminished to no more than two percent of Iran's 71 million people. Iran's largest non-Muslim minority community is the Baha'i, founded in Shiraz, in southeastern Iran, and severely repressed as a heresy. Baha'is in Iran number about 300,000. Iran also counts about 300,000 Christians of a variety of denominations, a number that is rapidly dwindling under an active policy of religious repression by the revolutionary Shi'a government. Zoroastrians, based on the plains of Iran since their religion's founding somewhere between 1800 and 1500 BC by the devotional poet Zarathustra, have experienced a steady decline and are estimated to number now between 45,000 and 90,000. Iran is home to 25,000-30,000 remaining Jews. About 5,000 to 10,000 Mandaeans also live in Iran and are, according to this report, "facing intensifying harassment and repression."

The Persian Gulf region and northern Africa have few remaining Christian churches, synagogues or any other non-Muslim houses of worship. Ancient, indigenous churches have all but disappeared. Native Christians – mostly evangelicals, probably numbering in the thousands – worship largely in secret. Saudi Arabia, the most religiously repressive in this group, has only one publicly known native Christian, an oft-imprisoned and extremely courageous young man. Foreign workers, including over a million Christians and a million or two Hindus, Buddhists, and members of other faiths, now living in Saudi Arabia and the Gulf, are denied rights of nationality and, in the former, even the right to public worship. The more open Morocco is now home to the largest Jewish community in the Arab Middle East, numbering no more than 6,000. Without due process, Morocco summarily deported scores of foreign Christian educators and social workers last spring.

In Turkey, the site of Constantinople, which was the center of Byzantine Christianity from the 4th to the 15th century, only some 90,000 Christians remain, less than 0.2 percent of the population. As this report makes clear, they are now being suffocated by a web of state regulations that cripple their ability to pass on the faith to the next generation, and make it difficult even to carry out worship services. Turkey also has about 23,000 Jews, 10,000 Baha'is, 5,000 Yezidis, and 3,300 Jehovah's Witnesses.

Turkey has never held a transparent investigation into charges of genocide against its Armenian, Assyrian, and Greek populations in the early part of the 20th century and makes it a crime of "insult" even to raise this issue. Armenian journalist Hrant Dink was convicted for such "insult," and he was murdered in 2007; the murder trial continues to drag on, raising a legitimate concern that justice may be denied.

This report is country-specific and its recommendations are appropriately country-specific. It is important, however, to recognize this overall regional pattern of ever-shrinking religious diversity that has important implications for American policy.

## Eritrea

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

In light of these violations, USCIRF again recommends in 2011 that Eritrea be designated as a “country of particular concern,” or CPC. Since 2004, the Commission has recommended, and the State Department has designated, Eritrea as a CPC. 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 any CPC designation worldwide.

The religious freedom situation in Eritrea under the regime of President Isaias Afwerki remains grave, particularly for Jehovah’s Witnesses and members of other small and non-traditional religious groups such as Evangelical and Pentecostal Christians. The government dominates the internal affairs of the Orthodox Church of Eritrea, the country’s largest Christian denomination, and suppresses Muslim religious activities or groups viewed as radical or opposed to the government-appointed head of the Muslim community. The government has appointed the heads of both the Orthodox and Muslim communities, despite community objections, and in 2006 placed under house arrest the government-deposed Eritrean Orthodox Patriarch Abune Antonios, who protested government interference in his church’s affairs.

**PRIORITY RECOMMENDATIONS:** USCIRF recommends that, in addition to continuing the existing IRFA sanction against Eritrea, the U.S. government should employ the International Emergency Economic Powers Act to impose targeted sanctions against individuals and institutions identified as responsible for, or complicit in, serious religious freedom and human rights abuses. USCIRF further recommends that the U.S. government prohibit any foreign company from raising capital or listing its securities in the United States while engaged in developing Eritrea’s mineral resources, engage in vigorous advocacy of religious freedom at all levels of involvement with the Eritrean government, 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 human rights, 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 President Isaias Afwerki and the Popular Front for Democracy and Justice (PFDJ) since the country gained independence from Ethiopia in 1993. Isaias, the former leader of the successful national liberation movement and the current head of the PFDJ, was chosen President in 1993 by the Transitional National Assembly. After an initially promising start toward democratization, the Isaias regime has become increasingly repressive. President Isaias is quite paranoid about losing authority, concentrating power in his hands and those of a small cadre of associates who fought in the liberation struggle. Eritrea is commonly referred to as the “North Korea of Africa” and is currently considered the most repressive state on the continent. The constitution and elections have been indefinitely suspended. Thousands of Eritreans with religious or civil society affiliations and allegiances are imprisoned for their real or imagined opposition to the government, and arbitrary arrests, torture, and forced labor are extensive. No private newspapers, opposition political parties, or independent non-governmental organizations exist. Independent public gatherings are prohibited.

In this context, 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. The government imposes a number of invasive controls over the four recognized religious groups that prevents their ability to operate freely. The government is also hostile toward other Christian groups, particularly Evangelical and Pentecostal denominations.

In 2002, the government increased its control over civil society following a second war with Ethiopia, and imposed a registration requirement on all religious groups other than the four officially-recognized religions. The requirements mandated that communities provide detailed financial and membership information, as well as background on their activities in Eritrea. Among those affected were Protestant Evangelical and Pentecostal Christian denominations, as well as the Baha’is. Some of these religious communities have operated in Eritrea for decades.

Because of the government’s registration requirement, no group can legally hold public religious activities until its registration is approved. The requirement effectively makes unregistered religious activity “illegal,” which has resulted in places of worship being closed and prohibitions being placed on the public religious activities, including worship services, of all unregistered religious communities. No religious group has been registered since 2002, although the Presbyterian Church, Methodist Church, Seventh-day Adventists, and Baha’i religious community all submitted the required applications. 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, including holding prayer meetings or weddings. Further restrictions are described below.

### *Arrests, Detention, and Torture*

The State Department, non-governmental human rights organizations, and Christian advocacy groups estimate that 2,000 to 3,000 persons are imprisoned on religious grounds in Eritrea, the vast majority of whom are Evangelical or Pentecostal Christians. Fifty-two Jehovah’s Witnesses are detained without trial, or administrative appeal. A third of the Jehovah’s Witnesses currently detained are reported to be over 60 years old, well beyond draft age. Additionally, three Jehovah’s Witnesses – Paulos Eyassu, Isaac Mogos, and Negede Teklemariam – have been held for more than 15 years despite the maximum legal penalty for refusing to perform national service being two years.

In 2006, the government deposed Eritrean Orthodox Patriarch Abune Antonios and placed him under house arrest after he protested the Eritrean Department of Religious Affairs' interference in his church's affairs. Since then, he has been prevented from communicating with the outside world and reportedly denied medical care. There is no new information on the detention of three reformist members of the Orthodox clergy who have been imprisoned since 2005.

International human rights organizations report that many of the Muslims detained without charge are non-violent critics of the government-imposed leadership of the Muslim community or of policies that discriminate against independent Muslims. Those detained include more than 180 Muslims opposed to the state's appointment of the Mufti of the Eritrean Muslim community.

Detainees imprisoned in violation of freedom of religion and related human rights have reportedly been beaten and tortured. Prisoners are not permitted to pray aloud, sing, or preach, and no religious books are allowed. Released religious prisoners report being confined in crowded conditions such as 20-foot metal shipping containers or in underground barracks, some located in areas subjecting prisoners to extreme temperature fluctuations. There are credible reports, including during the past year, that the security forces have coerced detainees to renounce their faith; some prisoners were required to recant their religious beliefs as a precondition of release. Persons detained for religious activities, in both short- and long-term detentions, often are not formally charged, permitted access to legal counsel, accorded due process, or allowed access to their families. During the past year, there were reports of deaths of religious prisoners who refused to recant their beliefs, were denied medical care, or were subjected to other ill treatment, including in April, June, July, and October of 2010 and January 2011.

The State Department's most recent religious freedom report states that 115 followers of unregistered religious groups were arrested during the 2009-2010 reporting period, including 27 on Good Friday (April 2). Christian advocacy groups report that since December 2010, more than 100 evangelicals have been arrested, including 41 on New Year's Eve and 35 on January 9. Other arrests reported by Christian advocacy groups during 2010 include 15 men in military service at an unregistered evangelical church in November, 37 Christians in Assab in November, and 25 members of the Asmara Full Gospel Church on April 2.

### *The Situation of Unregistered Religious Groups*

Since 1994, the government of Eritrea has denied Jehovah's Witnesses citizenship and a range of government services, as well as civil and political rights. President Isais Afwerki issued a decree in October 1994 barring Witnesses from obtaining government jobs, business licenses, and government-issued identity and travel documents. He reportedly viewed their refusal on religious grounds to participate in the 1993 independence referendum or to perform mandatory national military service as a rejection of Eritrean citizenship. Without Eritrean identity cards Jehovah's Witnesses cannot obtain legal recognition of marriages or land purchases.

The government requires a military training component for secondary school graduation, with no non-military alternative service option, which 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.

The government's campaign against religious activities by persons belonging to unregistered denominations frequently targets Evangelical and Pentecostal Christians. Government officials have criticized "non-traditional" Christian denominations for engaging in evangelism that they allege is socially divisive and alien to Eritrea's cultural traditions. The ruling party also fears that these religious

communities could be encouraged by their coreligionists in the United States to take actions against the government's undemocratic rule. As discussed above, in the past year Eritrean security forces continued to conduct mass arrests of Evangelical and Pentecostal Christians, including at prayer meetings, although fewer such arrests were reported than in previous years.

Government violations of religious freedom are particularly severe in the armed forces. Armed forces members are banned from attending Protestant prayer meetings, subject to punishment by imprisonment. Armed forces members and national service inductees reportedly face severe punishment for possessing religious literature, including Bibles.

### *The Situation of Recognized Religious Groups*

The government strictly controls and dominates the internal affairs of the four recognized religions, including appointing religious leaders and overseeing and monitoring religious activities. The recognized groups are required to submit activity reports to the government every six months. In December, the Eritrean Department of Religious Affairs reportedly told these groups to stop accepting funds from co-religionists abroad. The Eritrean Orthodox Church reportedly said it would not comply with the order.

The government's interference in the internal affairs of the Orthodox Church began increasing in 2005, after the Church started resisting Asmara's demands. The Orthodox Church of Eritrea is the country's largest Christian denomination and the institutional expression of the country's traditionally-dominant Coptic form of Christianity. Security forces continue to target 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. In May 2007, the government appointed a new Patriarch of the Orthodox Church of Eritrea, replacing Patriarch Antonios and placing him under house arrest. In addition, a government-appointed administrator, who is not a member of the Orthodox clergy, manages the Church's affairs and controls its finances.

The Department of Religious Affairs also appoints the Mufti of the Eritrean Muslim community, despite community protests. The government does not permit Muslim religious activities or groups it views as "radical." Government officials point to the actions of foreign or foreign-inspired Muslim fundamentalists, whom they believe are 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.

### *Eritrean Refugees*

The Eritrean government's oppression and human rights violations have forced hundreds of thousands of Eritreans to flee the country, mostly to Ethiopia and eastern Sudan. According to the office of the UN High Commissioner for Refugees, there were at least 200,000 Eritrean refugees in 2010. While the majority of Eritrean refugees are fleeing mandatory military service, UNHCR reports that increasingly large numbers are claiming religious persecution. Pentecostal Christians make up a large percentage of these cases, followed by Jehovah's Witnesses. Christian Solidarity Worldwide reports that the number of Eritrean Orthodox clergy leaving the country has increased since the government revoked their exemption from mandatory military service.

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

Relations between the United States and Eritrea remain poor. The U.S. government has long expressed concern about Eritrea's human rights practices and its activities in the region, including its support of Islamist insurgents in Somalia and its belligerent attitude toward U.S. ally Djibouti. The government of Eritrea expelled USAID in 2005, and U.S. programs in the country ended in fiscal year 2006. Since 2005,

the Eritrean government has detained 51 Eritrean citizens working for the U.S. embassy, many of whom were subsequently released, and it has refused to accredit the proposed new U.S. ambassador to the country since July 2010.

U.S. relations with Eritrea have been heavily influenced, often adversely, by strong U.S. ties with Ethiopia. After independence in 1993, Eritrea fought a costly border war with Ethiopia in 1998-2000. The United States, the United Nations, 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 anywhere in the world. 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.

In December 2009, the United States joined 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 Djibouti. The sanctions include an arms embargo, travel restrictions, and asset freezes on the Eritrean government's political and military leaders, as well as other individuals designated by the Security Council's Committee on Somalia Sanctions. In April 2010, President Obama announced Executive Order 13536 blocking the property and property interests of several individuals "engaged in acts that threaten the peace, security, or stability of Somalia, to have obstructed the delivery of humanitarian assistance to or within Somalia, to have supplied arms or related materiel in violation of the United Nations arms embargo on Somalia, or to have provided support for any of these activities." Among those listed was Yemane Ghebreab, head of political affairs and senior advisor on Somali issues for the Eritrean president.

## **Recommendations**

In response to the policies and practices of Eritrea's government, the U.S. government should press for immediate improvements to end religious freedom violations in Eritrea and advance religious freedom through sanctions and other bilateral and multilateral efforts.

### **I. 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:

- unconditionally and immediately release detainees held 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 voluntary 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 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;
- allow for an alternative to mandatory military service for conscientious objectors; 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.

## **II. Advancing Religious Freedom through Sanctions**

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

- prohibit any foreign company from raising capital or listing its securities in U.S. markets if it is engaged in the development of Eritrea's mineral resources or involved in ventures with the government or government-controlled entities;
- employ the International Emergency Economic Powers Act (IEEPA) to impose economic sanctions on senior Eritrean officials in response to their undermining of democratic institutions and engaging in gross human rights abuses, including abuses of religious freedom, in that country;
- impose targeted sanctions, such as asset freezes and travel bans, against individuals and institutions identified as responsible for, or complicit in, severe religious freedom violations, including, as appropriate, the President, the security forces and their officers, and the ruling party and ruling party officials; and
- 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.

## **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; and
  - 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 standard and is established in accordance with the Paris Principles for such organizations, including independence, adequate funding, a representative character, and a broad mandate that includes freedom of thought, conscience, and religion or belief.



## 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, religious freedom conditions continued to deteriorate, 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 protected under Iran's constitution – Jews, Armenian and Assyrian Christians, and Zoroastrians – faced increasing discrimination and repression. Majority Shi'a and minority Sunni Muslims, including clerics, who dissent were intimidated, harassed, and detained. Dissidents and human rights defenders were increasingly subject to abuse and several were sentenced to death and even executed for the capital crime of "waging war against God." 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). USCIRF recommends in 2011 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. During the reporting period, the government continued to use its religious laws to silence reformers and critics, including women's rights activists, for exercising their internationally-protected rights to freedom of expression and freedom of thought, conscience, and religion or belief.

**PRIORITY RECOMMENDATIONS:** During the past year, U.S. policy on human rights in Iran included a combination of increased public statements, heightened activity in multilateral fora, and the imposition of unilateral sanctions on Iranian government officials for human rights violations. The U.S. government should continue to identify those Iranian officials and entities responsible for severe human rights and religious freedom violations and impose travel bans and asset freezes on those individuals, while continuing to work with its European allies to do the same. USCIRF urges the U.S. government to remain vocal and vigorously speak out, including during P5+1 talks and in 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 supporting the development of 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

### *Continued Concerns since the June 2009 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 more than 30 years ago. Security and paramilitary forces have used brutal force against the hundreds of thousands of Iranians who have demonstrated and protested in the streets in the months after the elections, as well as during the ongoing uprisings in the Arab world in early 2011. Dozens of Iranians have been killed and thousands have been arrested, convicted, and given lengthy prison terms. Hundreds remain in detention. More than a dozen have been sentenced to death, and at least nine executed, on a variety of charges, including baseless religious crimes such as “waging war against God,” “spreading corruption on earth,” and “moral corruption.”

During the reporting period, the Iranian government leveled unsubstantiated charges and used the trial procedures for national security cases against members of religious minority communities and others for alleged crimes such as “confronting the regime” and apostasy. During a USCIRF May 2010 public event on “Religious Freedom and Human Rights Violations in Iran: Opportunity for Accountability,” experts disclosed that three revolutionary court judges – Pir-Abbassi, Mohammad Moghiseh, and Abolghassem Salavati – were responsible for the vast majority of unfair and harsh sentences handed down to political prisoners and other “security” detainees, including innocent ethnic and religious minorities, journalists, human rights activists, and peaceful protesters.

### *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, must 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 since June 2009 it has increasingly manipulated the reach of its religious laws to silence, and in some cases put to death, dissidents simply for exercising their internationally protected rights of freedom of expression and freedom of thought, conscience, and religion or belief. In February 2011, the Iranian government placed

prominent reformers and former presidential candidates Mir Hossein Mousavi and Mehdi Karroubi under house arrest.

In early 2010, the Iranian government began convicting and executing reformers and peaceful protestors on the charge of *moharebeh* (waging war against God). Reportedly, more than a dozen individuals have been charged, convicted, and sentenced to death for *moharebeh*. At least nine are known to have been executed.

Since the June 2009 elections, the government has cracked down on Shi'a clerics, prohibiting them from questioning the election results and from criticizing the government's response to protests and demonstrations. Over the years, 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. For example, Ayatollah Hossein Kazemini Boroujerdi, a senior Shi'a cleric who advocates the separation of religion and state, has been in prison since 2006. He and 17 of his followers were initially sentenced to death, but the death sentences later were withdrawn. He is serving an 11-year prison term and is reportedly in poor health. Ayatollah Boroujerdi has suffered physical abuse while in prison. In November and December 2010, seven of his followers – Tayebeh Hosseini, Narges Ghaffarzadeh, Forough Hematyar, Maryam Azimi, Roya Eraqi, Mohammad Reza Sadeghi, and Mohammad Mehmannaavaz – were arrested by authorities at their homes in Tehran. Human rights groups report that the seven were arrested solely for their religious beliefs after their homes were ransacked and personal belongings confiscated. Their whereabouts are unknown.

#### *Sunni Muslims*

Muslim minorities continue to face repression. Several of the country's ethnic minorities – Arabs, Baluchis, Kurds, and Turkmen – practice Sunni Islam. This means these groups are doubly affected, and subject to discriminatory policies based on both their ethnic identity and their faith. Sunni Muslim leaders regularly are intimidated and harassed by intelligence and security services and report widespread official discrimination. In addition, the Iranian government discriminates against the Sunni community in government employment, particularly in leadership positions in the executive and judicial branches.

Some Iranian Sunni leaders have reported widespread abuses and restrictions on their religious practice, including detentions and abuse of Sunni clerics, as well as bans on Sunni teachings in public schools and Sunni religious literature, even in predominantly Sunni areas. The Sunni community still has not been able to build a mosque in Tehran and, in recent years, Sunni mosques were destroyed in eastern Iran near Zabol, Sistan-Baluchistan, and Mashhad. In January 2010, there were reports that 19 Sunni clerics had been arrested for spreading Sunni teachings in several parts of the country, including Kurdistan, Kermanshah, Baluchistan, West Azerbaijan, Ahvaz, Tavalesh, and Khorassan provinces. Their whereabouts are unknown.

#### *Sufi Muslims*

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. Sufi Muslims have faced growing government repression of their communities and religious practices, including increased harassment and imprisonment of prominent Sufi leaders by the intelligence and security services and destruction of prayer centers and *hussainiyas* (places of worship). In 2010, some Shi'a clerics and prayer leaders denounced Sufism and Sufi activities in both sermons and public statements. Government restrictions on Sufi groups and places of worship have become more pronounced.

Over the past few years, authorities have detained hundreds of Sufi Muslims, particularly from the Nematollahi Gonabadi order, sentencing many to imprisonment, fines, and floggings. In January 2011, three Iranian lawyers who defended Sufi dervishes were sentenced to prison terms. Farshid Yadollahi and Amir Eslami were sentenced to six months by a penal court on Kish Island in southern Iran and Mostafa Daneshjoo was sentenced to seven months by a court in the northern province of Mazandaran. According to human rights groups, the three lawyers were found guilty of “propagating lies and creating public anxiety,” while their clients were acquitted of “acting against national security.” Also in January, Iranian authorities broke into the home of Morteza Mahjoubi, a Gonabadi Sufi leader, in Isfahan. Reportedly, authorities physically attacked Mahjoubi and others at his home and arrested Mahjoubi, his son, and several others. They remain in detention. In October 2009, Gholam Abbas Zare-Haqiqi was sentenced to four years in prison for allowing a burial at a Sufi cemetery, a practice banned in Iran.

Since 2006, several prayer centers of the Gonabadi order have been demolished or attacked by Iranian authorities, including the demolition of a center in Isfahan in February 2009 and an attack on another center in June 2010. 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 May 2010, most received sentences of flogging or imprisonment.

Furthermore, since December 2010, Iranian state television has been airing a series of programs designed to denigrate and demonize Sufism, particularly the Nematollahi Gonabadi order. There also have been reports over the past few years that the government is considering a ban on Sufism.

### *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 frequently are 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 the collection of equal blood money for the death of Muslim and non-Muslim men. Baha’is, Sabean Mandaeen 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. In October 2010 in Qom in central Iran, Iranian Supreme Leader Ayatollah Ali Khamenei publicly stated that “enemies of Islam” are using the spread of Sufism, the Baha’i faith, and Christian house churches to weaken the faith of young people in society. Ayatollah Ahmad Jannati, head of the Guardian Council, continued to

publicly demonize non-Muslims and refer 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 killed more than 200 Baha’i leaders in Iran, and more than 10,000 have been dismissed from government and university jobs. Baha’is may not establish places of worship, schools, or any independent religious associations in Iran. In addition, Baha’is are barred from the military and denied government jobs and pensions as well as the right to inherit property. 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.

Nearly 400 Baha’is have been arbitrarily arrested since 2005 and, at end of the reporting period, at least 75 Baha’is remain in prison on account of their religious beliefs. Dozens of Baha’is are awaiting trial while others were sentenced to prison terms ranging from 90 days to several years. All of those convicted are reportedly in the process of appealing the verdicts. According to human rights groups, more than 300 Baha’is have cases that are still active with authorities, despite having been released from detention. Also in recent years, Baha’i cemeteries in various parts of the country, including Tehran, Ghaemshahr, Marvdasht, Semnan, Sari, Yazd, Najafabad, and Isfahan, have been desecrated, defaced, or in some way blocked to the Baha’i community. Over 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 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. After numerous postponements, the trial for the five men and two women started in January 2010 and concluded in June. They were formally charged with espionage, propaganda activities against the Islamic order, the establishment of an illegal administration, cooperation with Israel, acting against the security of the country, and corruption on earth. In August 2010, the seven Baha’is were sentenced to 20 years in prison and moved to Gohardasht prison in Karaj, a facility known for violence between inmates and unsanitary conditions. In September, authorities informed the seven Baha’is orally that the 20-year sentences were reduced to 10; however, prison authorities told the seven in March 2011 that the original 20-year sentences had been reinstated. Attorneys for the seven Baha’is, including Nobel Laureate Shirin Ebadi, have had extremely limited access to their clients and court proceedings and have said categorically that the charges against them are baseless. USCIRF met with family members of the imprisoned Baha’i leaders when they visited Washington in February 2011.

During the reporting period, dozens of Baha'is have been arrested in several different cities throughout the country, including Tehran, Babolsar, Karaj, Nazarabad, Shahrekord, *Semnan*, Mashhad, Bandar Abbas, and Ghaemshahr. In most of these cases, Ministry of Intelligence officials appeared at the homes of Baha'is, searched the premises and confiscated computers, books and other materials, and then made arrests. No formal charges have been filed.

In March 2011, six Baha'is were arrested in Kerman, four for allegedly providing education for young children and the other two for unknown reasons. All six remain in detention. Three Baha'is from Isfahan, including two teenagers, were arrested in early 2011 for teaching children classes. They were subsequently released. In January 2011, Navid Khanjani, a twenty-four year old Baha'i who began advocating for human rights after he was denied access to higher education, was sentenced to 12 years in prison after being convicted of "engaging in human rights activities," "illegal assembly," and "disturbance of the general public's opinion." His lawyers are preparing an appeal. In March 2010, at least 50 young Baha'is were banned from travel outside the country, and some received prison sentences ranging from one to four years for teaching underprivileged children in southeastern Iran. During the past year, emboldened by Iranian law and policy, militant societal actors have physically attacked Baha'is and committed violent acts, including arson on Baha'i homes and businesses, with impunity. A recent wave of arson attacks on Baha'i-owned businesses in Rafsanjan appears to be part of a campaign to fracture relationships between Baha'is and Muslims in the city. Since October 2010, at least a dozen shops have been attacked and at least 20 Baha'i homes and businesses have received letters warning that Baha'is will suffer severe consequences for forming friendships with Muslims.

In June 2010, in the village of Ivel in Mazandran province, Iranian authorities demolished approximately 50 Baha'i homes as part of a long-running, officially-sanctioned campaign to expel the Baha'is from the region. The vast majority of homes were unoccupied since the Baha'i residents had fled after previous incidents of violence or as a result of official displacement.

In the past, Baha'is have not been allowed to attend university in Iran. 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 were enrolled in universities in recent years, most were expelled 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, the number of incidents of Iranian authorities raiding church services, harassing and threatening church members, and arresting, convicting, and imprisoning worshippers and church leaders has increased significantly. Christians, particularly Evangelical and other Protestants, are 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.

Rhetoric from political and religious leaders demonizing and insulting the Christian community also has increased significantly. For example, in January 2011, the governor of Tehran, Morteza Tamaddon, publicly referred to detained Christians as "deviant" and "corrupt" and vowed to identify and detain more. He likened Evangelical Christians to the Taliban and accused them of placing "themselves within the religion of Islam like a pest and under the cover of Christianity and with the support of England they have

designed a movement.” In August 2010, Ayatollah Hosseini Booshehri, a religious leader and member of the Assembly of Experts, gave speeches throughout the country, particularly in Qom, against the spread of house churches in Iran and referred to Christians as “our enemy.”

Since June 2010, more than 250 Christians have been arbitrarily arrested throughout the country, including in Arak, Bandar Abbas, Bandar Mahshahr, Ardabil, Tabriz, Khoramabad, Mashhad, Hamadan, Rasht, Shiraz, Isfahan, and Elam. In December 2010 and January 2011 alone, approximately 120 Christians were arrested. At the end of the reporting period, at least 15 Christians remained in prison because of their religious activities. In cases involving offenses based on religious belief, Iranian authorities typically release prisoners, but 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 September 2010, pastor Vahik Abrahamian, his wife Sonia Keshish-Avanessian, Arash Kermanjani, and Arezo Teymouri were arrested at Abrahamian’s home in Hamadan. All four were held in solitary confinement for 40 days and reportedly suffered physical abuse and psychological pressure. The four have been charged with propagating Christianity, opposing the Islamic Republic, and having contact with exiled opposition figures. At the end of the reporting period, the four remain in prison and no trial has been scheduled.

In June 2010, Christian pastor Behrouz Sadegh-Khandjani, Mehdi Furutan, Mohammad Beliad, Parviz Khalaj, and Nazly Beliad were arrested on charges of apostasy, holding political meetings, blasphemy, and “crimes against the Islamic order.” The Revolutionary Court in Shiraz found the five men guilty of crimes against the Islamic order and sentenced each to one year in prison. After serving eight months, they were released on bail in February 2011. Their lawyer has appealed the one-year prison sentence. Reportedly, the five have been informed by authorities that they will stand trial on the blasphemy charges in the near future.

In April 2010, Iranian authorities arrested Ali Golchin, a Christian convert, in Varamin, and confiscated several bibles, his computer, identification cards, and other personal belongings. After nearly three months in prison, much of the time in solitary confinement, Golchin was released in July and was never charged. Also in April, authorities raided the home of Christian pastor Behnam Irani in Karaj and confiscated personal belongings, including religious materials; he was released on bail in June. 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.

In October 2009, Youcef Nadarkhani, a pastor from northern Iran, was arrested after he questioned the Muslim monopoly on the religious instruction his children were receiving in school, arguing that the Iranian constitution permits parents to raise children in their own faith. Nadarkhani, and later his wife, Fatemeh Passandideh, were charged with apostasy. While his wife was released in October 2010 after four months in prison, Nadarkhani was convicted and sentenced to death by a court in Gilan province. In December, Nadarkhani’s lawyer appealed the ruling. At the end of the reporting period, Nadarkhani remains in prison while he awaits a decision from the Iranian Supreme Court.

### *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 Sabean 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 real or perceived “ties to Israel.” President Ahmadinejad and other top political and clerical leaders have made public remarks during the reporting period actively denying the Holocaust and calling for the elimination of the state of Israel. In 2010, there continued to be 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, also were 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’s Rights*

The government’s enforcement of its official interpretation of Islam negatively affects the human rights of women in Iran, including their freedoms 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. Civil and penal code provisions, in particular those dealing with family and property law, discriminate against women.

For example, men can marry up to four permanent wives and an infinite number of “temporary wives” at any one time. Men also have the absolute right to divorce while women may initiate divorce only under certain conditions, some of which must have been agreed to in the marriage contract. Mothers have custody rights over children only until they reach the age of seven, after which fathers have automatic custody. The age of adult criminal responsibility for girls is nine years old, but for boys is 15. Men have complete immunity from punishment for murdering adulterous wives and their lovers. Women convicted of adultery may be stoned to death.

During the reporting period, Iranian authorities heightened their enforcement of the strict Islamic dress code for women. By law, Iranian women, regardless of their religious belief, must be covered from head to foot while in public. Social interaction is banned between unrelated men and women. Iran’s “morality police” had an increased presence in the streets throughout the country and more frequently stopped cars with young men and women inside to question their relationship.

Over the past few years, several women’s rights activists have been arrested, and some remain in prison, for their involvement in the Campaign for Equality movement aimed at ending discrimination against women in the application of Islamic law in Iran. For example, Nasrin Sotoudeh, a member of the Equality movement and human rights defender, was arrested in September 2010 and charged with “propaganda against the regime,” “acting against national security,” and failing to adhere to the Islamic dress code. In January 2011, Iranian authorities sentenced Sotoudeh to 11 years in prison and barred her from practicing law and from leaving the country for 20 years. She remains in Evin prison, where she has spent much of her time in solitary confinement. Bahareh Hedayat, a student leader and a member of the Equality movement, was arrested in December 2009 and sentenced in May 2010 to nine-and-a-half years



in prison on trumped-up charges of “assembly and collusion against the regime,” “insulting the Supreme Leader,” and “insulting the President.” She remains in Evin prison. Shiva Nazar Ahari, a women’s rights activist, has been arrested and imprisoned numerous times over the years. Most recently, she was arrested in December 2009 and charged with several baseless national security crimes, including “waging war against God.” She was sentenced to six years and 76 lashes in September 2010 and was released on \$500,000 bail after serving nine months in prison under harsh conditions. In January 2011, an appeals court reduced her sentence to four years and 74 lashes. She could be returned to prison at any time.

Women also have been sentenced to death under Islamic law. For example, Sakineh Ashtiani, an Azeri woman, was convicted of adultery in 2006 and sentenced to death by stoning. In October 2010, when rumors surfaced that Ashtiani’s impending death sentence would be carried out within days, an international outcry helped delay it. The Iranian government is reviewing the case while she remains in prison. In July 2010, authorities attempted to arrest Mohammad Mostafae, Ashtiani’s lawyer. Mostafae was forced to flee the country to avoid arrest.

### *Crackdown on Internet Freedom, the Media, and Human Rights Defenders*

In January 2011, Iranian authorities formed a “cyber police force” to strengthen the government’s control of the Internet. In May 2010, Ebrahim Jabari, an Islamic Revolutionary Guard Corps (IRGC) commander, officially confirmed the creation of an Iranian “cyber army” which already has cracked down on allegedly destructive online networks and arrested hundreds of individuals. In January 2010, authorities issued a “list of Internet offences” which includes content “contrary to the morals of society” and contrary to religious values. In addition, it is prohibited to sell filter circumvention software in the country.

Since the June 2009 disputed election, the Iranian government has cracked down on and arbitrarily arrested dozens of human rights defenders and activists who have reported on human rights violations, including violations of freedom of religion or belief. The crackdown has included cyber attacks on Persian and English language Web sites of several human rights groups, which limited these groups’ ability to send reports outside the country on human rights and religious freedom abuses. In addition, the Iranian government took steps 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.

Iranian authorities regularly detain and harass journalists and 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 September 2010, intelligence agents arrested Navid Mohebbi, an 18-year-old blogger in northern Iran. Mohebbi wrote about social issues, including women’s rights and Islamic law. In November, Mohebbi was formally charged with acting against national security, insulting the Supreme Leader, and propaganda against the regime. He was sentenced to three years in prison, but was freed on parole in December 2010. 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. According to human rights groups, Derakhshan was physically and psychologically abused while in prison. In September 2010, Branch 15 of the revolutionary court sentenced Derakhshan to 19-and-a-half years in prison on a number of charges, including propaganda against the regime and “insulting sanctities.” In September 2010, the revolutionary court sentenced Emadeddin Baghi, a journalist and activist, to a six-year prison term and five years of “civil deprivation” on charges of “engaging in propaganda against the system” and “colluding against the

security of the regime.” The basis for his conviction was his interview of dissident cleric Grand Ayatollah Montazeri, which was aired on BBC’s Persian language service in December 2009. He was detained within days of the broadcast and remains in prison, much of the time in solitary confinement.

### *Government Rejection of UN Reports and Actions*

In March 2011, the UN Human Rights Council (UNHRC) created a new Special Rapporteur position to investigate and report on human rights abuses in Iran, a longstanding USCIRF recommendation. This is the first new rapporteur position focusing on a specific country since the UNHRC’s creation in 2006. A UN special investigator position focusing on human rights in Iran has not existed since 2002. The Iranian government dismissed the creation of the position as “politically motivated.” In March 2011 and October 2010, UN Secretary General Ban Ki-Moon issued reports 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, as well as Sufi and Sunni Muslims. In November 2010, for the eighth year in a row, the U.S. government co-sponsored and supported the most successful UN General Assembly resolution – which passed 80 to 44, with 57 abstentions – condemning the Iranian government’s poor human rights record, including its continued abuses targeting religious minorities and the escalation and increasing frequency of violations against members of the Baha’i faith.

In February 2010, at the UNHRC’s Universal Periodic Review (UPR) of Iran, 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 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 June 2010, the UNHRC concluded the UPR of Iran. Despite accepting a few recommendations, Iran largely defied calls by the international community to address its most serious violations. For example, Iran refused to invite the UN Special Rapporteur to investigate evidence of systematic torture, or to implement international standards that would end discrimination, claiming such reforms would contradict its own laws. Iran also denied that it had violated basic civil and political rights, including the rights to freedom of speech and assembly. At the June 2010 UNHRC session, 54 countries, including the United States, issued a joint statement condemning Iran’s human rights and religious freedom record and calling on Iran to fully implement the UPR recommendations, including taking “all measures necessary to ensure the protection of religious minorities.”

### **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. The United States has imposed sanctions on Iran because of its sponsorship of terrorism, refusal to comply with International Atomic Energy Agency regulations regarding its nuclear program, and, in 2010 for the first time, severe human rights and religious freedom violations. 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, U.S. donations of humanitarian articles, and U.S. imports of Iranian carpets and certain food items.

On July 1, 2010, President Obama signed into law CISADA, the Comprehensive Iran Sanctions, Accountability, and Divestment Act (P.L. 111-195), which highlights Iran's serious human rights violations, including suppression of religious freedom. CISADA requires the President to submit to Congress a list of Iranian government officials, or persons acting on their behalf, who are responsible for human rights and religious freedom abuses, bars their entry into the United States, and freezes their assets. President Obama issued an Executive Order in September 2010 sanctioning eight Iranian officials for having committed serious human rights abuses after the June 2009 elections. In February 2011, the President added two more Iranian officials to the list. USCIRF long had called for the U.S. government to identify Iranian officials and entities responsible for severe religious freedom violations and impose travel bans and asset freezes on those individuals, and had specifically identified seven of the officials named in the Executive Order. No existing or previous Iran sanction measures had provisions dealing with human rights violations. USCIRF worked with Congressional offices on the need to develop such sanctions.

Starting in early 2010, the U.S. government began more frequently to express support for reformers in Iran and highlight publicly the Iranian government's human rights and religious freedom abuses. During the reporting period, in multilateral fora and through public statements, high-level U.S. officials urged the Iranian government to respect its citizens' human rights, including the right to religious freedom. For example, in March 2011, President Obama delivered his third annual Persian new year (Nowruz) message. For the first time, the President directed his message to the people of Iran, particularly the youth, and stated that the Baha'i community and Sufi Muslims are "punished for their faith" and that "hundreds of prisoners of conscience" remain in prison. In August 2010, Secretary of State Clinton released a strong statement expressing concern about the continued persecution of religious minorities in Iran.

In 2010, the United States and the European Union (EU) worked closely together on a range of human rights issues in Iran. Reportedly, the U.S. government has been urging the EU to impose human rights sanctions on Iranian officials similar to actions by the United States. In addition, the United States and EU issued a number of statements in tandem conveying similar messages condemning human rights and religious freedom abuses in Iran. For example, in February 2010, the United States and the EU condemned ongoing human rights violations in Iran and called on the Iranian government to fulfill its international human rights obligations.

According to the State Department's 2010 *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 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 source shifting from the State Department's Near East Bureau to the U.S. Agency for International Development (USAID). The State Department refuses to name grantees for security reason.

According to USAID, funding in 2010-2011 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 Years 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.

## **Recommendations**

In response to the ongoing repressive policies and practices of the Iranian government, the U.S. government should continue to work closely with its European allies, in bilateral and multilateral fora, to apply pressure on the Iranian government through a combination of advocacy, diplomacy, and targeted sanctions with the aim of halting the government's human rights and religious freedom violations.

### **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, continue to speak out publicly and frequently 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 Youcef Nadarkhani, Vahik Abrahamian, Sonia Keshish-Avahesian, Arash Kermanjani, and Arezo Teymouri, in prison on account of their religion or belief, and drop all pending charges against Christian converts;
  - release Shi'a cleric Ayatollah Mohammad Kazemini Boroujerdi and his followers and other dissident Muslims, including Sufi Muslim leader Morteza Mahjoubi and his son, in prison on account of their religion or belief; and
  - 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 Nasrin Sotoudeh and Bahareh Hedayat, who advocate for ending discrimination against women in the application of Islamic law in Iran, and Sakineh Ashtiani, who remains on death row for allegedly committing adultery;

--release from prison human rights defenders, activists, and journalists, including Hossein Derakhshan and Emadeddin Baghi, who have been targeted for reporting on human rights and religious freedom abuses in Iran;

--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*, Hossein Shariatmadari;

--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. Imposing Targeted Sanctions for Human Rights and Religious Freedom Violations**

The U.S. government should:

- continue to identify Iranian government agencies and officials responsible for particularly severe violations of religious freedom, including but not limited to:

--Sadegh Ardeshtir Larijani, Head of the Judiciary;

--Esmail Ahmadi-Moqaddam, Head of the National Police;

--Ayatollah Ahmad Jannati, Chair, Guardian Council;

--Hossein Shariatmadari, Managing Editor, *Kayhan*

--Mohammad Moghiseh, Presiding Judge of Branch 28 of the Islamic Revolutionary Courts;

--Abbas Pir-Abbassi, Presiding Judge of Branch 26 of the Islamic Revolutionary Courts; and

--Abolghassem Salavati, Presiding Judge of Branch 15 of the Islamic Revolutionary Courts;

- 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:

- call on the UNHRC 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 Human Rights Council;
- call on Iran to cooperate fully with the new UN Special Rapporteur on the Human Rights Situation in Iran, including allowing the Special Rapporteur to visit;
- call on the UNHRC to monitor carefully and demand Iran's compliance with the recommendations 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 UNHRC 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 suffer from targeted violence, threats, and intimidation, against which the government does not provide effective protection. Perpetrators are rarely identified, investigated, or punished, creating a climate of impunity. The smallest minorities also experience a pattern of official discrimination, marginalization, and neglect, particularly in areas of northern Iraq over which the Iraqi government and the Kurdistan Regional Government (KRG) dispute control. In addition, sectarian attacks continue between Shi'a and Sunni Iraqis, as well as religiously-motivated violence and intimidation against women and secular Iraqis.

Based on these concerns, USCIRF again recommends in 2011 that Iraq be designated as a "country of particular concern," or CPC. USCIRF has recommended CPC status for Iraq since 2008, and placed Iraq on its Watch List in 2007.

The religious freedom situation in Iraq remains particularly grave for the country's smallest, most vulnerable religious minorities, which include Chaldo-Assyrian and other Christians, Sabean Mandaeans, and Yazidis. The violence, forced displacement, discrimination, marginalization, and neglect suffered by members of these groups threaten these ancient communities' very existence in Iraq. Although violence in the country has decreased overall, late 2010 saw a surge in attacks against Christians, resulting in a new wave of Christian displacement. The Iraqi government has publicly condemned such violence and made efforts to increase security but continues to fall short in investigating attacks and bringing the perpetrators to justice, despite a few arrests in high-profile cases. As in previous years, sectarian attacks continued to target Shi'a Muslims despite the government's security efforts, and tensions between Sunni and Shi'a Iraqis remained a problem. Women and secular Iraqis also experienced serious religious freedom violations.

**PRIORITY RECOMMENDATIONS:** For Iraq to become a secure, diverse, and stable democracy, the United States must do more to help ensure that the human rights of all Iraqis are guaranteed and enforced in law and practice. 2011 is an important year for Iraq, with a new government finally taking shape after the March 2010 elections and the U.S. military withdrawing. The United States should emphasize, with both the central government and the KRG, the urgent need to protect vulnerable religious minority communities and ensure them justice. Specifically, the United States should work with the Iraqi government and the smallest minorities' political and civic representatives to help the Iraqi government develop more effective security measures for these particularly vulnerable communities. In addition, U.S. development assistance should prioritize projects in areas where these small minorities are concentrated, and the communities' own political and civic leaders should be consulted in determining the use of such funding. USCIRF also recommends that the U.S. government 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.

## 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 and conversions, and attacks on religious leaders and holy sites. Many Iraqis – Muslim and non-Muslim alike – have been victimized, 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, lack militia or tribal structures to defend themselves, and do not receive adequate official protection or justice. Large numbers have fled the country or are internally displaced, primarily in northern Iraq.

### *Diminished Numbers*

Half or more of the pre-2003 Iraqi Christian community is believed to have left the country, with Christian leaders warning that the consequence of this flight may be the end of Christianity in Iraq. In 2003, there were thought to be 800,000 to 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, community leaders estimate the number of Christians to be around 500,000.

Sabean Mandaean and Yazidis also have reported significant decreases in their populations. Mandaeans 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, compared to 50,000 to 60,000 in 2003. 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 numbers approximately 500,000, down from about 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 and do not 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.

### *Continued Targeted Attacks*

Despite an overall drop in violence in the country, the 2010-2011 reporting period saw continued terrorist attacks against the smallest religious minorities and their religious sites. The highest-profile attacks during this period targeted Christians.

On Sunday, October 31, 2010, a hostage siege during a mass at Our Lady of Perpetual Help Catholic Church in Baghdad left more than 50 people dead, including two priests, and more than 60 injured. The extremist group al-Qaeda in Iraq claimed responsibility. This was the worst single attack on Christians in Iraq since 2003. Ten days later, a series of coordinated bomb and mortar attacks targeted Christian homes across Baghdad, killing at least five and injuring at least 30. On December 30, 10 bomb attacks again targeted Christian homes in Baghdad, killed two people, and wounded 20. Several Christians also were shot and killed in both Baghdad and Mosul in November and December 2010. After this series of events,



a number of Christians fled Baghdad and Mosul. According to the International Organization for Migration, 1,078 Christian families moved to the KRG region between October 31, 2010 and the end of January 2011. The United Nations High Commissioner for Refugees (UNHCR) also reported increased registration of Iraqi Christians in Syria and Jordan in the last two months of 2010, compared to those months the previous year.

The October 31 church attack was publicly condemned by senior Iraqi government officials, including Prime Minister Nuri al-Maliki, President Jalal Talabani, and KRG President Masoud Barzani, as well as two important Shi'a leaders. The Iraqi government quickly arrested several individuals suspected of involvement in the attack; as of the end of the reporting period they still are in custody but have not yet been tried. Following the attack, the government of Iraq made efforts to increase security at churches and in Christian areas, including sweeping churches for explosive devices before services, increasing patrols in Christian neighborhoods, and providing training for more Christians to protect churches. In addition, the government indicated it would provide compensation to the families of those killed and injured and financial assistance to repair the church. In late 2010, President Talabani called for the establishment of a special government office to address Christian affairs, although this had not been done as of this writing.

Other attacks targeting Christians in the current reporting period included the following: On May 2, 2010, a roadside bomb targeted a convoy of buses taking Christian students to the University of Mosul; one bystander was killed and 70 students injured. On June 10, a Christian businessman was shot and killed outside his house in Kirkuk; press reports said eyewitnesses described the attack as a "targeted killing." On January 15, 2011, a group of armed individuals reportedly entered a private medical clinic in Mosul and shot and seriously injured a Christian cardiologist working there.

In 2010-2011, extremists continued to target shops providing goods or services they deemed "un-Islamic," including liquor stores owned by Christians and Yazidis. Bombs targeted such stores in Baghdad and Sinjar, respectively, on April 13 and June 3, resulting in deaths and injuries. In mid-January 2011 in Baghdad, at least three liquor stores and a Christian social club that served liquor were raided, vandalized, and had property stolen and their occupants threatened by groups of men wearing civilian clothes and wielding pipes and handguns. In all three cases, witnesses reported that police officers or individuals posing as police officers accompanied the attackers. Press reports indicated that in late 2010, the Baghdad provincial council had issued a resolution banning all alcohol sales.

The Mandaean community also continued to be the target of attacks in this reporting cycle. In December 2010, the Mandaean Human Rights Group informed USCIRF that a total of nine Madaeans were killed throughout Iraq in 2010, including in Basra and Baghdad, and that their community also suffered "tens of kidnapping, theft and threats." Another Mandaean was reported shot and killed on January 13, 2011 in Baghdad.

#### *Abuses in Disputed Areas*

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. The three KRG governorates are relatively secure, but Nineveh governorate, particularly in and around its capital Mosul, remains extremely dangerous, and control over this ethnically and religiously mixed area is disputed between the KRG and the central Iraqi government.

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, establishing *de facto* control over many of the disputed areas. Religious and ethnic minorities in these areas, including non-Muslims and ethnic Shabak and Turkomen, have accused Kurdish forces 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.

### *Political Representation*

In a positive development for the smallest minorities, the new Iraqi parliament (Council of Representatives or COR) that was elected in 2010 has eight seats reserved for these groups: five for Christians and one each for Mandaeans, Yazidis, and Shabak. In addition, six Yazidi candidates were elected to the COR on the Kurdistan Alliance list, bringing the total current number of religious minority parliamentarians to 14 (out of 325). A minority caucus recently was established for the first time in the COR; it includes the representatives of all the ethnic and religious minorities' political parties and is supported by a civil society alliance. According to the U.S. Institute of Peace, which is working to help build its capacity, the caucus' goals for this parliamentary term include reforming the education curriculum to reflect Iraq's minority communities more positively, eliminating discrimination in education and employment, improving the delivery of basic services in minority communities, increasing minorities' participation in all levels of government, and having greater control over local affairs. In addition, in the wake of the October 31 church attack, the new COR speaker created a committee to address the targeting of Christians and other minorities; many of the Iraqi government's actions, including public condemnations of attacks, increased security, and compensation for victims, were recommended by this committee.

### *Autonomy and Constitutional Proposals*

To address their lack of security and political and economic marginalization, some Iraqi minority groups, both inside and outside Iraq, have been seeking an area for Christians, and some say for other minorities as well, in the Nineveh Plains area. These options are variously described as either a protected, semi-autonomous, or autonomous area, and would 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 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. They argue this favoritism towards Islam provides a potential justification for discrimination against non-Muslims. The Iraqi government apparently has made no serious efforts to consider or address any of these proposals.

### *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 armed Shi'a groups with ties to the Iraqi government or elements within it.

Since 2007, such sectarian violence has diminished markedly. Nevertheless, in its 2010 *Annual Report on International Religious Freedom*, the State Department continued to note that the “sectarian misappropriation of official authority within the security apparatus” remains a concern. In the past year, there were reports of torture and other abuses, some allegedly along sectarian lines, in detention facilities, including secret prisons run by the Prime Minister’s special counterterrorism forces.

Organized groups outside of the government, notably the Sunni-dominated insurgency and foreign and indigenous extremist groups, continued to commit serious sectarian abuses. As in previous years, Shi’a pilgrims were frequent targets, particularly around important holidays. In December 2010 several attacks targeted Shi’a pilgrims commemorating *Ashura* (the anniversary of the death of the Prophet’s grandson), killing at least 39. In January 2011, a spate of attacks targeted Shi’a pilgrims traveling to the holy city of Karbala for *Arbaeen* (the end of the 40-day mourning period after *Ashura*), killing at least 75. As in past years, the Iraqi government provided heavy security on pilgrimage routes and at holy sites for both *Ashura* and *Arbaeen*. In mid-February 2011, several attacks targeted Shi’a pilgrims traveling to and from Samarra’s *al-Askariya* mosque to mark the anniversary of the death of Hassan al-Askari, Shi’a Islam’s 11<sup>th</sup> imam, resulting in more than 40 dead. There also were attacks in 2010 targeting Sunnis, particularly clerics who had spoken out against al-Qaeda in Iraq.

Sunni-Shi’a mistrust and tensions remained a problem in the current reporting period. Among other issues, the Shi’a-led government’s promised integration of Sunni Sons of Iraq members into the security forces or government jobs, expected to occur by the end of 2009, is still not complete. There also were controversies over the participation of certain politicians, mostly Sunnis, in the political process due to alleged Baathist ties.

#### *Women and Other Vulnerable Groups*

In the past year human rights groups continued to express concern about violence against women and girls, including domestic violence and honor killings, throughout Iraq. The State Department also continued to report that extremist groups targeted individuals for “secular leanings” and that, as a result, women and secular Muslims often felt obliged to comply with conservative Islamic norms, particularly relating to dress and public behavior. In recent years, 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.

There were no new reports of targeted violence against homosexuals during the reporting period. During the first half of 2009, at least 25 homosexuals or individuals perceived to be homosexual were killed, and many others reportedly threatened. 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. At the time, there were reports that the violence had been called for by some imams in Sadrist 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 USCIRF last reported on Iraq. Other than the flight of Christian families from Baghdad and Mosul discussed above, no significant new displacement was reported in 2010. However, according to most estimates, more than three million Iraqis remain displaced in neighboring countries or other areas of Iraq and are in need of significant humanitarian assistance. Many of these individuals have fled religious-based persecution. Members of Iraq’s smallest religious minorities continue to make up a

disproportionate percentage of the refugees who have voluntarily registered with UNHCR in the region (around 15 percent, though they comprised only about three percent of Iraq's pre-2003 population).

Voluntary returns to Iraq continued in 2010, but in smaller numbers than in the two prior years. While approximately 350,000 IDPs and nearly 60,000 refugees returned in 2008 and 2009, only 189,000 displaced Iraqis, the majority IDPs, did so in 2010, according to UNHCR. As in past years, few members of the smallest minorities are believed to be among these returnees. UNHCR remains concerned about continuing threats to Iraq's smallest religious minorities and continues to recommend they be given *prima facie* refugee status. It also continues to recommend that Iraqis 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 withdrawing its military forces from Iraq. On August 31, 2010, U.S. combat operations ended and the Iraqi government assumed responsibility for security in the country. A transitional force of fewer than 50,000 U.S. troops remains, in an "advise and assist" capacity. Pursuant to the "Status of Forces Agreement between Iraq and the United States," these troops will leave by the end of 2011. At the same time, the U.S. diplomatic mission in Iraq is growing. By late 2011, it will consist of some 17,000 civilians in 15 different locations, including the embassy in Baghdad, two consulates (Erbil and Basra), two embassy branch offices (Mosul and Kirkuk), five office of security cooperation sites, three police training centers, and three air hubs.

Since 2008, U.S.-Iraqi bilateral relations have been governed by a "Strategic Framework Agreement," which emphasizes cooperation in specified areas such as political and diplomatic, defense and security, cultural, and law enforcement and judicial. The Obama administration's stated goal for this bilateral relationship is to help Iraq become "secure, stable and self-reliant; with a government that is just, representative, and accountable; that denies support and safe haven to terrorists; is able to assume its rightful place in the community of nations; and contributes to the peace and security of the region."

According to the State Department's 2010 *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 human rights of women and ethnic and religious minorities. The State Department has designated officials in both Washington and Baghdad to coordinate its efforts on minority issues. The Deputy Assistant Secretary of State for Iraq also serves as the Secretary's Coordinator for Iraq's Religious and Ethnic Minorities, and Embassy Baghdad's Assistant Chief of Mission for Assistance Transition also serves as Coordinator on Minority Issues.

The United States provides significant foreign assistance to Iraq, including funding for security, economic development, and democracy, governance and human rights programs. President Obama's Fiscal Year 2011 budget request asked for \$729.3 million in foreign assistance for Iraq, which would be slightly more than the amounts appropriated in Fiscal Years 2008 and 2009, but less than that in Fiscal Year 2010. In the Fiscal Year 2008 base and supplemental appropriations, and the Fiscal Year 2010 base appropriation, Congress earmarked \$10 million of each measure's foreign assistance funds for projects to assist Iraqi religious and ethnic minorities. As of mid-2010, the State Department and USAID reported that they had spent more than \$24 million on projects for these communities and were in the process of distributing the

third \$10 million. However, some Iraqi minority communities have complained of not seeing any benefits, and in 2010 several members of Congress requested a Government Accountability Office audit of State and USAID's administration of these funds.

The United States contributes to various international and non-governmental organizations assisting Iraqi refugees and IDPs, including more than \$355 million for these purposes in Fiscal Year 2010. In addition, beginning in FY 2007 the U.S. government increased its efforts to resettle Iraqi refugees. Since that time, more than 52,000 Iraqi refugees have been resettled to this country. The United States is now the largest recipient of both UNHCR referrals of Iraqis and resettled Iraqi refugees.

In February 2008, the State Department increased direct access for certain Iraqis to the U.S. Refugee Admissions Program, as mandated by the Refugee Crisis in Iraq Act of 2008. 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. (A P2 category allows those covered to apply directly to the United States for resettlement, without first having to be referred by UNHCR. This speeds up the process for those applicants, but it does not guarantee resettlement of all individuals from the category who apply.) 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...."

## **Recommendations**

In response to the severe abuses of religious freedom in Iraq, the United States should embrace a multi-faceted approach. It should advocate measures to ensure security, justice, and legal protections for all Iraqis; prioritize human rights, including freedom of religion or belief, in bilateral and multilateral diplomacy and in dealing with the KRG; promote these rights and freedoms through various U.S. programs; and address the situation of internally displaced persons and refugees.

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

The U.S. government should:

- in consultation with the smallest religious minorities' political and civic representatives, identify the places throughout Iraq where members of these particularly vulnerable communities worship, congregate, and live; work with the Iraqi government to assess security needs and develop and implement a comprehensive and effective plan for dedicated Iraqi military protection of these sites and areas; and, as the process moves forward, periodically inform Congress on its progress;
- work with the Iraqi government and the smallest religious minorities' political and civic representatives to establish, fund, train, and deploy representative local police units to provide additional protection in areas where these vulnerable communities are concentrated;
- urge the Iraqi government to promptly develop and issue new national identification cards that do not list religious or ethnic identity;
- urge the Iraqi government to continue the process of ensuring greater sectarian integration into the government and security forces so that they better reflect the diversity of the country;

- urge the Iraqi government to ensure that Iraqi government revenues neither are directed to nor indirectly support any militia, para-state actor, or other organization credibly charged with involvement in severe human rights abuses;
- urge the Iraqi government to undertake prompt, transparent, and effective investigations of all human rights abuses, including those stemming from sectarian or religiously-motivated violence, and bring the perpetrators to justice; and
- urge the Iraqi government to fully fund the National Human Rights Commission and ensure that this commission is independent and non-sectarian and that it has a mandate to investigate individual complaints.

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

The U.S. government should:

- urge the Iraqi government to ensure that provisions in the Iraqi Constitution providing that no law may contradict “the established provisions of Islam” and guaranteeing “the Islamic identity of the majority” are not used to undermine the internationally-guaranteed individual rights to freedom of thought, conscience, and religion or belief and to equality before the law of every Iraqi; and
- work with minority communities and their representatives to help them reach agreement on what measures are needed to implement Article 125 of the Iraqi Constitution, which guarantees “the administrative, political, cultural, and educational rights of the various nationalities, such as Turkomen, Chaldeans, Assyrians, and all the other constituents,” in Nineveh and other areas where these groups are concentrated.

## **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; and
- revive the internal, inter-agency U.S. government task force on Iraqi minority issues that previously existed 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 of, 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 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;
- provide 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; and
- ensure that U.S. development assistance prioritizes areas where Iraq's smallest, most vulnerable religious minority communities are concentrated, including the Nineveh Plains area, and that the use of such funding is determined in consultation with the political and civic leaders of the communities themselves.

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

The U.S. government should:

- continue to provide significant funding to the UN, humanitarian organizations, host nations, and host communities to provide essential humanitarian aid to vulnerable Iraqi internally displaced persons (IDPs) and refugees, and encourage the Iraqi government and other countries to do likewise;

- state clearly that the U.S. government will not encourage Iraqi refugees to return voluntarily to Iraq until necessary conditions are met, including security, assistance, legal frameworks, integration programs, and economic opportunities;
- continue its efforts 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 and by enforcing proper application of the existing waiver of the material support bar to individuals forced under duress to provide support to terrorists.



## Nigeria

**FINDINGS:** The government of Nigeria continues tolerating systematic, ongoing, and egregious violations of religious freedom by failing to respond adequately and effectively to prevent and contain acts of religiously-related violence, prevent reprisal attacks, and bring those responsible for such violence to justice. Since 1999, 13,000 Nigerians, if not more, have been killed in religiously-related violence between Muslims and Christians. Years of inaction by Nigeria's federal and state governments have 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 again recommends in 2011 that Nigeria be designated as a "country of particular concern," or CPC. USCIRF has recommended CPC status for Nigeria since 2009. Before that, Nigeria had been on USCIRF's Watch List since 2002.

During the reporting period, violence and tension increased particularly in the Middle Belt states and in and around Plateau State's capital city, Jos. Although religion is a significant catalyst in the violence, the violence is not purely religious in nature. Other factors play a role in the violence, including the status and rights accorded with "indigeneship," which bestows certain political, economic or other benefits for persons whose ethnic group is considered native to a particular area in Nigeria. This is particularly true for the situation in Plateau State. In late 2010, for the first time in years, five persons were convicted on federal terrorism charges for their role in March 2010 violence in Jos. These convictions are an important initial step, but are not enough to end the culture of impunity. Government at all levels must do more to prevent incidents, prosecute perpetrators, and protect all Nigerians from religiously-related violence.

**PRIORITY RECOMMENDATIONS:** Nigeria is a critically important state; it is the most populous country in Africa, a regional leader, a major oil exporter, and a contributor to international peacekeeping operations. Elections scheduled in April 2011 for the presidency and the Nigerian National Assembly and local state assemblies could test Nigeria's young democracy and cause further strain in Christian/Muslim relations. Religion and religious identity are intertwined in ethnic, political, economic and social controversies, and can be misused by politicians, religious leaders, or others to rouse their constituencies for political gain. This, combined with the Nigerian government's toleration of criminal acts, has created a permissive environment for continued religiously-related violence, leading to a culture of impunity that must be broken by the top levels of the Nigerian state and federal government. USCIRF has concluded that Nigeria could muster the resources to address all inter-communal violence, including religiously-related violence, and that such action is necessary for the country to realize lasting progress, security, stability, and prosperity as a democracy. The United States should urge Nigeria to bring perpetrators of religiously-related violence to justice and to resolve jurisdictional disputes between federal and state officials that thwart prosecutions, and also should ensure that these issues are an essential part of bilateral relations, including as a component of the U.S.- Nigeria Bi-National Commission. USCIRF also calls on the Nigerian government to eliminate "indigene" status through either constitutional reform or judicial review. Additional recommendations for U.S. policy toward Nigeria can be found at the end of this chapter.

## **Religious Freedom Conditions**

### *USCIRF 2010 and 2011 Trips*

USCIRF delegations traveled to Nigeria in March 2010 and January 2011 to learn more about sectarian violence and its impact on religious freedom in Nigeria. During these trips, Commissioners engaged high-level federal and state officials on the government's failure to prevent sectarian violence and punish perpetrators, 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 of these agencies. USCIRF also met with a range of religious and civil leaders.

### *Recurrent Sectarian Violence*

Since 1998, religiously-related and inter-communal violence in Nigeria has resulted in more than 13,000 people killed and thousands displaced, with numerous churches, mosques, businesses, vehicles, private homes and other structures burned and destroyed. To date, almost no one has been prosecuted for their role in perpetrating violence. The most severe incidents have occurred in the Middle Belt region including Jos, Plateau State (September 2001, November 2008, January 2010, March 2010, December 2010, and January-April 2011); Bauchi State (January 2011); 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).

During its January 2011 visit to Nigeria, USCIRF noted an escalation in anxiety, frustration, and concern among religious leaders, particularly pertaining to the ongoing crisis in Plateau State. USCIRF also noted that religious leaders were using more heated public rhetoric, which could lead to an escalation of violence and a more divided, sectarian Nigeria. While religion at present is one dimension of the problem in Plateau and elsewhere, continued misuse of religion as a tool to foster political, economic, or ethnic discord could increase sectarian hostility to the point where religion becomes central.

### *Violence in Jos*

During the reporting period, violence related to religion and tension between Christians and Muslims increased, particularly in the Middle Belt states and in and around Plateau State's capital city Jos. The violence in and around Jos, as throughout the rest of Nigeria, is not purely religious in nature. Religion and religious identity are intertwined in ethnic, political, economic and social controversies, and can be misused by politicians, religious leaders, or others to rouse their constituencies for political gain or other purposes. Yet, because of years of recurring sectarian violence, Jos is becoming segregated along religious lines.

On Christmas Eve 2010, seven to nine bombs exploded in a Jos market square, killing at least 30 persons, and injuring more than 70 others. The radical Islamist sect Boko Haram reportedly took credit for the bombing, but some experts have been reluctant to attribute the attack to this group. Tension between the Muslim and Christian communities in Jos and in Plateau State was already high due to recurrent violence in the city and state over the past year. Numerous random acts of violence, committed by Christians and Muslims, followed the bombing attack, resulting in widespread death, injuries, and destruction. In January 2011, 40 Igbo tribe members were dragged from a bus and murdered when the bus entered a predominantly Muslim section of Jos. The Igbo, one of Nigeria's largest tribes, are predominantly Christian, but previous religiously-related violence in Jos had not included them. This expansion risks

widening the conflict beyond the Middle Belt region and could cause the Christian community in Igbo-dominated areas to be more aggressive and mobilized along religious lines.

In the aftermath of the Christmas bombings, the Nigerian army and a joint task force comprised of military and police patrolled the streets, set-up roadblocks, established a nightly curfew, and restored a semblance of order. Yet episodes of violence, such as the Igbo killings, still occurred and tensions remain high.

Reports of low-level reprisal attacks occurring against both communities happened with regularity in the aftermath of the Christmas Eve bombings. Such acts could be as simple as an argument between two people of different faiths escalating into a fight, which then sets off further violence resulting in property destruction, personal injuries, and/or deaths. Other low-level attacks could be acts of opportunity where a person was killed because he wandered into the wrong part of town and was identified as not belonging to the predominant faith community.

Numerous attacks also reportedly were perpetrated by Muslim Fulanis on Christian Berom villages located on the outskirts of Jos and elsewhere in Plateau State. A Nigerian non-governmental organization (NGO), the Stefanos Foundation, lists several incidents that occurred in the reporting period where armed Muslim Fulani men attacked villages in the middle of the night, killing men, women and children. The worst attack reportedly happened on October 26, 2010 in Rawuyenku village near the town of Miango, where approximately 28 people were killed, mostly women and children. Violence between these communities had been on the rise, particularly after a January 2010 attack by Berom against Fulanis in which as many as 300 were killed, and March 2010 retaliation attacks by Fulani that killed upwards of 500, mostly Christian Berom.

The State Department and a Nigerian NGO, Justice for Jos, reported that on April 20, 2010 Christian Berom youth barricaded the road in Riyom Local Government Authority, stopped vehicles, and killed seven persons after interrogating passengers to ascertain their religious affiliation and ethnic identity. Justice for Jos also reported a similar attack in January 2011. The State Department also reported that on April 15, 2010, "Pastoral Resolve, a group representing Fulani nomads in West Africa, alleged that men from Plateau State armed with guns and axes attacked pastoralist homes in Kaduna State, killing six persons and stealing thousands of head of livestock." Also according to the State Department, on May 22, 2010, Christian Berom youth allegedly attacked Tusung village, 24 miles south of Jos, killing three. Police reportedly arrested 15 suspects.

### *"Indigenes" versus "Settlers"*

One aspect of the intertwined nature of the conflict in Jos stems from the legal distinction between "indigenes" and "settlers" in Nigeria. The 1999 constitution identified the status of indigenship in Article 147 to keep balance between different ethnic groups in government positions. Indigenes are persons whose ethnic group is considered native to a particular area, while settlers are those who have ethnic roots in another part of the country, even though they may have lived in the area for generations. Indigenes often receive privileges, such as political positions, access to government employment, and lower school fees. State and local governments issue certifications granting indigeneship, which bestow many benefits. In and around Jos, people of Hausa tribal origin, who are predominately Muslim, are mostly accorded settler status, and therefore denied the Plateau State benefits for indigenes. The people in Jos with indigene status are from the Berom tribe, who are predominantly Christians or African traditionalists. Many Hausas living in and around Jos have lived there for years, and the Hausa community has been vocal and active in seeking political, social and economic benefits usually accorded to indigenes.

In October 2010, 20 Nigerian citizens and a non-governmental organization, led by one of Nigeria's leading human rights lawyers, Festus Okoye, and two other prominent lawyers, challenged the constitutionality of the indigene and settler identification before Kaduna federal court. This case is reportedly still pending.

### *Nigerian Government Response*

The Nigerian government says that it has made numerous new arrests in this reporting period, particularly for the violence in and around the city of Jos. The Federal Minister of Justice told a visiting USCIRF delegation in January 2011 that the Federal Government had successfully prosecuted and convicted, on terrorism charges, five persons out of the more than 160 who were arrested for their role in the March 2010 violence and that 15 cases were dismissed due to faulty investigations. These five convictions are apparently the first convictions for inter-communal or religiously-related violence in years. While these successful prosecutions are positive, the number convicted is small and the cases have not been publicized in a way that provides transparency, a sense of repose, and disincentives for future misconduct.

The Minister of Justice also told USCIRF that he thought there had been more prosecutions, and said that his Director of Public Prosecutions would provide USCIRF with statistics of prosecutions and convictions that have occurred this year. Unfortunately, by the end of the reporting period the Ministry of Justice had not provided this information to either the U.S. Embassy in Abuja or to USCIRF, despite repeated requests.

One challenge to effective prosecutions is ongoing federal-state jurisdictional disputes. The Plateau State Attorney General told USCIRF that he would prefer to prosecute appropriate defendants for murder and that, according to the Nigerian constitution, capital crimes are to be prosecuted by the states. However, according to the Plateau State Attorney General, it is difficult for him to pursue such prosecutions because the investigations are conducted by Nigeria's police force, a federal entity, which also detains the suspects and retains all case files.

Jurisdictional disputes aside, prosecuting perpetrators of sectarian violence is a matter of political will. In light of the scale of the violence that occurred in recent years, five convictions are insufficient to stop the cycle of impunity. Many more prosecutions need to occur, so that all parties involved in religiously-related or inter-communal violence understand that they will not be allowed to walk free and commit similar crimes again. Many religious and civil society leaders USCIRF met in January 2011 commented that there cannot be religious harmony without a sense of justice, and there is no such justice in a climate of impunity.

### *Other Incidents of Sectarian Violence*

There were other violent clashes between Christians and Muslims in Nigeria during this reporting period, predominantly in the northern states, including apparent Boko Haram attacks against Christians.

On April 12, 2010 a Church in Christ in Nigeria pastor and his wife were killed by Muslims in Bauchi State after his church in Jos had been burned, allegedly by Muslim refugees from Jos a few days after Christians displaced by the January violence had taken refuge in it. On May 19, 2010, Muslim Fulani youth in Kwasam, Kiru, Kano State, allegedly burned a Baptist church and the pastor's home.

In September 2010, a prison break in Bauchi state resulted in 700 prisoners escaping from captivity, of which at least 100 were Boko Haram members. Purported Boko Haram members immediately began assaulting police units, killing several people, and reportedly murdered at least two Muslim religious

leaders who challenged the group's doctrine and activity. In October 2010, Imam Bashir Kashara was murdered in Maiduguri, Borno State. Imam Kashara had reportedly criticized the Boko Haram's doctrine on his weekly radio program. In March 2011, Imam Ibrahim Ahmed Abdullahi, a reported advocate of non-violence and critic of sectarianism, was shot at least five times at his home in Maiduguri, Borno State.

In a new development, attacks attributed to the Boko Haram targeted the Christian community, including one where a policeman was killed while guarding a church, as well as attacks on several churches that occurred on Christmas Eve, the same day the Jos market was bombed. These attacks occurred in Maiduguri, Borno State and at least six people were killed and 25 injured.

Concerning Shi'a Muslims, according to the State Department's 2010 *Annual Report on International Religious Freedom*, Shi'a Muslims' 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 State Department report also notes that, "[i]n 2007 state officials and police in Sokoto State allegedly began a coordinated campaign of repression of Shi'a Muslims, including the detention of large numbers of Shi'a and their religious leaders. The action revolved around the 2007-08 gubernatorial elections and continued to affect these communities at the end of the reporting period."

### *The Sharia Controversy*

Since October 1999, 12 northern Nigerian states have established, or announced plans to establish, sharia law in their criminal code. No new sharia laws were established during the reporting period. 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, some states in recent years have instituted discriminatory practices based on religious precepts or tolerated the societal application of such practices. 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 Bauchi, 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, but the Kano *Hisbah* have focused on enforcing prohibitions against alcohol and prostitution. It is not uncommon for a truck transporting beer to be pulled over by the Kano *Hisbah* and for its contents to be confiscated, even if the truck was on a federal highway.

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 that 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*

Christians in northern Nigerian states complain of what they view as discrimination at the hands of Muslim-controlled state governments and describe members of their communities as being treated as “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, lack of access to education, failure to make provisions for the teaching of the Christian religion in public schools, failure to allow for Christian religious programs in state-run media, and lack of representation in government bodies and government employment. Discrimination along these lines reportedly occurs to both indigenes of the state who have embraced the Christian faith and settlers or those who do not originate from the state.

Reports indicate that in certain northern states, it is very difficult to obtain permits to repair or build a non-Muslim place of worship, that some Christian churches have been torn down because they lacked appropriate government permits, and that specific zoning laws are invoked to justify action or inaction by state authorities. According to one Christian leader, “Applications are either denied or left unattended to for decades. When Christians try to get around their predicament by buying land from others to build a church, permission to build is often not forthcoming. Where they build without permit, the structure is liable for demolition at any time.” According to a Christian official, in some places in the north, “churches are considered as undesirable as brothels and drinking houses” as some state governments have officially recorded that some land shall be allocated “on the condition that it shall not be used for ‘drinking house, brothel, or church.’” Although the Nigerian constitution permits proselytizing, several northern states continue to ban some public religious activities under the guise of maintaining public safety and security.

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.

### *Extremism*

Several observers 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.

There also continue to be reports of foreign sources of funding and support for Islamist extremist activities in northern Nigeria. Given Nigeria’s recent experience with Boko Haram, Nigerian authorities have not paid adequate attention to the small but 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. In addition, after Boko Haram’s recent large-scale violence against the Nigerian government, observers noted that Nigerian authorities need to place a high priority on preventing the possible alignment of these groups with international terrorist groups.

### *Interfaith Efforts*

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. Implementation of such activities is limited and varies from state to state. However, efforts to bring the Muslim and Christian communities together could improve interfaith relations and decrease future incidents of sectarian violence.

In recent years, the Nigerian Inter-Religious Council (NIREC) – composed of 25 Muslim and 25 Christian leaders and formerly co-chaired by the Catholic Archbishop of Abuja and former President of the Christian Association of Nigeria, Archbishop John Onaiyekan, and the President of the Supreme Council for Islamic Affairs, the Sultan of Sokoto Muhammad Sa’ad Abubakar – has been a valuable forum that attempted to reduce inter-religious tension and promote inter-religious cooperation. Under the leadership of Archbishop Onaiyekan and the Sultan of Sokoto, NIREC was active and visible around the country. In July 2010, Reverend Ayo Oritsejafor was elected as the new president of the Christian Association of Nigeria, and he subsequently replaced Archbishop Onaiyekan as the co-chair of NIREC. As NIREC moves forward, USCIRF encourages it to continue its strong work in bringing the two religious communities together and in being a good model of interfaith relations in Nigeria.

### **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. Despite 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 of State Hillary Rodham 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 April 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 still not specifically addressed in any of the four working groups. Reportedly, the issue has also not been discussed in the good governance or security groups. This absence is problematic, given the deep dimensions to Nigeria’s religious, social, and political framework and the major elections scheduled in April 2011 for the presidency and the Nigerian National Assembly and local state assemblies.

The administration requested over \$600 million in foreign assistance to Nigeria for Fiscal Year 2011. 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 also receives other security assistance through Department of Defense funds.

With national elections occurring in April 2011, election assistance and related programming was a priority for U.S. assistance in Fiscal Year 2010. According to the Department of State's 2010 *Advancing Freedom and Democracy Report*, the U.S. human rights and democracy strategy in the country seeks to strengthen democracy and governance by encouraging free and fair elections, reducing corruption, and supporting the strengthening of the National Assembly. The United States also seeks to ensure that marginalized groups, such as women, can effectively participate in the political system. Additionally, the United States advocates for strengthening of the country's law enforcement system so as to reduce the Nigeria's involvement in transnational crimes such as human trafficking, drug trade, money laundering, fraud and piracy. The United States plans to fund and support programs such as the Pilot Engagement with States program and the Jos Task Force, and will help engage civil society in politics through outreach programs, speakers, scholarships and other events.

The United States runs training programs for law enforcement officers, journalists and civil society groups, and distributes information on specific issues such as workers rights, religious and ethnic tolerance, anti-trafficking, and anti-child labor. Furthermore, the U.S. government is involved at the state level, working with ethnic and religious groups to mitigate conflict and providing programs aimed at promoting tolerance and strengthening the community.

USCIRF is encouraged that some of its long-standing recommendations regarding Nigeria are being implemented, such as a revamped conflict and mitigation program that will engage religious leaders and utilize existing social, religious, and civil institutions to better address and prevent communal conflict. The new TOLERANCE project being funded by USAID and being awarded to the Interfaith Mediation Center based out of Kaduna, Nigeria is a \$4.5 million project that is to provide conflict mitigation and management assistance in northern and Middle Belt states in Nigeria and will be carried out over a five-year period. USAID noted USCIRF's long-standing recommendations on this issue and incorporated them into the design plan for the program.

USCIRF is also encouraged by continued plans to establish a consulate or other official presence in the city of Kano, Kano State.

## **Recommendations**

The Nigerian government's toleration of criminal acts has created a permissive environment for continued sectarian violence, leading to a culture of impunity which must be broken by the top levels of the Nigerian state and federal government. USCIRF has concluded that Nigeria could, if it wished, muster the resources to address religiously related violence, and it must do so for the country to realize lasting progress, security, stability, and prosperity as a democracy. For these reasons, USCIRF recommends that Nigeria be named as a country of particular concern for tolerating particularly severe violations of religious freedom and that the United States press Nigeria to bring perpetrators of religiously related violence to justice.

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

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

- 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 all sectarian and communal violence, including the January through April 2011 incidents in Jos and the Middle Belt, as well as other instances during the current and preceding reporting periods where communal and sectarian violence has taken place;
  - resolving jurisdictional disputes that prevent state and federal prosecutors from conducting timely and effective investigations and prosecutions;
  - developing effective conflict prevention and early warning system mechanisms at the local, state, and federal levels using practical and implementable criteria;
  - developing the capability to rapidly deploy specialized police and army units to prevent and combat sectarian violence in cities around the country where there has been a history of sectarian violence in central and northern Nigeria, including Jos, Kaduna, Kano, and Bauchi states, among others;
  - taking steps to professionalize its police and military forces in its investigative, community policing, crowd control, and conflict prevention capacities; and
  - conducting specialized training for its military and security forces to be more adequately trained in human rights standards, as well as in non-lethal responses to crowd control and in quelling mob or communal violence;
- call upon the Nigerian government to eliminate “indigene” status either through constitutional reform or judicial review;
- include as a priority 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 U.S.-Nigeria Bi-National Commission;
- support interfaith efforts that urge religious and political leaders, both Muslim and Christian, to stop using religion to incite or mobilize constituencies;
- urge the Nigerian government to carry out its responsibility to prevent and contain acts of inter-communal and religiously-related violence, prevent reprisal attacks, and bring those responsible for such violence to justice;
- call on the Nigerian government to consider the establishment of a peace and reconciliation commission for the situation in Jos and Plateau State, while continuing to investigate and prosecute acts of inter-communal or religiously- related violence;
- 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;
- urge the UN Special Adviser for the Prevention of Genocide, Francis Deng, whom UN Secretary General Ban Ki Moon tasked with examining the March 2010 violence in and around Jos, to visit

Nigeria and take steps to ensure this violence is adequately addressed by Nigeria's judicial system; 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 to:
  - expand 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 sectarian violence;
  - increase their investigative, community policing, crowd control, and conflict prevention capacities by providing on-the-ground technical advisors; and
  - provide technical assistance to help the Nigerian police and military procure and operate communications equipment to improve emergency response mechanisms and coordination capacity;
- 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;
- 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 Congress on ways that U.S. assistance can be better utilized to promote reconciliation and prevent sectarian violence in Nigeria;
- engaging existing interfaith efforts through 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;

- fully funding USAID for conflict mitigation work with Nigerian NGOs engaging on communal conflict prevention, emphasizing capacity-building at the local level, and to evaluate the new TOLERANCE project being funded by USAID after one year of implementing the program;
- 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:** Pakistan continues to be responsible for systematic, ongoing, and egregious violations of freedom of religion or belief. Two high-profile members of the ruling party were assassinated during the reporting period for their advocacy against Pakistan's repressive blasphemy laws. These laws and other religiously discriminatory legislation, such as the anti-Ahmadi laws, have created an atmosphere of violent extremism and vigilantism. Sectarian and religiously-motivated violence is chronic, and the government has failed to protect members of the majority faith and religious minorities. Pakistani authorities have not consistently brought perpetrators to justice or taken action against societal leaders who incite violence. Growing religious extremism threatens the freedoms of religion and expression, as well as other human rights, for everyone in Pakistan, particularly women, members of religious minorities, and those in the majority Muslim community, including those who hold views deemed "un-Islamic" by extremists. It also threatens Pakistan's security and stability.

In light of these particularly severe violations, USCIRF again recommends in 2011 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 deteriorated greatly during the reporting period. While the Zardari government has taken some positive actions to promote religious tolerance and remedy abuses, it has failed to reverse the erosion in the social and legal status of religious minorities and the severe obstacles the majority Muslim community faces to the free discussion of sensitive religious and social issues. A number of Pakistan's laws abridge religious freedom. Blasphemy laws are used against members of religious minority communities and dissenters within the majority Muslim community, and frequently result in imprisonment on account of religion or belief and/or vigilante violence. Three individuals had death sentences imposed or upheld against them during the reporting period. Anti-Ahmadi laws discriminate against individual Ahmadis and effectively criminalize various practices of their faith. The Hudood Ordinances provide for harsh punishments for alleged violations of Islamic law by both Muslims and non-Muslims. Anti-government elements espousing an intolerant interpretation of Islam continue to perpetrate acts of violence against other Muslims and religious minorities. The government's response to religiously-motivated extremism remains inadequate, despite increased military operations.

**PRIORITY RECOMMENDATIONS:** Promoting respect for freedom of religion or belief must be an integral part of U.S. strategy in Pakistan, and designating Pakistan as a CPC would enable the United States to press Islamabad more effectively to undertake needed reforms. 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. To make religious freedom promotion a key element in the bilateral relationship, the U.S. government should urge Pakistan to reinforce the rule of law and align its laws, particularly those regarding blasphemy and the Ahmadis, with international human rights standards; actively prosecute those committing acts of violence against Sufis, Shi'a, Ahmadis, Christians, and others; and unconditionally release individuals currently jailed for blasphemy and place a moratorium on use of the law until it is reformed or repealed. Additional recommendations for U.S. policy towards Pakistan can be found at the end of this chapter.

## Religious Freedom Conditions

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

Since 2008, after years of military rule, Pakistan has been governed by a civilian government led by Prime Minister Syed Yousuf Raza Gilani and President Asif Ali Zardari. Both Zardari and Gilani are leaders of the Pakistan People's Party (PPP). Zardari is the widower of Benazir Bhutto, a popular PPP leader 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 and have assumed leadership roles in a country traditionally dominated by Sunnis from Punjab. However, despite the return to democratic control, the Pakistani military and intelligence services continue to be influential, particularly in regard to national security issues.

The Pakistani government, through the efforts of the late Federal Minister for Minorities Affairs Shahbaz Bhatti, who was assassinated on March 2, has taken some positive steps regarding religious freedom and tolerance. Minister Bhatti was first appointed to that position, which has cabinet rank, in 2008, and was reappointed in February 2011. Mr. Bhatti successfully used the position to obtain government assistance for victims of religiously-motivated mob violence, advocate publicly for reform of the blasphemy laws, and increase public focus on religious minorities' concerns. These efforts resulted in the government undertaking the following: in May 2009, announcing a five-percent quota in federal employment for members of religious minority communities and officially celebrating "Minorities' Solidarity Day"; designating August 11 as an annual federal holiday, called "Minorities' Day;" committing to construct prayer rooms for non-Muslim inmates in all prisons; and the Minorities Ministry establishing a 24-hour hotline to take reports of violence against religious groups.

Minister Bhatti also established a National Interfaith Council, convened in July 2010, to promote understanding and tolerance among the different faiths. The Council was comprised of the four principal Imams of Pakistan, the heads of its principal *madrassas*, the leading Catholic and Protestant Bishops, and the leaders of the Ahmadi, Buddhist, and Farsi communities. The concluding statement of its July 2010 meeting, signed by the leading religious figures, urged increased tolerance and denounced terrorism. President Zardari met with the participants and welcomed the statement. Minister Bhatti also established District Interfaith Harmony Committees in every district of Pakistan to promote religious tolerance through understanding. Each committee is comprised of six Muslim leaders and six members of minority faith communities.

In March 2011, Prime Minister Gilani appointed Dr. Paul Bhatti, brother of Shahbaz Bhatti, as Special Adviser to the Prime Minister on Minority Affairs. Since Dr. Bhatti had not been elected to the parliament, he could not serve in the Federal Cabinet. However, he was reportedly given assurances that as the Special Advisor he will have all the powers, responsibilities, resources, and protections of a federal minister, including responsibility over the Ministry of Minorities Affairs.

April 2010 saw the passage of the 18<sup>th</sup> amendment to the Pakistani constitution, which reduced the powers of the presidency and returned Pakistan to a parliamentary system. Among the 102 changes made, the amendment created 10 seats for religious minorities in the National Assembly, the lower house of Pakistan's parliament, and four seats in the Senate, as well as required seats for non-Muslims in the provincial assemblies. However, the allocation of seats was not set on a per-capita basis, so it was not reflective of the size of the non-Muslim community. The amendment also set aside seats for women in these same bodies. Under the 18<sup>th</sup> amendment, unspecified ministries were to be devolved to the provincial level. At the end of the reporting period, it appeared that the ministries of Zakat and Ushr, population welfare, youth affairs, special initiatives and local government would be devolved. As of this writing, the Federal Ministry for Minorities Affairs has not been designated for devolution, but minority

religious communities have expressed concern that this ministry could be returned to the provincial level since it was only elevated to the federal level in 2008.

The National Assembly was also active on other human rights issues, electing its first female speaker in 2008, Dr. Fehmida Mirza, and making Pakistan the first Muslim country to elect a woman to this position. In March 2011, the National Assembly also approved the creation of an independent human rights commission. The National Commission on Human Rights will be empowered to conduct investigations and assume the role of a court in special circumstances with authority to make its own motions. The Commission will be headed by a retired judge or eminent expert, with two commissioners coming from religious minority communities.

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. In addition, the 18<sup>th</sup> amendment specifically stipulated that the prime minister must be a Muslim and did not address the anti-Ahmadi provisions in the constitution. Government officials do not provide adequate protections from societal violence to members of religious minority communities, and perpetrators of attacks on minorities are rarely 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.

#### *Sectarian or Religiously-motivated Violence*

During the reporting period, Pakistan experienced a qualitative change in religiously-linked violence due to the unprecedented level of targeting of government officials, members of the majority faith whose views contradicted those of extremists, and members of minority faith communities. Armed extremists, some with ties to violent extremist groups or the Pakistani Taliban, intensified their attacks, including bombings, against Bareilvi Sufis, Shi'a Muslims, Ahmadis, and Christians. Sectarian or religiously-motivated violence reached beyond Pakistan's tribal northwest, targeting groups in major urban centers. Pakistani media reported in January that several violent extremist groups were joining forces to target government leaders and Shi'a clergy. The following examples of sectarian or religiously-motivated violence are illustrative of the numerous and often fatal attacks against innocent Pakistanis by extremists who use religion to justify their crimes.

#### *Assassinations of Blasphemy Law Opponents*

Two prominent Pakistani officials—Punjab Governor Salman Taseer and Federal Minister for Minorities Affairs Shahbaz Bhatti—were assassinated because of their opposition to Pakistan's flawed blasphemy laws.

On January 2, Salman Taseer, a longtime political ally of President Zardari and an outspoken critic of the blasphemy law, was assassinated by one of his police bodyguards. After shooting Taseer multiple times, the assassin, Mumtaz Qadri, surrendered peacefully and confessed that he had killed the governor because of his views on blasphemy. Qadri was assigned to the protective detail, despite reports that Qadri had shared his plans to kill Taseer with other guards and that supervisors had listed him as a security risk. While Taseer's murder was condemned by political leaders, 500 Muslim clerics from the Jamaat-e-Ahl-e-Sunnat, a prominent organization for Bareilvis, praised Qadri's actions and warned people against mourning Taseer. As a result, Taseer's family had great difficulty finding an imam to officiate the funeral. While Prime Minister Gilani attended the funeral, President Zardari did not. In Islamabad, lawyers showered Qadri with rose petals when he arrived in court for his arraignment.

On March 2, Shahbaz Bhatti, a longtime Christian activist for religious freedom and the first-ever Christian in Pakistan's federal cabinet, was assassinated outside his mother's home in Islamabad by members of Tehrik-i-Taliban, commonly known as the Pakistani Taliban. Having recently been reappointed to the federal cabinet, Bhatti was on his way to a cabinet meeting without his security detail. The timing of the attack has led to speculation that the assassins had informants within the Ministry of Interior or the Directorate of Inter-Service Intelligence. Bhatti had received multiple death threats because of his advocacy against the blasphemy law, including one from Tehrik-i-Taliban threatening to kill him if he was reappointed to the cabinet. The Pakistani government's efforts to provide Bhatti with sufficient security had been inadequate for years. However, after his reappointment, the Minister of Interior had increased his security detail and reportedly agreed to move Minister Bhatti to more secure lodgings in Islamabad. Notably, the Pakistani government had not provided an armored car, despite Minister Bhatti's repeated requests. Immediately after his death, Prime Minister Gilani and Interior Minister Rehman Malik visited the hospital and vowed to apprehend the killers. Prime Minister Gilani attended the funeral, but President Zardari did not.

#### *Attacks near the Afghan Border*

Many acts of violence were perpetrated in response to Pakistani military operations against Taliban elements in the tribal areas of Pakistan near the Afghan border. Since 2009, military offensives there have met with some success, although military forces and Pakistani civilians have suffered significant casualties. Many internally displaced persons, particularly members of religious minority communities including Sikhs, fear to return to these contested areas, and extremists have assassinated religious figures who have worked with the government. On August 23, 2010, at least 15 people died when a suicide bomber blew himself up at a mosque in South Waziristan, killing local cleric Maulana Noor Mohammed. Mohammed had reportedly negotiated with the Taliban on behalf of the Pakistani government. South of Peshawar on March 9, 2011, a suicide bomber attacked the funeral of the wife of a member of a local peace committee working against violent extremists. Fifteen people were reportedly killed and 20 wounded. Tehrik-i-Taliban claimed responsibility.

#### *Attacks against Barelvis*

Several large-scale attacks targeted Barelvi shrines. Sunni extremists condemn Barelvis, who come from a Sufi tradition, for certain beliefs and practices, including the use of music for religious purposes and the veneration of living and dead religious figures. Barelvi leaders have publicly condemned the Pakistani Taliban and supported the government's military campaign against anti-government elements, but some leaders also publicly supported the murder of Salman Taseer. On July 1, 2010, militants bombed the Sufi Data Darbar shrine in Lahore, killing at least 40 and wounding hundreds. The shrine holds the remains of Abul Hassan Ali Hajveri, a Persian Sufi saint important to the Barelvi. On October 7, two suicide bombers attacked a major shrine in Karachi, the Abdullah Shah Ghazi shrine. Reports indicated that 14 were killed and 60 wounded. The bombings were coordinated to ensure a high number of casualties, as the first bomber detonated as devotees were leaving the shrine, with the second following moments later targeting the fleeing crowds.

#### *Attacks against Shi'a Muslims*

Violent extremists also targeted Shi'a processions and mosques during the reporting period. On September 1, 2010, three bombs were detonated during a Shi'a religious procession in Lahore, killing 29 and wounding more than 200. The procession of about 35,000 marchers was marking the anniversary of the death of Imam Ali, the first Shi'a imam. Days later, on September 3, a suicide bomber attacked a Shi'a procession in Quetta, killing 43 people and wounding 78. Tehrik-i-Taliban claimed responsibility



for both. On January 25, 2011, a suicide bomber attacked a Shi'a procession in Lahore. Seven people were reported dead and 25 wounded.

#### Attacks against Ahmadis

In recent years, scores of Ahmadis have been murdered in attacks which appear to have been religiously motivated. For instance, on May 27, 2010, three Ahmadi businessmen were killed in Faisalabad, and local authorities attributed a sectarian motive to the slaying.

The largest incident of anti-Ahamdi violence in recent years occurred in Lahore on May 28, 2010, when militants carried out coordinated attacks against two Ahmadi mosques, killing at least 93 people and wounding scores more. Gunmen associated with Tehrik-i-Taliban attacked both mosques simultaneously with high-powered rifles and grenades as Friday prayers were ending. About 1,500 worshipers were in each mosque. Police eventually regained control of both mosques after lengthy gun battles. However, individuals interviewed by USCIRF staff in Lahore said that the elite Rangers military units had been called for help but were ordered not to intervene. After the attack, Nawaz Sharif, former Prime Minister of Pakistan and head of the Pakistan Muslim League (N), said that "Ahmadi brothers and sisters are an asset" of the country. Notably his brother, Shahbaz Sharif, the PML(N) Governor General of Punjab province where the attack occurred, offered no condolences.

#### Attacks against Christians

There were no reports during the reporting period of large-scale mob attacks against Christians, as had been the case from June to August 2009 in Punjab province. During the 2009 violence in the village of Gojra, eight Christians were killed and 18 injured, and two churches and about 75 houses burned, following an accusation that Christians had desecrated the Koran. However, several churches were attacked in March 2011, reportedly in response to the burning of a Koran in Florida. Also, as will be discussed later, there were several individual incidents of violence against Christians accused of blasphemy during this reporting period.

Marginalization and poverty make the Christian community in Pakistan vulnerable, and sexual assaults against underage Christian girls by Muslim men continue to be reported. In March 2011, a 10-year-old Catholic girl was allegedly raped in Punjab province and authorities have arrested the accused perpetrator. Such a police response is not always the norm. In July 2010, the non-government organization CLASS reported that in one rape case, extremists successfully pressured local police not to file a First Information Report on the alleged incident, thereby preventing any investigation or prosecution. In another case involving the rape and murder in January 2010 of a 12-year-old Christian girl in Lahore, her Muslim employer, a prominent attorney and former Lahore Bar Association president, was acquitted in November 2010. However, President Zardari directed the federal government to provide compensation to the mother.

#### Attacks against Hindus and Sikhs

Due to their minority status, Pakistan's Hindus and Sikhs are vulnerable to crime, including robbery and kidnapping for ransom. 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. According to a survey by the Society for the Protection of the Rights of the Child, a Pakistani NGO, 23 Hindu children were kidnapped between January 2008 and December 2010. 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 Human Rights Commission

of Pakistan estimated that 20 to 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.

### *Blasphemy Laws*

#### *Widespread Abuse*

Severe penalties for blasphemy and other activities deemed insulting to Islam were added to the penal code during the regime of General Zia-ul-Haq. Article 295B makes defiling the Koran punishable by life imprisonment. Under Article 295C, remarks found to be "derogatory" against the Prophet Mohammed carry the death penalty or life in prison. Blasphemy allegations, which are often false, have resulted in the lengthy detention of, and occasional violence against, Christians, Ahmadis, Hindus, other religious minorities, and members of the Muslim majority community. In fact, according to interviews USCIRF staff conducted in Pakistan, more cases are brought under these provisions against Muslims than any other faith group. While no one has been executed under the blasphemy laws, these laws have created a climate of vigilantism.

Because the laws require neither proof of intent nor evidence to be presented after allegations are made, and include no penalties for false allegations, blasphemy charges are commonly used to intimidate members of religious minorities or others with whom the accusers disagree or have business conflicts. The provisions also provide no clear guidance on what constitutes a violation, leaving local officials to rely on their personal interpretations of Islam. Militants often pack courtrooms and publicly threaten violence if there is an acquittal. Lawyers who have refused to prosecute cases of alleged blasphemy or defend those accused, as well as judges who issue acquittals, have been harassed, threatened, and even subjected to violence. The lack of procedural safeguards empowers accusers to use the laws to abuse religious freedom, carry out vendettas, or gain an advantage over others in land or business disputes or in other matters completely unrelated to blasphemy.

The highest-profile blasphemy case during the reporting period involved Asia Bibi, a Christian farm worker and mother of five, who was sentenced to death under Article 295C in November 2010. In response, President Zardari assigned Minister Bhatti to investigate the case and, after receiving his report, empowered him to establish a committee to review the blasphemy laws and propose reforms. President Zardari also agreed to Minister Bhatti's recommendation to pardon Ms. Bibi, should her appeal not move forward quickly. However, the Lahore High Court ruled on December 1 that President Zardari did not have the power to pardon an individual whose case was on appeal. In response, President Zardari directed that Ms. Bibi be kept separate from the general prison population during the appeals process, which will take years. During a USCIRF staff visit to Lahore in December 2010, NGOs reported that Ms. Bibi was being kept separate in the prison. Also in December, a major Muslim leader, Imam Yousef Qureshi of the Mosque Mohabat Khan near Peshawar, stated he would give \$6,000 to anyone who killed Ms. Bibi. The government took no action against him for this incitement to violence.

Asia Bibi was not the only person sentenced to death for blasphemy during the reporting period. In September 2010, the Lahore High Court upheld the 2002 death sentence against Wajihul Hassan for allegedly uttering blasphemous remarks against the Prophet Muhammad. Also, a man from Punjab province, known as Rafiq, was convicted of blasphemy and sentenced to death in February 2011 for allegedly writing blasphemous remarks against Sihaba, a companion of the Prophet Muhammad.

Lengthy prison sentences were also imposed for blasphemy or other conduct deemed offensive to Islam in the reporting period. A Muslim prayer leader, Mohammad Shafi, and his 20-year-old son, Mohammad Aslam, were sentenced to life imprisonment in January 2011 on blasphemy charges; the case is the result

of a disagreement between sects of Islam. In March 2010, Ruqqiya Bibi and her husband Munir Masih were sentenced to 25 years in prison for defiling the Koran after they allegedly touched the book with unwashed hands. A human rights activist, Hector Aleem, was sentenced to seven years in prison in December 2010 for allegedly sending blasphemous text messages. Aleem's lawyer reported that a local man framed his client following a land dispute in which he had defended the rights of Christians. Aleem's family has gone into hiding and he has reportedly been tortured. In another land dispute, the blasphemy laws were used in June 2010 to jail an elderly Christian man, Rehmat Masih.

Although, as mentioned, no one has yet been executed by the state under the blasphemy laws, individuals accused of blasphemy have been killed, including while in police custody. For example, in March 2011 Qamar David, a Christian, was found dead in a Karachi jail. He had been sentenced in February 2010 to twenty-five years in prison for sending blasphemous text messages in 2006. In July 2010, two Christian brothers accused of blasphemy were shot and killed as they were leaving a hearing at a Faisalabad courthouse. Muhammad Imran, a man charged with blasphemy in April 2009 and later released for lack of evidence, was murdered in March 2011.

Overall, during the reporting period, USCIRF received reports of 14 arrests and convictions based on blasphemy charges. In addition, eight murders were associated with blasphemy.

### *The Possibility of Reform*

Before the murders of Governor Taseer and Minister Bhatti, discussions were underway to reform the blasphemy law. In early 2010, Prime Minister Gilani expressed support for reviewing the blasphemy laws, saying "a committee will review the laws detrimental to religious harmony to sort out how they could be improved." In November 2010, President Zardari called for the formation of a high-level committee headed by Minister Bhatti to review the blasphemy laws and propose recommendations to prevent their misuse.

In November 2010, Sherry Rahman, a PPP parliamentarian, tabled a bill reforming the blasphemy laws. Rahman's amendments would have: removed the death penalty and ensured that punishments are proportionate; included the requirement of premeditation or intent; ensured that anyone making false or frivolous accusations is penalized; and amended the penal code in accordance with Article 20 of the International Covenant on Civil and Political Rights to make any advocacy of religious hatred that constitutes incitement to discrimination or violence a punishable offence. However, her party did not support the bill and Rahman received numerous death threats. Other quarters of the political spectrum also expressed support for some reform. In December 2010, the Council of Islamic Ideology, a government-sponsored advisory board, recommended that the blasphemy law be amended to prevent its misuse against any individuals irrespective of their religion, but opposed removing the death penalty.

After the murders of Governor Taseer and Minister Bhatti, Prime Minister Gilani and other PPP officials stated that reform was no longer being considered. Since the killings, the Prime Minister has repeatedly stated that the government will not permit abuse, but that it has no plans to amend the law. Sherry Rahman was successfully pressured to withdraw her legislation and is rarely seen in public. Minister of Interior Rehman Malik, who was responsible for Minister Bhatti's security, reportedly has said that he would shoot anyone who offended the Prophet. He later said he was referring to the "bullet of law."

Despite the PPP's hesitancy, leading opposition figures expressed concern after the Bhatti murder about how the blasphemy law has been used to abuse minorities. The head of the Pakistani Muslim League (Q), Chaudhry Shujaat Hussain, and conservative political leader and former cricket star Imran Khan, reportedly have expressed openness to reconsidering the blasphemy laws. Most notably, Fazlur Rehman, the head of JUI-F (Jamiat Ulema-e-Islam - Fazlur Rehman), a former PPP coalition partner and one of the

most conservative religious parties in parliament with alleged ties to extremist groups, said during the floor debate about the Bhatti assassination, that “if a law is being misused against minorities we are ready to discuss this.” Rehman had convened large rallies against any amendments to the blasphemy law in December 2010 and January 2011, with one in Karachi numbering upwards of 30,000. Rehman was also quoted as saying that Governor Taseer “was responsible for his own murder” because of his criticism of the blasphemy laws. In response, PPP officials have said any legal changes must be agreed to by consensus, making the prospects of reform slim.

### *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. As described above, egregious acts of violence have been perpetrated against Ahmadis and anti-Ahmadi laws have helped create a permissive climate for vigilante violence against the members of this community. 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. In 1974, the government of Zulfikar Ali Bhutto amended Pakistan’s constitution to declare members of the Ahmadi religious community to be “non-Muslims,” despite their insistence to the contrary.

Basic acts of worship and interaction have also been made criminal offenses. In 1984, during General Zia-ul-Haq’s dictatorship, articles 298B and 298C were added to the penal code, criminalizing Ahmadis “posing” as Muslims, calling their places of worship “mosques,” worshipping in non-Ahmadi mosques or public prayer rooms, performing the Muslim call to prayer, using the traditional Islamic greeting in public, publicly quoting from the Koran, or displaying the basic affirmation of the Muslim faith. It is also a crime for Ahmadis to preach in public, seek converts, or produce, publish, or disseminate their religious materials. Ahmadis 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*. According to the State Department’s 2010 *Annual Report on International Religious Freedom*, 57 Ahmadis in 2009-10 faced criminal charges under the blasphemy laws and 25 under other sections of the penal code. In conversations with USCIRF staff in December 2010, Ahmadis reported that three of their coreligionists are currently jailed on account of their faith.

Obtaining a Pakistani national identity card or passport requires the applicant to sign 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 2005 when the government restored the column, reportedly in response to pressure from Islamist political parties.

### *Hudood Ordinances*

Under the Hudood Ordinances that criminalize extramarital sex, rape victims risk being charged with adultery, for which death by stoning remains a possible sentence. In 2003, the National Commission on the Status of Women in Pakistan reported that as many as 88 percent of the women in prison, many of them reported rape victims, were serving time for allegedly violating these decrees. 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 international obligations to prevent torture or cruel, inhuman, and degrading treatment or punishment. Although these

extreme corporal punishments have generally not been carried out in practice in Pakistan, lesser punishments such as jail terms or fines have been imposed.

In 2006, in a positive development, the Protection of Women Act removed the crime of rape from the sphere of the Hudood Ordinances and put it under the penal code, thereby eliminating the requirement that a rape victim produce four male witnesses to prove the crime. Under the law, convictions for rape must be based on forensic and circumstantial evidence. The Act also prohibited a case of rape from being converted into a case of fornication or adultery, which had been possible under the Hudood laws. Marital rape was once again made a criminal offense, as it had been prior to the implementation of the Hudood laws in 1979. However, an offense of fornication was included in the penal code, punishable by imprisonment for up to five years.

According to interviews with USCIRF staff in December 2010 in Islamabad, NGOs reported that no women were currently jailed under Hudood charges. In December 2010, the Federal Shariat Court ruled that key sections of the 2006 law were unconstitutional and un-Islamic, which threatened to undermine these reforms entirely. The federal government is appealing and has until June 22, 2011, to implement the ruling.

### *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 religiously-motivated violence in Pakistan and abroad. In mid-2005, the Pakistani central government required all *madrassas* to register with the government and expel all foreign students. While most registered, the registration process reportedly has had little if any effect on the curricula, which in many of these schools includes materials that promote intolerance and exhortations to violence. The government also still lacks controls on the *madrassas'* sources of funding. A memorandum of understanding was signed in October 2010 between the Ministry of Interior, which oversees the *madrassas* system, and the five main *madrassas* boards in another attempt to better regulate their curriculum and financing.

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, especially Hindus and Christians. 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. Such references are not restricted to Islamic studies textbooks but take place in both early elementary and more advanced social studies texts used by all public school students, including non-Muslims. Moreover, the textbooks contain stories, biographies, and poems with 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, that policy maintains Islamic Studies as a compulsory subject. One positive change allows minorities the option of taking an ethics course instead of Islamic Studies from third grade onward, whereas the previous policy offered this option only in grades nine and ten. However, Pakistani NGOs argue that this option means little in practice because current ethics textbooks are based on previous curriculum guidelines which contain Islamic biases. Moreover, minority students still tend to avoid opting out of Islamic Studies for fear of being isolated from the rest of the class or of having their grades negatively impacted.

## U.S. Policy

Pakistan is central to the United States' global campaign against al-Qaeda and in supporting U.S. and multinational forces fighting in Afghanistan. The Obama administration is actively engaged with Pakistan, viewing Afghanistan and Pakistan as a single theater in the ongoing conflict with al-Qaeda and the Taliban. In December 2010, the Obama administration conducted a major review of its strategy for Afghanistan and Pakistan, one year after the release of its initial strategy. President Obama announced that the strategy had brought about "significant progress" toward the core goal of disrupting, dismantling, and defeating al-Qaeda, but that challenges remain to make these gains "durable and sustainable." The section on Pakistan stated that the United States will "seek to secure these interests through continued, robust counterterrorism and counterinsurgency cooperation and a long-term partnership anchored by our improved understanding of Pakistan's strategic priorities, increased civilian and military assistance, and expanded public diplomacy." It also noted the cost to Pakistan in attacking militants in the tribal areas, but highlighted that greater cooperation was needed to deny extremists safe havens along the Afghan border.

Despite the close working relationship, U.S.-Pakistan relations have often been marked by strain, disappointment, and mistrust. Regardless of the large-scale U.S. relief efforts after the recent earthquakes and floods, many Pakistanis view the United States as untrustworthy because of its perceived lack of support in Pakistan's conflicts with India, cancellation of assistance over Pakistan's acquiring of nuclear weapons, and sharp drop-off in engagement after the Soviet withdrawal from Afghanistan in 1989. Many in Pakistani civil society also view the United States as too focused on the security component of the relationship, providing massive assistance to Pakistan's powerful military establishment, excusing past military rule and downplaying attendant human rights abuses, and failing to support elements of Pakistani society that espouse respect for human rights. Anti-Americanism is widespread among the Pakistani public, feeding off, among other things, concerns over the United States' use of unmanned aerial drones targeting militants on Pakistani territory, the killing of two Pakistanis by U.S. government contractor Raymond Davis, and the conviction of many religious conservatives that U.S. policy is hostile to Islam and Muslims.

This negative popular sentiment has strained bilateral relations and limited government-to-government cooperation. For instance, due to the Davis case, the quarterly U.S./Pakistan strategic dialogue scheduled for February 2011 was indefinitely postponed and relations on a number of fronts were put on hold. The unexpected death of Ambassador Richard Holbrooke, the U.S. Special Representative for Afghanistan and Pakistan, in December 2010 was another setback. Secretary Clinton named Ambassador Marc Grossman as his replacement in February 2011.

Human rights and religious freedom have not been visible priorities in the bilateral relationship. According to the joint statement issued after the first strategic dialogue in March 2010, the "core foundations of [U.S.-Pakistani] partnership are shared democratic values, mutual trust and mutual respect." Human rights was absent from the list of bilateral concerns incorporated into the 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."

The 2010 *Annual Report on International Religious Freedom* stated that while the Pakistani government took steps "to protect religious minorities," the "number and severity of reported high-profile cases against minorities increased during the reporting period." During the reporting period, Secretary Clinton and the State Department did at times publicly condemn attacks against Muslims, Ahmadis, and Christians. Both Secretary Clinton and President Obama expressed condolences after the murder of

Minister Bhatti. While Secretary Clinton did not mention Bhatti's advocacy against blasphemy, President Obama's statement did.

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

In February 2011, just weeks before his assassination, USCIRF facilitated a series of briefings by the Federal Minister for Minorities Affairs with members of Congress and their staff, National Security Council and State Department officials, academic experts, and representatives of non-governmental organizations and the media. These briefings focused on the 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. 164, which expresses the condolences of the House of Representatives to the people of Pakistan for the assassination of Shahbaz Bhatti and stresses the need for interreligious dialogue and amendments to the blasphemy laws.

## **Recommendations**

Promoting respect for freedom of religion or belief must be an integral part of U.S. strategy in Pakistan, and designating Pakistan as a CPC would enable the United States more effectively to press Islamabad to undertake needed reforms. USCIRF has concluded that the conflict with violent religious extremists now taking place in Pakistan, and in neighboring Afghanistan, requires the United States actively to bolster the position of those elements in both societies that respect democratic values, the rule of law, and international standards of human rights, including freedom of religion or belief.

To this end, USCIRF recommends a number of measures to advance religious freedom through specific U.S. programs and policies, end violations of religious freedom, and improve education in Pakistan.

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

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

- articulate clearly that upholding religious freedom and related human rights is an essential element of the U.S. strategy toward Pakistan, and support Pakistani government and civil-society institutions that work to uphold and guarantee these rights;
- urge the Pakistani government to provide robust security for the new Special Adviser to the Prime Minister on Minority Affairs, such as a dedicated security unit and armored car, as well as to the future Federal Minister for Minorities Affairs, parliamentarian Sherry Rehman, and other government officials who speak out against the blasphemy law;

- ensure that the Federal Ministry for Minorities Affairs is not devolved to the provincial level;
- have Special Representative Amb. Marc Grossman 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;
- include a special working group on religious tolerance in U.S.-Pakistan strategic dialogues and the trilateral dialogues among the United States, Afghanistan and Pakistan, and create an interagency U.S. government task force on the protection of the freedom of thought, conscience, and religion and freedom of expression in Afghanistan and Pakistan, and direct it to recommend policies for promoting religious freedom and religious tolerance in order to counter violent religious extremism;
- have the Secretary of Defense and the commander of U.S. Central Command raise with Pakistan's military leadership the importance of combating violent extremism through rule of law, law enforcement, and policing, and stress the need to reform Pakistan's blasphemy laws;
- make allocations in the Pakistan assistance package for fiscal years 2010-2014 from the funds provided through the Enhanced Partnership with Pakistan Act of 2009, in order 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.
- ensure that USAID engages Pakistani government offices and qualified Pakistani organizations to promote religious freedom and tolerance as the number of U.S.-based implementing partners declines, 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; and
  - supporting the work of the Pakistani 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; and
- expand programs leading to the sustained engagement of the United States with the Pakistani people, such as the Fulbright Program, the International Visitor Program, Hubert Humphrey Fellowship



Program, and other exchanges for professionals, journalists, students, and religious and civil society leaders from all of Pakistan's diverse religious and ethnic communities, in order to promote lasting stability in Pakistan that will come from a vibrant civil society.

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

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

- consistent with the UN Human Rights Council's March 2011 resolution on "combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence, and violence against persons based on religion or belief," repeal the blasphemy laws and immediately release those detained on charges associated with these laws and unconditionally pardon all individuals convicted of blasphemy;
- until repeal is completed, enact a moratorium on use of the blasphemy laws;
- if repeal is not possible, implement procedural changes to reduce their abuse, such as reducing the penalties, introducing the element of intent, penalizing false accusations, making blasphemy a bailable offense, and requiring that cases be heard at regional courts, rather than local sessions courts;
- ensure that those accused of blasphemy, their defenders, and trial judges are given adequate protection, including by investigating and prosecuting death threats and other statements inciting violence issued by political leaders, religious officials, or other members of society;
- 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, as well as for civil society and human rights activists and groups;
  - investigating acts of religiously-motivated and sectarian violence and actively prosecuting those committing acts of violence, and punishing perpetrators in a timely manner; and
  - constituting a government commission that is transparent, adequately funded, inclusive of women and minorities, and defined by a mandate to study and produce recommendations on ways that the Pakistani government can actively diminish religiously-motivated and sectarian violence, particularly in areas with a heavy concentration of members of religious minority communities;
- amend the constitution and rescind criminal 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;

- make permanent the National Interfaith Council established by Shahbaz Bhatti and create an interfaith directorate under the President’s office that can serve as a secretariat for ongoing activities; and
- work to see that religious minorities are proactively recruited into government jobs, consistent with current policies, and that the representation of non-Muslims in the parliament is increased.

### **III. Improving Education**

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 toward all persons, 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 and 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:** Unregistered religious groups or those deemed by the Chinese government to threaten national security or social harmony continue to face severe restrictions, although the government tolerates some religious activity within approved organizations. Religious freedom conditions for Tibetan Buddhists and Uighur Muslims remain particularly acute as the government broadened its efforts to discredit and imprison religious leaders, control the selection of clergy, ban religious gatherings, and control the distribution of religious literature by members of these groups. The government also detained over five hundred unregistered Protestants in the past year and stepped up efforts to destroy churches and close “illegal” meeting points. Dozens of unregistered Catholic clergy remain in detention, in home confinement, or have disappeared. Falun Gong adherents continue to be targeted by extralegal security forces and tortured and mistreated in detention. The Chinese government also continues to harass, detain, intimidate, disbar, and forcibly disappear attorneys who defend the Falun Gong, Tibetans, Uighurs, and unregistered Protestants.

Because of these systematic, ongoing, and egregious violations of religious freedom, USCIRF recommends in 2011 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 communities continue 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.” There are reports that the government is considering legalizing charitable activities of recognized religious organizations. These are positive steps that could lead to greater accommodation of religious activity sanctioned by the government. At the same time, the government praises religious groups who resist “foreign infiltration,” supports extralegal security forces to suppress the activities of so-called cult organizations, actively harasses, imprisons, tortures, and disappears advocates for greater religious freedom, destroys unregistered religious venues, and severely restricts online access to religious information and the authority of religious communities to choose their own leadership and parents to teach their children religion.

**PRIORITY RECOMMENDATIONS:** Religious freedom encompasses many issues in U.S.-China relations, 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 or state agencies that 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 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, raise religious freedom and negotiate binding human rights agreements at the U.S.-China Strategic Dialogue, and integrate human rights concerns, consistently and openly, into the entire structure of U.S.-China bilateral relations. Additional recommendations for U.S. policy towards China can be found at the end of this chapter.

## Religious Freedom Conditions

### *Restrictive Legal Framework and Government Interference*

The Chinese Constitution guarantees the freedom of religion, but protects only “normal” religious activities and does not explicitly protect the right of individuals to manifest their beliefs without state interference. While a growing number of Chinese citizens are allowed to practice their religion legally, the government tightly controls the affairs of all religious groups and actively represses and harasses religious activity that the Communist Party does not view as normal. Chinese government officials, at many levels, have echoed President Hu Jintao’s 2007 speech describing a “positive role” for religious communities in China. However, they view this role in terms of bolstering support for state economic and social goals, not promoting international religious freedom norms. According to Wang Zuo’an, the head of State Administration of Religious Affairs (SARA), “the starting point and stopping point of work on religion is to unite and mobilize, to the greatest degree, the religious masses’ zeal, to build socialism with Chinese characteristics.”

SARA issued a January 2011 document outlining its goals for the upcoming year. The document outlines measures to maintain extensive government supervision and control over religious communities, specifically calling on authorities to “guide” unregistered Protestants to worship in state-sanctioned churches, continue policies to deny Catholics in China the freedom to accept the authority of the Holy See to make bishop appointments, and expand rules that impose political requirements on any Muslims who wishes to make overseas pilgrimages. If implemented as written, the SARA document would continue to restrict freedom of religion for Chinese citizens and further submit religious communities to the intrusive supervision and control of the Party and government.

Despite restrictions, harassment, arrests, and government oversight the number of religious adherents continues to grow in China and the government continues to tolerate worship and some charitable activities by approved religious groups. However, the government actively restricts, harasses, detains, and imprisons: groups that are not registered, or will not register, for political or theological reasons; individuals who publicly organize legal, media, or popular defense of religious freedom; and groups or leaders deemed to threaten the Communist Party.

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. While the Chinese government has signed the International Covenant on Civil and Political Rights, it has neither ratified nor fully applied the treaty to its domestic legal framework. Religious activity in China is governed by the National Regulations on Religious Affairs (NRRA), first issued in March 2005 and updated in 2007. The NRRA requires all religious groups and venues to affiliate with one of seven government-approved associations and allows the government to control every aspect of religious practice and related activities. Within the bounds of the Chinese legal system, the NRRA does expand protections for registered religious groups to carry out some religious activities and 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. The NRRA permits only “normal religious activity” and contains vague national security provisions that can justify the suppression of unregistered religious activity, the activities of organizations deemed to be “cults”, and the peaceful religious activity of Uighur Muslims and Tibetan Buddhists.

In Tibetan Buddhist and Uighur Muslim regions, the NRRA includes additional restrictions on peaceful religious expression and leadership decisions and is supplemented by extensive provincial regulations. During the reporting period, the Chinese government intensified its campaign of “patriotic education”

among monks, nuns, and imams in these regions, in an effort to quell activities viewed as political dissent and to promote leaders who are considered “patriotic and devoted.” In the past year, the government-approved Islamic Association of China also issued a series of sermons whose goal was to put forward “authentic interpretations of Islam.”

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, sometimes with thousands of members, to carry out worship activities openly. Some Catholic, Protestant, Buddhists, and members of spiritual movements have refused to join the officially-sanctioned religious organizations because they do not want to, among other things: 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. 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.

### *Tibetan Buddhists*

The Chinese government’s longstanding emphasis on controlling and managing the “normal order” of Tibetan Buddhism has led to significant religious freedom abuses and nurtured deep resentments among Tibetans. In addition, in 2007, the SARA issued guidelines to control the movement and education of monks and nuns, the building or repairing of religious venues, and the conduct of large-scale religious gatherings. Later that same year, SARA issued regulations allowing government officials to interfere with the selection of reincarnated lamas, an essential element of Tibetan Buddhist religious practice and education. These rules appear to be intended to ensure government control over the selection of the next Dalai Lama and the lineages of Tibetan Buddhism’s most important teachers.

In 2010, the Chinese Communist Party and its leaders instituted sweeping new economic, cultural and social policies at the Fifth Tibet Work Forum which appear aimed at furthering controls over Tibetan Buddhism by delineating a “core interest” policy of diminishing the Dalai Lama’s international influence, isolating him from Tibetans in China, and asserting that religious freedom in Tibet is China’s internal affair. President Hu Jintao instructed officials to “comprehensively implement the Party’s basic principles for religious work and the laws and regulations on the government’s administration of religious affairs...maintain the normal order to Tibetan Buddhism, and guide Tibetan Buddhism to keep in line with the socialist society.” Also in 2010, the Buddhist Association of China required re-registration of religious personnel based on conformity with unspecified political, professional, and personal criteria. There is a concern of a substantial loss of religious personnel if the measure is used to remove Tibetan Buddhist monks, nuns, or trulkus (living Buddhas) viewed as devoted to the Dalai Lama or his recognized Panchen Lama or as holding positions the government deems illegal.

Previous government suppression of peaceful Tibetan Buddhist religious activity played a primary role in stoking major demonstrations in 2008 in the Tibetan Autonomous Region (TAR) as well as Tibetan areas elsewhere in China, which led to violence and the detention of hundreds of monks and nuns. Protests against government interference in Tibetan religious life and the imprisonment of religious leaders continued in 2010. At least 443 Tibetan Buddhist monks, nuns, and trulkus are currently imprisoned in China, according to the database of the Congressional-Executive Commission on China (CECC). Despite requests, 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 protests, 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.

The Chinese government continues to deny repeated international requests for access to the disappeared 19-year-old Gendun Choekyi Nyima, whom the Dalai Lama designated as the 11th Panchen Lama when he was six years old. Government officials claim that he is in fact alive 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.

### *Uighur Muslims*

In the Xinjiang Uighur Autonomous Region (XUAR) and other areas of Xinjiang province, religious freedom conditions continue to deteriorate. The Chinese government’s various campaigns to curtail “religious extremism,” secessionism, and terrorist activity are a major source of Uighur resentment and may lead directly to the very type of extremism that Beijing’s policies are trying to forestall. Following demonstrations and riots in July 2009, the XUAR government instituted sweeping security measures and campaigns to promote “ethnic unity,” curb free speech, and halt any independent religious activity or public protest over restrictions on religious practice. Over the past decade, the Chinese government has similarly used the global war on terror as a pretext to crack down on even non-violent forms of religious activity or dissent. Both Muslims and Protestants in the XUAR have experienced increased harassment, arrests, and efforts to weaken religious adherence and cultural identity.

Speaking at a May 2010 “Central Work Forum” on the XUAR, President Hu Jintao affirmed existing government policies on ethnic and religious issues. Neither President Hu nor the Forum addressed the Uighurs’ long-standing grievances over cultural and religious controls. The Work Forum again stressed previous campaigns to combat “religious extremism,” supporting ongoing efforts to interfere with the way Muslims in China interpret and practice their religion. These measures intensified after the 2009 demonstrations and violence. During the past year, steps were taken in some areas to stop religious “infiltration” and “illegal preaching activities” and to close “illegal mosques” among Muslim populations outside of the XUAR. For example, one government report, issued by the Ningxia Hui Autonomous Region, described efforts to “improve” Arabic instruction as part of a plan to “resist religious instruction.”

In Uighur areas, all imams 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 attend such meetings can result in the imam’s expulsion or detention. The XUAR government limits access to mosques and spiritual pilgrimages, including by women, children, communist party members, and government employees. Uighur Muslim clerics and students have been detained for various “illegal” religious activities, “illegal” religious centers and religious schools have been closed, and police confiscate religious publications. Throughout Xinjiang, teachers, professors, university students, and other government employees are prohibited from engaging in public 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 the past year, XUAR authorities took special measures to “weaken religious consciousness” among women and limit the religious activities of minors. In 2009, the government-controlled Women’s

Federation carried out campaigns to dissuade women from wearing veils. Also, guidelines were put in place to provide oversight of Uighur women religious leaders (*buwi*). In response to these government efforts, 600 protestors marched in Hotan against a proposed ban on headscarves and other restrictions on religious freedom. In June 2010, authorities in Bachu county, Kashgar district detained 32 women for attending a Koran study group. Two were officially charged with conducting “illegal religious activity” while the others were fined and released. In December 2009, regulations were put in place prohibiting “luring” or “forcing” minors to participate in religious activities. In March 2010, officials in Ili Kazakh Autonomous Prefecture issued regulations to, among other things, forbid students from believing in religion, participating in religious activities, fasting, or wearing religious clothing, and officials in Hotan started a campaign to halt “illegal” religious schools. According to Radio Free Asia, security personnel have closed seven schools and detained 39 people in nighttime raids.

Religious leaders, academics, and human rights advocates who attempt to publicize or criticize human rights abuses in the XUAR have received prolonged prison terms on charges of “separatism,” “endangering social order,” and “incitement to subvert state power.” Numerous Uighur Muslims have been arrested for peacefully organizing and demonstrating for their religious freedom, including Abdukadir Mahsum, who is serving a 15-year prison sentence imposed in February 2009. The State Department estimates that over 1,000 people were arrested in the XUAR on charges related to state security over the past two years, including on charges of “religious extremism.” 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 members of the family 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 Chinese government continues to interfere in the religious activities of Chinese Catholics and to harass clergy in the officially-sanctioned Catholic Patriotic Association (CPA) who have been secretly recognized by the Vatican as well as clergy and members of the Catholic community who refuse to affiliate with the CPA. Governmental efforts to suppress the activities of “underground” Catholic congregations and to coerce Catholic clergy to join the CPA are particularly intense in the two provinces with the largest Catholic communities, Hebei and Shaanxi. Government efforts to exert control over Church affairs expanded in the past year, as Beijing ordained a Bishop without Vatican approval and arranged for the election of unapproved Bishops to main leadership positions in the CPA and the Bishops’ Conference of the Catholic Church in China. These organizations are not recognized by the Holy See.

Beijing continues to prohibit Catholic clergy from communicating with the Vatican, resulting in strained relations between the CPA and the unregistered Chinese Catholic Church and between the Chinese government and the Holy See. Despite this 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. Since 2006, the Vatican and the Chinese government

had worked together to select bishops, reversing a previous trend of the government appointing bishops without Vatican approval. In 2010, eleven Chinese bishops were ordained, one of whom was not Vatican-approved. In November 2010 the CPA ordained Guo Jincai bishop of Chengde (Hebei) without prior approval or affiliation with the Vatican—a move that, according to a Vatican spokesman, “set back” relations between Beijing and the Holy See. In April and June 2010, respectively, the CPA ordained Paul Meng Qinglu bishop of a diocese in Inner Mongolia and Joseph Han Yinghin bishop of Sanyuan (Shaanxi), both with the approval of the Holy See. Nevertheless, Bishop Meng’s ordination was not without controversy, as the CPA insisted that Bishop Du Jiang, recognized by the Vatican, attend the ordination ceremony with Ma Yinglin, a bishop ordained without Vatican approval in 2006. Bishop Du was later placed under house arrest.

According to the Congressional Executive Committee on China (CECC), at least 40 Roman Catholic bishops remain imprisoned, detained, or disappeared, including the elderly Bishop Su Zhimin, whose current whereabouts are unknown and who has been under strict surveillance since the 1970s. In addition, the whereabouts of Bishop Shi Enxiang, who was detained in April 2001 and Auxiliary Bishop Yao Ling, remain unknown. In July 2010, unregistered Catholic bishop Jia Zhiguo was released; he had been detained since March 2009 to prevent him from meeting with another bishop who had reconciled with the Vatican.

The whereabouts of two unregistered priests, Ma Shengbao and Paul Ma, also detained in March 2009, remain unknown. In addition, Father Li Huisheng remains in custody serving a seven-year term for “inciting the masses against the government” and Fr. Wang Zhong is serving a three-year sentence for organizing a ceremony to consecrate a new registered church. In March 2010, underground priests Luo Wen and Liu Maochun were detained after they organized youth camps for university students. Authorities released Luo within two weeks, but there is no evidence that Liu was released.

### *Protestants*

The Chinese government continues to restrict the religious activities of Protestants who worship in the government-approved church and to harass and intimidate unregistered Protestants. The government also labels some unregistered Protestant groups as “cults.” The majority of Protestants in China are affiliated with the “house church” movement, which refuses, both for theological and political reasons, to affiliate with the government-sanctioned Three-Self Protestant Movement (TSPM) or the China Christian Council (CCC).

The Chinese government encourages TSPM and the CCC leaders to emphasize “theological reconstruction” in their religious training and teaching, doctrines which purge elements of Christian faith and practice that the Communist Party regards as incompatible with its goals and policies. In the past year, government leaders have publicly commended the TSPM and CCC for their efforts to promote “social harmony and stability,” for “resolutely resisting various forms of foreign religious infiltration,” and for “achieving positive results through promoting theological reconstruction.”

Registered Protestants have been given some latitude to operate charitable and social welfare programs, including a growing number of “faith-based” clinics, homes for the elderly, and orphanages. Although these organizations have an uncertain legal status and limited capacity, they are allowed in order to fill social service gaps in some localities and rural areas. The government, through its religious agency SARA, is reportedly studying ways legally to register religious charities.

In the past year, authorities continued to harass, intimidate, and detain arbitrarily members of unregistered Protestant organizations. According to the NGO ChinaAid, the number of detentions of unregistered Protestants declined slightly in the last year, with over 500 detentions. At least six individuals were



sentenced to terms of imprisonment over one year, including in China's notorious "re-education through labor" system. Despite slightly fewer detentions and sentences this year as opposed to last, government efforts to suppress the growth and activities of house church Protestants continue to be systematic and intense, with regular raids on unrecognized church services and destruction of property and religious venues.

Members of unregistered Protestant groups that the government arbitrarily deems "evil cults" were the most vulnerable to detention and harassment. The extrajudicial security apparatus, called the 6-10 Office, has broadened its mandate beyond Falun Gong activity to include groups that self-identify as Protestant. The government has banned at least 18 Protestant groups with adherents in multiple provinces, as well as many more congregations and movements that are active in only one province. Examples of banned groups include the South China Church (SCC), the Disciples Association, the "Shouters," and the Local Church, a group that was founded by Chinese church leader Watchman Nee, one of the most influential and widely read theologians of the 20<sup>th</sup> century. The Chinese government continues to reserve for itself the final right to determine a religious group's theological legitimacy. On March 11 2011, security officials in Qu County, Sichuan province arrested Liao Zhongxiu, leader of a house church on charges of "suspicion of utilizing a cult organization in undermining the implementation of the state law and regulations." It was the second time that Ms. Liao's church was raided in the past year, when police fined and destroyed property in September, 2010. Ms. Liao remains in custody and has reportedly been threatened if she seeks to hire a lawyer.

On May 8, 2010, pastor Wang Dao – a participant in the 1989 Tiananmen protests and leader of the unregistered Liangren Church in Guangzhou – was detained and his congregation dispersed from their worship in a park. Wang was released on bail on June 13 to await his trial. On August 13, he was again detained and pressured to join the TSPM. His trial is pending. Protestant pastor Alimjan Yimit (Himit) continues to serve a fifteen-year sentence in the XUAR, allegedly for "leaking state secrets to overseas organizations;" according to his lawyer, he was arrested for having contact with visiting Protestants from the United States. Unregistered Protestant pastor Zhang Rongliang also continues to serve a seven-year prison sentence for allegedly "obtaining a fraudulent passport and illegally crossing the border." Zhang frequently traveled overseas to speak at Christian gatherings. Osman Imin (also known as Wusimanyiming), who was arrested in November 2007 and sentenced to two years of "re-education through labor" on charges that he assisted foreigners in engaging in public religious expression and persuasion among the Uighur community, was released in the last year. Shi Weihai, who was given a three-year sentence for printing and distributing Bibles and Christian books without government permission, was released at the end of his sentence in March 2011.

During the reporting period, Chinese government officials at various levels also forcibly closed large unregistered religious venues that previously had operated openly. For example, in March 2010, in the city of Jinan, Shandong province, local officials closed a Seventh-day Adventist church with an estimated 700 members.

### *Falun Gong*

The Chinese government continues to maintain a severe campaign against adherents of the Falun Gong spiritual movement, which it considers an "evil cult" and banned in 1999, including maintaining an extrajudicial security apparatus, the 6-10 office, designed to identify and stamp out Falun Gong activities. 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, including credible reports of deaths in custody and the use of psychiatric experiments. "Transforming" Falun Gong adherents continues to be a high priority for Chinese government security officials.

Falun Gong adherents report, and official Chinese government statements confirm, long-term and arbitrary arrests, forced renunciations of faith, and torture in detention. Officials use Article 300 of the Criminal Procedure Code, which deals with individuals accused of crimes associated with “evil cults,” and 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. It is difficult to determine how many Falun Gong practitioners were in detention because they are most often incarcerated in re-education through labor camps (RTL) and mental health institutions. However, in its 2010 *Country Report on Human Rights Practices* for China, the U.S. Department of State noted that Falun Gong adherents constituted at least half of the 250,000 officially recorded inmates in RTL camps.

In the year before the Olympic Games, police waged a concerted campaign to harass and detain known Falun Gong practitioners and brutally suppressed their activities. Between 2007 and August 2008, an estimated 10,000 people were detained. Of that number at least 700 were sentenced to prison term or RTL. At least five Falun Gong practitioners are known to have died in police custody in 2008.

One Falun Gong-affiliated research NGO, using public sources from within China, confirmed that 2,513 individuals were detained in the past year, many in Hebei and Shandong provinces and also in Shanghai. Security officials reportedly offered rewards to anyone who would identify Falun Gong adherents, in order to “protect” the Shanghai World Expo. Almost all of those detained were sentenced to prison or RTL.

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 on 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, torture in custody, and psychiatric experiments conducted on adherents. 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. The Committee against 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.

#### *Other Religious Groups*

Folk religion, also called “feudal superstition,” is not among the five recognized religions (Buddhism, Daoism, Protestantism, Catholicism, and Islam), but is sometimes tolerated by local officials. For example, the so-called “Mazu cult” reportedly has been reclassified as “cultural heritage” rather than religious practice, so individuals are allowed to openly participate in its rituals and ceremonies. In addition, some ethnic minority groups have been allowed to retain traditional religious practice, such as Dongba among the Naxi people in Yunnan and Buluotuo among the Zhuang people in Guangxi. However, authorities in Hunan Province have begun to implement provincial-level regulations to oversee folk religious venues. These regulations are significant because they protect religious practice outside the five recognized communities and allow venues to register directly with provincial government officials, something not allowed to Protestants. However, the 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 has established a division to deal directly with the management of folk religions.

According to the State Department, provincial governments in Xinjing, Heilongjiang, Zhejiang, and Guangdong have legally recognized, or at the least tolerated, the religious practice of Orthodox Christianity. In May 2010, the Ohel Rachel Synagogue in Shanghai was allowed to open and hold services on weekends for visiting tourists and the city's expatriate community. The synagogue, which was closed in 1949, was allowed to re-open during the 2010 Shanghai World Expo.

### *Human Rights Defenders*

The government has systematically targeted human rights lawyers and activists belonging to the *wei quan* (rights defense) movement for harassment and intimidation and continued efforts to revoke the licenses of lawyers and shut down law firms that take on "political" cases. In the past year, several prominent human rights lawyers "disappeared" in a preemptive strike by the Chinese government to forestall public protest patterned from popular uprisings in the Middle East. In addition, *Gongmeng*, or the Open Constitution Initiative, a law advocacy group, and other organizations have been shut down or constrained and their employees harassed. The government has used Article 306 of the Criminal Procedure Code repeatedly against defense attorneys. The Ministry of Justice's "Methods for the Management of Lawyers' Professional Licenses" has also been used to deny defense lawyers involved in religious freedom cases their registration and remove their ability to practice law entirely.

Several Beijing-based lawyers who handled religious freedom and Falun Gong cases, including Li Subin and Jiang Tianyong, were denied renewal of their professional licenses in the past year and several others were sentenced or mistreated in detention. In May 2010, the Beijing Bureau of Justice disbarred lawyers Tang Jitian and Liu Wei, who represented Falun Gong members. In November, 2010 Wang Yonghang from Liaoning province was given a seven year prison sentenced for defending Falun Gong. Also in 2010, Zhang Kai, a lawyer seeking to represent jailed Tibetan monks, was detained and mistreated in custody.

The signers of Charter '08 have met with harassment including detention, surveillance, raids and property seizures. The most prominent signer, Nobel Prize Liu Xiaobo, was arrested and tried on subversion charges and is now serving an 11-year sentence. His wife is living under house arrest, virtually incommunicado. Individuals who helped draft the Charter, which includes suggested reforms to protect the freedom of religion and belief, are harassed, interrogated and threatened during brief detentions, and are under house arrest.

Dr. Fan Yafeng, prominent Protestant leader, human rights lawyer, and drafter of Charter '08, was detained in March 2010 to prevent him from meeting foreign media. He remains under house arrest and over the past several months has undergone intense periods of interrogation and mistreatment in detention. Police have kept him and his family under virtual house arrest and have cut off communications. Fan Yafeng represented several highly publicized cases in recent years involving unregistered Protestants and was an outspoken critic of the Chinese government's detention of some religious leaders and denial of travel visas to others seeking to attend the 2010 Lausanne Conference in South Africa.

In February 2011 lawyers Jiang Tianyong, Teng Biao, and Tang Jitian were detained and their whereabouts remain unknown. All three lawyers were working on the cases of blind activist Chen Guangcheng and Dr. Fan Yafeng, and had publically called for an end to their harassment and mistreatment while under house arrest. As many as 100 leading rights lawyers and human rights activists have "disappeared" since mid-February 2011 as police launched a crackdown to try to avert any political unrest similar to the recent popular uprisings in the Arab world.

The whereabouts of Gao Zhisheng, one of China's best-known human rights lawyers, remain unknown. He disappeared in February 2009, though he was briefly allowed to make contact with friends in March 2010. Gao defended Falun Gong and unregistered Protestants and was a vocal critic of the Chinese government's human rights record. Before his 2009 disappearance, he published a report of the torture he endured during a September 2007 interrogation. Gao's legal partner, Yang Maodong, continues to serve a seven-year sentence for representing clients in highly politicized cases.

### *Failure to Protect North Korean Refugees*

China is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, but no Chinese law provides for the protection of asylum seekers. The Chinese government cooperates with the UN High Commissioner for Refugees (UNHCR) on some refugee or asylum cases, and allowed UNHCR to process 100 refugee claims last year, all for non-Koreans. North Korean asylum-seekers continue to face hardship, including discrimination and trafficking, and repatriation. Beijing considers all North Koreans to be economic migrants rather than refugees fleeing persecution, limits UNHCR access to North Korean asylum-seekers, and does not allow UNHCR to operate in China's border region with North Korea. North Korean refugees under UNCHR care are subjected to harassment and restrictions by authorities.

North Koreans who are forcibly repatriated, particularly those suspected of having religious belief or affiliations, face torture, imprisonment in penal labor camps, and possible execution. 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 imposed substantial fines for their efforts to assist North Korean refugees.

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

Over the past year, after previously emphasizing greater cooperation on financial, environmental, and security priorities, the Obama administration has publicly highlighted several human rights priorities and advocated for the release of Nobel Prize winner Liu Xiaobo and lawyers Gao Zhisheng and Chen Guangcheng.

Immediately prior to a January 2011 state visit by President Hu Jintao, Secretary of State Clinton emphasized U.S. interests in internet freedom, the protection of human rights advocates, and freedom of religion in China. The administration has promised to "engage in tough discussions behind closed doors" and pursue yearly human rights dialogues with the Chinese, but the direction of its human rights diplomacy remains unclear.

Human rights concerns have not been fully integrated into the architecture of U.S.-China bilateral relations. Efforts to coordinate with allies who share concerns have not been readily apparent and human rights issues were sidelined during the U.S.-China Economic and Security Dialogue, the most significant bilateral cooperation mechanism. A new round of the Strategic and Economic Dialogue will be held in May 2011, but it is unclear if or how human rights and religious freedom issues will be pursued in that forum.

During President Hu's 2011 visit, President Obama discussed "America's fundamental commitment to the universal rights of all people, and that includes basic human rights like freedom of speech, of the press, of

assembly, of association and demonstration and of religion, rights that are recognized in the Chinese constitution.” In response to this public statement, President Hu responded, also in public, that “China recognizes and also respects the universality of human rights ... but, we do believe that we also need to take into account the different national circumstances when it comes to the universal value of human rights. China is a developing country with a huge population, and also a developing country in a crucial stage of reform.” President Obama said that the sides had agreed to “move ahead with our formal dialogue on human rights.”

During President Obama’s 2009 visit to China, the two countries agreed to reestablish a regular Human Rights Dialogue and to reconvene the U.S.-China Legal Experts Dialogue. The legal experts’ dialogue has not occurred, though a human rights dialogue was held in May 2010. In describing the discussions at the human rights dialogue, Assistant Secretary of State for Democracy, Human Rights, and Labor Michael Posner said he had “frank and constructive” exchanges on specific cases, the independence of the judiciary and the bar, and the freedom of religion, among other things. At the dialogue, China raised issues of U.S. treatment of Muslim Americans, immigration and racial discrimination. One specific benchmark that emerged from the dialogue was the creation of a Religious Freedom Working Group, though in nearly a year, there has been no progress toward a formal meeting of that working group.

The administration, like its predecessors, places much weight on conducting human rights dialogues and not enough on supporting activists and intellectuals inside China who are seeking peaceful reform. Despite recent strong public statements, the administration continues to be perceived as weak on human rights in China. Religious freedom and related human rights should be an important part of U.S.-China bilateral relations because they are directly related to expanding the rule of law, developing civil society, aiding stability 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. Conducting the most substantive human rights discussions in a bilateral dialogue allows the Chinese to downgrade these issues in the bilateral relationship and characterize human rights as peripheral to U.S. interests. Bilateral dialogues should be part of a larger, consistent, and principled engagement with China on human rights, where the United States regularly presses our interests visibly and consistently outside the dialogue process and at all levels of the bilateral relations.

## **Recommendations**

A stable China that is committed to protecting and advancing its citizens’ fundamental rights and religious freedoms is in the interest of the United States. In pursuit of these interests, USCIRF recommends that religious freedom and related human rights be woven firmly into the architecture of the U.S.-China bilateral relationship. In addition, 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 and publicly that human rights are a vital U.S. interest that affect 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:

- continue to designate China as a “country of particular concern” (CPC) under the International Religious Freedom Act (IRFA) and issue a new presidential action focusing on state agencies or

actors who perpetuate religious freedom abuses or on provinces or localities where religious freedom conditions are most egregious;

- develop an inter-agency U.S. government human rights action plan and coordinate 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.
- reinvigorate multilateral cooperation on human rights and technical assistance programs with allies who conduct bilateral human rights dialogues with China; and
- appoint new Counselors for Human Rights at the U.S. Embassy in Beijing to ensure that U.S. statements, programs, and actions advance the priorities of U.S. human rights diplomacy, including the promotion of religious freedom, with China.

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

- end its crackdown on religious and spiritual groups, 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 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, Liu Xiaobo, Jiang Tianyang, Fr. Zhang Li, Chen Zhenping, Alimjan Himit, Yang Maodong, Abdukadir Mahsum, Imam Adil Qarim, Fr. Zhang Jianlin, Alim and Ablikim Abdureyim, Phurbu Tsering, Bishop Su Zhimin, and Gendun Choekyi Nyima;
- fully account for all those detained, released, tried and sentenced and/or missing following public order disturbances in Tibet or 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, Committee against Torture, and 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 ensure that alleged incidents are consistently and impartially investigated and that evidence procured through torture is excluded from legal proceedings, end the mistreatment of Falun Gong and North Korean refugees in detention, and ensure that no asylum-seeker is returned to a country where he or she faces a real possibility of torture;
- 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 publicly state that religious education for minors is allowable in all religious venues;
- 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;

- end the harassment, arrest, detention, and mistreatment of lawyers who take on cases of Falun Gong, unregistered Protestants, Uighur Muslims, or Tibetan Buddhists, reinstate 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
- allow visits to China by the UN Special Rapporteurs on the Independence of Lawyers and Judges, on the Freedom of Religion or Belief, on the Freedom of Opinion and Expression, on Human Rights Defenders, and on the Freedom of Assembly and Association with full access in compliance with the terms of reference required by the Special Rapporteurs.

## **II. Raising Human Rights in the U.S.-China Strategic Dialogue**

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

- prioritize human rights and religious freedom issues in the Strategic Dialogue’s agenda, raise a full range of religious freedom concerns in high-level discussions, and seek binding agreements on key religious freedom and human rights concerns; 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 the National Regulations on Religious Affairs (NRRA) to allow groups not affiliated with one of the seven government-approved associations to operate legally and 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;
- abolish the 6-10 office and the system of re-education through labor (RTL) camps and all other administration and extrajudicial detention centers, including the “transformation through re-education” 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 is 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.

#### **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 and web access for use in China, to facilitate the dissemination of high-speed Internet access via satellite, and to distribute immediately proven and field-tested counter-censorship programs in order to prevent the arrest and harassment of activists and help them maintain their freedom of expression and legitimate expectations of privacy;
- award funds appropriated by Congress to counter censorship in China, including from the FY10 Consolidated Appropriations Act, through a competitive and merit-based process;
- institute new programs through the State Department’s Human Rights and Democracy Fund that:
  - build the capacity, training, and networking ability of non-governmental organizations in China that address issues of human rights, including religious freedom, legal reform, and 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;
  - provide support 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 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 to 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; and
  - ensuring continued availability of funds to maintain appropriate Tibetan and Uighur language broadcasting through the Voice of America and Radio Free Asia; and
- offer publicly 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 work with regional and European allies to articulate a consistent and clear message about China's need to protect North Korean refugees and 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 UNHCR 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; and
- 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:

- require 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 U.S.-China

Strategic and Economic Dialogue and any future bilateral human rights and legal dialogues and describing progress made toward a series of benchmarks identified by Congress;

- authorize and appropriate the funds necessary to implement a comprehensive and integrated U.S. government human rights strategy towards China, including creation of an inter-agency human rights strategy, efforts to coordinate human rights diplomacy with allies, and new positions at the U.S. Embassy in Beijing to better promote human rights and religious freedom;
- 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 Korean refugee resettlement in the United States.

### **Statement of Chairman Leonard Leo, with whom Commissioner Nina Shea Joins:**

We write separately to underscore the precarious position of the Roman Catholic Church in China. Despite suggestions by some observers that conditions have improved for Catholics, there are signs that the Chinese government is in fact increasing its encroachment on Catholicism, and seeking to bolster further the prominence and authority of the state-controlled Catholic Patriotic Association (“CPA”), which is not and has never been the *true* Church of Rome.

The number of Catholics in prison and who have disappeared has declined in recent years. Yet, there are at least two bishops and dozens of priests still detained in China, and the Chinese government recently launched campaigns to “educate and transform” and “stop the illegal religious activity” of underground Catholics. These campaigns are, no doubt, intended to counterbalance the influence of the estimated 90 percent of CPA bishops and priests who are secretly affiliated with the Holy See, and, in many provinces, aimed at driving a wedge between the CPA and underground Catholic clergy and congregations that often work together closely.

The Chinese government seeks to have Catholicism within its country independent of Rome and led by government-appointed laypeople and bishops who are not in communion with Rome. Beijing, for example, continues to insist on appointing and approving all bishops and uses the instruments of state power to intimidate, detain, or harass underground Catholic clergy who refuse to follow the CPA, rather than the Pope, on matters of faith and morals.

The latest bishop to have been appointed by China was not approved by the Holy See – a significant departure from its recent practice. The previous ten Chinese bishops appointed had all received Vatican approval. The government has just announced that 11 more bishops will soon be appointed. This raises the questions: Will they be leaders accepted by the Holy See? And, with regard to the whole Conference of Bishops, to what extent are the current Ordinaries experiencing threats, intimidation, and harassment?

It is hard to know in a closed society such as China about the true extent of repression. Even assuming some decline in abuses, however, one has to ask: have conditions changed because China has embraced greater respect for freedom of religion, or because the true Catholic Church of China is already so beaten down that there is no longer need always to resort to the most severe forms of repression? At least one fact is certain – the Chinese government continues to pursue a policy regarding the Catholic Church of control without compromise. This is a very different from the approach spelled out in Pope Benedict’s 2007 “Letter to Chinese Catholics.” In this important but often deliberately misinterpreted document, the Holy Father articulated his desire for a unified Church and “respectful and constructive dialogue” with the government. He acknowledged that the Chinese government has an interest in who will lead Catholic communities, but said the appointment of Bishops “touches the very heart of the life of the Church,

inasmuch as the appointment of Bishops by the Pope is the guarantee of the unity of the Church and of hierarchical communion.”

The international community should support the principles set forth by the Holy Father for negotiations with Beijing. There can be no vibrant, *true* Roman Catholic Church in China without them, and, until the principles are embraced, millions of Chinese Catholics, who join the Pope in striving for a unified church in full communion with Rome, will continue to experience ongoing and severe religious freedom abuses.

## Saudi Arabia

**FINDINGS:** During the reporting period, systematic, ongoing, and egregious violations of religious freedom continued in Saudi Arabia despite improvements. 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 related to religious practice and tolerance. 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; prohibits churches, synagogues, temples, and other non-Muslim places of worship; uses in its schools and posts online state textbooks that continue to espouse intolerance and incite violence; and periodically interferes with private religious practice. Ismaili Muslims continue to suffer repression on account of their religious identity and there have been numerous arrests and detentions of Shi'a Muslim dissidents, in part as a result of increasing regional unrest. Members of the Commission to Promote Virtue and Prevent Vice (CPVPV) continue to commit abuses, although their public presence has diminished slightly and the number of reported incidents of abuse has decreased in some parts of the country. In addition, 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 2011 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.

USCIRF traveled to Saudi Arabia in January/February 2011 to assess the Saudi government's progress in advancing freedom of religion or belief. Despite King Abdullah undertaking some limited reform measures and promoting inter-religious dialogue in international fora, there has been little progress nearly five 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. During USCIRF's visit, Saudi officials often cited national security concerns as grounds for cracking down on minorities and dissidents; however, in some cases, such explanations served as a pretext to engage in an array of severe violations of freedom of religion or belief. USCIRF continues to find that full implementation by the Saudi government of the July 2006 policies would diminish some of its institutionalized abusive practices.

**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. Unrest in the region since early 2011 provides added leverage for the U.S. government 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. In addition, Congress should require the State Department to issue a five-year progress report on efforts and results achieved by the Saudi government to implement religious freedom reforms announced in July 2006 following bilateral discussions between the two countries. Additional recommendations for U.S. policy toward Saudi Arabia can be found at the end of this chapter.

## Religious Freedom Conditions

### *USCIRF 2011 visit*

A USCIRF delegation traveled to Saudi Arabia in January/February to determine if the Saudi government had made progress on policies related to religious practice and tolerance. The USCIRF delegation met in Riyadh, the Eastern Province, and Jeddah with a range of government and non-governmental interlocutors. In Riyadh, the delegation met with high-level government officials, including the Ministers of Justice, Education, and Islamic Affairs, and the Deputy Minister of Foreign Affairs. The delegation also met with representatives of the National Dialogue Center, the chair and vice chair of the government-appointed National Human Rights Commission (HRC) and representatives from other regions, representatives of the National Society for Human Rights in each region, as well as a broad array of civil society leaders, scholars, activists, and members of Saudi and expatriate religious communities.

USCIRF noted improvements in certain areas. The CPVPV has less of a public presence in some areas of the country, particularly Jeddah and the Eastern Province, and the number of reported incidents of abuses committed by the CPVPV has decreased. Women and Muslim minorities have a more pronounced public presence to discuss human rights and religious freedom concerns. According to the Minister of Islamic Affairs, since 2004, approximately 3,500 imams have been relieved of their duties for espousing extremist views and more than 20,000 imams have been re-trained, a higher number than cited in the past. However, it is unclear if the training programs for the CPVPV, teachers, and imams, which are administered by the National Dialogue Center, are in fact curbing extremist views and instilling religious tolerance.

During its visit, USCIRF confirmed that many ongoing concerns remain. The Saudi government invokes national security to justify repression of minorities and dissidents. Shi'a and Ismaili Muslims continue to face discrimination, harassment, and imprisonment. Members of the CPVPV who allegedly committed abuses in the past, including killings, have gone unpunished by Saudi authorities. Textbook revisions are limited and incomplete and content espousing intolerance and even inciting violence remains. Saudi officials claim to have a plan in place to complete revisions for grades one to 12 by 2013, although revisions of textbooks have been "in progress" for nearly 10 years and, in 2006, the Saudi government confirmed to the State Department a policy to remove by 2008 all remaining textbook references that were religiously intolerant or promoted hatred toward other religions or religious groups. The government also has made little progress on halting the global dissemination from Saudi Arabia of extremist ideology, literature, and other materials, some of which is published by the government itself, or by publishing houses that are tightly monitored by the government.

### *State Coercion of Religious Conformity*

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.

Some government-approved Sunni Muslim clerics 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. Saudi officials acknowledged that some clerics continue to preach such views. However, during the reporting period, the Saudi government has taken some initial steps to address indiscriminate *fatwas*. In September 2010, several Web sites containing intolerant and inciteful *fatwas* were blocked, following a decree by King Abdullah. The decree was issued to reduce controversial *fatwas* issued by ultra-conservative clerics, some of which have been a serious embarrassment to Saudi authorities. The decree restricts the right to issue *fatwas* to members of the officially approved Council of Senior Islamic Scholars. Also, in May 2010, the Council issued a *fatwa* condemning terrorist financing as forbidden by Islamic law.

Moreover, in January 2011, in an effort to curb extremism in mosques in the Kingdom, prominent Saudi scholar Sheikh Abdul-Aziz Al-Fouzan joined other religious scholars in calling for Saudi government-supported imams to end the practice of prayers that incited violence against non-Muslims. Al-Fouzan, a member of the Saudi Human Rights Commission, said supplications were an act of aggression against non-Muslims and were "against the spirit of Islam."

During USCIRF's 2011 visit, officials at the Ministry of Islamic Affairs (MIA) claimed that at least 3,500 imams have been dismissed for espousing extremist views and more than 20,000, of a total of 75,000 imams in the country, have been re-trained, a higher number than cited in the past. The MIA estimates that approximately 70 percent of all imams in the country are "free of fanaticism" and meet the necessary qualifications to be a cleric. The MIA claims to be making efforts to re-train the remaining 30 percent of imams.

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 by expatriate workers coming for temporary employment, particularly the religious freedom 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, including female domestic laborers, 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 to 15 percent of the population and 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, 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. In predominantly Sunni Muslim areas of the country outside the Eastern Province, Shi'a and Ismaili Muslims face harassment, arrest, and detention. Furthermore, since many Saudi judges consider Shi'a and Ismaili Muslims to be "non-believers," they are frequently dealt with more severely by the courts. In addition, children of Shi'a and Ismaili Muslims are indoctrinated in public schools with the government's interpretation of Sunni Islam and there is no alternative option for instruction according to the wishes of the parents.

Over several weeks in February and March 2011, Saudi authorities cracked down on Shi'a demonstrators who were calling for the release of religious and political prisoners. Dozens were arrested, particularly in March, and several were injured during clashes with Saudi security forces, primarily in the Eastern Province. According to human rights groups, during peaceful protests of several hundred to a few thousand Shi'a youth and activists in mid March in the Eastern towns of Safwa, Qatif, and Al-Ahsa, nearly 150 protesters were arrested and remain in detention. In early March, the Interior Ministry and the Council of Senior Islamic Scholars announced a ban on protests ahead of demonstrations for a "Day of Rage" that had been called for March 11.

In recent years *fatwas* have been issued by conservative Sunni clerics that justify committing violent acts against Shi'a Muslims. During USCIRF's 2011 visit, the Shi'a community expressed a desire to see more active government intervention when clerics issue such provocative edicts.

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 2010-2011. Some of the reasons cited by the Shi'a community for arbitrary arrests include: reading of religious materials in private homes; congregating outside *hussainiyas* (Shi'a community centers), using a loud speaker outside a community center; refusal to close down a makeshift place of worship; taking part in religious celebrations; and distributing sweets during religious occasions. For example, in February 2010, six young Shi'a Muslims, between the ages of 17 and 22, from Al-Ahsa were detained by authorities allegedly for passing out sweets on a Shi'a religious holiday. Authorities reportedly claim the youths defaced a Saudi flag and threw stones at police. In January 2011, the six youths were transferred to a state security detention facility in Riyadh. The six were released on February 23 after USCIRF had raised their cases during its visit earlier that month. The six had been held for a year in detention without charges, despite a limit of six months for pre-trial detention under the Saudi criminal procedure code.

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 June 2010, Saudi authorities arrested Saudi activist Sheikh Mikhlif al-Shammari for articles he wrote criticizing Sunni clerics who had disparaged the Shi'a community. 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.

On February 27, 2011, Saudi Shi'a cleric Tawfiq Al-Amer was detained by police after calling for the country to become a constitutional monarchy and for an end to corruption and discrimination against Shi'a Muslims in a sermon in the Eastern Province town of Hofuf. The cleric previously had been detained for calling for greater religious freedom for the Shi'a community. Al-Amer was released on March 6 after hundreds of people took to the streets in Hofuf and near Qatif in the Eastern Province to protest his arrest. At least 26 Shi'a Muslims were arrested by authorities for taking part in the peaceful demonstrations.

During the reporting period, authorities shut down several Shi'a mosques in the Eastern Province and refused a mosque permit for the Al-Khobar Shi'a community. In April 2010, the Minister of Interior Prince Naif reportedly said publicly that Shi'a mosques which were closed in the past would not be permitted to be re-opened for security reasons. Authorities also justify the closures by citing improper zoning and lack of mandated permits. According to press reports, 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 many Sunni Muslims in the country do not mark graves.

In November 2009, Shi'a Muslim activist Munir Al Jassas was arrested after being warned by Saudi authorities to stop blogging on the Internet about the Saudi government's poor treatment of Shi'a Muslims. Although no formal charges were filed, he spent at least four months in solitary confinement during his detention. Two other Shi'a rights activists, Muhammad Al Libad and Ramzi Jamal, were arrested and held without charge in January 2010 and November 2010, respectively. All three men were released on February 20, 2011.

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* 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 abuse and discrimination by Saudi authorities, particularly in religious practice, government employment, the justice system, and education. The government does not finance the building of mosques for Ismailis, although it does so for other Sunni Muslim houses of worship, and it has closed down several Ismaili places of worship in recent years in Al Khobar, Abqaiq, Jubail, Dammam, and Al Khafji. 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.

An Ismaili Muslim, Hadi Al-Mutif, has been in prison since 1994 for an offhand remark he made as a teenager that was deemed blasphemous. In 1996, he was convicted and 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 2009, Al-Mutif received an additional five-year prison term for criticizing the government's justice system and human rights record on a tape that was smuggled out of prison and later broadcast. During USCIRF's 2011 visit, Saudi authorities stated that Al-Mutif had exhausted all legal appeals and his fate now is in the hands of King Abdullah, who could pardon him at anytime. Al-Mutif repeatedly has attempted to commit suicide during his incarceration, and his psychological and physical health remain a serious concern.

#### *Other Dissident Muslims*

The Saudi government uses criminal charges of apostasy and blasphemy 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, Hamoud Al-Amri, a Saudi convert to Christianity, was arrested for discussing his Christian faith on his blog. In March 2009, Al-Amri was released from prison on the condition that he not leave the country or appear in the media. The case received international attention and advocacy groups campaigned for his release. Al-Amri was previously detained for nine months in 2004 and a month in 2008. He is banned from leaving the country and fears for his safety.



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. During its 2011 visit, USCIRF was informed by Ministry of Justice officials that Sabat committed acts “damaging to others” and violated moral values inside Saudi Arabia. According to officials, Sabat’s death sentence was overturned although he allegedly pleaded guilty to several charges leveled against him, including sorcery and blasphemy. Sabat remains in prison while his case is ongoing.

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 adversely affects 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 turned away from medical treatment by hospitals if they lack the consent of a male relative. When appearing in public, women must adhere to a strict religious 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. The King set municipal elections for September 2011, but like the first municipal elections in 2005, women will not be permitted to vote.

In addition, the Saudi justice system, in which courts apply the Saudi government interpretation of 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. During USCIRF’s 2011 visit, Ministry of Justice officials stated that women have equal justice under the law and independent legal personalities, although these claims were not substantiated. Officials also claimed that women are granted guardianship of children under the law, although Saudi women’s rights activists and human rights groups dispute this claim.

During a 2008 visit to Saudi Arabia by the UN Special Rapporteur on Violence Against Women, the 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.” The Rapporteur 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 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.” To date, the Saudi government has not implemented the Rapporteur’s recommendations.

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

Non-Muslims are not allowed to have nationality in Saudi Arabia and no churches, synagogues, temples, or other non-Muslim places of worship 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. During USCIRF's 2011 visit, some Saudi officials continued to assert that having non-Muslim places of worship on Saudi soil would be equivalent to building mosques on Vatican property in Italy. As in previous meetings with Saudi officials, USCIRF drew a distinction between a geographic entity in Italy of two square miles with 800 to 900 residents versus a country the size of Saudi Arabia with between two and three million non-Muslim residents.

In 2010 and early 2011, 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 are still 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 some 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 and Jeddah 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. On February 12, 2011 an Eritrean Christian, Mussie Eyob, was detained after allegedly preaching Christianity at a mosque in Jeddah. Eyob remains in detention without charge. In January 2011, two Indian Christians, Yohan Nese and Vasantha Sekhar Vara, were arrested when members of the CPVPV raided a private residence where the two attended a prayer gathering. The CPVPV interrogated and allegedly physically abused the two men. The CPVPV also reportedly put pressure on the men to convert to Islam. A Saudi court in

Riyadh reportedly sentenced the two men to 45 days in prison, allegedly for proselytizing, although no formal charges have been filed. At the end of the reporting period, the two men remain in detention.

In October 2010, approximately a dozen Filipino Christians were detained for eight days on charges of proselytizing. After being released, they were reinstated in their jobs. On March 19, 2010, four CPVPV officers and one uniformed police officer raided an Indian Christian prayer service in a private residence. The CPVPV confiscated Bibles and religious materials. Police arrested the pastor and two worshippers and detained them until March 23. By July, seven Indian Christians involved with the private prayer service were deported.

During USCIRF's 2011 visit, non-Muslim interlocutors stated that it takes several weeks for the bodies of deceased non-Muslim expatriate workers to be shipped by Saudi authorities to their home country. Saudi authorities almost never permit non-Muslims to be buried in the Kingdom. Despite going to great lengths to urge Saudi officials to expedite the process, non-Muslim workers have had little success. In some cases, religious obligations of expatriate workers require deceased bodies to be buried within a period of days, not weeks. Nevertheless, it remains nearly impossible to fulfill such requirements.

According to the State Department, in recent years, there were fewer reports of government officials confiscating religious materials and no reports that customs officials confiscated religious materials from travelers, whether Muslims or non-Muslims. Individuals were able to bring personal religious materials into the country without difficulty. 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 recent years, press reports confirmed that representatives of the Vatican were in negotiations with the Saudi government about building the first church in Saudi Arabia, so far to no avail.

#### *Abuses by the Commission to Promote Virtue and Prevent Vice (CPVPV)*

Restrictions on public religious manifestations and 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, although Saudi officials claim that the CPVPV no longer accepts volunteers. 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, ensuring that restaurants and shops are closed during daily prayers, and enforcing other restrictions on behavior.

Members of the CPVPV periodically overstep authority but despite numerous documented infractions, they 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.

During USCIRF's 2011 visit, non-governmental interlocutors stated that the public presence of the CPVPV has diminished over the past couple of years. Several activists, particularly women, claimed that Saudi citizens respond to members of the CPVPV when they are harassed. For example, interlocutors cited examples where members of the CPVPV would instruct women to adhere better to a newly-devised aspect of the dress code but women would either ignore the advice or counter it with learned arguments.

Saudi government officials claim to have dismissed, disciplined, and criminally tried members of the CPVPV for abuses of power. During USCIRF's 2011 visit, Ministry of Justice officials confirmed that there have been cases where members of the CPVPV have been accused of abuse. Officials claimed that several individuals already have been compensated by Saudi administrative courts for damages and that there are cases before the criminal courts alleging that members of the CPVPV were responsible for the death or injury of Saudi citizens.

In December 2010, the director of the CPVPV, Abdul Aziz al-Humain, announced that the CPVPV had begun to implement a strategic plan to combat extremist ideology promoted by terrorist and other similar groups in the Kingdom. It is not clear what, if any, progress the CPVPV has made since the announcement. USCIRF's request to meet with the CPVPV during its 2011 visit was not granted.

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 went to trial or are proceeding to trial, including alleged beatings and deaths of Saudi citizens. However, in most of the cases that have been prosecuted, CPVPV members have not been held accountable and complainants report summary dismissals of cases without due process. During USCIRF's visit, Ministry of Justice officials claimed that one CPVPV member was found guilty of killing a citizen and sentenced to death by beheading, but would not provide details because the case is on appeal.

#### *Intolerant References in Educational Materials and Textbooks*

USCIRF's review of Saudi textbooks posted on the Saudi Ministry of Education's Web site found that books in use during the 2010-2011 school year continue to teach hatred toward other religions and, in some cases, promote violence. For example, some high school texts justified violence against apostates and homosexuals and labeled Jews and Christians "enemies of the believers." The State Department's 2010 religious freedom report stated: "[a]lthough some overtly intolerant statements in textbooks were removed or modified following stated government intention to reform educational materials to remove or revise such statements, textbooks continued to contain overtly intolerant statements against Jews and Christians and subtly intolerant statements against Shi'a and other religious groups."

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." Nevertheless, there continues to be very little transparency regarding the textbook revision process, curriculum reform, and teacher training efforts.

During USCIRF's 2011 visit, Saudi government officials claimed that the government had thoroughly revised texts in grades one, four, and seven, is currently working on grades two, five, and eight, and will complete revisions in high school and other grades by 2013.<sup>1</sup> In addition, Ministry of Education officials claim that the number of subjects taught in public schools textbooks will decrease as a result of the revisions. It is not clear when these revised texts will be used in Saudi schools throughout the country.

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<sup>1</sup> During USCIRF's 2011 visit, Saudi Ministry of Education officials provided the USCIRF delegation with the link to the new Ministry of Education website that included revised textbooks from grades one, four and seven: [http://www.cpfdc.gov.sa/index.php?option=com\\_content&view=article&id=55&Itemid=61](http://www.cpfdc.gov.sa/index.php?option=com_content&view=article&id=55&Itemid=61)

During its meeting with the Minister of Education, USCIRF was promised two sets of textbooks currently used in Saudi schools. By the end of the reporting period eight weeks after its visit, USCIRF had not received copies of the textbooks despite follow-up.

*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 is 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. In November 2010, a British press report showed that Saudi textbooks and literature that promote intolerance and incitement to violence continue to be used in at least 40 Saudi schools in the United Kingdom and Ireland.

Over the past few years, the Saudi government has undertaken some measures to combat extremism inside the country, such as rehabilitation and prevention programs for convicted extremists and terrorists as well as retraining and/or dismissing imams and school teachers known to espouse extremist views. As part of the prevention program's "mindset" component, the Saudi government is distributing to the public millions of pamphlets, tracts, messages, and ads of religious opinions condemning terror and warning against the hijacking of airplanes, bombings, and assassinations. Many of these initiatives, implemented through the Saudi Interior Ministry's guidance department, are designed to confront extremism through the propagation of a "more judicious interpretation of religious doctrine." 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.

Saudi officials claim that they continue 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. According to Saudi officials, the government also continues 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.

During its 2011 visit, USCIRF was informed that the Saudi Ministry of Islamic Affairs and the King Abdulaziz National Center for Dialogue have been retraining 40,000 additional Muslim clerics as part of a program to promote tolerance and moderation in Saudi society. Imams reportedly receive special training that exposes them to more moderate views. The Saudi government also asserts that teachers, imams, or professors who promote hatred and intolerance are dismissed, but has not supported this assertion with 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.

During USCIRF's 2011 visit, Saudi officials provided no details of programs or initiatives that have been undertaken over the past year by the government to halt the dissemination of intolerant literature and extremist ideology globally.

#### *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. In 2008, the HRC formed 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." The HRC receives thousands of complaints a year, one-third of which are 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. During USCIRF's 2011 visit, members and staff of the HRC stated that religious tolerance had improved over the past few years and that women's empowerment programs had resulted in significant strides for women in all aspects of society. Members of the HRC also suggested that the attitudes of members of the CPVPV toward women had changed over the past three years as a result of training programs and a change in CPVPV leadership.

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. The NSHR, which was originally endowed by King Fahd, submits its reports and recommendations directly to King Abdullah. Over the years, the NSHR publicly criticized alleged human rights violations committed by the Saudi government. The NSHR released its third annual report in 2010, 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. During USCIRF's 2011 visit, members and staff of the NSHR downplayed religious freedom concerns by asserting that NSHR offices rarely, if ever, receive complaints about violations of freedom of religion or belief.

#### *Other Developments Internationally and in the Kingdom*

In 2009, at the UN Human Rights Council's Universal Periodic Review (UPR) of Saudi Arabia, the Saudi government accepted a number of recommendations related to freedom of religion or belief. 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 2008, King Abdullah initiated a series of international interfaith conferences and events in Europe and at the United Nations which included representatives from Muslim, Christian, Jewish, Hindu and other faith communities. During USCIRF's 2011 visit, representatives of the National Dialogue Center stated that an interfaith office is being set up in Vienna, Austria, in part to follow up on King Abdullah's initiatives. According to officials from the Dialogue Center, representatives from various religious communities will have representation at the offices in Vienna.

In early 2011, in response to the uprisings in the Middle East and the increasing number of demonstrations in the Kingdom, King Abdullah announced a number of economic and political reforms, including: social, unemployment, and housing benefits totaling approximately \$36 billion, wage increases for government workers, the creation of 60,000 security-related jobs, and anti-corruption measures. The King also set municipal elections for September 2011 only for male voters. None of the announced reforms address Saudi government policies that negatively impact religious freedom conditions in the country.

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

U.S.-Saudi relations remain close, but 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 willingness and/or ability of the U.S. government to press for more significant improvement in the Saudi government's poor human rights record. 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, despite opportunities emerging as a result of demonstrations calling for increased reforms and greater rights throughout the Arab world in early 2011.

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.

In October 2010, the Obama Administration informed Congress of its intent to sell approximately \$60 billion in arms to Saudi Arabia over a period of 10 years. In November, nearly 200 members of Congress wrote to Secretary of State Clinton raising concerns and questioning the impact of such sales on the national security interests of the United States and its allies. Nevertheless, the letter did not address concerns about the Saudi government's poor human rights and religious freedom record.

According to the State Department's 2010 *Advancing Freedom and Democracy Report*, the U.S. government works with government and civil society leaders in the country "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 Saudi 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.

## **Recommendations**

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. The State Department in practice has addressed reform issues with the Saudis privately, and not made 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.

### **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; and
  - ensure that members of the CPVPV do not investigate or detain suspects, implement punishment, violate the sanctity of private homes, conduct surveillance, or confiscate private religious materials;
- seek from the Saudi Ministry of Justice the names of those members of the CPVPV who have been investigated, prosecuted, convicted, dismissed, disciplined or otherwise punished for past abuses and provide information about each alleged offense and an update about the current status of each case;
- dissolve the CPVPV and entrust law enforcement to professionals in law enforcement agencies with a precise jurisdiction and subject to judicial review; 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;

- call, at the highest levels, for the release of Hadi Al-Mutif, Ali Sabat, and other religious prisoners, including Shi'a and Ismaili Muslims and Muslim and non-Muslim expatriate workers, 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;
  - refuting, publicly and officially, 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; and
  - rescinding *fatwas* issued by government-funded clerics that are discriminatory toward or incite violence against Muslim minority communities or non-Muslim religious minority communities;
- 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 religious leaders and educators, and increase the numbers, diversity, and range of experience of visitors to both countries;
- press the Saudi government to permit the expeditious transport of bodies of deceased non-Muslim expatriate workers to their home countries, a process that, at present, can take several weeks;
- 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 imposing penalties for failure to cooperate;
  - urging the HRC and NSHR to study the situation of freedom of religion or belief in the Kingdom with regard to majority and minority faiths, using universal human rights standards as a benchmark, and report its findings publicly;
  - urging the Saudi government to implement recommendations from the NSHR's reports, which, if implemented, could be a welcome initial step towards improving human rights compliance in the Kingdom; and

The U.S. Congress should:

- require the State Department to issue a public five-year progress report by December 31, 2011 on efforts and results achieved by the Saudi government to implement religious freedom reforms announced in July 2006 following bilateral discussions between the two countries; and

- fund and develop regular exchanges between U.S. Members of Congress and members of the Saudi Consultative Council (*Shura*) on specific issues, especially human rights and religious freedom.

## **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;
- urge the Saudi government to include in all school curricula, in school textbooks, and in teacher training the concepts of tolerance and respect for the human rights of all persons, including religious freedom, consistent with the standards set out in the Universal Declaration of Human Rights;
- urge the Saudi government to end its restriction permitting only the teaching of the government's interpretation of Sunni Islam at public and private universities in the country;
- 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 on the activities of Saudi charitable organizations based outside Saudi Arabia in countries throughout the world;
  - cease granting diplomatic status to Islamic clerics and educators teaching outside Saudi Arabia; and
  - ensure that Islamic affairs sections in Saudi embassies throughout the world remain closed indefinitely in accordance with past promises;
- report publicly to Congress on all the above areas as part of the reporting on progress of Saudi government implementation of the July 2006 confirmation of policies, referred to in the recommendation above; and
- communicate and share information with other concerned governments 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 to be free of 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, and sorcery;
- allow foreign clergy to enter the country to carry out worship services and to bring into the country religious materials for such services;
- permit independent non-governmental organizations to monitor, promote, and protect human rights;
- convene a public interfaith conference inside Saudi Arabia with Muslim and non-Muslim faiths represented, and continue the Kingdom’s interfaith activities globally;
- 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; and
- ratify international human rights instruments, including the International Covenant on Civil and Political Rights, and cooperate with UN human rights mechanisms.

## Sudan

**FINDINGS:** Systematic, ongoing, and egregious violations of freedom of religion or belief continue in Sudan. Violations include: the efforts by the Arab Muslim-dominated government in Khartoum to impose its version of sharia law and enforce religiously-based morality laws through corporal punishment to limit the fundamental freedoms of Muslims and non-Muslims alike; the criminalization of conversion from Islam, a crime punishable by death, and the intense scrutiny, intimidation, and 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 2011 that Sudan be named a “country of particular concern,” or CPC. The State Department has designated Sudan a CPC since 1999.

USCIRF identified Sudan as the world’s most violent abuser of the right to freedom of religion or belief during the North-South civil war of 1983-2005. Since the Comprehensive Peace Agreement (CPA) ended that war in January 2005, conditions for religious freedom have improved in South 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. Nevertheless, despite these provisions, severe human rights violations continue against both non-Muslims and Muslims in areas controlled by the government in Khartoum. With the CPA and Interim National Constitution scheduled to end in July 2011, there is increasing concern that religious freedom and human rights conditions in the North will deteriorate significantly.

**PRIORITY RECOMMENDATIONS:** As a guarantor of the CPA, the U.S. government has an obligation to ensure complete implementation in its final months. 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. With the Khartoum regime discussing moving the North toward a more repressive Islamist state, the State Department should increase efforts to encourage reforms and discourage regressive behavior. The U.S. government also should work to advance discussions on post-2011 issues, particularly relating to citizenship; insist on strengthened human rights protections in both North and South Sudan, including in their new constitutions; work to prevent violence against civilians and hold perpetrators responsible; and help South Sudan build its governing structure in an inclusive and democratic way that respects international human rights. Additional recommendations for U.S. policy toward Sudan can be found at the end of this chapter.

## Religious Freedom Conditions

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

The Interim National Constitution, which expires in July 2011, guarantees the freedoms to worship and assemble, establish and maintain places of worship and appropriate charitable or humanitarian institutions, observe days of rest and celebrate holidays and ceremonies, and communicate with co-religionists at both the national and international levels. Despite these protections, severe violations of freedom of religion or belief persist in areas controlled by the National Congress Party (NCP)-dominated government of President Omar al-Bashir in Khartoum.

### *Official Enforcement of Sharia (Islamic Law)*

All Sudanese in the North, including Christians and followers of traditional African religions, are subject to sharia (Islamic law). In meetings in Khartoum in December 2009, both Christians and Muslims told USCIRF that they felt their religious freedoms were infringed by the government's imposition of its own particular Islamic ideology on the entire population, including its enforcement of religiously-based morality codes and corporal punishment.

In the run-up to the April 2010 elections, several opposition parties called for Sudan to become a secular state and for the repeal of the mechanisms enforcing religiously-based morality (known as the Public Order Regime). However, President Bashir and Vice President Ali Osman Taha characterized these calls as advocating disunity, a sentiment echoed by newspapers and clerics supportive of the NCP and President Bashir. In December 2010, President Bashir stated that sharia would be the basis of a new constitution in Sudan once the South becomes independent and the Interim National Constitution expires, thus eliminating references to Sudan being a multi-ethnic, multi-religious and multi-cultural state. This announcement was promptly criticized by opposition and civil society leaders, who are calling for an inclusive and transparent constitution-drafting process.

The government enforces religiously-based morality laws and imposes corporal punishments on both non-Muslims and Muslims through the Public Order Regime, despite provisions in the CPA and the Interim National Constitution that non-Muslims be provided alternatives to the punishments prescribed for Muslims. This Regime comprises the Public Order Police, the Public Order Courts, the Public Order Acts, and sections of the 1991 Criminal Act on "offences of honor, reputation and public morality," including undefined "indecent or immoral acts." Public order violations carry a maximum penalty of 40 lashes through flogging, a fine, or both. In the past year, dozens of Muslim and Christian women and girls in Khartoum were flogged for indecent dress in violation of the Public Order Regime. What constitutes indecent dress is not defined in any law, but is left to the discretion of arresting officers and prosecuting judges.

According to the African Centre for Justice and Peace Studies (ACJPS), indecency charges relating to dress or the brewing or selling of alcohol are used primarily against poor Southern women, the vast majority of the female inmate population in Khartoum. The public order laws also are used to discriminate against women of all classes, including the requirement that all women wear the *hijab* and wide restrictions on women's economic activities, including the limitation on work hours for women in Darfur. Under the guise of stopping prostitution, the laws have also been used against unmarried men and women who congregate by sharing office spaces and taxi rides or attending parties together. These arrests often target the government's political opponents.

There were several notable public order cases in 2010. In June, 25 people were arrested for attending a co-ed fashion show, violating public order rules related to separation of the sexes. In August, 19 men

were given 30 lashes and a fine for wearing women's clothes and make-up. In December, 52 women were arrested and fined for protesting the Public Order Regime and the flogging of women for indecent dress. Also in December, seven male models were arrested and fined 200 Sudanese pounds for wearing make-up during a taping of the Sudanese version of the American reality show, "Next Top Model." The woman who applied the make-up was also arrested and fined.

Sudanese law also makes conversion from Islam a crime punishable by death, but permits Muslim proselytism. 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. The government also allegedly has 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.

Blasphemy is legally prohibited under Sudan's criminal laws, and blasphemy accusations have been used to intimidate those expressing disfavored views. Over the past few years, such accusations have been used against persons, including former Sudan People's Liberation Movement presidential candidate Yassir Arman, who called for exempting non-Muslims from the application of sharia or for Sudan to be secular. Blasphemy accusations are routinely used against the Communist Party.

According to the Interim National Constitution, there are supposed to be special provisions to protect the rights of non-Muslims in northern Sudan; non-Muslims would still be subject to the sharia-based provisions of the penal code but, at the discretion of the courts, not to the same penalties as those prescribed for Muslims. The CPA-mandated Commission for the Rights of Non-Muslims in the National Capital was created to ensure that such exemptions are made, but it has proven to be ineffective. Employers suffer no penalty for failing to comply with a law requiring them to give their Christian employees two hours before 10 a.m. on Sunday for religious purposes. The labor law provides for reduced working hours during the Muslim holy month of Ramadan, but does not provide for similar treatment for Christians during their holidays. In September, the Commission proposed a set of amendments to the law to exempt non-Muslims from restrictions on civil liberties in the North, including during Ramadan. One proposal was that local restaurants should not be forced to be closed and that those owned by Christians should be allowed to operate under their normal schedules, without incurring extra fees to local authorities to stay open. It also proposed that local shops be open during prayers or on Fridays. The government has yet to respond.

#### *Discrimination against Non-Muslims*

Although the government routinely grants permits to construct and operate mosques and supports mosque construction with government funds, permission to build churches often is difficult to obtain. Since the CPA's signing in 2005, only 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 official harassment. On November 14, 2010, about 200 police officers arrived in seven trucks, cordoned off a building in Khartoum which housed the Sudan Council of Churches, a body representing Orthodox, Protestant, and Roman Catholic Churches in the North, charged onto the premises, and ransacked its offices. While the police claimed that they were looking for weapons, none were found.

Muslims also receive preferential access to limited government services and preferential treatment in court cases involving Muslims against non-Muslims. Christians told USCIRF 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.

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

USCIRF traveled to South Sudan three times during this reporting period to monitor respect for freedom of religion or belief in the South and to meet with Southern religious and government officials to ensure that current protections remain once the South becomes independent in July.

The Interim Constitution of South Sudan separates religion and the state and guarantees freedom of religion and equality before the law regardless of religious belief. The South is currently drafting a new constitution to take effect upon its independence in July. It is expected that the religious freedom protections of the interim constitution will be included in the new constitution.

In general, the Government of South Sudan (GoSS) and its dominant party, the Sudan People's Liberation Movement (SPLM), respect religious freedom in practice. 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 secretary-general and former national presidential candidate, Yassir Arman, is himself a northern Muslim. In this reporting period, the GoSS appointed a presidential advisor for religious affairs to increase communication between the government and religious communities. It has also refrained from creating a Ministry of Religious Affairs to register religious communities as requested by several religious communities, fearing that such a body would increase government interference in internal religious affairs or religious doctrines.

Some religious communities have expressed concern that the approach of GoSS and SPLM officials to church-state relations envisions a complete separation and lack of cooperation between those communities and the government. Following USCIRF engagement on this concern with GoSS officials, including Vice President Reik Machar and senior SPLM officials, the relationship between the government and religious communities improved in the second half of 2010. Improvements included senior-level GoSS and SPLM engagement in several church-state forums on plans to address jointly issues of common concern, such as insecurity and the 2011 referendum on self-determination for South Sudan.

There was only one known official religious freedom violation in the South in 2010. In December, the Western Equatoria state governor banned the activities of Jehovah's Witnesses for a month because its members did not register to vote in the January 2011 referendum on Southern independence. The governor justified his actions by stating that the Jehovah's Witnesses were not participating in their national duty.

### *Implementation of the Comprehensive Peace Agreement*

The signing of the CPA in January 2005 ended a 22-year civil war in which resistance to Khartoum's policies of Islamization and Arabization was a major factor. During the conflict, NCP leaders, including President Bashir, exploited religion to mobilize northern Muslims against both non-Muslim Southerners and Muslims who opposed the NCP regime. These appeals to Islam included calls for *jihad* by senior

government officials. 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.

At the time of this writing, only a few months remain of the interim period before the CPA expires. USCIRF stressed the importance of full CPA implementation with U.S. and Southern officials in its travel to the South during this reporting period. While most of the CPA milestones have been met, provisions related to human rights reforms and economic development will likely be unimplemented. Nevertheless, the CPA has succeeded in maintaining peace between the North and the South, although tensions remain high.

#### *April 2010 Elections*

The first elections in Sudan in almost 25 years took place from April 11 to 15, 2010, resulting in President Bashir's election. Observers, including the Carter Center and the European Union, found that the elections failed to meet international standards. Laws were implemented and logistical arrangements manipulated to ensure an NCP victory. Freedom of speech, association, and assembly were frequently violated. Insecurity in some areas of Sudan, including Darfur and South Sudan, prevented open campaigning and voting. 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 Darfur region and elsewhere.

#### *January 2011 Referendum and Post-2011 Issues*

In January 2011, Southerners in Sudan and in the diaspora voted in a referendum on self-determination for South Sudan, which international and domestic observers found to meet international standards. On February 7, the South Sudan Referendum Commission confirmed that 99 percent of Southerners voted for independence and that 97 percent of registered voters participated in the poll. The Khartoum government, the African Union, the United States, and the international community have recognized the results, and the South is expected to become an independent nation in July.

While the holding of the referendum was successful, the two parties have yet to agree on a number of arrangements necessary for a smooth and peaceful post-referendum period and good North-South relations. These issues include, but are not limited to, citizenship, security, oil and water arrangements, and the North-South border demarcation. Of particular concern is the parties' failure to resolve the question of citizenship for Southerners in the North. In the lead-up to the referendum, inflammatory statements from NCP and Northern leaders that Southerners would lose access to services and rights should the South gain independence led hundreds of thousands of Southerners to leave the North and repatriate to the South. Nevertheless, hundreds of thousands of Southerners remain in the North without clarification of their status.

#### *Abyei, Southern Kordofan State, and Blue Nile State*

The referendum on whether Abyei will retain its special status in the North or become part of the South has not yet been scheduled due to disagreements between the NCP and the SPLM over voter eligibility. The NCP argues that the Misseriya, a nomadic group who migrate through Abyei, should be permitted to vote; the SPLM argues that only permanent residents of Abyei, the Ngok Dinka, should be registered. While negotiations continue, heightened tensions between the Misseriya and the Ngok Dinka have triggered outbreaks of violence. In late February and early March, more than 100 persons were killed and thousands displaced. Smaller outbreaks of violence occurred in early January, during the referendum



voting for South Sudan. In response to the violence, the NCP and SPLM set up a joint security committee for Abyei, although reports continue of Southern and Northern troop buildup around the area.

The “popular consultations” in the Northern states of Southern Kordofan and Blue Nile are vaguely defined in the CPA as “a democratic right and mechanism to ascertain the views of the people on the comprehensive agreement reached.” The popular consultation process is supposed to begin with elected state leaders consulting with their respective populations in order 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. Popular consultations were held in Blue Nile State in January 2011, although their outcome had yet to be announced at the time of this writing. Popular consultations are delayed in Southern Kordofan until after new state-level elections are held in May, although the parties say they can still take place before the end of the CPA period in July.

## **U.S. Policy**

The United States is the pivotal international actor in Sudan. U.S. involvement in the peace negotiations was vital to achieving the CPA and ending the North-South civil war. As a guarantor of the CPA, along with the United Kingdom and Norway, the U.S. government has an obligation to work with the signatories, the SPLM and the NCP, to ensure its full implementation.

Following criticism that internal divisions over Sudan policy were jeopardizing its ability to press for CPA implementation and progress in Darfur, the Obama administration announced a new policy in the second half of this reporting period and increased senior-level engagement on Sudan. In September, the administration announced a series of incentives to encourage the GNU to implement the CPA’s final stages and bring peace to Darfur. The United States immediately lifted some sanctions on Sudan, including a prohibition on importing agricultural tools. In return for Khartoum’s efforts to secure an on-time and credible referendum, respecting its outcome, and coming to agreement on post-2011 issues, the administration said it would take steps to remove Sudan from the list of state sponsors of terrorism. Following Khartoum’s recognition of the South’s vote for independence in February, Secretary of State Hillary Clinton announced she was charging the State Department with investigating whether Sudan met the legal requirements for such a removal. The final incentive was offering to help Khartoum seek debt relief in return for lasting peace in Darfur.

In 1997, President Bill Clinton had utilized the International Emergency Economic Powers Act (IEEPA) to sanction Sudan, finding that “continued support for international terrorism, ongoing efforts to destabilize neighboring governments, and the prevalence of human rights violations, including slavery and the denial of religious freedom, constituted an unusual and extraordinary threat to the national security and foreign policy of the United States.” These sanctions imposed a trade embargo on the entire country as well a total asset freeze on the government. Since 1997, an arms embargo on Sudan and travel bans and asset freezes have been imposed in response to the genocide in Darfur. With the 1999 designation of Sudan as a Country of Particular Concern (CPC), the Secretary of State has utilized the International Religious Freedom Act (IRFA) to require U.S. opposition to any loan or other use of funds from international financial institutions to or for Sudan. In an attempt to prevent sanctions from negatively impacting regions in Sudan which have been assailed by Khartoum, U.S. government amendments and orders have attempted to lift the impact of U.S. sanctions on the regional governments of Southern Sudan, Southern Kordofan State, Blue Nile State, Abyei, Darfur, and marginalized areas in and around Khartoum.

At the same time that the Obama administration announced the incentive approach, senior administration officials increased their efforts to internationalize the importance of holding an on-time South Sudan referendum. President Barack Obama led a special UN session on the referendum in September, during

which several heads of state and foreign ministers also participated. U.S. Ambassador to the UN Susan Rice was instrumental in an October Security Council mission to Sudan and monthly Security Council meetings on Sudan leading up to the referendum. President Obama and Secretary Clinton were in regular dialogue with international partners, urging continued movement toward an on-time and recognized referendum.

The administration also appointed two senior advisors to further U.S. policy in Sudan. In August 2010, Ambassador Princeton Lyman was charged with working with the NCP and the SPLM to come to agreement on the post-2011 negotiations, in areas such as oil revenue sharing, citizenship, and border demarcation. In December, Ambassador Dane Smith was announced as a senior advisor on Darfur to increase efforts to bring peace to that region. In February 2011, the administration announced that it was nominating U.S. Special Envoy to Sudan Major General J. Scott Gration to be Ambassador to Kenya and that a new Special Envoy would be appointed.

The United States is the leading international donor to Sudan, having provided nearly \$10 billion in assistance since 2005. Assistance is targeted at implementing the CPA; ending continued conflict and human rights abuses in the North; addressing insecurity; building democracy, human rights and good governance; establishing systems for the provision of health care, education, and other services; and providing technical and capacity assistance in the South. More than 50 percent of USAID's budget to Sudan is provision of humanitarian assistance nationwide.

Finally, in anticipation of the referendum vote and probable Southern independence, the administration increased its assistance to and staffing in South Sudan. U.S. government officials were deployed to the Southern states to work on referendum preparation and conflict mitigation programs. U.S. employees from several executive agencies have been deployed to Juba to assist in technical capacity assistance programs for the Government of South Sudan. The U.S. government funded technical assistance programs for the Southern Sudan Referendum Commission as well as for civic and voter education efforts in the South. With the South's expected independence in July, the U.S. government plans to increase assistance to the Government of South Sudan to help it provide basic services, undertake legal reforms, and support good governance and economic growth programs. The U.S. government will also continue to fund training programs to professionalize the Sudan People's Liberation Army and South Sudan Police forces, as well as infrastructure projects.

U.S. government officials in Khartoum and Juba regularly meet with religious leaders and Northern and Southern government officials to discuss religious freedom in Sudan as well as promote respect for religious freedom and implementation of religious freedom provisions in the CPA and the constitutions.

## **Recommendations**

Given the Khartoum regime's deplorable, ongoing record of violating religious freedom and related human rights, USCIRF recommends that Sudan continue to be designated a CPC.

In addition, 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. With the Bashir regime discussing moving the North toward a more repressive Islamist state, the State Department should increase efforts to encourage reforms and discourage regressive behavior. USCIRF 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 of religious freedom and related human rights, and cooperating with efforts to protect civilians.

USCIRF recommends that the U.S. government insist on full CPA implementation and take specific steps to help strengthen religious freedom and related human rights protections in the North and build a strong, democratic, and inclusive South Sudan.

### **I. Insist on Full CPA implementation**

The U.S. government should:

- work with the CPA signatories, in coordination with international partners, to implement the remaining CPA provisions, including:
  - reaching agreement on post-2011 negotiations, prioritizing citizenship protections for Southerners in the North, reflecting Southern guarantees to offer Southern citizenship to Northerners in the South;
  - holding the Abyei referendum and the popular consultations in Southern Kordofan State in a free, fair, and credible manner; and
  - demarcating the North-South border; and
- consider new sanctions, as needed, to respond to noncompliance with CPA terms, including targeted sanctions such as asset freezes and travel bans against responsible individuals and institutions.

### **II. Strengthen Religious Freedom and Related Human Rights Protections in the North**

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 the IRFA and IEEPA sanctions:
  - 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;
  - repeal the Public Order Regime, eliminate the Public Order Police and Public Order Courts, revoke the Public Order Acts, and remove provisions of the 1991 Criminal Act related to "offences of honor, reputation and public morality," including undefined "indecent or immoral acts;"
  - 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;
  - abandon efforts to force religious organizations to register as non-governmental organizations under regulations that give government officials control over their activities and permit relations between national religious communities and their co-religionists abroad in accordance with universal human rights norms;
  - ensure that state security services are representative of all Sudanese and 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 citizens regardless of religious affiliation or belief;

--cease using government-controlled media to spread messages of intolerance, bigotry, and discrimination against non-Muslims; and

--exclude negative stereotyping in school textbooks; include in school curricula, textbooks, and 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;

- urge the government in Khartoum to incorporate in the new constitution protections of freedom of religion or belief, respect for international commitments to human rights, and recognition of Sudan as a multi-religious, multi-ethnic, and multi-cultural nation;
- urge that the constitution-drafting process in the North be transparent and inclusive;
- 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 violations of religious freedom, in the North, as well as advance the U.S. human rights agenda in Sudan;
- urge the retention of the Commission for the Rights of Non-Muslims in the National Capital after the CPA expires and the creation of the National Human Rights Commission, and strengthen their capacity 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 government in Khartoum to cooperate fully with international mechanisms on human rights issues, 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, and the UN Working Group on Arbitrary Detention; and
- use bilateral and multilateral diplomacy to mount an international campaign to pressure the Sudanese authorities to cooperate fully with the International Criminal Court.

### **III. Build a Strong, Democratic, and Inclusive South Sudan**

The U.S. government should:

- 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 South Sudan;
- urge the incorporation in South Sudan's new constitution of international standards for freedom of religion or belief, as found in Article 18 of the Universal Declaration of Human Rights, as well as other international human rights commitments;
- urge that the constitution-drafting process in the South be transparent and inclusive;

- urge passage of an inclusive media law, as well as passage of an inclusive political parties law that permits the formation of parties so long as they do not advocate violence or discrimination and otherwise comply with the transitional constitution of Southern Sudan and international human rights standards in the ICCPR;
- continue to 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 South 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 areas;
- expand the opportunities for International Visitor Programs, fellowships, internships, or similar exchange programs for Southern Sudanese professionals to increase the capacity of the Government of South Sudan;
- expand partnerships between U.S. universities and the University of Juba to enhance South Sudanese expertise in agriculture, business, law, health care, public administration, public works, education, and other areas to support development efforts;
- take the steps necessary to make feasible the establishment of various security guarantees for South 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 thus reduce civilian casualties;
- increase technical assistance and expertise or other capacity to bolster the professionalization and human rights performance of the SPLA and the South Sudan Police Force to respond to insecurity, utilizing the State Department's International Military Education and Training (IMET) and International Narcotics and Law Enforcement Affairs (INL) programs;
- increase support for the Government of South 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 interreligious and inter-ethnic reconciliation and conflict prevention, to promote a peaceful civil society;
- expand technical assistance, training and education to the judicial system in South Sudan to address insecurity in the South and hold perpetrators of violence responsible, including through training and education in the English language, common law system, and legal specialties, as well as assistance to establish a court administration structure, provide reference materials, and develop systems to educate and disseminate to judges and lawyers on Southern laws and decisions;
- increase funding and technical assistance to the Southern Sudan Human Rights Commission;
- 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;

- 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; and
- promote agricultural development in South 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:** Severe religious freedom violations and official harassment of religious adherents persist in Turkmenistan. Despite limited reforms undertaken by Turkmen President Berdimuhamedov since 2007, the country's laws, policies, and practices continue to violate international human rights norms, including those on freedom of religion or belief. Police raids and other harassment of registered and unregistered religious groups continue more than four years after the death of longtime dictator Saparmurat Niyazov. The repressive 2003 religion law remains in force, causing major difficulties for religious groups to function legally. Turkmen law does not allow a civilian alternative to military service, and Jehovah's Witnesses have been imprisoned for conscientious objection.

In light of these severe practices and conditions, USCIRF continues to recommend in 2011 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 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. Although the new president has taken a few positive steps such as the 2007 release from prison of the country's former chief mufti, the government has not undertaken needed legal reforms on religious freedom and other human rights. Additionally, 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.

**PRIORITY RECOMMENDATIONS:** In addition to designating Turkmenistan as a CPC, the United States should continue its regular bilateral meetings with the Turkmen government on human rights and religious freedom, urge specific steps that Turkmenistan can take to implement new laws and practices in order to comply with international human rights standards, and establish a regular reporting mechanism on these issues. If the Turkmen government continues to violate its human rights obligations, including those on freedom of religion or belief, and to threaten Turkmen activists regardless of country of residence, the United States should express its concern publicly at appropriate international fora, including the United Nations and the Organization for Security and Cooperation in Europe (OSCE). The United States needs to increase exchange programs as well as broadcasts to Turkmenistan as part of a concerted effort to overcome decades of isolation which have created a threatening cultural and educational vacuum. Additional recommendations for U.S. policy toward 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 expressed in his book, the *Ruhnama*, which the Niyazov regime imposed on the country's religious and educational systems.

Since becoming president in early 2007, Gurbanguly Berdimuhamedov has implemented limited educational reforms and has promised, but not undertaken, reforms of the country's oppressive laws. He released 11 political prisoners, including the former chief mufti, in 2007; placed limits on Niyazov's personality cult; established two new official human rights commissions; and registered 13 minority religious groups. In addition, he eased police controls on travel inside Turkmenistan and made the country somewhat more open to the outside world.

Turkmenistan's constitution includes language guaranteeing religious freedom, the separation of religion from the state, and equality regardless of religion or belief. The 2003 Turkmen religion law, however, contradicts these provisions and violates international standards on freedom of religion or belief. The law sets intrusive registration criteria and forbids any activity by unregistered religious organizations; requires that the government be informed of all financial support received from abroad; bans worship in private homes and the public wearing of religious garb except by religious leaders; and places severe and discriminatory restrictions on religious education.

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. The CRA controls the hiring, promotion, and firing of Sunni Muslim and Russian Orthodox clergy (who must report regularly to the CRA), censors religious publications, and oversees the activities of all registered groups. In September 2009, Gurban Haitliev replaced Rovshen Allaberdiev as the chief mufti and CRA Deputy Chair.

CRA Deputy Chair Andrei Sapunov, a Russian Orthodox Church (ROC) priest, has official responsibility for policies relating to Christian communities and reportedly has veto power over the ability of other Christian groups to function in Turkmenistan. 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 view recently-named CRA officials as favoring state-controlled Islam and denying permission for non-Muslim activity more often than 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 are expected to 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, to examine citizens' petitions on the work of law enforcement bodies. However, the commission has no other members and no specified procedures to pursue this task. Reportedly, the commission has received thousands of petitions on police abuse, bribery, unjust arrests, and prosecutions. In August 2007, the commission pardoned and released 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. The release was apparently timed to occur on the eve of a USCIRF visit to the country. Ibadullah had opposed Niyazov's decree that the *Ruhnama* be displayed in mosques, but was charged with treason for his alleged role in a 2002 coup attempt against Niyazov. After his release, Ibadullah was allowed to resume work in Ashgabat as a senior adviser to the CRA. However, the commission's more recent activities, if any, are unknown.

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. In 2008, the Turkmen government requested that the U.S. Agency for International Development (USAID) provide a technical critique of Turkmen laws affecting religious freedom. Pursuant to a USAID grant, the International Center for Not-for-Profit Law (ICNPL) analyzed the Turkmen religion law and presented its review to the government in July 2008, but the government has taken no action to implement any of the recommendations. The government postponed, without setting a future date, a follow-up seminar on the religion law with international experts scheduled for March 2010. It also has failed to implement any of the recommendations of a largely critical legal review of the religion law published by the OSCE in late 2010. Turkmen officials, including the chair of Parliament's Committee on the Protection of Human Rights and Freedoms, have refused to discuss whether they will amend the law in line with the OSCE recommendations.

As of early 2011, the Turkmen parliament was in the early stages of drafting a new Code of Administrative Offences, but it was unclear whether the article in that code dealing with violations of the religion law would be amended.

### *Registration*

In a move hailed by the international community, President Niyazov issued several decrees in 2004 that reduced the number of members required for registration as a religious group from 500 to five and eased other registration requirements. Nevertheless, unregistered religious activity remains illegal, and subject to penalties under the administrative code that may include imprisonment and large fines. Even registered groups are forbidden to meet for private worship, to print and import religious literature, or to be led by foreign citizens. They are subject to financial restrictions and must provide the government with detailed information about their meetings and activities.

The Justice Ministry manages the registration process, and the CRA plays an advisory role. A commission, which includes representatives from the Ministries of Justice and Internal Affairs and the security services, reviews registration applications. Although the review process should not last more than three months and written denials are supposed to be issued, often these standards are not met. Reportedly, Justice Ministry officials have denied registration based on minor or spurious clerical errors or have required that religious groups amend their charters in order to register.

Following the 2004 decrees, nine small minority religious groups were registered, including the Baha'i, several Pentecostal communities, the Seventh-day 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, likely in 2008.

In its January 2010 report to the UN Human Rights Committee, which monitors compliance with the International Covenant on Civil and Political Rights including Article 18 on freedom of religion or belief, the Turkmen government claimed that 123 religious communities were registered in the country, a far

lower number than previously cited. Of these, 100 are Sunni and Shi'a Muslim and 13 are Russian Orthodox. The rest include Baptist, Pentecostal, Greater Grace, Seventh-day Adventist, New Apostolic, Baha'I, and Hare Krishna communities. In March 2010, after 13 years of effort, Ashgabat's Polish-led and mostly foreign Catholic community, protected by the Vatican diplomatic status of its two priests and chapel, gained local legal status. It appears that, in this case, Turkmen authorities made an exception to the legal requirement that any religious community must be headed by a Turkmen citizen. Also, according to the January 2010 report, the Turkmen Justice Ministry was considering registration applications from four religious communities, including the Path of Faith Church in Dashoguz, an independent ethnic Turkmen Baptist congregation whose registration has been "pending" for five years.

Certain Shi'a Muslim groups, the Armenian Apostolic Church, some Protestant groups, and the Jehovah's Witnesses have had numerous registration applications rejected or their registration efforts refused entirely. The Peace to the World Pentecostal Church in Mary, headed by the recently imprisoned Pastor Nurliev, has unsuccessfully applied for state registration since 2007. Reportedly, the Turkmen government has also pressured some groups to write promises that they will not gather for worship until they receive official registration.

Some communities have decided that they should not submit applications due to the onerous and opaque process. Some religious communities prefer an underground existence, due in part to the de facto criminalization of much religious activity and the limited advantages of registration.

#### *Government Interference in Internal Religious Affairs*

The Turkmen government continues to interfere in the internal leadership and organizational arrangements of religious communities. The current Chief Mufti, Gurban Haitliev was selected and appointed by the president; at the time of Haitliev's appointment, numerous regional imams also were transferred to new duties, following former President Niyazov's practice of frequent rotation of official leaders. Friday sermons by imams increasingly are used to convey state messages, with the CRA "recommending" suitable topics.

Muslims in Turkmenistan have expressed concern that the state has replaced imams who have formal Islamic theological training with those who lack such education. Indeed, many Turkmen view the former Chief Mufti, Nasrullah ibn Ibadullah, an ethnic Uzbek who was imprisoned from 2004-2007, as the country's last Muslim leader with a thorough knowledge of theology. Furthermore, observers view the recent removal from office of ethnic Uzbek minority imams in the Dashoguz region and their replacement with ethnic Turkmen imams as an example of official discrimination. Turkmen officials have stated that imams cannot be appointed if they have received theological training outside the country.

The government officially banned only extremist groups that advocate violence, but it effectively prevented all groups advocating stricter interpretations of Islamic religious doctrine, which it also labeled as extremist, from operating in the country, the State Department reported in 2010.

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. The ROC placed Turkmenistan's 12 ROC parishes and one Ashgabat convent under the Moscow Patriarchate's jurisdiction in 2008, after a meeting between President Berdimuhamedov and ROC officials. The ROC named Bishop Feofilakt (Kuryanov) as the first head of the Patriarchal Deanery for Turkmenistan.

The Turkmen Justice Ministry has reportedly "advised" several smaller unregistered groups to combine with other currently-registered communities, regardless of possible doctrinal differences or need for organizational autonomy.

### *Penalties for Religious and Human Rights Activities*

In recent years, members of religious communities, including Muslims, Protestants, Jehovah's Witnesses, and a Hare Krishna, have been imprisoned or sent into internal exile due to their religious convictions. Nurmuhamed Agaev, a former Muslim prayer leader, remains at the closed psychiatric hospital in the Lebap Region where he reportedly is subject to forcible drug treatment. Islamic cleric Shiri Geldimuradov died in prison under unexplained circumstances in July 2010. Geldimuradov, 73, was arrested in April 2010 along with his three sons Muhammed, Abdullah, and Abdulhay. A fourth son, Abdulmejjid, was sentenced to three years in prison in February 2010 for "misusing urban water resources."

In October 2010, Pastor Ilmurad Nurliev of the unregistered Peace to the World Protestant Church in Mary, was sentenced to four years' imprisonment on charges of swindling, which his family and church members refuted in court. He has been denied the right to appeal his case and is being held at the notorious Seydi prison camp, where he reportedly has been put in a cell with an inmate with tuberculosis and denied his diabetes medication as well as a Bible. The court ordered that he be given "forcible medical treatment to wean him off his narcotic dependency," but reportedly that has not been done. His requests to be transferred to Mary to be closer to his family have been rejected, and his wife was denied her scheduled visit in February 2011.

Also in October 2010, Farid Tuhbatullin, exiled head of the Turkmen Initiative for Human Rights, said that two reliable sources had informed him that the Turkmen Ministry of Security (MNB) was planning an "accidental" physical attack on him in Vienna. The Austrian government provided him some additional security, but still suggested that he should move to another country, at least for several months. Tuhbatullin continues his human rights and related religious freedom activities from an unknown location. In a March 2011 speech at a NGO session on the sidelines of a UN Human Rights Council session in Geneva, Tuhbatullin called attention to the imprisonment of Pastor Nurliev and the death in custody of Islamic cleric Shiri Geldimuradov.

In addition, unregistered religious communities face raids by secret police, anti-terrorist police units, local government, and local CRA officials. Registered religious communities, particularly outside Ashgabat, also may be subjected to police raids or check-ups. Local secret police officers reportedly require Muslim and Orthodox clerics to make regular reports on activities within their towns or neighborhoods. 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 2011, seventeen Protestants in Turkmenabad were each fined up to US \$140 (the average monthly wage in Turkmenistan is US\$100) for the administrative offense of participating in unregistered religious activity. The city judge reportedly told them that the imam had said that their faith was "against the state." Two Protestant schoolchildren were not fined, but endured public humiliation at their school. A Christian youth summer camp, organized by two registered Pentecostal churches in a village northwest of Ashgabat, was raided by police in July 2010. Reportedly, camp participants were insulted, pressured, and threatened; some were later fired from public employment. In March 2010 in Turkmenbashi, Jehovah's Witness Khushnud Dzhabbergenov was detained overnight by police, stripped and beaten, and forced to write a dictated statement, after which he was released. Also in March, police interrogated and detained six Jehovah's Witnesses in Ashgabat and confiscated religious literature.

### *Conscientious Objectors*

Turkmen law has no civilian alternative to military service for conscientious objectors; individuals who refuse military service for religious reasons can only serve noncombatant roles within the military. The penalty under the criminal code for refusing to serve in the armed forces is up to two years' imprisonment. In September 2010, the Turkmen parliament adopted a new law setting the military conscription age for men at between 18 and 27, but it did not provide an alternative service regime, as had been in place in the mid-1990s. It is not known if President Berdimuhamedov has signed the unpublished law.

Until 2009, the Turkmen government had given suspended sentences to Jehovah's Witnesses who refused military service. Since then, nine Jehovah's Witnesses have been jailed for refusing military service, while three more were given suspended sentences. Matkarin Aminov, from Dashoguz, was sentenced in December 2010 to an 18-month prison term. Sakhmetmurad and Mukhammedmurad Annamamedov were given two years each (Serdar Court, May 2009); Shadurdi Ushotov, two years (Dashoguz [Dashhowuz] Court, July 2009); Navruz Nasyrbaev, two years (Dashoguz Court, December 2009); Aziz Roziyev, 18 months (Seydi Court, August 2010); Dovleyet Byashimov, 18 months (Turkmenabad [formerly Charjew] Court, August 2010); and Ahmet Hudaybergenov, 18 months (Turkmenabad Court, September 2010). All are being held in the Seydi labor camp, where some prisoners have been subjected to psychiatric abuse. In April 2010, Denis Petrenko was given a two-year suspended sentence and in April 2009, Zafar Abdullaev and Dovran Kushmanov each received two-year suspended sentences. Akmurat Egendurdiev was freed from the Seydi labor camp at the end of January 2011 after completing of his sentence for conscientious objection.

### *Restrictions on Meeting for Worship*

It is illegal for unregistered religious groups to rent, purchase, or construct places of worship, and even registered groups must obtain government permission, which is often difficult to secure, to build or rent worship places. For meeting to worship in unapproved places, such as private homes, congregations face police raids, court-imposed fines, and other forms of harassment. Officers from the Sixth Department in Ashgabat, the division charged with fighting organized crime and terrorism, monitored members of religious minorities, the State Department reported in 2010.

The Turkmen government is building monumental mosques in Koneürgench, in Mary, and in Gypchak. However, it is unclear how the construction of these mosques using public money is in line with the constitutional separation of religion and the state. 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. The government has allowed other mosque construction, but refuses to allow the building of three Shi'a mosques.

The ROC has been trying to build a new cathedral and educational center in Ashgabat for years. In March 2011, after a meeting between the Bishop of Smolensk and the Turkmen Foreign Minister, the government donated a site in an Ashgabat suburb for the cathedral; the ROC will pay for the construction. In the mid-1990s, President Niyazov had allocated the ROC a plot of land in Ashgabat, but Turkmen authorities refused to allow the cathedral to be built; the site remained vacant until the government built the Ruhnama University there in 2010.

Five small registered minority religious communities have established places of worship, three rented and two in the private homes of Baha'is and Hare Krishnas. However, worship in private homes is limited to nuclear family members in 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.

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), the government has paid no compensation to any religious community for the destruction or confiscation of at least 17 mosques and churches that occurred under Niyazov.

#### *Restrictions on Religious Literature*

The publication of religious literature inside Turkmenistan is banned by decree. By law, only registered religious communities can import such literature, and the quantities must correlate to the number of members in their congregations. Customs officers restrict returning travelers, regardless of citizenship, to only one copy of a religious text for personal use. Border guards and police also search departing travelers and confiscate religious material. The State Department reported in 2010 that Turks who reside in Turkmenistan have had their personal Korans confiscated at the border. Religious literature also is routinely confiscated in police raids on religious individuals and groups, and is rarely returned.

The CRA must approve all imported religious literature, but since it only includes representatives of Islam and Russian Orthodoxy, the CRA's knowledge of other religions is limited. 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. Local CRA branches frequently confiscate and photocopy literature and the Dashoguz CRA required that it stamp all approved religious material. 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.

According to the State Department, the Koran is "practically unavailable" at state bookstores in Ashgabat. While most homes have one Arabic copy of the Koran, few are available in Turkmen. The ROC can receive and distribute Bibles easily, but reportedly it does not share them with Protestants because it views them as competitors. In early 2011, the Turkmen government lifted the ban on the Russian Orthodox community receiving certain Russian publications by mail, including the *Journal of the Moscow Patriarchate*. According to Protestant groups, neither a Bible Society nor Christian bookshops is allowed to exist.

In February 2011, two students reportedly were expelled from the National Institute of Sports and Tourism in Ashgabat after Education Ministry inspectors found audio recordings of Koranic verses on their computers. Officials claimed that the two students were propagating "religious extremism." 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.

Internet users in Turkmenistan cannot access most international religious websites. The government has a monopoly on Internet access, and uses a computer program to search emails for coded words and block "suspicious" messages. Nevertheless, some communities maintain that the Internet has improved their access to needed religious literature.

#### *Restrictions on Religious Education and the Training of Clergy*

Turkmenistan's religion law bans the private teaching of religion. Only graduates of institutions of higher religious education (domestic or foreign is not specified) who are CRA-approved may offer religious instruction, and such instruction must take place in officially-approved institutions. However, some independent religious education takes place unofficially.

Under the religion law, mosques are allowed to provide religious education to children after school for four hours per week, as long as parents have given their approval. Some Sunni mosques have regularly scheduled Koran instruction. However, the law prohibits the ROC from conducting religious education programs without CRA and presidential approval, which to date apparently has not been granted.

Muslims are not allowed to travel abroad for religious education, and women are barred from studying Islamic theology at Turkmen State University, the only place where it is permitted to be taught. In July 2009, the building of the Islamic Theology Department of Turkmen State University in Ashgabat 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 for Religious Reasons and on Communications*

The government continues to interfere with the ability of religious adherents to travel outside the country. In 2009, 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 government organized "an internal *hajj*" for 188 officially-designated Muslim pilgrims to travel to 38 sites inside Turkmenistan. In 2010, the Turkmen government resumed its previous practice of permitting 188 pilgrims (out of the reported official Saudi quota of 5,000) to travel at state expense to Mecca. Pilgrims reportedly have had to pay bribes to be included on the list.

Foreign religious workers and co-religionists of certain groups continue to have difficulty obtaining entry visas to Turkmenistan. The last known visit to the country by Armenian Apostolic Church clergy was in 1999. The Baha'i report that it is impossible for their foreign relatives to receive permission to visit Turkmenistan, although Baha'is can go on foreign visits. However, ROC then-Metropolitan Kyril was permitted to visit Turkmenistan in 2008, the first visit by a ROC leader since 2003. In addition, the New Apostolic Church was allowed a visit by a European church leader for the first time in 2009.

In late 2010, the Turkmen government suddenly cut off cell phone service provided by a private Russian company, thereby depriving an estimated 80 percent of the Turkmen population of cell phone use. This cut-off, which continues as of April 2011, has provoked several public protests.

#### *Status of Presidential Personality Cult*

The current Turkmen government has moved away from Niyazov's personality cult and from the forceful official promotion of the *Ruhnama*, although President Berdimuhamedov seems to be establishing a new personality cult around himself, albeit one without specifically religious overtones. The *Ruhnama* has been removed from government buildings and from mosques, although its inscriptions remain emblazoned on the walls of the huge mosque of Gipchak, Niyazov's home town. Portraits of Niyazov

were removed from building exteriors in 2008, but large posters of the new president appeared. Most textbooks were revised to remove text on Niyazov and his family, although some pictures of him still appear. The new textbooks include pictures of the new president, and the text on his “New Revival” ideology has replaced a previous text on Niyazov and his family. Reportedly, Presidential administration representatives now sell the new president’s books on medicine, his family’s history, and Akhal-Tekke horses to public institutions, including schools.

Imams no longer are required to repeat in their daily prayers a loyalty oath to the “fatherland,” but they do include a prayer for the Turkmen president to which some Muslims reportedly object. Public school students spend less time studying the *Ruhnama*, but still must pass examinations on that work for advancement, graduation, or admission to higher educational institutions. The Turkmen Academy of Sciences has been re-opened and books by Turkmen historians and classical Turkmen authors have been published. Nevertheless, a university named for the *Ruhnama* was opened in 2010 and the Turkmen president recommended that the book still be used to educate youth. The Turkmen government also requires teachers and students to spend 70 to 80 days of the academic year in state-sponsored extracurricular events.

Moreover, the presidential personality cult is the foundation of a neo-Stalinist state ideology in Turkmenistan. The president is officially portrayed as a figure who always acts in the interest of the people, thereby justifying his decisions and those of his circle. Turkmen are not allowed to challenge this official ideology which inflates national pride and elevates the Turkmen government above all others. Criticism is officially treated as tantamount to treason and dissenters are branded “enemies from within.” Instead, Turkmen citizens are expected to be grateful to, and not participate in, its governing circles. The long-term effects of the neo-Stalinist Turkmen state ideology, combined with the country’s continuing isolation and post-Niyazov educational vacuum, are difficult to calculate.

## **U.S. Policy**

In March 2011, President Obama announced his intent to appoint Robert E. Patterson to the post of U.S. Ambassador to Turkmenistan. Mr. Patterson, if confirmed, would be the first fully accredited U.S. ambassador to this strategically-important country in five years. Previous ambassadors have played an important role in highlighting the importance of respect for human rights in Turkmenistan, and USCIRF has long called for this key ambassadorial post to be filled.

USCIRF also has long recommended that the United States and Turkmenistan engage in regular discussions on important bilateral issues, including human rights. Accordingly, USCIRF welcomed the convening of the first U.S.-Turkmenistan Annual Bilateral Consultations in Ashgabat in June 2010, and the U.S. government’s addressing the need to improve religious freedom conditions in the wider human rights context.

Despite President Berdimuhamedov’s 2007 personal invitation to USCIRF to make a return visit, the Turkmen government has refused to meet with USCIRF three times in the past two years, each time just prior to the delegation’s departure for such a visit. This occurred most recently in December 2010. It should be noted, however, that in a February 2011 response to a USCIRF request for information, the Turkmen Ambassador to the United States stated that “we can guarantee that Turkmenistan is open to you or members of the Commission to visit whenever is convenient for you so we can discuss the issues of religious freedom in Turkmenistan.”

The United States has several important interests in Turkmenistan, including those related to overflight rights to Afghanistan and to the country’s huge natural gas supplies. The United States also has an interest in ensuring that the Turkmen government does not return to an official policy of isolationism.

Since Turkmenistan shares long and porous borders with Iran and Afghanistan, the country could also become open to radical Islamist influences.

Turkmenistan is not part of the Northern Distribution Network (NDN) for the delivery of supplies to U.S. and NATO troops in Afghanistan, but the United States government has held several high-level meetings with Turkmen officials on key related issues. Turkmenistan has only allowed U.S. refueling rights at the Ashgabat International Airport for non-lethal supplies to Afghanistan. The Turkmen government has not allowed its railroads to be used for these purposes, although some observers claim the U.S. may be interested in this possibility as well as in Turkmenistan shipping fuel to NATO troops, according to the Turkmenistan News Brief.

Despite its official neutral status, Turkmenistan is trying to improve its naval and military capacity. The United States is training Turkmenistan's infant navy as well as organizing exchange programs on English language and basic naval administration. In 2011, U.S. Special Operations Forces reportedly were given permission to enter Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan on a "case-by-case" basis, with permission from the host nation, when conducting counterterrorism operations.

In December 2010, Turkmenistan entered into agreements with Afghanistan, Pakistan, and India to begin construction on a major gas pipeline, referred to as "TAPI," due to be completed in 2014. This project, which the United States has encouraged, could help stabilize the Turkmen gas export market and create economic and political bonds with energy-poor South Asian markets and with other Central Asian suppliers.

The U.S. government has stressed the importance of freedom of information and media in its programs in Turkmenistan and has sent Turkmen professionals, government officials, and students to the United States for foreign policy and broadcast journalism programs. The U.S. government 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 to reform its criminal code. The U.S. government meets with representatives of Turkmen religious groups to promote religious freedom.

## **Recommendations**

While the geo-strategic importance of Turkmenistan is on the rise, the United States should continue raising concerns about human rights and religious freedom in its meetings with the Turkmen government, urge it to implement new laws and practices that comply with international human rights standards, and, if concrete improvements are not met, designate Turkmenistan as a CPC. To this end, USCIRF recommends that the U.S. government take a number of specific steps to expand its bilateral relations with Turkmenistan, promote religious freedom and related human rights, and expand U.S. programs and other activities in pursuit of this aim.

### **I. Expanding U.S.-Turkmen Bilateral Relations**

The U.S. government should:

- urge the Turkmen government to limit its operational definition of extremism to address only acts that involve violence or incitement to imminent violence;
- urge the Turkmen government to embrace fully USAID's technical critique of Turkmen laws affecting religious freedom; and



- discuss human rights and freedom of religion or belief during bilateral meetings with the government of Turkmenistan, explore ways in which Turkmenistan can implement laws and practices to comply with international human rights standards, and 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 violate international norms on freedom of religion or belief, for example by implementing the recommendations of the 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 are deemed “illegal;”
- pledge that it will fully respect the human rights, including the right to life, of Turkmen émigré human rights and other activists;
- end the imposition of the *Ruhnama* or other state-sponsored texts or ideology in public institutions and religious organizations;
- end discriminatory construction codes that restrict non-Russian-Orthodox communities from building places of worship;
- end restrictions on the study of religion in higher education, including bans on non-Islamic theology;
- allow women to study Islamic theology;
- promulgate new regulations and adopt new policies to ease the importation of religious and other material for all communities, and to 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 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 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;

- end state interference in the management of religious communities and in the selection and training of religious leaders, including those 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 current conditions for freedom of religion or belief, 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
  - 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; 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, including through Peace Corps and USAID programs, include religious leaders in community projects in order to address social problems and increase tolerance, and expand exchange programs, including with civil society leaders, students, and others concerned with human rights; and
- cooperate 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.

### **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, the government of Islam Karimov has systematically and egregiously violated freedom of religion or belief. The Uzbek government violates the full range of human rights and 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 subjected to torture. To be sure, Uzbekistan faces security concerns as a result of serious threats from groups which advocate or perpetrate violence in the name of religion. Nevertheless, the Uzbek government's broad-brush approach to this situation is problematic, due to its arbitrary application of vague anti-extremism laws against religious adherents and others who pose no credible threat to security.

Based on these severe violations, USCIRF continues to recommend in 2011 that Uzbekistan be designated as a "country of particular concern," or CPC. Since 2006, the State Department has so designated Uzbekistan, and since 2009 it placed a de facto indefinite waiver on any punitive action.

Uzbek police and security forces raid and repress members of unregistered religious groups, and sometimes registered ones, 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. The Uzbek government continued its campaign against the *Nur* group for alleged extremism, although it is not known to use or advocate violence; an estimated 141 followers of Turkish Muslim leader Said Nursi were convicted during the reporting period to terms ranging from six to 12 years. Three women were sentenced in April 2010 to terms of imprisonment of up to seven years as punishment for the private instruction of religion, and other women who refused to testify against them disappeared. Religious minority groups, especially those viewed as engaging in proselytism, also are targeted.

**PRIORITY RECOMMENDATIONS:** Uzbekistan plays an important role in the Northern Distribution Network (NDN) that supplies U.S. and international forces in Afghanistan. There is, however, a concern that Uzbekistan's NDN role could lead the U.S. government to downplay its chronic, systemic and severe human rights and religious freedom abuses, and that those abuses could have a destabilizing effect on other countries in Central Asia. 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 adoption of specific actions to improve religious freedom conditions and comply with international human rights standards. The United States 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 includes provisions on freedom of worship and the separation of religion from the state. The law also grants the rights to establish schools and train clergy to registered religious groups, but severely restricts religious freedom for unregistered groups, and restricts rights deemed in conflict with national security. 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; and forbids the wearing of religious clothing in public by anyone other than clerics.

The religion 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 requirements for training religious personnel, and only seven have the legal right to import, publish, or distribute religious literature. The term "religious clothing" is not defined. As a result, some Muslim men reportedly hesitate to grow beards or wear traditional clothing. Women wearing head scarves have encountered official harassment, although in recent years these difficulties seem to have decreased.

The criminal code distinguishes between improperly registered "illegal" groups and banned "prohibited" groups. Alleged participants in the latter type of group face up to 20 years in prison for organizing or participating in the activities of religious extremist, fundamentalist, separatist, or other prohibited groups. The criminal code sets prison terms of up to five years for organizing an "illegal" religious group, or for resuming activities of a group denied registration or ordered to disband. Those who participate in such groups face up to three years in prison. The criminal code articles deployed by the Uzbek government against religious activity are Article 159 (anti-constitutional activity); Article 216 (illegal establishment of public associations or religious organizations); Article 216, section 2 (violation of legislation on religious organizations, including proselytism); Article 244, section 1 (production and distribution of materials that create a threat to public security and public order); and Article 244, section 2 (establishment, direction of, or participation in religious extremist, separatist, fundamentalist, or other banned organizations).

In November 2010, President Islam Karimov announced that a new administrative code would be drafted as part of the "liberalization of the judicial-legal system." Although the specific changes are not yet known, human rights groups note that, each time the code has been amended, penalties for religious activity have been increased or new punishments introduced. The country's criminal and administrative codes already permit the levying of heavy 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.

Under the Uzbek religion law, 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 protocols, and certification that other requirements have been fulfilled; and proof of a valid legal address. Registration of a central body also requires a presence in eight of the 13 provinces, impossible for most minority religious groups. 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, both closed and new mosques have faced difficulties in gaining registration. Several mosques in the Ferghana valley, the country's most actively religious region, were not registered even though they had the number of congregants required by Uzbek law. Nevertheless, the government reportedly allows a number of unofficial, independent mosques to operate quietly under the watch of official imams. For many years, the Uzbek authorities have permitted the operation of an unregistered Sufi monastery in Kokand in the Ferghana 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, Uzbek authorities have rejected the registration applications of all Baptist churches. The government has repeatedly denied registration to 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 in Samarkand, among others. Some Protestant communities, such as the Council of Churches Baptists, refuse on principle to seek registration. Many churches, particularly evangelical churches with ethnic Uzbek membership, do 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, report that they do not want to draw official attention and possible official harassment.

In 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*

The Russian human rights group Memorial recently reported that there are more political prisoners in Uzbekistan than in all other former Soviet republics combined. Over the past decade, 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). According to international and Uzbek human rights activists, the only "crime" of many of these individuals is independent practice and intensive study of Islam. Reportedly, there are at least 5,000 such persons in prison, including sane individuals sent to psychiatric hospitals. Uzbekistan faces serious security concerns as a result of threats from groups which advocate or perpetrate violence in the name of religion. Nevertheless, the Uzbek government's approach to this situation is problematic, due to its arbitrary application of vague anti-extremism laws against religious adherents and others who pose no credible threat to security.

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” or, more recently, “Jihadists.” 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.)

According to Memorial, 64 people were convicted, and 21 arrested, for alleged membership in banned or prohibited groups during the reporting period. For example, in January 2010, a Muslim newspaper and radio journalist, Hairulla Khamidov, was arrested in Tashkent and charged with membership in an alleged extremist group and production of seditious material. A police search of his home found audio recordings of sermons by two popular independent Muslim clerics (an imam from Andijon who reportedly was abducted and Nazarov). Many believe that Khamidov was targeted because of his extremely popular religious program on an Uzbek private radio station. Although he denied all charges, Khamidov received a six-year prison camp sentence in May 2010; five others on trial were sentenced to terms ranging from four to six years, while nine received three-year suspended sentences. Khamidov’s lawyer said that the factual evidence was scant and that he plans to appeal the verdict. The Uzbek government does not consider repression of persons or groups suspected of extremism to be an issue of religious freedom, but rather a means of preventing armed resistance to the government. Security threats do exist and terrorist bombings have occurred in Uzbekistan, including from former members of HT and other groups claiming a religious linkage.

Alleged HT members are believed to comprise as many as 4,500 of the estimated 5,000 political prisoners in Uzbek prisons, but arrests of alleged HT members have decreased since 2008. In most of these cases, there was no evidence that the individual took part in violent acts and many of those arrested claim they 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, its literature 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. Nevertheless, a wide spectrum of observers has noted that the Uzbek government’s prosecution of HT members is mainly motivated by the group’s political activity and there was no evidence presented that individual defendants were involved in or advocated violence. These actions by the Uzbek government also lack due process guarantees and involve credible allegations of torture.

The Uzbek government has also repressed and prosecuted members of *Akromiya* (or *Akromiylar*) since 1997. However, there were no known convictions for membership in *Akromiya* during the current reporting period. 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 group prohibited in Uzbekistan, *Tabligh Jamaat*, is an Islamic missionary group with origins in South Asia. With a presence in 150 countries, its 12 to 80 million followers emphasize prayer, preaching and respect for others. The State Department, the International Crisis Group, and Stratfor, among others, describe *Tabligh Jamaat* as a non-political, non-violent movement that stresses the strict practice of individual piety. Some former members, who reportedly left the movement in frustration with its apolitical stance, have attempted acts of violence. During the reporting period, a group of 17 alleged *Tabligh Jamaat* members were convicted in one trial, the first time such a large number of alleged members of this group were convicted.

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. Uzbek state television aired a documentary in 2009 describing *Nur* as an extremist sect that aims to establish a pan-Turkic state and claiming that its activities "undermine our centuries-old values."

An estimated 141 members of *Nur* were convicted in recent years and sentenced to periods of imprisonment ranging from six to 12 years. For example, in May 2010, ten *Nur* followers were sentenced by the Fergana Regional Criminal Court: Suhrob Zokirov was imprisoned for eight years; Islom Alikulov received a seven-year term; Islom Manopov, Alisher Karimov, Farhod Sarymsokov, Botyr Sheraliyev and Kudrat Sultonov were imprisoned for six years; and Nosyr Mamazhanov, Muhammad Yarmatov and Ramzhon Abdukodyrov received prison terms of five years and two months. All were charged with the "preparation or distribution of materials threatening public security and public order," and the "creation, leadership or participation in religious extremist, separatist or fundamentalist or other banned organizations," according to the Human Rights Initiative Group of Uzbekistan.

In December 2010, 18 Muslims received sentences ranging from three to nine years for "membership in an extremist group." Reportedly, they belonged to Shohidiya, an Islamic religious movement which follows the Koran but not the hadiths. The prisoners included Nasibullo Karimov, the movement's leader, who received a nine-year sentence. Six other alleged members of this group received terms ranging from three to nine years.

The Uzbek authorities have also adopted repressive measures against entire families on charges of alleged religious extremism. One such case is that of Akhmadjan Madmarov, a human rights activist from the city of Margilan in the Ferghana valley, with whom USCIRF met when visiting Uzbekistan in 2004. In 2007, Uzbek authorities extended by 16 and one-half years the prison term of Madmarov's son, Habibullah, for his alleged role in a supposed extremist conspiracy. One of Madmarov's sons was released on parole in 2008 after the end of his seven-year term, but another son and two nephews remain in prison.



### *The Andijon Protest and its Aftermath*

After 23 influential businessmen in the city of Andijon were charged for alleged ties to Islamic extremism in 2004, their supporters held peaceful protests before and during their trial. In May 2005, however, a group of armed men freed the businessmen from prison, and then held 20 officials hostage in the Andijon regional administration building and tried to seize the city's National Security Service headquarters. In a separate incident that month, when several thousand mostly-unarmed civilians gathered on the Andijon central square to protest the trial, 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 December 2010, for the first time, two Russian courts ruled that extradition requests for Uzbek refugees should not be granted on the grounds that they would face the likelihood of torture. In February 2011, however, the Kazakh General Prosecutor decided to extradite 29 ethnic Uzbek refugees to Uzbekistan, where they are wanted for alleged extremism or terrorism; that decision will be appealed, according to a representative of the Kazakhstan International Bureau for Human Rights and Rule of Law. The 29 individuals had been in Kazakhstan between one and three years. They were arrested in June 2010 on the request of Kazakh General Prosecutor's Office and Uzbek Ministry of Internal Affairs. As of this writing, 28 are being detained in an Almaty prison. Reportedly four Uzbek refugees have been returned to Uzbekistan; one received a 10-year prison sentence and the other three are said to have disappeared. Some of the refugees reportedly were arrested in the Almaty UNHCR office, where they had gone to seek protection. The refugees deny the extremism and terrorism charges and state that the Uzbek government is persecuting them on account of their Muslim beliefs.

### *Conditions in Detention*

Human rights organizations report that many detainees in Uzbekistan were arrested for, among other things, possessing the 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 harassed, beaten, and tortured in an effort to force them to renounce their religious or political views. Some prisoners suspected of Islamic extremism were not permitted to pray or to observe Ramadan. There were reports that prisoners who violated "internal prison regulations" by praying at certain times of the day were punished.

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, performed a forced

enema using pepper solution, and continued to beat him after he ended his fast. 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 June 2010, Sunnatillo Zaripov died in prison, where he had been serving a 15-year term; according to relatives, he had died as a result of torture.

Convictions in the cases described above are almost entirely based on confessions, which are often gained through the use of torture. Despite the Uzbek government's promises 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, ongoing, 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 end torture in detention, but noted numerous reports that ill-treatment remained routine and that those who engaged in torture were rarely punished. The Committee also called for the closure of the "special regimen" prison in Jaslyk where well-known poet, Yusuf Jumaev, is serving a 12-year term. He had written a poem about the tragic 2005 events in Andijon in which religion was a factor. According to Jumaev's relatives, the poet is emaciated and has been severely beaten by guards.

Particularly since the 2005 Andijon events, it is difficult to verify independently Uzbek government claims that it is combating torture and improving prison conditions. The Uzbek government has not allowed the UN Special Rapporteur on Torture to visit the country, despite repeated requests in recent years. The Uzbek government tightly controls information and restricts the press and civil society. For example, in September 2010, a Tashkent court convicted Surat Ikramov, leader of the Human Rights Initiative Group of Uzbekistan, of slander and defamation, fined him, and ordered him to retract a 2007 report. He issues frequent reports on the government's persecution of Muslims and others in Uzbekistan. In December 2010, the Uzbek government closed down Human Right Watch (HRW) in the country; HRW has documented religious and other prisoner cases in Uzbekistan. In addition, Uzbek authorities often do not release prisoners, especially those convicted of religious extremism, at the end of their terms. Instead, prison authorities often extend inmates' terms by accusing them—without judicial review—of new crimes and claiming that the prisoners continue to represent a danger to society.

### *Restrictions on Muslims*

Despite the constitutional separation of religion and state, the Uzbek government controls Islamic institutions and practice through the officially sanctioned Muslim Spiritual Board, the *Muftiate*. The *Muftiate* controls the training, appointments, and dismissals of Muslim leaders, the content of imams' sermons, and the amount and substance of published Islamic materials. The *Muftiate* has banned imams in the Namangan region from preaching, and children from praying, at Ramadan night prayers since 2007. The government does not permit the separate training of Shi'a imams inside the country and does not recognize such education received abroad.

In the Ferghana Valley, the country's most actively religious region, the government 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 prohibited the five daily public calls to prayer from mosques and the preaching by mullahs at weddings in 2008. The central government has also instructed regional officials that children should not attend mosque at any time. Nevertheless, despite these efforts to limit young people's interest in Islam, the country's registered official mosques reportedly are very full.

According to Memorial, Uzbek authorities convicted 49 individuals, and arrested one, under Uzbek criminal code provisions relating to various religious activities other than alleged membership in banned or prohibited groups during the reporting period. For example, in April 2010, three women were convicted on criminal charges of threatening the constitutional order, public security, and public order for privately instructing young people about religion. Mehriniso Hamdamova, a teacher of an officially-approved religious course for women at Karshi's Kuk Gumbaz Mosque, was sentenced to seven years in a prison camp; her sister Zulkhumor Hamdamova and their relative Shahlo Rakhmonova received six and a half year terms each. According to Uzbek human rights defender Sukhrat Ikramov, the court hearings were closed to the public and there was no proof of the defendants' guilt. The defendants were among 30 women arrested in Karshi in 2009; some reportedly were threatened with rape if they did not testify in the April trial against Hamdanova and they later disappeared. In late August 2010, a Tashkent district court ruled that 11 Muslims had violated a criminal code article relating to the illegal establishment of religious organizations. Seven received a three-year labor camp sentence. Four others received three-year suspended sentences. According to the presiding judge, three years in a labor camp is "not a severe punishment" for holding unregistered religious activity.

### *Charges against Non-Muslims*

The Uzbek government frequently brands Protestants and Jehovah's Witnesses "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.

Pentecostal pastor Dmitri Shestakov from the city of Andijon was sentenced to a four-year term in a closed labor colony in 2007. He was released in January 2011 after serving his full sentence, but is still under police surveillance: he must visit the police on a weekly basis and is subject to a curfew. 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 extremist religious literature.

As of February 2011, three Jehovah's Witnesses are imprisoned for "illegal" religious activity. In April 2008, Olim Turaev was sentenced to four years in a labor camp. In July 2008 Abdubannob Ahmedov was sentenced to a four-year prison term and Sergey Ivanov to three and a half years. Baptist Tohar Haydarov received a ten-year term on drugs charges in the city of Guliston in March 2010; his appeal was rejected one month later. Church members insist that the charges were fabricated.

### *Police Raids against Non-Muslims*

Uzbek authorities raided several meetings of registered and unregistered Christian and Baha'i groups during the reporting period. Officials justified the raids of registered groups by citing supposed restrictions on the right to meet outside of the group's geographic area of registration. In May 2010, officials raided the Tashkent City Church of Christ, questioned congregants, and confiscated computers and religious literature. A church leader and two employees were convicted for the unauthorized teaching of religion and holding illegal religious activity; five other church members were convicted of lesser charges. In September 2010, five Baptists in Samarkand were fined for participating in an unregistered service; their attempt to appeal was rejected. The Baptists claim that a police officer beat two congregants during the raid, but the Samarkand City police refuse to investigate. As part of an alleged anti-terror operation, police halted an allegedly unauthorized Baptist Sunday service in an old people's home in the Tashkent Region in March 2011. Six Baptists who were leading the service were briefly detained in the local police station. In Syrdarya Region, district police broke into an unregistered Baptist Church in March 2011. The officers did not identify themselves and they confiscated religious literature,

including three Bibles, later sent to the state Religious Affairs Committee in Tashkent for review. Police also opened an administrative case against the church's leader.

Acting without a search warrant, Uzbek police, National Security Service (NSS) secret police, Tax Inspectorate, Fire Brigade, and Sanitary-Epidemiological Service raided one of the biggest Protestant churches in Tashkent during its Sunday service in May 2010. The authorities arrested eight members of the church, including Assistant Pastor Artur Avanesyan, and seized computers and other articles. Avanesyan and two others were given 15-day jail sentences; three other individuals were fined 80 times the minimum monthly wage. In February 2011, a Tashkent court sentenced three members of Tashkent's Full Gospel Pentecostal Church to 15 days of administrative detention for holding an "illegal" religious meeting, and fined 10 other members 50 times the minimum monthly wage.

In some regions of Uzbekistan, such as Karakalpakstan and Khorezm, almost all churches have been closed and Hare Krishna and evangelical Protestant students have been expelled from university. In Karakalpakstan, no non-Muslim and non-Orthodox religious communities have official registration status. More than 20 Protestant and Jehovah's Witnesses congregations in the region have been refused legal status, making their activity illegal. In the reporting period, authorities in Karakalpakstan reportedly ordered Christian books, including the Bible, to be destroyed. NGOs reported that local authorities also said that each Bible must be registered with the Council on Religious Affairs (CRA).

The state-controlled media also has encouraged prejudice against certain minority religious groups, particularly Protestants, Baha'is, and Jehovah's Witnesses. Furthermore, it 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 eight 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 almost no foreign Islamic literature is allowed to be imported. 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 USCIRF met in 2004, has official permission to publish religious materials and to host a radio program.

In March 2010, Uzbek authorities raided and closed down 20 bookstores in Tashkent that sold religious literature. In January 2011, a court in Tashkent fined an official of the Bible Society of Uzbekistan for importing two large shipments of Bibles and ordered her to send back the books. The shipments had been seized and held by customs officials for three years. Government officials reportedly told the Bible Society that due to electronic versions of the Bible, no import of books was needed. In February 2011, police ordered a Jehovah's Witness to open a package containing officially-approved religious literature; a Navoi region court later fined him 70 times the minimum monthly wage for possession of supposedly illegal literature. A Tashkent court imposed a large fine on a Protestant in September 2010 for owning one copy of a Christian film.

As of March 2011, the Uzbek authorities required operators of Internet sites to inform the government of mass distributions of text messages with undefined "suspicious content" and to monitor activity on social networks and the Internet. Commercial mobile phone users were recently denied access to news Web sites such as ferghana.ru, uznews.net, the BBC's Uzbek service, and RFE/RL's Uzbek service. Social media sites including MySpace, Facebook, Twitter, Blogger and Flickr are sometimes inaccessible.

#### *Restrictions on Religious Education*

Only six registered religious communities have the eight regional branches necessary to qualify as a central administrative body, and thereby be permitted 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 11 state-controlled *madrassas* (including two for women) that also provide secular secondary education, 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.

The government allows religious minorities only extremely limited educational opportunities. The Russian Orthodox Church operates two monasteries (one for women, one for men) and a seminary, and many of its churches offer Sunday school education. 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 2009, the director of the registered Baptist Union was banned for three years from holding an official position for alleged tax evasion and for involving children in religious activity without consent. Pentecostal preachers have been detained and received massive fines for allegedly breaking the legal ban on teaching children religion. There were several reports that children faced increasing difficulties in practicing their faith. Some schools sent parents questionnaires asking whether their children attend church or mosque, and officials then discouraged both Muslim and Christian

parents from continuing this practice. Some school officials have questioned students about their religion and asked why they attend services.

### *Restrictions on Foreign Travel for Religious Purposes*

The Uzbek government continues to restrict international travel for religious purposes, including denying exit visas to members of religious minorities. Muslims, Protestants, and Jehovah's Witnesses reportedly have been denied exit visas in recent years. Several expatriate staff members of NGOs were deported for suspected missionary activity in 2009. In February 2010, 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.

As it has done for many years, in 2010, the Uzbek government allowed about 5,000 – or 20 percent of the country's official quota of 25,000 – pilgrims to make the religious *hajj* to Mecca. Those who travel must be approved by local authorities, the secret police, the CRA's Hajj commission, and the Muftiate. Furthermore, hajj pilgrims must travel on state-run Uzbekistan Airlines and pay the equivalent of 200 times the monthly wage.

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

In response to terrorist activity, Uzbek President Islam Karimov launched a sweeping campaign in the 1990s that continues to this day. It has resulted in the incarceration of thousands of Muslims, mainly on unproven charges of religious extremism. This ongoing, broad-brush approach in Uzbekistan could have serious consequences for Central Asia because, while the mass repression is an inadequate response to real security threats, it fuels popular anger and aids recruitment efforts by genuine terrorist groups.

U.S. policy in Uzbekistan focuses on that country's key position as a supply route for U.S. and NATO forces in Afghanistan via the Northern Distribution Network (NDN). In 2010, the United States expanded its security cooperation with Uzbekistan and several other Central Asian states to allow it to ship supplies overland through Central Asia to U.S. and international forces in Afghanistan, rather than through areas in Pakistan that are subject to constant Taliban attack. According to the U.S. Transportation Command, 40 percent of supplies for U.S. and NATO troops in Afghanistan are now shipped via the NDN. In 2011, U.S. Special Operations Forces were given permission to enter Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan on a "case-by-case" basis to conduct counter-terrorism operations, with permission from the host nation. Uzbekistan also has allowed U.S. soldiers to be transferred to Afghanistan via its military base in Termez where German troops are based.

The U.S. State Department has designated Uzbekistan as a "country of particular concern," or 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 the International Religious Freedom Act (IRFA) to allow for negotiations with the government of Uzbekistan on steps to improve religious freedom. These negotiations have not led to a binding agreement, despite the tolling of the long-past 180-day period.

The U.S. reliance on Uzbekistan for the NDN has led human rights groups to express concerns that the U.S. government may temper its criticisms of the Uzbek government and reduce its efforts to promote human rights in Uzbekistan in order to ensure the NDN's continued operation. The United States instituted Annual Bilateral Consultations (ABCs) with each of the Central Asian countries in December 2009. According to recent Congressional testimony of Assistant Secretary of State for South and Central Asia Robert Blake, the ABCs constitute "a face-to-face structured dialogue, based on a jointly developed, comprehensive agenda that facilitates candid discussions on the full spectrum of bilateral priorities,

including human rights, religious freedom, science and technology collaboration, economic development, defense cooperation, and any other issue that either side would like to bring to the table.” Despite Uzbekistan’s CPC status, during his discussion of the Uzbekistan ABC, Assistant Secretary Blake did not mention freedom of religion or belief, although he mentioned a few other human rights concerns.

Since 2003, under the FREEDOM Support Act, Congress has prohibited U.S. assistance to the Uzbek central government unless the Secretary of State determines and reports that Uzbekistan is making substantial progress in meeting human rights commitments, establishing a multi-party system, and ensuring free and fair elections. Since 2004, some U.S. aid to Uzbekistan has been withheld due to a lack of progress on democratic reforms. In 2008, Congress blocked Uzbek government officials from entering the United States if they are deemed to have been responsible for the events in Andijon or other human rights violations. In 2010, Congress permitted expanded International Military Education and Training (IMET) programs for Uzbekistan, consisting of courses stressing civil-military relations and military justice.

For Fiscal Year 2012, the State Department has requested \$1.7 million in Peace and Security assistance for Uzbekistan, including \$300,000 for IMET programs and \$380,000 for programs relating to security sector reforms. The total amount of the U.S. assistance requested by the Department of State for Uzbekistan for FY 2012 is \$11.8 million.

In its 2010 *Advancing Freedom and Democracy Report*, the State Department described the goals of U.S. democracy and human rights policy in Uzbekistan as “promoting human rights (particularly eradicating the use of torture in the investigative process and abuse in prisons); ending the government mobilization of forced and child labor during the annual cotton harvest; building political pluralism and a strong civil society sector; promoting freedom of religion and freedom of the press; encouraging transparent and accountable governance mechanisms at the local level; ensuring legal reform and accountability; and protecting the rights of vulnerable groups, including women, children, persons with disabilities, and refugees.” It also stated that “U.S. officials advocate with government counterparts in favor of democratic reform, human rights, religious freedom, and adherence to the rule of law.”

## **Recommendations**

USCIRF recommends that the U.S. government re-designate Uzbekistan as a CPC, drop the waiver, and, as a consequence of the designation, impose sanctions, including a ban on visits to the United States by high-level Uzbek officials. In addition, as described more fully below, USCIRF recommends that the U.S. government should prioritize freedom of religion or belief as an issue in U.S.-Uzbek bilateral relations, encourage greater international scrutiny of Uzbekistan’s human rights record, and support Uzbek human rights defenders and religious freedom initiatives.

### **I. Prioritizing Freedom of Religion or Belief as an Issue in Bilateral Relations**

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

- lift the waiver that has been 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;
- 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 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;
  - revising the 1998 Law on Freedom of Conscience and Religious Organizations to bring it into compliance with international standards, including making changes consistent with recommendations made by the Organization for Security and Cooperation in Europe (OSCE) Panel of Experts on Freedom of Religion or Belief, and 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 decision ending 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 visits by UN Special Rapporteurs on Freedom of Religion or Belief, the Independence of the Judiciary, and Torture, 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 monitor closely 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 human rights groups and religious communities to be allowed to register or to operate freely without registration;
- 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, and continue funding for the Voice of America (VOA) Uzbek Language Service;
- ensure that the U.S. Embassy in Uzbekistan maintains active contacts with Uzbek human rights activists and publicly recognizes their contributions;
- increase foreign travel opportunities for civil society activists, religious leaders, and others in Uzbekistan concerned with religious freedom so as to permit them to take part in relevant international conferences;
- work to develop effective assistance programs to encourage the creation of civil society institutions to protect human rights and promote religious freedom in Uzbekistan, including training in human rights, the rule of law, and crime investigation for police and other law enforcement officials, for example by:
  - expanding legal assistance programs for Uzbek relatives of detainees and 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
  - expand exchange programs for Uzbek religious leaders to include representatives from all religious communities;

--ensure that the U.S. Embassy vigorously protests if Uzbek authorities harass participants in such exchange programs after their return to Uzbekistan, and if such harassment continues, impose 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 religious communities, severely restrict and penalize independent religious practice, and brutally repress individuals and groups viewed as challenging its 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, intimidation, and heavy pressure to renounce their faith.

Given these ongoing and serious violations, USCIRF again recommends that Vietnam be designated as a “country of particular concern,” or CPC, in 2011. 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.

The Vietnamese government continues its policy of detaining prisoners of concern, and new evidence has surfaced of severe religious freedom abuses, including forced renunciations of faith, violence targeting religious communities, and new arrests of religious leaders and human rights defenders. 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, detentions, and violence. The Vietnamese government expanded efforts to curtail independent religious activity among both ethnic and religious minority groups during the reporting period.

**PRIORITY RECOMMENDATIONS:** The U.S. government should re-evaluate the diplomatic and political resources it employs to advance religious freedom and related human rights in Vietnam. U.S. policy and programs should protect and support those in Vietnam peacefully seeking greater freedoms and the rule of law. The U.S. government should view CPC designation as a flexible tool in spurring serious diplomatic engagement and achieving measurable improvements, while not hampering progress on other areas in the U.S.-Vietnam relationship. USCIRF recommends that any new U.S. economic or security assistance to Vietnam be coupled with new and sustainable initiatives in human rights and religious freedom and programs in non-commercial rule of law and civil society development. Additional recommendations and benchmarks for U.S. policy toward Vietnam can be found at the end of this chapter.

## Religious Freedom Conditions

### *Overall Human Rights / Religious Freedom Situation*

Vietnam's overall human rights record remains poor, and has deteriorated since Vietnam joined the World Trade Organization in January 2007. Vietnam is an authoritarian state ruled by the Communist Party. Over the past four years, the government has moved decisively to repress any perceived challenges to its authority, tightening controls on freedom of expression, association, and assembly. New decrees were issued prohibiting peaceful protest in property disputes, limiting speech on the Internet, and tightening controls on journalists and access to the internet at cafes. Numerous legal and political reform advocates, free speech activists, human rights defenders, labor unionists, land rights petitioners, journalists, bloggers, independent religious leaders, and religious freedom advocates were arrested, placed under home detention or surveillance, threatened, intimidated, and harassed.

Religious freedom conditions have not improved as quickly or as readily as have other issues in the U.S.-Vietnamese relationship. While the government has expanded the zone of toleration for legally-recognized religious communities to worship and organize, it continues a policy of control, suppressing independent religious activity and arresting and detaining individuals for publicly advocating for greater religious freedoms or engaging in independent religious activity, including, over a dozen members of the Hoa Hao and Cao Dai communities, Khmer Buddhist monk Thach Sophon, two Catholic residents of Con Dau village, and ethnic minority Protestants leaders in the Central Highlands. There are also an unknown number of ethnic minority Montagnards, including religious leaders, still detained after the 2001 and 2004 demonstrations for religious freedom and land rights. Other religious leaders who remain held under house arrest are Unified Buddhist Church of Vietnam (UBCV) Supreme Patriarch Thich Quang Do and Fr. Phan Van Loi.

The government restricts religious practices through registration requirements, harassment, official discrimination, surveillance, and intimidation. A special "religious police" unit (A41) monitors and sets policies toward groups the authorities consider "extremists," including ethnic minority and unregistered Protestants, Khmer Buddhists, some Mennonite church leaders, independent Hoa Hao and Cao Dai groups, some Catholic priests and orders such as the Co-Redemptorists, and Vietnamese Buddhists associated with both the UBCV and the Plum Village movement of Thich Nhat Hanh.

The Vietnamese government continues to sanction violence against religious communities. In 2009, the government forcibly disbanded the "Plum Village" Buddhist order, including allowing the beating, sexual degradation, and detention of monks. During the reporting period, in May 2010, nearly 60 Catholic residents of the village of Con Dau, near Da Nang in Central Vietnam, were arrested after conducting an "illegal" funeral ceremony on land the provincial government wanted to confiscate in order to build an eco-tourism resort. Six Con Dau residents were sentenced during Secretary of State Hillary Clinton's visit to Vietnam in October 2010.

The Vietnamese government continues to release and offer temporary parole to prisoners of concern. Fr. Nguyen Van Ly was granted one year of temporary medical parole in March 2010 after suffering two strokes in prison, but could be sent back to prison at any time. Human rights activist Le Thi Cong Nhan was released in March 2010 after completing a three-year prison term, but is now under house arrest. Lawyer and religious freedom advocate Nguyen Van Dai completed his prison sentence in March 2011 and is now serving three years of administrative detention, or house arrest. On a positive note, Mennonite leader Nguyen Thi Hong was released in June 2010, almost a year prior to the end of her prison sentence. She remains under house arrest orders.

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. Religious leaders in Hanoi and Ho Chi Minh City report fewer restrictions on their normal worship activities in recent years, and the government continues to support the building of religious venues and the training of religious leaders and has allowed some large religious gatherings and pilgrimages. Hundreds of new church leaders were trained in the past year through government-approved training programs and seminaries, and some religious groups, especially in the south, were able to conduct charitable activities. The government also offered training sessions to local officials on Vietnam's religion laws, though the content of that training remains problematic, particularly in the ethnic minority areas. 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 have been 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 allegedly seeking Montagnard autonomy face continued problems, including property destruction, detentions, beatings, and forced renunciations of faith—a practice banned in 2005. In addition, lingering property disputes over venues and facilities previously confiscated by the Communist government have led to church demolitions, property confiscations, detentions, and violence.

Religious freedom improvements often depended on geographic area, ethnicity, relationships with local or provincial officials, or perceived “political” activity. Most religious leaders in Vietnam attributed positive changes to the CPC designation and the priority placed on religious freedom concerns in U.S.-Vietnamese bilateral relations. When designated as a CPC between 2004 and 2006, Hanoi released prisoners, expanded certain legal protections for nationally-recognized religious groups, prohibited the policy of forced renunciations of faith, resulting 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, problems remained with the government's legal and policy framework for overseeing religious activity. There continues to be active suppression of independent religious activity, especially among ethnic minority populations and religious groups or individuals perceived as posing a political challenge to government authority. In addition, governmental efforts continued to stop the growth of Protestantism among ethnic minorities, including through discrimination, intimidation, and pressure. Buddhist and Hoa Hao groups that attracted a growing number of adherents were also subjected to violence, harassment, and detention. These problems remain acute during the reporting period.

#### *Implementation of Vietnam's Legal and Policy Framework on Religion*

The 2004 Ordinance on Religion and Belief requires religious groups to operate within government-approved parameters. The Ordinance promises fewer government intrusions in regular religious activities for those who succeed at gaining “national” legal status. However, the registration process is ill-defined and the Ordinance's implementation is problematic. Religious groups whose applications for registration are denied or who do not meet the Ordinance's vague standards are technically illegal and can be harassed or disbanded without warning. Some provincial officials ignore registration 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 lower levels of legal status, neither of which offers the same protections as “national” recognition. Communities obtaining the first level of recognition, “permission for religious operation,” report government intrusions in daily religious activity, such as requesting the names of congregants, interference in church leadership decisions, or limiting participation in and the scope of worship services.

Other 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 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, "sow division among the people, ethnic groups and religions" or "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 limit the organized activities of independent religious groups and individuals viewed as a threat to party authority on these grounds. There are reports that Vietnamese officials are considering revising the Ordinance on Religion and Belief, which would offer the international community an opportunity to engage Vietnam in ways to change its legal structure on religion so that it conforms to international standards.

Contrary to its provisions, local officials have told religious groups and visiting USCIRF delegations that the Ordinance's provisions do not apply in their provinces, which causes increased difficulties for religious groups. In the northwest provinces, there remain hundreds of applications for legal registration that have not been acted upon by government officials. In the past year, the government has formally indicated to the recognized Southern Evangelical Church of Vietnam (SECV) that it will no longer register any new meeting places in the Central Highlands.

The central government has also delayed implementation and enforcement of the Ordinance in ethnic minority areas and issued a training manual on religious groups in the northwest provinces 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 regarding measures to halt the growth of religious communities remains. Provincial officials continue to carry out the manual's recommendation to halt the growth of Protestantism.

A USCIRF delegation traveled to Vietnam in May 2009 and ascertained that new converts to Protestantism, mainly in ethnic minority areas, face official intimidation and discrimination if they do not renounce their faith (see later discussion under *Hmong Protestants: Northwest Provinces*). This tactic seems to be a policy developed and condoned by central government authorities and carried out in the provinces. There are also reports that similar tactics are used against new monks and nuns of Buddhist teacher Thich Nhat Hanh and individuals who frequent pagodas affiliated with the UBCV.

During the reporting period, 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, did not meet the Ordinance's criteria for "20 years of stable operation," or they were not affiliated with the government-approved religious organization.

For example, two unregistered Protestant churches in the city of Hue had their services raided and meeting points closed by police four times between December 2009 and June 2010. Local officials accused the pastors of violating the law by "gathering illegally." Both congregations had applied for registration and were denied. In January 2010 in Vinh Long Province, police disrupted and disbanded a religious education training seminar organized by the unregistered Good News Mission Church. The denomination had sought legal recognition several times since 2006 but was denied. The group was subjected to fines, a public denunciation session, and warned that further action could be taken because they had "gathered illegally."

The government continues to extend legal recognition to, and allows religious venues to affiliate with, officially-recognized religious groups including Buddhism, Islam, Catholicism, Protestantism, Hoa Hao, Cao Dai, Pure Land Buddhist Home Practice, Bani Muslim Sect, Threefold Enlightened Truth Path, Threefold Southern Tradition, the Baha'i Community, the Mysterious Fragrance from Precious Mountains, the Four Gratuities, and the Vietnam Christian Fellowship. In October 2009, the Assembly of God denomination was granted permission to operate, a 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 that there are no longer any "prisoners of concern." USCIRF contends that dozens of prisoners of concern remain in Vietnam, detained for either their religious activity or religious freedom advocacy. And, during the reporting period, at least four religious leaders and a legal advocate for the Catholic community of Con Dau were arrested and detained. Along with those incarcerated, over a dozen religious leaders are being held under long-term administrative detention, including United Buddhist Church of Vietnam (UBCV) leader Thich Quang Do, Catholic Fr. Phan Van Loi, and Protestant Nguyen Van Dai and Le Thi Cong Nhan. 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 ample evidence to conclude 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 deciding whether Vietnam should be designated as a CPC.

Over the past several years, Montagnard Protestants have been subject to a number of short-term detentions, disappearances, and mistreatment in custody. According to Human Rights Watch, as many as 70 people were detained in 2010 in the Central Highlands, many for conducting "illegal" religious services. In November 2010 in Phu Yen Province, two leaders affiliated with the Good News Mission Church, Ksor Y Du and Kpa Y Ko, were sentenced for "undermining national unity" allegedly for being part of anti-government organizations. Ksor Y Du was reportedly handcuffed and dragged behind a motorbike to the police station and both men were repeatedly tortured in prison in order to elicit a confession. In addition, family members were asked to provide evidence against the two religious leaders in exchange for money and food, but refused.

During the reporting period, authorities in Tra Vinh, Soc Trang province defrocked and arrested Khmer Buddhist abbot Thach Sophon. He was sentenced in September to a nine-month suspended sentence and remains under house arrest. The situation of the Khmer Buddhists has been an underreported problem in Vietnam, particularly in the State Department's Religious Freedom report which has reported arrests of Buddhist monks for peacefully protesting religious freedom restrictions only after the monks were freed and deported.

According to public documents, a leader of an unrecognized sect of the Cao Dai faith was convicted for "slandering an on-duty official" in May 2010. According to the State Department, the priest was arrested in November 2009 after criticizing several police officers for breaking up a public protest against the government-sanctioned Cao Dai Administrative Board.

Four Catholic residents of Con Dau village were given suspended sentences in October 2010 for public protests against the banning of burial ceremonies on land the government wanted to buy to build an eco-tourism resort. Two villagers continue to serve sentences ranging from nine months to one year. The

Vietnamese government also sentenced human rights defender Cu Hu Va Huy to seven years' imprisonment in April 2011 under vague national security crimes. Cu Hu Va Huy was arrested soon after he took on the land dispute case of the Con Dau villagers.

Fr. Nguyen Van Ly was granted a one-year medical parole in March 2010 after suffering several strokes in prison. He can be returned to prison once his health improves or anytime after March, 2011. A USCIRF delegation was allowed to meet with Fr. Ly in May 2009. 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.

### *Buddhists, Hoa Hao, and Cao Dai*

The government continues to discourage independent Buddhist religious activity and refuses legal recognition for 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 typically 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 overall religious freedom conditions have improved in Vietnam, given that these groups, along with the ethnic minority Khmer Buddhists, represent the largest number of religious adherents in Vietnam.

### *Unified Buddhist Church of Vietnam (UBCV)*

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 for appealing to the government to respect religious freedom and related human rights. Senior UBCV monks, including the Most Venerable Thich Quang Do, with whom USCIRF delegations met in 2007 and 2009, remain under some form of administrative probation or pagoda arrest. Charges issued in 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. Government officials have taken steps to make sure that government-affiliated monasteries do not affiliate overtly with the UBCV. 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.

UBCV adherents also experience harassment and intimidation. During its visits to Vietnam, USCIRF 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 see their children expelled from school. The government has actively sought to suppress the activities and growth of the Buddhist Youth Movement.

There are continued reports of harassment and disbandment of religious ceremonies and other activities conducted by UBCV monks. Police 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 May 2010, 300 followers were denied entry into the Giac Minh Pagoda for *Vesak* celebrations. The UBCV in Da Nang was prohibited by police from holding Vesak Day celebrations to honor Buddha's birthday. In Ho Chi Minh City, the UBCV experienced an overall decrease in interference by government officials during the reporting period but experienced heightened police observation during *Vesak* activities. Police monitored the celebrations on May 28 at the Giac Hoa and Lien Tri pagodas but did not intervene. UBCV officials claimed attendance by followers at the celebrations was lower than normal due to the increased police presence. Some followers stated that they were questioned by police officers after celebrations at the Lien Tri pagoda.

### *Hoa Hao and Cao Dai*

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. The State Department continues to report repression of independent groups that includes 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 rituals, celebrations, funerals, and the selection of religious leadership, even of government-approved organizations. In addition, the government rejected the Cao Dai charter drawn up before the 1950s, has refused to allow the community to maintain its own independent source of income, and seized, without compensation, 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." 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 regime. 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 and sacred properties confiscated or destroyed, and individual followers faced discrimination and loss of jobs. Since 2005, 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.

Police regularly discouraged worshipers from visiting temples and facilities affiliated with the unrecognized Pure Hoa Hao Church in An Giang, Vinh Long, Dong Thap, and Can Tho, especially on church holidays related to the lunar calendar and the anniversary of the death of the founder of Hoa Hao Buddhism.

### *Khmer Buddhism*

The Vietnamese government's ongoing repression of the language, culture, and religion of ethnic Khmer living in Vietnam has led to rising resentment in the Mekong Delta, where as many as one million ethnic minority Khmer Buddhists live. Khmer Buddhism is associated with the Theravada branch and has religious and ethnic traditions distinct from the dominant Mahayana Buddhist tradition practiced in most 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.

Long-simmering tensions emerged in 2007, as Khmer Buddhist monks in Tra Vinh and Soc Trang provinces peacefully protested government restrictions on their freedoms of religion and movement and Khmer language training. The monks objected to the government's restricting the number of days allowed for certain Khmer religious festivals and called 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 soon began arresting monks suspected of leading the protests; some reportedly were beaten during interrogations. At least 20 monks were defrocked and expelled from their pagodas, and five suspected of leading the demonstrations were sentenced to between one and five years in prison. Defrocked monks were sent home to their villages, where they were placed under house arrest or police detention.

In interviews with USCIRF, the monks described severe restrictions on the religious life of Khmer Buddhists. They claimed that they had applied to hold a demonstration in advance, and contrary to government views, it was not 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 a full year.

The Vietnamese government, through the VBS, began an academy in 2008 that focused on Theravada Buddhism and allowed for the possibility of lengthier ordination ceremonies. In addition, the government expanded the Pali language school in Soc Trang Province, the site of the demonstrations. However, it is unclear whether these actions will be sufficient to address long-standing grievances over religious restrictions, land confiscation, and discrimination based on ethnicity.

#### *Crackdown on the Lang Mai Buddhists of Bat Nha Monastery*

In September 2009, after months of government harassment, over 300 Lang Mai (Plum Village) Buddhist monks and nuns, followers of the well-known Zen Master Thich Nhat Hanh, were forcibly removed from Bat Nha monastery in Lam Dong province. The government took action to disband the order after Thich Nhat Hanh called publicly on the government to release all political prisoners, disband the “religious police,” and establish an “independent Buddhist church” not connected to politics.

Monks were reportedly beaten, degraded, and sexually assaulted, and two senior monks, Phap Hoi and Phap Sy, were detained. Over 200 Buddhist monks and nuns sought temporary refuge at the nearby pagoda of Phuoc Hue; three months later, the government forcibly evicted all 400 monks and nuns residing at Phuoc Hue. A senior monk at another Lang Mai meditation center in Khanh Hoa province went into hiding to avoid arrest. Two hundred Lang Mai followers left to seek asylum in Thailand and, as of the end of the reporting period, were seeking religious worker visas to reside in the United States, 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. Thousands of Vietnamese attended Buddhist ceremonies, lectures, and monastic retreats led by Thich Nhat Hanh and other senior monks, and the Bat Nha monastery grew quickly, drawing hundreds of novices and young people to study

from all over Vietnam. However, this became increasingly threatening to government officials and the leadership of the government-approved VBS.

### *Montagnard Protestants: Central Highlands*

In parts of the Central Highlands, religious freedom conditions overall have improved since Vietnam was designated a CPC in 2004, particularly for those churches and meeting points affiliated with the SECV in Gai Lai province. The government tolerates religious activity within approved parameters, has reopened closed religious venues, granted permission for some religious training classes, and facilitated the building of new churches in the region. The State Department reports that conditions are best in Gai Lai province, where SECV officials have established working relationships with provincial officials.

New problems have emerged even within the legally-recognized SECV. The Committee on Religious Affairs has issued a directive saying that no new “meeting points” would be allowed to register with the SECV, meaning that the government will no longer allow small house churches to grow and join established churches. While registration of meeting points was apparently supported by the 2005 Prime Minister’s Special Instruction Regarding Protestantism, it is now said to have been a temporary concession. Religious leaders in Vietnam have interpreted the new instructions as an attempt to stop or control the growth of Protestantism among Montagnards. Gathering together in a new “meeting point” would be illegal.

Unrecognized religious groups in the Central Highlands continue to face severe restrictions, land seizures, discrimination, destruction of property, and other egregious religious freedom abuses that target independent or unregistered Protestant religious communities. In particular, in Dak Lak province, the government actively harassed independent Protestant groups refusing to join the SECV or suspected of affiliation with the banned *Tin Lanh Dega* (Dega Protestant Church), which the government believes advocates for political autonomy. A 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.” Interviewees unanimously expressed suspicion of the SECV, as an organization led by Vietnamese and controlled by the Vietnamese government.

According to a 2011 Human Rights Watch report, provincial officials in Gai Lai and Dak Lak provinces have expanded their campaign to suppress independent religious activity, effectively seeking to wipe out the *Tin Lanh Dega*. Beating deaths and disappearances of Montagnards suspected of being part of the *Tin Lahn Dega* are the most egregious abuses of religious freedom and related human rights occurring in the Central Highlands. Human Rights Watch and the European Parliament claim that 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 on suspicion of inciting demonstrations, though his family claims that he was organizing a group to seek asylum in Cambodia for reasons including religious persecution. In the past year, there were no new developments related to the 2006 and 2007 deaths in police custody of Y Ngo Adrong and Y Vin Het or the 2008 disappearance of Puih H’Bat, who was arrested with 11 others for conducting an illegal prayer service in her home in Chu Se district, Gai Lai province--an area where there has been many protests over land rights and religious freedom abuses.

Individuals and churches affiliated with Pastor Nguyen Cong Chinh, including the Vietnam People’s Christian Evangelical Fellowship Church (UKCC-VPCEF) and the Evangelical Lutheran Church, faced harassment and intimidation from local officials, in part because of Pastor Chinh’s public criticism of the government’s policies. In 2010, the Evangelical Lutheran Church reported that a congregation in Binh

Phuoc Province was harassed by police and prevented from celebrating Easter services. These denominations do not have legal recognition.

Village-level authorities across Vietnam also have cut off ethnic minority Protestants' access to funding and benefits originating with the government and non-governmental organizations (NGOs), including housing and medical assistance programs, which village authorities mediate. Children reportedly have been denied access to high school based on outdated laws prohibiting entrance of children from religious families. 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 begun allowing 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 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 cited the "genuine need" for religion in the northwest provinces, opening the way for legal recognition of at least some religious activity in the region. However, government policy seems focused on making sure that "new" religious growth is controlled and "new" converts discouraged. 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, 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, confiscating property, 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.

During the USCIRF delegation's 2009 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 Sung Cua Po, a Hmong Protestant, after he converted to Christianity in November 2009. Before his arrest, police incited local villagers to harass and stone his house and 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.

Several small house churches affiliated with the Inter-Evangelistic Movement (IEM) continued to report difficulties in several locations in Dien Bien Province, where police in past years actively broke up meetings of worshippers, local authorities refused to register IEM meeting points, and authorities pressured followers to abandon their faith.

The legal rights of ethnic minority Protestants in northern Vietnam have been impaired by the refusal of the competent authorities to issue them identity cards that recognize their religious affiliation. Without proper recognition of their Protestant status, they are left in an indeterminate and vulnerable position: either they have no identity card, or the fact that they are identified as subscribing to no religion may be used to prevent their attendance at churches.

Also, the government continues to deny publication of religious materials and Bibles in the Hmong language, despite approving printing of religious materials in other ethnic minority languages. This has led to beatings, fines, and brief detentions of those who transport Hmong language materials. For example, in March 2011, in Dien Bien province, a Hmong Protestant leader was briefly detained and the Bibles he was carrying were confiscated. He was warned to not transport “illegal materials.”

### *Forced Renunciations of Faith Remain a National Policy*

The practice of forced renunciations of faith was officially banned by Decree 22 which states that “acts to force citizens to follow a religion or renounce their faith...are not allowed.” The Vietnamese government hailed this prohibition as a major concession when they were designated as a CPC in 2004. The number and intensity of the government’s campaigns of forced renunciation have decreased in the past decade. Nonetheless, there continue to be reports of forced renunciations of faith, specifically targeting ethnic minorities. Moreover, these efforts are not isolated cases, but are sanctioned by central government authorities to thwart both the growth of Protestantism in the northwest provinces and independent religious activity in the Central Highlands.

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 then, USCIRF has received two new versions. Neither, however, offers much improvement on the original. In the 2007 revision, provincial officials are still told 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 is a threat that officials must combat. 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 meeting places. Local officials are instructed that these meeting places “must be...disbanded.” These

instructions are inconsistent with Vietnam's international obligations to protect freedom of religion and belief and can be read as instructions to abuse and restrict religious freedom.

There are multiple instances in 2010-2011 of local officials in Dien Bien province pressuring Protestants to renounce their faith through fines, beatings, threats of property confiscation and expulsion, and even death threats. For example, in June 2010, several Hmong Protestants from Trung Phu village, Na Son Commune, Dien Bien Dong district, Dien Bien province were threatened with death and beaten severely unless they renounced their faith. Also in June 2010, 25 individuals from Ban Xa Fi #1, Xa Xa Tong, Huyen Muang Dien Bien Dong, Dien Bien province were threatened with confiscation of property and beatings unless they gave up Protestantism. The leader of the local congregation was driven from his home and relocated to another village. Authorities continue to harass and intimidate the villagers.

In March 2011, 21 people belonging to an unrecognized Protestant church in Pha Khau Village, Phinh Giang Commune, Dien Bien Dong district, Dien Bien Province, were threatened with property confiscation and forced relocation unless they stopped meeting to worship. The individuals refused and authorities continue to harass and intimidate them. Also in March 2011, Hmong Protestants leaders who started an unrecognized congregation in Ha Tam village, Muong Ba commune, Tua Chua district, Dien Bien province were detained and interrogated by local authorities. They subsequently were expelled from the district. The "new" converts in Ha Tam village were threatened and ordered to renounce their faith.

According to a recent Human Rights Watch report, there also is an extensive campaign of forced renunciation of faith going on in the Central Highlands, centered in Gai Lai province, but including parts of Dak Lak and Kontum provinces as well. The campaign is aimed at halting independent religious activity, particularly by the Tin Lanh Dega, which the government views as a front for a long-disbanded resistance movement. There were reports that in 2010 in Gai Lai alone, hundreds of Dega Protestants renounced their faith after official pressure. In addition, according to published reports and interviews with individuals in Vietnam, these efforts have broadened in the past several years beyond Protestants to the "Ha Mon" Catholic groups found in Kontum.

### *Catholics*

The relationship between the Vietnamese government and the Catholic Church continues to be tense in parts of Vietnam. Catholicism continues to grow rapidly, and the church has expanded both clerical training and charitable activities in recent years. However, in the past several years, including in 2010, police have used tear gas and batons against, and have detained, participants at peaceful prayer vigils at properties formerly owned by the Catholic Church. In addition, government officials have employed "contract thugs" to assault and intimidate Catholics attending these prayer vigils.

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. The government alleged that the crucifix was illegally erected. Police held back Catholic laypeople who came to the site and beat several for protesting the action. In February 2010, police assaulted, harassed, and in one case briefly detained Catholic laypeople and nuns who traveled to the Dong Chiem site to join peaceful prayer vigils. Reportedly, not all Vietnamese government officials condoned the destruction of the crucifix. The local government in Dong Chiem released a statement disagreeing with the action.

In Da Nang in May 2010, police clashed with local Catholics at a cemetery in Con Dau village. Residents of this village faced government-organized harassment, detention, torture, and arrest for refusing to sell or vacate land – including a long-standing religious burial site that has been in their village for 135 years – to create an eco-tourist resort. In response to the villagers disobeying an order to cease burials in a cemetery the villagers refused to sell, police used force to break up a peaceful funeral procession. As

many as 60 people were detained. Those taken into custody report beatings, sleep deprivation, and forced confessions. Eyewitnesses also claim that Mr. Nam Nguyen, a Con Dau resident who died after being in police custody, was healthy and working the day before he died. Six Con Dau residents were detained for over six months before being put on trial, without legal representation, on charges of inciting riots, falsely accusing the government, and inciting attacks on state officials. In October 2010, the judge gave a one-year sentence to one of the villagers, a nine-month sentence to another, and suspended nine-month sentences to the remaining four.

Despite these 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. 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. 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, in 2009 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 to engage in some sizeable medical and charitable activities. Hundreds of new priests were trained in seminaries to meet a growing Catholic Church in Vietnam.

### *Human Rights Defenders*

The Vietnamese government continues to harass, threaten, intimidate, detain, and sentence lawyers and human rights defenders who have assisted religious communities or religious freedom advocates in cases against the state.

- In April 2011, human rights defender Cu Hu Va Huy was given a seven-year sentence under vague national security laws for his activities defending victims of land confiscation and abuse of power, including representing the Catholic villagers of Con Dau. He was arrested in November 2010, after his law firm took on the Con Dau villagers' case in October, and issued public letters and gave interviews to foreign press.
- In January 2010, human rights 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.
- 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 through the Internet an essay on democracy downloaded from the Web site of the U.S. Embassy in Hanoi.
- In April 2011, Hanoi lawyer Le Quoc Quan was detained for seeking to attend the trial of Cu Huy Ha Vu. His law license previously had been revoked, allegedly because he was under investigation for assisting in the protests at former Catholic church properties, 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.

- Pastor Nguyen Trung Ton, the head of the Full Gospel Church in Thanh Hoa Province, and a close friend of human rights defenders Le Thi Cong Nhan and Do Nam Hai, reported repeated harassment and beatings by police. Local officials and “contract thugs” raided his congregations, detaining and mistreating church members. Despite Pastor Ton's repeated requests, security officials have not investigated these attacks. A USCIRF delegation met with Pastor Ton in May 2009.
- 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 register legally. Nguyen Thi Hong was released in June 2010.

## **U.S. Policy**

The U.S.-Vietnamese relationship has 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 the return of the remains of Americans who died during the Vietnam War. 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).

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 non-proliferation. The countries cooperate on counter-narcotics 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.

Vietnam’s suppression of political dissent and religious freedom continues to be a source of bilateral contention. During two visits to Vietnam in 2010, Secretary Clinton raised publicly the “differences” that exist between the United States and Vietnam on human rights, citing “violence against religious groups” as a particular problem. Nonetheless, U.S. officials continue to stress that there has been improvement of religious freedom conditions in Vietnam while citing an overall deterioration of human rights.

In the past, the State Department has maintained that one of the reasons Vietnam’s CPC designation was lifted was the lack of any “prisoners of concern.” The State Department will only consider when evaluating religious freedom conditions persons who are arrested “for reasons connected to their faith.” This narrow definition excludes anyone arrested or detained for peaceful public advocacy to protect religious freedom, including expressing support for the legal or political reforms needed to ensure it, or those who defend vulnerable religious leaders or religious freedom advocates in court. The State Department’s criterion also excludes those who monitor the freedom of religion and are arrested or otherwise punished for publishing 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. This approach runs counter to the fact that in all the most recent cases of arrest, detention, and imprisonment, religious leaders or religious-freedom advocates engaged in legitimate activities 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 advocate peacefully 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.

The U.S. government has committed over \$125 million dollars in economic assistance to Vietnam for the current fiscal year, the bulk of which goes to fund an HIV/AIDs program. 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 over 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 United States to study in the past decade

## **Recommendations**

In addition to designating Vietnam as a CPC, USCIRF recommends that the U.S. government press for immediate improvements to end religious freedom abuses, ease restrictions, and release prisoners of concern; establish new priorities for assistance and refugee programs; and take specific actions through Congress to further the cause of religious freedom and related human rights in Vietnam. USCIRF also recommends that the State Department implement a wider definition of “prisoners of concern,” and that any increases in U.S. economic or security assistance to Vietnam be coupled with new and sustainable initiatives in human rights and religious freedom and additional programs in non-commercial rule of law and civil society development.

### **I. Pressing for Immediate Improvements to End Religious Freedom Abuses, Ease Restrictions, and Release Prisoners**

In both its bilateral relations and in multilateral fora, the U.S. government should urge the Vietnamese government to:

#### *Prisoner Releases*

- release or commute the sentences of all religious prisoners of concern, including those imprisoned or detained on account of their peaceful advocacy of religious freedom and related human rights including, among others, 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 conform to international norms regarding 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 abusive 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;
- revise or repeal ordinances and decrees that empower local security police to arrest, imprison, or hold 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 politically 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 crimes; 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 permit a separate Hoa Hao organization, such as the Hoa Hao Central Buddhist Church, to organize legally and operate with the same privileges as the Administrative Council;
  - allow Cao Dai leaders opposed to the Cao Dai Management Council to form a separate Cao Dai organization with management over its own affairs; and
  - allow Protestant house church groups in the Central Highlands, central coast, and north and northwest provinces to organize independently and without harassment, and 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 permit the rebuilding of the Hoa Hao Buddhist Library in Phu Tan, An Giang province;
- approve the registration applications of all 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 regarding 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 strictly 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 and 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:

- fully implement or re-authorize 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 to ensure that 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 (UNHCR) and other appropriate international organizations as they seek unimpeded access to the Central Highlands in order to monitor voluntarily repatriated Montagnards consistent with the Memorandum of Understanding (MoU) signed on January 25, 2005 between the UNHCR, Cambodia, and Vietnam;
- 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 may join a functioning religious community in the United States until their order in Vietnam is re-established.

### **III. Recommendations for U.S. Congressional Action**

#### **The U.S. Congress should:**

- ensure that any 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;
- 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 at least should be 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: The Commission's Watch List

### Afghanistan

**FINDINGS:** Conditions for religious freedom remain exceedingly poor for minority religious communities and dissenting members of the majority faith, despite the presence of U.S. armed forces in Afghanistan for almost 10 years and the substantial investment of lives, resources, and expertise by the United States and the international community. The 2004 Afghan constitution has effectively established Islamic law as the law of the land. Afghan jurists and government officials do not view the guarantees to human rights that come later in the document as taking precedence. Individuals lack protection to dissent from state-imposed orthodoxy, debate the role and content of religion in law and society, advocate for the human rights of women and members of religious minorities, or question interpretations of Islamic precepts. The government has prosecuted individuals for religious “crimes” such as apostasy and blasphemy in violation of international standards. In addition, the Afghan government remains unable to protect citizens against violence and intimidation by the Taliban and other illegal armed groups.

Based on these concerns, USCIRF in 2011 again places Afghanistan on its Watch List. The Commission will closely monitor these negative trends to determine whether conditions of freedom of religion or belief rise to a level warranting the country's designation as a “country of particular concern,” or CPC. Afghanistan was first placed on the Commission's Watch List in 2006. Earlier in 2000 and 2001, USCIRF 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.

Despite gains in human rights since the ouster of the Taliban regime in late 2001, conditions for religious freedom remain problematic. The Afghan constitution fails explicitly to 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 the tenants of Islam. Individuals who dissent from the prevailing orthodoxy regarding Islamic beliefs and practices are subject to legal action. In the past year, the small and vulnerable Christian community experienced a spike in government arrests, with Christians being detained and some jailed for the “crime” of apostasy. At the same time, the minority Hazara Shi'a community experienced greater freedoms to hold public religious festivals without incident. Gains for women's human rights remain tenuous and reversible. Violence and intimidation by the Taliban and other insurgents poses a serious threat to the human rights of all Afghans. Serious concerns exist about the potential implications for human rights protections in the efforts at national reconciliation with the Taliban and other insurgents.

**PRIORITY RECOMMENDATIONS:** Promoting religious freedom and religious tolerance should be an integral part of U.S. strategy, particularly as the government of Afghanistan pursues a peace or reconciliation process with anti-government insurgents. U.S. policy has not prioritized freedom of religion or belief in Afghanistan. U.S. engagement has been reactive and has not effectively engaged the underlying dynamics that continue to lead to religious freedom abuses. USCIRF recommends that the U.S. government: clearly state its concern that guarantees ensuring religious freedom and religious tolerance are an essential element in U.S. policy in Afghanistan; include a special working group on religious tolerance in U.S.-Afghan strategic dialogues; use its influence to support those who advocate respect for freedom of religion or belief; increase efforts to ensure that the formal judicial sector upholds international standards of human rights; 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

### *Governing and Legal Framework*

The United States and international community have placed great emphasis on the 2004 Afghan constitution, particularly its language guaranteeing women's human rights and incorporating international standards. However, contrary to international standards, the constitution does not explicitly protect the right to freedom of religion or belief for every Afghan. It only provides that "followers of other religions [than Islam] 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 not be deprived of life and protections for 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 empowering the judicial system to enforce the repugnancy clause and to apply Hanafi sharia (Islamic) jurisprudence 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."

In effect, the constitution has been interpreted to establish Islamic law as the law of the land. The text of the constitution tried to balance rights and religious law, but recent interpretations and application have prioritized a strict interpretation of Islamic law over human rights guarantees, and have resulted in abuses. During a December 2010 visit by USCIRF staff to Kabul, government ministers and government-backed religious leaders repeatedly explained that Islamic law trumped the constitution's human rights provisions, as those references come later in the document and do not take precedence.

This widely-held interpretation of the constitution is problematic on a number of fronts, the foremost being possible negotiations with insurgents. The United States and President Hamid Karzai have made respecting the constitution a nonnegotiable plank in the peace talks with anti-government elements. While positive on the surface, given that the constitution's undefined notions of Islamic law are considered to supersede human rights guarantees, this could seriously undermine religious freedom and women's human rights in the country. In other words, any potential peace deal could therefore be meaningless insofar as it relates to protection of human rights.

Afghanistan's system of government involves religious leaders in reviewing laws and recommending government action. The Supreme Court maintains a special office staffed by clerics, the General Directorate of Fatwa and Accounts, which issues official fatwas on religious issues. Foremost is the Kabul-based Ulema Council, a group of influential and mainly Sunni scholars and imams, which advises President Karzai on legal and religious issues. The body is nominally independent, but members receive financial support from the government. In August 2010, the Ulema Council voted to demand that President Karzai implement sharia law nationwide. In discussions with USCIRF staff in Kabul, Council representatives said that sharia does not require corporal punishments, such as stoning, but peace and women's rights. However, sharia law punishments, such as stoning, were used by the Taliban during their rule. At the end of the reporting period, the Council's recommendation had not been acted upon.

In the judicial branch, the constitution requires that the chief justice be an expert in Afghan law and Islamic jurisprudence. The Supreme Court also maintains a General Directorate of Fatwas and Accounts. Staffed by Islamic scholars and imams, the body advises the court on issues of state and religion and issues fatwas in response to questions received. The Ministry of Hajj and Islamic Affairs oversees imams paid by the government and is responsible for sending Afghans on the hajj. The Ministry of Education has also attempted to implement curriculum reforms for the country's madrassas, with limited success. The Afghan National Army also has the equivalent of Muslim chaplains called Religious and Cultural Affairs officers.

The demands of influential religious leaders have limited freedom of expression in the country. In 2007, the Ulema Council voted to urge President Karzai to limit freedom of expression, so as to “safeguard our national honors and Islamic values.” 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 vetoed the bill, but the bill was passed with a two-thirds majority and was promulgated in the national gazette in September 2009. At the end of the reporting period, there were no reports of prosecutions under the law. Nevertheless, media outlets, including radio and television journalists, face pressure due to the passage of the law and by societal actors who object to particular content.

### *Continuing Security Problems*

The security situation continues to be serious, exacerbating the religious freedom and human rights problems in many parts of the country. 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 International Security Assistance Forces (ISAF), which is comprised of NATO forces plus forces from 20 other nations. Al-Qaeda terrorists and Taliban insurgents continue to stage attacks inside Afghanistan, posing an ongoing threat to the stability of the country. Attacks have included bombings of Islamic religious sites – for instance, insurgents bombed a mosque in the capital of Takhar province in October 2010, killing the provincial governor and 12 other worshippers. In some areas of Afghanistan, the Taliban administer a virtual parallel state, based on their interpretation of Islamic law and custom and in contrast to the protections found in the Afghan constitution. Some Afghans reportedly prefer Taliban courts, which they view as less corrupt than government ones.

However, Al-Qaeda terrorists and Taliban insurgents are still associated with political killings, torture, coercion to enforce social and religious conformity, and abuses against women and girls. For instance, in August 2010, Taliban members ordered the stoning to death of a young couple for eloping in Konduz Province. In addition, in April 2009, Sitara Achakzai, a member of Kandahar’s provincial council and an outspoken human rights defender, was shot and killed by two unidentified attackers. While two men were arrested by the Interior Ministry, no one has been prosecuted for the murder. The substantial disregard for human rights presents a persistent danger to the establishment of democracy and the rule of law throughout Afghanistan, and constitutes a serious security threat.

### *State Enforcement of Religious Conformity against Dissenting Muslims*

The absence of a constitutional guarantee of the individual right to freedom of thought, conscience, and religion and the empowerment of state-backed religious leaders to interpret arbitrarily, and the judicial system to enforce, undefined Islamic principles and sharia law have permitted the official imposition of harsh, unfair, and at times even abusive interpretations of religious orthodoxy. As a result, Afghans cannot debate the role and content of religion in law and society, advocate for the rights of women and religious minorities, or question interpretations of Islamic precepts without fear of retribution or being charged with religious “crimes” such as apostasy, blasphemy, or insulting Islam. In meetings with USCIRF staff in Kabul in December 2010, Afghan government officials repeatedly cited religious law when justifying the state’s actions that limit religious freedom and basic human rights.

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. Another blasphemy case similarly ended with a presidential pardon and the release of three prisoners in March 2010. In that case, a court in Kabul in September 2008 sentenced 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 religious scholars on the Ulema Council 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.

These cases demonstrate the inadequacies of the Afghan constitution’s human rights provisions and the willingness of state actors to enforce their alternative understanding of Islamic principles in ways that undercut the basic human rights guarantees of the constitution and Afghanistan’s international treaty obligations on human rights. They also 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 insecurity, a lack of basic infrastructure, massive corruption, an 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.

### *The Shi’a Muslim Minority*

The situation of Afghanistan’s Shi’a Muslim minority has improved markedly since the end of Taliban rule, when its members were severely persecuted due to religious and ethnic differences. Most Shi’a Afghans are from the Hazara ethnic group and comprise between 10 to 19 percent of the population. Hazaras have traditionally been harshly discriminated against and segregated from the rest of society for a combination of political, ethnic, and religious reasons.

During the reporting period, Shi’a Muslims were able to perform their traditional *Ashura* public processions and rituals in Kabul without incident or hindrance. USCIRF staff saw large, temporary commemorative gates set up throughout Kabul in December 2010, and Shi’a Muslims with flags flying from their cars or motorcycles were a common sight. Hazara Shi’a Muslims participate fully in public life, including in parliament and in senior positions in the Karzai government. While the September 18 elections for the lower house of the Afghan parliament were criticized for fraud, 59 of 249 parliamentary seats were given to Hazara Shi’a Muslims. In addition, four Ismaili Muslims, followers of a branch of Shi’ism, were also elected. Afghanistan’s Second Vice President, Abdul Karim Khalili, is a member of the Hazara Shi’a Muslim minority. Dr. Sima Samar, head of the Afghanistan Independent Human Rights Commission (AIHRC), is also a Hazara Shi’a Muslim. The former Minister of Justice, Sarwar Danesh, is a Hazara Shi’a Muslim, the first of that community to hold that post. There were also reports that during the reporting period the Ministry of Information closed a radio station for two months, as punishment for programming that incited violence against Shi’a Muslims.

The constitution provides that Shi’a law will be applied in cases in which both parties are Shi’a Muslims. The government’s efforts in 2009 to further accommodate Shi’a practices with the adoption of a Shi’a family law proved controversial, however, due to provisions that many Afghan and international observers believed to be contrary to constitutional guarantees of equal rights for women, particularly in regard to women’s rights in marriage.

Despite the overall improvement for the status of the Shi’a Muslim community, its members are still threatened by insurgents. In June 2010, the decapitated corpses of 11 Hazara males were discovered in the Khas Oruzgan district of Oruzgan province. Police officials reported they were killed by the Taliban “because they were ethnic Hazaras and Shiite Muslims.” There also are claims of forced expulsions of ethnic Hazaras and Tajiks from areas controlled or conquered by the Taliban, as well as harassment of these minorities throughout Taliban-controlled areas.

### *Non-Muslim Minorities*

As previously discussed, Afghanistan's 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." However, the Afghan constitution also declares that no law can contradict the beliefs and provisions of Islam, declares Islam the sole religion of the state, and restricts access to various public offices to Muslims. The media law prohibits the propagation of any religion other than Islam, and other laws, such as those pertaining to marriage, also discriminate against religious minorities. Marriage is formally restricted to Muslims; non-Muslims can marry as long as they do not publicly express their faith. The penal code permits the courts to defer to sharia in cases involving matters that neither the penal code nor the constitution explicitly address, such as apostasy and conversion, resulting in those charges being punishable by the death penalty. While the Afghan state has not executed anyone for apostasy, there were two known cases during the reporting period of non-Muslims being prosecuted for apostasy and potentially facing death sentences – Said Musa and Shoaib Assadullah (see below).

The few Afghan Christians, converts from Islam or their children, have long been forced to conceal their faith and are unable to worship openly. The situation for Christians deteriorated further in the past year, after a May 2010 broadcast by Noorin TV showed Afghans being baptized. This broadcast set off a firestorm of criticism from the conservative religious establishment, and President Karzai then stated that his ministries would track down converts. Reportedly, 20 individuals were arrested. All were released soon after, except Said Musa. Musa was detained in a Kabul prison for six months before being quietly released due to U.S. and international pressure. Musa was reported to have fled the country with his family. After the May television broadcast, the Afghan government also suspended the operations of two Christian relief groups on charges of proselytizing. Both groups rejected these assertions and reportedly have been allowed to continue their work in the country. Shoaib Assadullah was arrested in late October 2010 and was been imprisoned in Mazar-i-Sharif for six months, after being accused of giving a Bible to a friend.

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. Hindus and Sikhs are allowed to practice their faith and have places of public worship. USCIRF staff was able to visit a Hindu temple in Kabul, located on a major road and next to a mosque. However, Hindu leaders have complained about difficulties in finding locations to erect funeral pyres, and Hindus and Sikhs are effectively barred from most government jobs and face societal hostility and harassment.

Members of Afghanistan's small Baha'i community 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.

### *Women's Human Rights*

The Taliban regime severely and egregiously violated the human rights of women. Women were completely excluded from all forms of public life, including from jobs as teachers, civil servants, and journalists. Since the ouster of the Taliban, the status of women has improved, but the gains are tenuous and reversible. Women's progress in the public sphere remains threatened both by the Taliban's resurgence and by the strong influence of religious traditionalists. Women who seek to engage in public life are often condemned as "immoral" and targeted for intimidation, harassment, or violence by the Taliban or other extremists.

The Afghan government has undertaken a number of efforts to protect women's human rights. Afghanistan has a constitutional provision on gender equality and acceded without reservation in 2003 to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In the November 2010 NATO summit declaration, the government of Afghanistan reaffirmed its commitment to "respect for human rights, in particular the rights of women." During discussions with USCIRF staff in December 2010, virtually all government interlocutors, including government-backed religious leaders, made a point of citing the protection of women's human rights as a priority for the country. Their willingness to back up words with action was less clear.

The constitution reserves for women at least 17 of the 102 seats in the upper house, and for the lower house requires the election of two female delegates from each of the 34 provinces. Currently, there are 23 women serving in the upper house, six more than the mandated bloc of 17 appointments. In the lower house, 68 women have been elected, six more than the quota of 62. Non-governmental organizations report that female parliamentarians often censor what they say due to concerns about the reactions of religious conservatives.

The number of women in senior government positions has decreased since President Karzai dropped three female ministers from his cabinet in 2006. There is one female minister approved by the parliament – Minister of Work and Social Affairs, Martyrs & Disabled, Amena Afzali. There is one acting female minister – Minister of Women's Affairs, Hassan Bano Ghazanfar. There are more than 200 female judges, but no Supreme Court judges are 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. USCIRF hosted Dr. Samar in Washington in the fall of 2010 to discuss the status of women's human rights with Commissioners, U.S. government officials, and congressional staff.

The adoption of the Shi'a Personal Status Law in March 2009, which appeared to sanction marital rape and restricted the freedom of women to go outside the home, was considered by many to be a set-back for women's rights. In response, the Justice Ministry substantially revised the offending clauses in July 2009. However, many continue to object to articles in the law that pertain to minimum age of marriage, polygamy, inheritance rights, right of self-determination, freedom of movement, sexual obligations, and guardianship.

Pervasive discrimination based on traditional religious interpretations continues to place women in a second-class status and to limit their opportunities to obtain education, employment, and even medical care. Although the enveloping burqa, required during the Taliban regime, is less common in Kabul, almost all women wear some form of head covering, out of either 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. In March 2011, President Karzai dismissed the deputy governor of Helmand province for organizing a concert that featured female performers without headscarves.

Women in Afghanistan frequently are denied equal access to legal representation and due process, especially in rural areas in the informal justice system. 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." The aforementioned lack of access to the legal system hampers efforts to combat violence against women, particularly domestic violence, despite Article 398 of the Afghan penal code stipulating two years' imprisonment for perpetrators who kill female relatives alleged to have committed adultery. The government has taken some steps to address this problem. According to the UN High Commissioner for Human Rights, Afghanistan's new Law on the Elimination of Violence against Women (EVAW), endorsed by presidential decree in July 2009, "explicitly criminalizes rape, as well as underage and forced marriage, and other forms of violence against women."

Afghan women have expressed concern that efforts by President Karzai and the international community to persuade insurgents to end their fight and rejoin the political process could result in serious abuses of women's human rights. President Karzai has said he does not envision such backsliding and insisted that respecting Afghanistan's constitution be a core point of any reconciliation effort. However, some Afghan officials close to him reportedly do not rule out the possibility of amending the constitution to accommodate certain Taliban demands. In addition, the widespread interpretation of the constitution that ignores human rights guarantees could seriously undermine religious freedom and women's human rights in the country, even if insurgents agree to abide by the constitution.

### *Reconciliation and Reintegration*

Regarding negotiations with insurgents, the first quarter of 2011 also saw the beginning stages of a "reconciliation and reintegration" process. In 2010, President Karzai publicly stated that he was open to talking with anti-government insurgents, and he and United States officials have said that the nonnegotiable conditions for reintegration include renouncing violence, cutting links with terrorist groups, and accepting the Afghan constitution. Efforts to reintegrate the lower-level and less ideological elements among the insurgents are run through the Afghan government led Afghan Peace and Reintegration Program. The program encourages insurgents to end their armed opposition to the government and to reintegrate peacefully into society. However, observers have expressed concern about the implications of reintegrating major human rights violators. For instance, negotiations must include individuals like Gulbuddin Hikmatyar, a notorious human rights abuser and the leader of a major insurgent group, Hizb-i-Islami Gulbuddin.

Nevertheless, during the reporting period President Karzai moved ahead with these efforts and established a consultative Peace Jirga that brought together tribal leaders, including those with ties to the Taliban. (A jirga is a traditional Afghan assembly of notables, often resorted to in Afghan history to provide legitimacy to major political developments.) In June 2010, the peace jirga met with 1,600 delegates and approved the creation of a High Peace Council, which was established in October. While the United States has publicly welcomed Afghan-lead peace efforts, human rights advocates have criticized the composition of the Council, as its 68 members include former warlords and human rights violators, as well as religious scholars, and only eight women. It is led by Buhanuddin Rabbani, who heads the predominately ethnic Tajik Jamiat-e Islami party. Commissioners met with Rabbani during a visit in 2003. He was president of the country from 1992 to 1996, having fought the Soviets and then the Taliban for control of the country. Observers are skeptical that Rabbani can negotiate a deal, noting his weak peacemaking credentials and ethnic differences with the Pashtun-dominated Taliban.

Although it has held meetings throughout the country, the High Peace Council has yet to produce any major breakthroughs, although it reports that it is working to facilitate talks between the Taliban, Hizb-i-Islami, and U.S. and ISAF officials. The council has demanded that Taliban members be removed from the UN list of terrorists and that the United States release from Guantanamo detention a former interior minister alleged to be close to Osama bin Laden. The council concluded that these actions would bolster talks with insurgents.

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

The declared goal of U.S. policy in Afghanistan is to "to disrupt, dismantle, and defeat al Qaeda while also eliminating safe havens and preventing its return to the region." The Obama administration has pursued these objectives by focusing on disrupting terrorist networks, promoting a more accountable and effective government, developing Afghan security forces, and involving the international community and the United Nations. The counterinsurgency strategy now being pursued in Afghanistan is designed to

improve the security of Afghanistan's civilian population by providing better protection from insurgent violence and to strengthen Afghanistan's economy and institutions in order to increase popular support for the Afghan government. The Obama administration conducted a major review of its strategy for Afghanistan and Pakistan in December 2010, one year after the release of its initial strategy. President Obama announced that this strategy had brought about "significant progress" towards the core goal of disrupting, dismantling, and defeating al-Qaeda, but that challenges remain to make these gains "durable and sustainable."

In February 2011, Secretary of State Clinton identified "three mutually reinforcing tracks" in the implementation of the U.S. strategy: military action against al Qaeda and the Taliban; civilian efforts to bolster the Afghan government, as well as the national economy and civil society; and diplomatic activity to bring the conflict in Afghanistan to an end while increasing regional security. The last component focuses on negotiating with insurgents, and the Secretary made clear that the Afghan government must "safeguard the rights of all Afghans, especially women and minorities" during this process. There have also been repeated, but unconfirmed, reports of the United States reaching out to insurgents about the possibility of negotiating a settlement. During this speech, the Secretary also announced that retired diplomat Ambassador Marc Grossman would replace the late Richard Holbrooke as the new Special Representative on Afghanistan and Pakistan.

This reporting period saw a continued intensification of U.S. military efforts in Afghanistan, with U.S. troop levels nearing 100,000, and an additional 40,000 from the nations comprising the International Security Assistance Force, with the goal of pressuring insurgents to bring them to the negotiating table. The Obama administration has stated that a withdrawal of American forces would begin in 2011, based on conditions on the ground, and would continue until 2014. This timeline was reinforced at the November 2010 NATO summit when all 28 member countries agreed to a long-term partnership between NATO and Afghanistan, lasting through 2014 and possibly beyond. At the same summit, NATO countries and the 20 other troop-contributing nations comprising ISAF decided to begin transitioning security responsibility to Afghan forces, with the intention that they "be in the lead country-wide by the end of 2014."

The State Department's 2010 *Annual Report on International Religious Freedom* included new language finding a decline in respect for religious freedom. It stated that "[r]espect for religious freedom deteriorated during the reporting period, particularly for Christian groups and individuals." It went on to state that "[t]he lack of government responsiveness and protection for these groups and individuals contributed to the deterioration of religious freedom."

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 \$54 billion on this effort. Approximately \$30 billion of this has been assistance to Afghan military and police forces, primarily for training and equipment. Of the remaining funds, generally one third has been for development and humanitarian assistance, 10 percent for counter-narcotics efforts, and only five percent for promoting good governance and democratization.

The United States substantially increased its public diplomacy efforts during the reporting period. The budget of Embassy Kabul's public affairs section reportedly increased from less than \$4 million in 2008 to \$114 million in FY2010. Under the leadership of former journalist David Ensor, the section has begun to engage the religious dynamic in Afghanistan by reaching out to tribal and religious leaders to empower moderate voices. New initiatives include a program, conducted with the U.S. Institute of Peace, to take 100 Afghan mullahs to Egypt, Indonesia, and the United States to meet with local imams. The Fulbright

program has also doubled, with approximately 60 Afghan Fulbright scholars for 2011. The International Visitors Program has doubled in the past two years, and 82 Afghans will visit the United States in 2011. In addition, there will be a tenfold increase in U.S. funding to support English language teaching and increased funding for media centers to train the next generation of journalists, both inside the country and through partnerships with American universities. In addition, the U.S. military has worked with ISAF partners from Muslim countries to engage Afghan Islamic religious leaders about moderate Islam.

As part of its rule of law initiatives, USAID has a small program engaging the informal justice system in Afghanistan. The vast majority of the Afghan population uses the traditional community-based dispute resolution mechanisms found in villages, which enjoy greater trust, are perceived as less corrupt, and have a speedier outcome than the formal courts, but are based on custom and local understanding of Islamic law. USAID is initiating projects in 20 predominately southern provinces (out of 400 nationwide) deemed to be “key terrain districts” where counterinsurgency work is underway, and the U.S. Institute of Peace has run pilot projects in six northern districts. These programs seek to train practitioners on rule of law systems, and look for ways to create linkages between the formal judicial system and these informal bodies. This approach has the support of the U.S. military, which views the informal justice system as a way to speedily remove local grievances that can be used by insurgents to create resistance to international forces.

However, human rights groups both inside and outside of Afghanistan fear that it will be difficult to ensure that these bodies respect human rights, particularly religious freedom and women’s rights, given that their decisions are based on local custom determined by traditional male community leaders. Leading human rights figures expressed concern to USCIRF that these local courts will ignore core human rights protections. Additionally, critics note that these programs siphon resources away from efforts to reform the formal judicial sector and that it is impossible for the Afghan government to provide any meaningful oversight over the thousands of informal bodies.

## **Recommendations**

The U.S. government has only recently begun to respond to the Taliban’s manipulation of the religious narrative to support their insurgency in the Afghan conflict. In light of these circumstances, and considering the priority placed on the U.S.-Afghanistan relationship by President Obama, USCIRF recommends that the U.S. government increase and strengthen its diplomatic, development, and military engagement to promote religious freedom and create civic space for diverse religious opinions on matters of religion and society. With this, efforts should be undertaken to coordinate the many components of U.S. activity in Afghanistan under an overarching strategy focusing on religious engagement and religious freedom promotion. Such an effort would help preserve and consolidate the Afghan people’s gains in the protection of human rights, including freedom of religion or belief, and foster increased religious tolerance.

### **I. Promoting Freedom of Religion or Belief and Religious Tolerance**

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 the Special Representative for Afghanistan and Pakistan Amb. Marc Grossman, Amb. Karl Eikenberry, and General David Petraeus and their staff increase their effective engagement on these issues, including by:

--bolstering the position of Afghans who advocate respect for human rights and religious tolerance;

--protecting Afghans who advocate for human rights and religious tolerance by encouraging the Afghan government to fund, train, and deploy law enforcement personnel to provide security;

--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;

- encourage the Afghan government to sponsor, with the official and semi-official religious bodies, an initiative on interfaith dialogue, focusing on both intra-Islamic dialogue and engagement with different faiths within Afghanistan;
- include a special working group on religious tolerance in U.S.-Afghan strategic dialogues and in the trilateral dialogues with the United States, Afghanistan, and Pakistan, create an inter-agency U.S. government task force on the protection of the freedom of thought, conscience, and religion and freedom of expression in Afghanistan and Pakistan, and direct it to recommend policies for promoting religious freedom and religious tolerance to counter violent religious extremism;
- 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;
- use its influence to protect freedom of religion and expression against charges that may be used to stifle debate, such as blasphemy, “offending Islam,” apostasy, or similar offenses, and continue to press for the release of any individuals detained for these “crimes”;
- amplify the voices of political reformers and human rights defenders by, among other things, encouraging President Karzai to appoint independent human rights defenders and other Afghans promoting religious freedom and tolerance to the country’s independent national human rights commission, peace jirgas, and court system;
- ensure that discussion of how to make progress in ensuring freedom of thought, conscience and religion and related human rights are incorporated into international meetings that focus on the situation in Afghanistan, such as meetings hosted by the International Contact Group and the upcoming meeting celebrating the 10th anniversary of the Bonn Conference, and is addressed in the anticipated new Strategic Partnership Declaration between the United States and Afghanistan;
- increase the training of U.S. and International Security Assistance Forces, especially U.S. military chaplains, on international standards of freedom of religion or belief, to ensure that military forces conducting operations throughout Afghanistan are mindful of these standards when engaging or partnering with Afghan religious leaders, local government officials, or Afghan local police forces; and
- use 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.

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 the consultative Peace Jirga, the High Peace Council, the Afghan Peace and Reintegration Program, and any other 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 are 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 draw away less ideological individuals and elements from the Taliban structure.

## **II. Advancing Institutional Reform**

The U.S. government should:

- end efforts to train practitioners from the informal justice sector, as it diverts resources away from improving the formal judicial system, and ensure that decisions violating international standards are vacated;
- urge the Afghan government to ensure that Afghan government funds neither are directed to nor indirectly support any militia, para-state actor, or other organization credibly charged with involvement in severe human rights abuses;
- 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;
- continue to increase public diplomacy efforts relating to religious freedom and religious tolerance, including by encouraging regular visits by the Ambassador-at-Large for International Religious Freedom and USCIRF Commissioners, bringing delegations of Afghan religious and NGO leaders to the United States and taking American religious and NGO leaders to Afghanistan, and increasing radio and television broadcasts discussing religious tolerance;
- fund training on religion/state issues for Afghani officials, policymakers, legal professionals, representatives of non-governmental organizations, religious leaders, and other members of key sectors of society, including:

--strengthening efforts to reform the judicial system 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;

--supporting efforts to reform the legal system and constitution to ensure that laws and legal systems uphold international standards on human rights and religious freedom;



--providing training to judges and prosecutors in civil law and international human rights standards and the importance of equal access to the courts by all;

- 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;
- engage the Afghan government and parliament about implementing the Law on the Elimination of Violence against Women and in further amending the Shi'a family law to bring it into line with international standards; and
- press the Afghan government to annually fund the Afghan Independent Human Rights Commission to a level allowing it to maintain and staff its office in Kabul and its satellite offices around the country and implement programs, while preserving its autonomous nature and ability to investigate human rights abuses and issue independent reports.

#### **Statement of Chairman Leonard Leo, with whom Commissioner Nina Shea Joins:**

I write separately to underscore three concerns. First, though conditions for minority Muslims have improved, the plight of the few Christians who remain has become even more dire. Roving, politically-driven arrests for conversion and the suspension of relief operations of Christian groups on dubious charges of proselytism – regardless of whether they resulted in adverse government action – send a strong signal that Christian worship is not welcome in Afghanistan's culture. So much for the Afghan Constitution's guarantee that "followers of other [non-Muslim] religions are free to practice their faith...."

Second, the plight of Christians is not likely to improve any time soon. That result is pre-ordained – built into the 2004 Afghan Constitution, which declares that no law can contradict the beliefs and provisions of Islam and that Islam is the sole religion of the state. From the moment the United States turned a blind eye to the inclusion of these provisions during the constitutional drafting process, which it oversaw, the fight for freedom of religion in Afghanistan was assured defeat.

Third, the USAID program supporting the informal justice system in Afghanistan – which can employ traditional community-based dispute resolution in villages – is deeply disappointing. To be sure, USAID's support is small, reaching only about 20 provinces, and informal tribunals enjoy local support for being less corrupt and more efficient. But it is hard to see how these bodies will be constrained in applying sharia and tribal principles that contradict international human rights standards. USAID does not offer any kind of solution to ensure otherwise, and furthermore through this approach is allowing resources and attention to be diverted from the more important enterprise of reforming the formal judicial sector.

Afghanistan may not meet the IRF Act's standards for CPC status today. But even the most casual observation makes clear that it is just a matter of time. The United States' unwillingness to place serious pressure on the Karzai government to address human rights fully will only hasten the downward slide.

## Belarus

**FINDINGS:** The government of Belarus continues to violate its citizens' freedom of thought, conscience, and religion or belief in law and practice. Belarus is ruled by an authoritarian regime, with political power concentrated largely in the hands of President Aleksandr Lukashenko and his small circle of advisors. Due to its extensive, intrusive structures to control and restrict religious communities, some human rights groups compare the current religious freedom situation in Belarus to that under Soviet rule. The government has also engaged in other human rights abuses, including strict controls on the media and civil society and imprisonment and maltreatment of political opponents and journalists, particularly after the December 2010 presidential election.

In light of these conditions and violations, the Commission maintains Belarus on its Watch List for 2011. Belarus has been on USCIRF's Watch List since 2003.

The Belarusian religion law of 2002 is oppressive by European standards, particularly its ban on unregistered religious activity. Active participation in unregistered religious groups may result in a two-year term of imprisonment or heavy court-imposed fines. The government has an extensive bureaucracy that closely supervises religious life throughout the country, and harasses some religious groups, particularly Protestants and others officially viewed as "foreign" or "political." 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 deportations and visa refusals. Some religious communities were registered under the 2002 law, but many, particularly 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 give greater priority to the issue of freedom of religion or belief through the democracy-promotion activities envisaged in the Belarus Democracy Reauthorization Act. The United States should stress in bilateral meetings with Belarusian officials that religious oppression contradicts Belarusian policy goals. The National Endowment for Democracy's Belarus civil society programs, and U.S. government-funded radio broadcasts to Belarus, should provide greater focus on freedom of religion or belief and promotion of religious tolerance. The United States should attempt to reinstate the position of UN Special Rapporteur on human rights in Belarus and support that position's efforts to gain unrestricted access to the country. The United States should also work with other states in the Organization for Security and Cooperation in Europe (OSCE) to reopen the OSCE Mission in Minsk, which the Belarusian government closed after the regional body criticized the December 2010 election. 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 rigorous regulatory obstacles, imposing 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 for occasional prayer meetings, denies religious communities the right to train clergy, and requires official permission for the printing, importation, or distribution of religious materials.

The law also set up three categories for religious groups: religious communities, religious associations, and national religious associations, each with different legal rights and registration requirements. The 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 managed this successfully, some disfavored organizations have had difficulty re-registering.

Unregistered religious activity is punishable under Article 193-1 of the Criminal Code, with punishments ranging from a fine to imprisonment of up to two years. However, Forum 18, which monitors religious freedom conditions in Belarus, is not aware of any cases where Article 193-1 has been used to punish unregistered religious activity. In February 2010, an amendment to the Belarusian Administrative Code removed the administrative "offence" of creating or leading an unregistered religious organization. Nevertheless, it remains an administrative violation to participate in an activity conducted through a religious organization that is not specified in its statute, to attract children to religious services, or to conduct religious work with children against their wishes or without their parents' approval. Most cases in recent years against leaders and members of unregistered religious communities have been under the Administrative Code. Despite the February 2010 amendment, Pastor Yuri Petrevich, who leads a Protestant church in Grodno, was fined in March 2010 for leading an unregistered church, according to Forum 18. By contrast, a Jehovah's Witness in the Mogilev region had an administrative case against him cancelled as a result of the amendment, but reportedly, other Jehovah's Witnesses have been fined during the reporting period.

### *Restrictions on Religious Activities*

Some religious groups, particularly Protestant congregations, have repeatedly been denied registration, and in many cases officials do not provide reasons. Registrations are frequently denied based on 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 2010, 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 that the government deemed "destructive sects," including Ahmadis.

Without state registration, religious communities are subject to state harassment of and interference with religious activities that sometimes result in fines. Council of Churches Baptist congregations, which refuse to register for doctrinal reasons, have long been targeted. In recent years, the Belarusian courts have increased the fines for unregistered religious activity and expanded the range of religious groups

subject to them. As previously mentioned, despite the February 2010 amendment to the Belarusian Administrative Code, the pastor of a Grodno Protestant church was fined in March 2010 for leading an unregistered religious organization, and Jehovah's Witnesses were fined for similar "offences."

Belarusian authorities also interfere in other activities of religious groups. Although the religion law in theory allows people to pray in their private residences, it also requires that individuals obtain permission from local authorities before holding rites, rituals, or ceremonies in homes. Such permission is usually denied, and police often interfere with private religious meetings, sometimes fining participants. For example, Pastor Nikolai Borichevsky of the Grace of Jesus Pentecostal Church in the small town of Krupki in the Minsk Region paid a fine of US \$230 in August; the fine was imposed by a court for alleged unsanitary conditions of food served at a summer Bible school.

Administrative laws, regulations, and directives also restrict various activities of registered religious communities, such as by limiting their geographic area. In July 2010, Pastor Kochegur of the registered New Generation Full Gospel Church in Novogrudok, in Grodno Region, succeeded in overturning a US \$234 fine imposed on him for holding an allegedly noisy private religious meeting. Religious groups are also not allowed to function outside their geographic area of registration. For example, in July 2010, Pastor Novik of a registered Pentecostal church in one village was fined three times in one day and was ordered by a local court to pay a total of US \$706 for sharing his faith outdoors in a nearby village. Additionally, if a registered religious community does not qualify as a "central association" – if it has not been legally recognized for more than 20 years or if 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 exceeding 300.

#### *Restrictions on Houses of Worship and Other Properties*

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 nearly impossible. In the capital Minsk, city planners will not grant any such permits until 2030, according to city planning documents. Protestant churches seeking property permits also report that they are treated as commercial organizations and charged fees set by Minsk authorities that sometimes run up to hundreds of thousands of dollars. Reports also indicate that some of the smaller religious communities continue to face great difficulties in rebuilding premises for worship.

In 2009 and 2010, officials threatened to seize the building of the New Life Full Gospel Church in Minsk. Court executors delivered an order to vacate the building by August 2009, but the congregation refused to leave. In January 2010, the government charged the church with polluting the grounds around its building with oil; in June, the community was charged with destroying more than 32,000 square feet of topsoil and of building a parking lot and a road without permission. Massive fines were ordered, but the congregation thus far has refused to pay and stands liable to have the church building seized by the government 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 obtaining the return of their historical churches from the Belarusian government.

During an April 2010 meeting with President Lukashenko, Roman Catholic Metropolitan Tadeusz Kondrusiewicz raised the issue of a former Bernardine monastery complex in Minsk and discussed the allocation of land to build Catholic churches in the Minsk area. In August 2010, however, the representative of a private enterprise announced that the former Bernardine monastery complex would be redeveloped into a hotel before the 2014 World Hockey Championship. The remarks came slightly more than a month after the government's commissioner on religious and ethnic affairs said that the complex could be returned to the Joseph Roman Catholic community, which has been seeking the property's return since 2005.

### *Restrictions on Religious Literature, Film, and Internet*

All religious literature is subject to compulsory government censorship. Religious publishing is restricted to religious groups that have 10 registered communities, including at least one that existed in 1982. This legal requirement is onerous, since 1982 was during the Soviet period when few religious groups were allowed to operate. Some members of religious communities, including Unification Church members, Baptists and Hare Krishnas, have been harassed and fined for distributing religious literature. In September 2010, the government prevented a Belarusian film on Soviet-era persecution of Protestant churches from being shown at a Catholic film festival, according to Forum 18. The 52-minute film, "Forbidden Christ," is based on archive footage of trials of Protestant pastors and 20 interviews with victims of Soviet anti-religious policies and historians.

In May 2010, police and two ideology officials detained members of the Council of Churches Baptist in the town of Drahichyn for operating a Christian street library; two were charged with violating regulations for holding demonstrations.

In 2010, the Belarusian government took various measures to control the Internet. In July, it enacted an expansive new law giving regulators broad new powers over on-line content and individual users, including requiring internationally-hosted Web sites to register with the government. In October, the Belarusian government announced that it was compiling lists of both local and international sites that it deemed offensive. In January 2010, a representative of the Minsk Orthodox Eparchial District echoed Belarusian Orthodox Church Metropolitan Filaret's 2009 remarks that referring to government Internet regulation is not political censorship but "moral purification of the internet space."

### *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. It also identifies Catholicism, Judaism, Islam, and Evangelical Lutheranism as "traditional faiths," 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 favored the Belarusian Orthodox Church (BOC), an Exarchate of the Moscow Patriarchate Russian Orthodox Church, to the detriment of other Orthodox churches operating in the country. For example, the Belarusian government continues to deny 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. 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.

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, including by calling for cooperation on education, development, protection of cultural legacies, and security. The concordat also calls for a joint struggle against "pseudoreligious structures that present a danger to individuals and society." Nevertheless, despite

the concordat, 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.

Despite its privileged status, the BOC 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 Grodno cathedral, although the local bishop has refused to do so. In addition, KGB officers often monitor visitors to the town of Kuropaty, where New Martyrs are among those buried in the mass graves; a BOC chapel planned for the site has never been built.

For six years, the registered religious minority community of Pomore Old Believers has tried to relocate a historic dilapidated church from a small village near Lithuania to the city of Minsk. No local Old Believer community remains in the village. Minsk city authorities have refused to allow the church to be relocated, even though Minsk Old Believers now meet in a converted house. They will only permit the church to be moved to the site of a museum of folk architecture in a village in the Minsk region, at the community's expense. Reportedly, the church could be available for worship, but only during the museum's working hours.

#### *Conscientious Objectors*

A decade after the Constitutional Court declared it “urgent” to adopt a law on alternative military service, no action has been taken and a proposal included in the 2010 Legislative Program was removed at the last minute. In July 2010, a coalition of civil society groups provided proposals for an Alternative Service Law to a government working group on the subject, but has not received any acknowledgement.

In November 2009 – nine years after charges against him were first brought – a Jehovah's Witness from Gomel, Zmitser Smyk, was found guilty of refusing military service and assessed a large fine. He was acquitted in May 2010 after multiple appeals. In February 2010, Ivan Mikhailau, a member of a Jewish community, was sentenced to a three-month jail term for refusing compulsory military service; he was released days before his sentence ended.

Muslims have complained that they are unable to observe their religious rites in the Belarusian army, and a Muslim who refused military service for this reason and refused to pay the associated fine was imprisoned for three months in 2009.

#### *Challenges to the Religion Law*

The Belarusian government is hostile to civil society campaigns against the religion law. Two NGOs, the Legal Transformation Centre and For Religious Freedom, an unregistered group of Belarusian civil society activists who promote religious tolerance and religious liberty, have drawn up an alternative religion law and in 2010 continued to meet with American diplomats and others in Minsk to discuss their proposals with religious communities and civil society.

Two venues in Minsk rejected their requests for meeting space, allegedly at the urging of Belarusian officials. In 2008, human rights defenders were harassed after organizing the largest non-party political petition in Belarusian history – which garnered 50,000 signatures and was 3,442 pages long – calling for reform of the religion law. The petition was sent to the Constitutional Court, Parliament, and Presidential Administration. The Constitutional Court rejected it on the basis that only the head of state or other government officials can question the constitutionality of laws; parliamentary and presidential authorities also rejected it, claiming that there were no religious freedom violations in Belarus.

## *Anti-Semitism*

Although the 2002 religion law deems Judaism as “traditional” to Belarus, Jews have been the targets of offensive statements by government officials, including President Lukashenko and the state media. The Belarusian government has not taken action to identify or sanction individuals responsible for vandalism against Jewish memorials, cemeteries, or other property. During 2010, anti-Semitic incidents were investigated only sporadically, according to the State Department. For example, on May 9, 2010, during Victory Day celebrations, vandals set fire to a memorial to Holocaust victims in Brest. The memorial has been vandalized many times before since it was erected in 1992, including in three consecutive years since 2008. No perpetrators are known to have been held accountable.

While 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.

## *Religion and Public Education*

The religion and education laws specify that the state education system is secular, and that state education institutions can work with registered religious organizations only outside school hours.

The government continued to use textbooks that express intolerance towards religious groups which it views as non-traditional, such as Protestants, Seventh-day Adventists, the Church of Maria, White Brotherhood, Jehovah’s Witnesses, and Hare Krishnas, labeling them “sects.”

## *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.” If foreign citizens have not explicitly stated in their visa applications that they plan to participate in religious activities in Belarus, they can be reprimanded or expelled. 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 continue to be under surveillance by security personnel in 2010.

Since 2004, a total of 33 foreigners, about two-thirds of whom are Roman Catholics, have been expelled or 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.

## **U.S. Policy**

In October 2004, President Bush signed into law the Belarus Democracy Act (BDA) to promote democratic development, human rights, and the rule of law in Belarus. The BDA prohibits 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. In January 2011, Representative Chris Smith (R-N.J.) introduced H.R. 515, the Belarus Democracy Reauthorization Act, which would again reauthorize the BDA.

The United States imposed sanctions on Belarus in 2006, and expanded them in 2007 and 2008, targeting government entities and officials responsible for human rights abuses. In March 2008, the Belarusian government requested that the United States withdraw its ambassador and that the U.S. Embassy in Minsk reduce its American diplomatic staff from 35 to five; the highest-ranking U.S. diplomat in Minsk is Charge d'Affaires Michael Scanlan. The Belarusian ambassador was withdrawn from Washington, D.C. in response to a request from the United States.

U.S.-Belarusian relations were further strained by the December 2010 presidential election in Belarus, which was widely condemned as illegitimate. The Belarusian government arrested 700 activists, seven presidential candidates and 25 journalists after the election; 20 leading opposition figures face possible 15-year prison sentences. Following the election and ensuing crackdown, Secretary of State Hillary Clinton and European Union High Representative Catherine Ashton issued a joint statement calling for the immediate release of presidential candidates and others detained, condemned the regime's violence, and recognized "serious problems" in the conduct of the vote. In January 2011, Clinton and Ashton issued another statement condemning Belarus's closure of the OSCE Mission in Minsk, which monitored the human rights situation in that country and had been publicly critical of the election and ensuing abuses.

In January 2011, in a move timed to coincide with a similar EU statement, the United States announced a package of Belarus-related measures, including re-imposing sanctions against two key Belarusian corporate subsidiaries and expanding the list of Belarusian officials (and their families) subject to a visa ban to include those responsible for the fraudulent election in December 2010 and the subsequent repression. Belarusian authorities arbitrarily detained, mistreated, and summarily sentenced hundreds of people, including Belarusian electoral opponents, who protested the fraudulent election results. The United States will extend asset freezes to include President Lukashenko and increase the number of other persons and entities subject to sanctions.

Also in early 2011, 14 OSCE participating states, including the United States, invoked the OSCE's "Moscow Mechanism" to call for an impartial, international fact-finding mission to investigate particularly serious threats to human rights, fundamental freedoms, democracy, and the rule of law in Belarus after the December election. Their statement said that Belarus was in "flagrant violation" of its OSCE commitments and urged it "to end its campaign of repression against opposition candidates, campaign participants, journalists, lawyers, students and many others." Belarus has rejected the request.

The State Department's 2010 *Annual Report on International Religious Freedom* reported that the government of Belarus "continued to restrict religious freedom during the reporting period using provisions of the religion law to hinder or prevent activities of groups." That report also noted that political officers in the U.S. Embassy discussed religious violations with religious freedom campaigners, religious lawyers, and activists who coordinate the For Freedom of Religion initiative.

For Fiscal Year 2011, the administration requested \$14 million in aid for Belarus, of which just over \$9.6 million was slated for aid for "political competition and consensus-building" and "civil society." Such aid efforts may be hampered, however, by the regime's repression and its limitation of U.S. diplomatic personnel in Belarus to five persons, as well as by U.S. Congressional budget cuts.

## **Recommendations**

In response to the prevailing state of religious freedom and related human rights in Belarus, USCIRF urges the U.S. government to support a number of measures to aid in the fight to end religious freedom violations and to promote religious liberty through bilateral and multilateral diplomacy, as well as through specific U.S. programs and policies.



## **I. Ending Violations of Religious Freedom in Belarus**

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

- 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 privileged status that may result in, or be used to justify, discrimination against individuals who are secular or belong to 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.

## **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 conducting 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 Organization for Security and Cooperation in Europe (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 work to reopen the OSCE Mission in Minsk;
- use diplomatic contact with representatives of the Belarusian government as a forum to discuss the failure of religious oppression tactics to further policy goals of prosperity, international comity, and political stability; 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. Advancing Religious Freedom through U.S. Programs and Policies**

The U.S. government should:

- 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 immediately distribute proven field-tested counter-censorship programs in order to prevent the arrest and harassment of religious freedom and human rights activists, helping them maintain their freedom of expression and legitimate expectations of privacy;
- award funds appropriated by Congress to counter censorship in Belarus, including those from the FY2010 Consolidated Appropriations Act, through a competitive and merit based process;
- provide increased international travel opportunities – particularly opportunities to attend international conferences – for Belarusian civil society leaders, including representatives of human rights organizations and religious groups, as well as others who defend freedom of religion in that country;
- continue to privately and publicly support those 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.

## Cuba

**FINDINGS:** Serious religious freedom violations continue in Cuba despite some improvements. Violations by the Cuban government include: detention, sporadic arrests, and harassment of clergy and religious leaders affiliated with unregistered religious groups, as well as the control and monitoring of religious belief and practices including through surveillance, infiltration, and legal restrictions prohibiting religious communities from operating without government permission. These conditions exist under the one-party rule of a Communist government that continues to have an overall poor record on human rights.

Based on these concerns, USCIRF again places Cuba on its Watch List in 2011. Cuba has been on the Commission's Watch List since 2004.

Cuban authorities continue to control some religious practices tightly. Within this reporting period, authorities arrested, imprisoned, harassed, and threatened religious leaders who called for increased separation of church and state, whose denominations have withdrawn from the state-affiliated Cuban Council of Churches, and whose denominations have caught the government's attention because of their large size. Although Cuba's government seeks to project an image of respect for the right to religious freedom, state authorities perceive that some religious organizations could threaten the government's legitimacy. Nevertheless, positive developments and improvements in the status of religious freedom in Cuba continued for the majority of religious denominations, particularly for the Catholic Church, which had a leading role in the release of dozens of political prisoners in this reporting period. In a change of policy, the U.S. government in early 2011 made it easier both for American religious groups to travel to Cuba and for U.S. remittances to be sent to religious communities on the island.

**PRIORITY RECOMMENDATIONS:** The U.S. government's programs to promote human rights in Cuba inadequately address the promotion of freedom of religion. USCIRF recommends that, in addition to demanding that Havana release religious leaders who have been unjustly imprisoned, the United States set benchmarks 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 supporting the development of new technologies, while also 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*

During the reporting period, the Cuban government continued to direct activities against religious leaders who have withdrawn their denominations from the government-recognized Protestant umbrella group, the Cuban Council of Churches (CCC), who criticized the government's interference in their churches, and/or who are not registered and maintain their independence from the state.

Reverend Robert Rodriguez, president of the umbrella Interdenominational Fellowship of Evangelical Pastors and Ministers, remains under house arrest and continues to await a trial on an October 2008 "offensive behavior" charge. Prior to his 2008 arrest, Rodriguez withdrew his denomination from the CCC after publishing a letter criticizing state interference in church affairs. In response, the Cuban government stripped Rodriguez of his position as president of the umbrella organization, a move the organization condemned as unconstitutional. Simultaneously to Rodriguez's 2008 arrest, his son Pastor Eric Gabriel Rodriguez, of the same denomination, was tried and given a sentence of one year's probation for disturbing the public order, which he has served.

Rodriguez's family was forced to move in August 2009 after prolonged and intense harassment by neighbors, including a physical attack on his pregnant daughter-in-law that resulted in a miscarriage. The perpetrators of this attack were not held accountable; instead, the daughter was charged with disturbing the public order and fined. In September 2010, Rodriguez was arrested and then cleared of "threatening behavior" charges after the accuser gave contradictory evidence.

Cuban government officials continue to target the "Apostolic Reformation," a non-political religious "movement" that has attracted pastors from several CCC denominations. The "movement" reports that in 2009 and 2010, more than 100 of its members were detained for short periods of time. In addition, during the reporting period, the group reported that members were targeted for job losses, evictions, destruction of meeting places, confiscation of religious materials, and discrimination.

Apostolic Reformation Pastor Omar Gude Pérez remains in prison under a six-year sentence for illicit economic activity and falsification of documents imposed in April 2009 – the longest sentence handed down to a religious leader in decades. In May 2008, Gude was arrested and his family was told he would be charged with "human trafficking." The pastor received numerous threats from government officials prior to his imprisonment. The human trafficking case was dismissed in March 2009, but one month later he was charged with and sentenced for illicit economic activity and falsification of documents. 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.

Christian Solidarity Worldwide released a video showing Caridad Diego, Director of the Religious Affairs Office of the Central Committee of the Cuban Communist Party and chief interlocutor between religious communities and the Cuban government, describing government plans to continue to target the Apostolic Reformation. Diego explained that government actions would include confiscating homes, houses of worship, and religious materials, as well as withholding visas from co-religionists. In the video, Diego notes that because the Apostolic Reformation refuses to register, its activities are illegal and the religious community is vulnerable to these actions.

### *Governmental Oversight and Legal Restrictions*

The Cuban government's main interaction with and control over religious denominations is through its surveillance and harassment of religious leaders and its administration of registration requirements. The

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 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 registration process is invasive, as religious communities are required to identify funding sources and locations for activities. After submitting their application, the government will then certify whether or not a registering community is duplicating the activities of other registered religious communities.

Religious communities new to Cuba in the past couple of decades have been denied permission to build houses of worship. As a result, many of these registered and unregistered communities hold services in private homes or similar accommodations, commonly known as “house churches.” In response to the growth of house churches and lack of oversight of them, the government implemented Directive 43 and Resolution 46 in 2005, requiring all house churches to register and submit to the government detailed information on their membership, the house church’s inhabitants, and the schedule of services. The law 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. In 2009, the State Department reported that 2,400 of the 4,500 house churches that have applied have been registered.

Other means by which the government restricts religious practice include the following: failure to give permission to build new houses of worship, repair or restore existing ones, or access construction materials; denial of access to state media; denial of exit visas; state monopoly on printing presses for religious material; censorship by the Ministry of Culture through the required registration of publications; prohibition on private religious schools; limitations on the entry of foreign religious workers; denial of Internet access to religious organizations; denial of religious literature, such as Bibles, to persons in prison; denial of permission from local Communist Party officials to hold processions or events outside religious buildings; and religious discrimination in the area of employment. Converts from Santeria (a syncretistic religion of the West African Yoruba religion, Roman Catholicism, and Native Indian religions found in the Caribbean) to Catholicism are reportedly encouraged to “retire,” not given promotions or pay raises, or 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, journalism, or the police, military, or other security forces.

#### *Catholic Church*

The Catholic Church faces similar religious freedom restrictions as other religious communities. These include: restrictions on construction of houses of worship; denial of access to state media; denial of exit visas; censorship by the Ministry of Culture through the required registration of publications; prohibition on private religious schools; limitations on the entry of foreign religious workers; denial of Internet access; and denial of permission from local Communist Party officials to hold processions or events outside religious buildings.

The Catholic Church undertook a significant role as an intermediary between the Cuban government and Cuban human rights activists. Beginning in May, Catholic Cardinal Ortega met with President Raul Castro and is credited with the removal of government and government-sponsored blockades preventing the processions of the Ladies in White, a group of female relatives of political prisoners and their supporters who hold weekly marches after Sunday Mass at Santa Rita Catholic Church in Havana. Cardinal Ortega also became a “mediator” between political prisoners and the Cuban government. Working with the Spanish government, Cardinal Ortega succeeded in getting the Cuban government to agree in July to the release of 52 political prisoners by November 8, on the condition that they move to Spain upon their release. At the time of this writing, more than 100 prisoners have been released,

including all those agreed to in July. Negotiations between the Cardinal, the Cuban government, and the Spanish government continue.

Additionally, the Vatican Secretary for Relations with States, Dominique Mamberti, traveled to the island in June 2010 seeking improved relations between the Vatican and Cuba. During his visit, Cardinal Mamberti called for increased religious freedom for all religious communities.

### *Improvements*

Positive developments for the Catholic Church and major registered Protestant denominations, including Baptists, Pentecostals, Presbyterians, Episcopalians, Methodists, and others noted in 2009 continued during the reporting period. Despite difficulties in acquiring building materials due to government oversight of construction projects on the island, most religious denominations reported an improved ability in obtaining government permission to repair or restore existing churches, and in some cases to build new buildings on the foundations of old ones. In September, construction of a Catholic Church seminary was completed; instruction started in the seminary in 2009. The State Department reports that religious communities were given greater freedom to discuss politically sensitive issues. Religious denominations reported increased opportunities to conduct some humanitarian and charity work, receive contributions from co-religionists outside Cuba, and obtain Bibles and other religious materials. Small, local processions continued to occur in the provinces in 2010. The Cuban Council of Churches was granted time for periodic broadcasts early Sunday mornings, and Cuba's Roman Catholic Cardinal read a Christmas and Easter message on state-run stations. Additionally, there were fewer reports of illegal house churches being fined, confiscated, or evicted.

In September 2009, government officials announced that mass and church services may be held in prisons whenever requested by inmates, and CCC pastors have started to do so in several prisons, with plans to expand countrywide. The Catholic Church continued to be permitted to conduct Christmas and Easter mass in prison, a practice started in 2008. The State Department and Christian Solidarity Worldwide continue to report that some political prisoners were prevented from attending mass, particularly those who refused to wear prison uniforms, but this did not occur as frequently as in years past.

Raul and Fidel Castro also took steps to reach out to the island's small Jewish community. Raul Castro celebrated Hanukkah with the community in December. This was the first time in more than a decade that one of the Castro brothers participated in a Jewish religious ceremony. In September, Fidel Castro spoke out against Iranian President Mahmoud Ahmadinejad's denials of the Holocaust, saying, "I don't think anyone has been slandered more than the Jews," and adding that Jews "were expelled from their land, persecuted and mistreated all over the world."

Religious leaders and organizations on the island continue to report significant increases in membership, especially among the young. Churches are reporting increased participation in religion classes for children after the state schools stopped scheduling activities on Saturdays and 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 tightening and easing of U.S. sanctions on Cuba, but relations between the two countries have remained poor.

President Barack Obama continued efforts implemented during the previous reporting period to ease U.S. sanctions on Cuba. In April 2009, the President lifted restrictions on the number of times Cubans in the United States can travel to Cuba and the amount of money they can send to relatives in the country. In January 2011, increased travel opportunities for some U.S. groups to Cuba were further advanced to make it easier for U.S. schools, churches and cultural groups to visit Cuba. Americans can now send up to \$2,000 annually to Cubans, \$500 per quarter, to “support private economic activity.” Religious communities can now apply to travel to the island under a general license and remittances can be sent to religious communities to support religious activity in Cuba.

Beginning in 2009, the United States government began issuing licenses for companies to provide cellular telephone and television services in Cuba, permitted technology companies to export Internet services to Cuba to increase freedom of expression and to allow human rights activists to collect and share information, and allowed more U.S. airports to apply for permission to run U.S.-Cuba charter flights. Additionally, during this reporting period meetings and discussions on the resumption of mail services and migration issues between senior-level U.S. and Cuban diplomats continued to occur.

The U.S. government continues to raise human rights concerns with Cuban authorities, and calls on allies to do the same. The Obama administration supports the efforts by the Spanish government and the Catholic Church to raise the release of political prisoners.

The December 2009 arrest and continued imprisonment of USAID contractor Alan Gross, despite efforts to secure his release by U.S. government officials and the U.S. Jewish community, also hinders improved U.S.-Cuban relations. Gross was arrested for entering Cuba multiple times on a tourist visa to provide communication technologies for the Cuban Jewish community. Senior administration officials met with Gross in January 2011 and called for his release throughout 2010; in February 2011, the Cuban government announced that it planned to charge Gross with “acts against the integrity and independence” of Cuba and to request a 20-year jail term. Gross was convicted of crimes against the state and sentenced to 15 years in prison on March 12, prompting the White House to call for Gross’s immediate release. In late March 2011, former President Jimmy Carter traveled to Havana and met with Gross, Fidel and Raul Castro, Cardinal Ortega, and Cuban dissidents. Despite President Carter’s meetings, Gross remains imprisoned as of this writing.

Tensions between the two nations also stem from the continued imprisonment of the “Miami Five,” five Cuban intelligence officers convicted in 1966 in Miami of espionage, conspiracy to commit murder, and other illegal activities in the United States. A three-judge panel of the 11th U.S. Circuit Court of Appeals in Atlanta overturned the convictions in 2005, citing the “prejudices” of Miami’s anti-Castro Cubans, but the full court later reversed and reinstated the original convictions. The Cuban government maintains that the five were spying on the Cuban exile community in Miami, not the U.S. government, and demands their freedom.

U.S. assistance to Cuba seeks to promote democracy on the island, including support for civil society and rule of law and human rights programs. Although the U.S. government says that it promotes freedom of religion or belief within its overall democracy and human rights programs, no such activities have been undertaken. 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, although much of the transmission is blocked by Cuban authorities.

## Recommendations

The U.S. government should prioritize religious freedom in its own programs and policies, while also engaging in multilateral efforts with international partners, in order to advance the freedom of religion or belief and related human rights in Cuba.

### 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 considering resuming full diplomatic relations with the country, including:
  - unconditionally release all religious leaders detained or imprisoned and drop all charges against such persons because of their independence from the state, including Reverend Robert Rodriguez and Pastor Omar Gude Pérez;
  - stop further arrests and harassment of clergy and religious leaders and infiltration and intimidation of religious communities by state security agencies and hold those involved in any further such practices accountable for their conduct;
  - make public statements, at the highest level, informing security and other personnel that they will be held accountable for actions that violate the human rights of non-violent religious practitioners;
  - 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 allow unregistered religious groups to operate freely and legally;
  - issue permits for construction of new places of worship;
  - end the practice of evictions and expropriation of personal property of religious individuals or communities without due process;
  - end the restrictions on religious communities' access to the media and censorship of religious publications; and
  - lift restrictions on humanitarian, medical, charitable, or social service work provided by religious communities and protect persons who conduct such work.
- ensure that U.S. government funding budgeted to promote human rights and democracy in Cuba includes support for effective initiatives advancing freedom of religion or belief;



- increase the number of visas issued to Cuban religious leaders from both registered and unregistered religious communities to travel to the United States to interact with co-religionists in the United States;
- 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 Fiscal Year 2010 Consolidated Appropriations Act and other sources, 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 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; and
- work with international partners to encourage the release of prisoners, including Reverend Robert Rodriguez, Pastor Omar Gude Pérez, and Alan Gross, detained for their human rights and religious freedom activities.

## India

**FINDINGS:** India is a critically important country in terms of religious freedom. It is the world's largest democracy, has an extensive and deeply religious plural society, and occupies a key geopolitical position. While there has been no large-scale communal violence against religious minorities since 2008, India's progress in protecting and promoting religious freedom during the past year continued to be mixed. The Indian government at various levels has recognized past problems of communal violence and has created some structures to address these issues. Also, the national government and several state governments have taken positive steps to improve religious freedom. However, as a whole, justice for the victims of large-scale communal violence that took place in Orissa in 2007-2008, in Gujarat in 2002, and against Sikhs in 1984 remains slow and often ineffective. In some regions of India, law enforcement and judicial officials have proven unwilling or unable to seek redress consistently for victims of religiously-motivated violence or to challenge cultures of impunity in areas with a history of communal tensions, which in some cases has fostered a climate of impunity. In the reporting period, small-scale attacks on and harassment of Christians and Muslims and their places of worship continued. Further, several states have adopted "Freedom of Religion Act(s)," commonly referred to as "anti-conversion laws," that purportedly prohibit "forced," "induced," or "fraudulent" religious conversions away from Hinduism, but not towards it.

Because justice for past communal violence continues to be slow and ineffective and because of concerns about the state "Freedom of Religion Act(s)," USCIRF again places India on its Watch List for 2011.\* India has been on USCIRF's Watch List since 2009.

The infrastructure for investigating and prosecuting cases of religiously-motivated violence or harassment exists, such as Fast Track courts and Special Investigative Teams (SITs), in India, but its capacity is severely limited, it is utilized inconsistently, and it is hampered by political corruption and religious bias, particularly at the state and local levels. 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. In a number of states, anti-conversion laws infringe on activities protected under India's own constitution and international human rights law. These laws contribute to an atmosphere of hostility, and sometimes violence, against religious minorities, and are used by local authorities to harass and sometimes detain individuals perceived to be proselytizing or who convert to another religion, mostly Christianity.

USCIRF is encouraged by India's actions prior to the Ayodhya mosque verdict in September 2010. Federal authorities took proactive steps, such as issuing public appeals, placing advertisements in newspapers urging respect for the rule of law, and mobilizing tens of thousands of security forces to prevent violence between Hindus and Muslims. As a result of these steps, the verdict over the disputed religious site occurred without incident. USCIRF also is encouraged by India's support and increased budgets for the Ministry of Foreign Affairs, the National Minorities Development Finance Corporation, the National Foundation for Communal Harmony, and the National Commission on Minorities. Collectively, these governmental bodies provide financial support for minority welfare programs, programs for inter-faith dialogues, special consideration for minorities for employment in all sectors of the government, and assistance to victims of violence, including past incidents of communal violence. USCIRF encourages programs that will improve inter-faith tolerance and the societal conditions for minorities and thereby improve religious freedom throughout India.

**PRIORITY RECOMMENDATIONS:** USCIRF urges the U.S. government to encourage and assist the government of India 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; remove “anti-conversion” laws and enact policies that encourage religious tolerance in accordance with India’s rich history of religious pluralism. 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. The U.S. government also should encourage India to accept delegations from non-governmental organizations and U.S. governmental agencies, including USCIRF. Additional recommendations for U.S. policy towards India can be found at the end of this chapter.

\*Commissioners Gaer and Shaw 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 the third largest estimated Muslim population in the world, and its Christian population, according to India’s 2001 census, is estimated at over 25 million (2.3% of the total population). India’s large and religiously-diverse population makes it arguably the most pluralistic society in world. The current two-term Prime Minister is Sikh, the past president is Muslim, and the head of the national governing alliance is 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. However, India faces several challenges as it attempts to protect and promote religious freedom.

USCIRF’s reporting about religious freedom conditions in India began in 2002, based on a disturbing increase in communal violence against religious minorities, which appeared to be 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 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.

Despite the 2009 election and the Congress Party’s electoral win, India’s democratic institutions, most notably state and central judiciaries and police, fall short in their capacity to uphold the rule of law. In some regions of India, these entities have proven unwilling or unable to seek redress consistently for

victims of religiously-motivated violence or to challenge cultures of impunity in areas with a history of communal tensions, which in some cases has helped foster a climate of impunity.

Following sectarian incidents and reprisals that started in December 2007 and continued into 2008, USCIRF placed India on its Watch List in 2009. 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 and church properties and thousands of homes were destroyed. Tens of thousands, the vast majority of whom were Christians, fled their homes, seeking refuge in the jungle or in government relief camps. An inadequate police response failed to quell the violence, and central government intervention had little initial 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 high percentage of cases for lack of evidence.

The failure to provide justice to religious minorities is not a new development. In 1984, thousands were killed in anti-Sikh riots that erupted in Delhi following the assassination of Prime Minister Indira Gandhi by Sikh bodyguards. In the late 1990s, there was a marked increase of violent attacks throughout India against members of religious minority communities, particularly Muslims and Christians, including incidents of killings, torture, rape, and property destruction. In 2002, Hindu-Muslim riots in Gujarat left an official death toll of 1,272 (with some groups estimating double that number of actual fatalities), the majority of whom were Muslims. In all of these cases, justice has been slow and inadequate. Also, numerous NGOs, including the Indian American Muslim Council and the All India Christian Council and religious communities believe that the masterminds of violence are often vindicated and set free, or if convicted, released with minor monetary fines, and that police are influenced by religious bias and state politics. The failure to provide swift and adequate justice to religious minorities perpetuates a climate of impunity, which allows the harassment of and violence against religious minorities to continue unabated.

Hindu nationalist organizations retain broad popular support in many communities in India. The activities of these groups, especially those with an extremist agenda or history of using violence 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. It appears that Indian states that have or are contemplating “Freedom of Religion” Acts and that are governed by Hindu nationalist political parties have higher incidents of violence and harassment against religious minorities.

#### *Legal Climate – Justice for Past Large-Scale Communal Violence*

Reported police and judicial bias, corruption, low ratios of police and judges to the population, and an overburdened and antiquated judicial system hinder the process to redress past large-scale communal violence and create an environment perpetuating harassment and violence against India’s religious minority population. According to India’s Supreme Court Web site, the court had more than 54,000 cases, ranging from civil cases to communal violence cases, to be heard in February 2011. According to a 2009 report by Supreme Court Chief Justice A.P. Shah, it would take 466 years to clear the pending 2,300 criminal appeals cases alone. The same report indicated that over 600 cases were still pending that were over 20 years old. In the same year, the United Nations Development Program reported some 20 million legal cases were pending throughout India.

In an attempt to reduce the backlog, the Indian national government and some state governments have created special structures to address cases relating to past large-scale communal violence. These

structures, including Special Investigative Teams (SITs), fast track courts, and special commissions have had varying degrees of success in achieving justice for victims of the 2007-2008 Orissa violence, the 2002 Gujarat violence, and the 1984 anti-Sikh violence.

### *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 one of the country's poorest districts, with over 80 percent of the population living below the internationally-recognized poverty line; and unlike the rest of the state, which is estimated at 20 percent Christian, the Kandhamal district is estimated at 25 to 27 percent Christian.

In December 2007, violence in Kandhamal 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 hid in jungles. There was no immediate police or state government reaction. Indian Christian leaders, other religious leaders and aid agencies were denied access by state and/or district officials to refugees in the hardest-hit areas. India's 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.

Since then, India has implemented structures to investigate, prosecute and convict those who committed crimes during the 2007-2008 violence. Special Investigative Teams (SITs) are responsible for investigating reported crimes, including interviewing witnesses, gathering evidence, and writing and filing First Information Reports. SITs can be formed by local police or political leaders in a state, or by state judicial branches. They can also be formed by the national government or the nation's high court. The state police formed one SIT to examine the murder of the Hindu leader, Swami Lakshmanananda Saraswati. However, some SITs were accused by numerous NGOs, religious leaders and lawyers representing Christian communities of religiously-motivated bias, corruption, intimidation of witnesses, and generally shoddy work. In April 2009, the Orissa state government set-up two "fast track" courts, which function outside of India's normal and overburdened judicial system, to adjudicate the cases relating to the violence. However, the effectiveness and results of these structures are unclear, due to the limited availability of information on the cases registered and heard and their results. This lack of transparency makes it very difficult to ascertain whether justice was fairly rendered.

According to the U.S. State Department, 956 cases relating to the 2007-08 Orissa violence were registered by the police or SIT. Of those cases, 38 were immediately dismissed due to a lack of evidence or were found to be without merit; 216 cases were heard and judgments delivered; and 196 are still being heard. Of the judgments delivered, 1484 people were acquitted and 311 people were convicted in 59 registered cases. The sentences for those convicted ranged from one to 10 years in jail and/or fines ranging from 1000 rupees (US \$22) to 12,000 rupees (US \$266). The State Department reports that at least eight cases have been appealed to the state High Court.

According to information provided to USCIRF from the All India Catholic Union, 3,232 complaints were filed, but only 831 cases were registered and, after preliminary investigations, 133 cases were dropped. Further, according to Compass Direct, among those accused in the violence were 85 members of the RSS, 321 members of the VHP, and 118 members of Bajrang Dal.

Manoj Pradhan, a BJP leader and member of the Orissa state legislature, has been charged with numerous crimes, and the Christian community believes him to be one of the masterminds of the violence in Kandhamal. In June 2010, a fast track court sentenced Pradhan to seven years of hard labor for the culpable homicide of one person, but the Orissa High Court released him after he paid a small fine. In January 2011, India's Supreme Court overturned the Orissa's High Court's decision to release Pradhan and he was returned to jail. However, in March 2011 the Orissa High Court again released him on bail, pending his appeal.

In another high profile case, the trial of eight individuals accused of beating and gang-raping a nun, Sister Meena Lalita Barwa, during the Orissa violence began again in December 2010. Reportedly, the Orissa High Court ordered the case be moved in 2010 from Kandhamal to a Sessions Court in Cuttack because the Sister was being harassed and intimidated by Hindu nationalists. The trial originally started in July 2008, but there were numerous delays due to alleged political bias of lawyers, lawyers not paying fees, and alleged witness tampering. At the end of the reporting period, the case was ongoing.

The Indian central government and Orissa state government appropriated funds to rebuild some of the damaged homes and churches, as well as to provide assistance to families whose family members were killed. According to the U.S. State Department, 500,000 rupees (US \$11,100) were paid to 52 family members of individuals killed during the riots; 70,000 rupees (US \$1,550) were paid to those whose homes were destroyed; and 20,000 rupees (US \$667) was paid for damaged homes. Reportedly, it costs on average 85,000 rupees to construct a new home. The State Department reports that the Indian government says all 4,800 victims of property damage have received full or partial compensation; Christian groups say that only half that number has received any compensation.

In late 2008, the state government of Orissa commissioned Justice Mohapatra, a retired judge of the Orissa High Court, to investigate 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 [caste recognition] certificates" and recommended that 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 nationalists have focused on land disputes as the main cause of the violence, minimizing religious factors.

NGOs and religious groups have also conducted their own investigations and released reports on the Orissa violence. In August 2010, the National Solidarity Forum (NSF) – a New Delhi-based group of civil society organizations – established a National People's Tribunal (NPT), to assess the role of the government and police before, during, and after the 2007-2008 Orissa violence. The Tribunal's 14-member "jury," which included former judges, activists, journalists and political analysts, concluded that institutional bias on the part of the state, its police, and its judicial system, led to their collusion in the violence and connivance in efforts to block justice and accountability. The report also found the effectiveness of the fast-track courts to be limited because the prosecuting attorneys generally do not speak Oriya, the local language in which the trials are conducted, are inexperienced in prosecuting cases of communal violence, and have an excessively large case load.

### *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, Hindu mobs killed 1,200 to 2,500 Muslims across Gujarat, looted or destroyed thousands of mosques and Muslim-owned businesses, and forced more than 100,000 people to flee their homes. Christians were also victims in Gujarat, and many churches were destroyed. 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 Gujarat Chief Minister, Narendra Modi. Chief Minister Modi has been re-elected twice since the riots.

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. 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 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 Chief Minister Modi 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 release immediately to the SIT copies of these materials to facilitate the probe. The SIT summoned Chief Minister Modi to appear before the Indian 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 10 hours about his role in the Gujarat violence. The result of the Supreme Court's questioning of the Chief Minister has not been made public.

In the years since the 2002 violence, the SITs' investigations and the fast track courts established by the Supreme Court to investigate and prosecute crimes have had mixed success. Nearly 4,000 First Information Reports (FIRs) were filed, but by 2003 the Gujarat police had closed 1,851, citing insufficient evidence. The Supreme Court ordered the Gujarat police to review the closed cases. However, the Gujarat police reopened only 183 cases and, by the end of 2010, no charges had been filed against any perpetrators named in those cases. Most cases relating to the Gujarat violence are heard by district or sessions courts, not fast track courts, which means they will be appealed or reheard by the Gujarat High Court and later, India's Supreme Court. As with Orissa, specific information about these cases is hard to acquire, making it difficult to determine whether justice was applied fairly. Observers have noted that in the cases heard by district and sessions courts (not fast track courts), many of the Hindu alleged attackers were acquitted. There also are reports that several complaints have been filed with the Supreme Court and the Gujarat High Court alleging that SITs intimidated witnesses, produced fake witnesses and evidence, and were politically biased against victims of the violence. In April 2010, the Supreme Court ordered the removal of two high level officers from one SIT in response to a complaint.

In February 2011, a local fast track court convicted 31 people and acquitted 61 for the train burning that triggered the 2002 Gujarat violence. Among those acquitted was Maulana Umarji, whom many believe was one of the masterminds; two other leaders in the planning, Haji Billa and Rajjak Kurkur, were convicted. The following month, the court sentenced 11 people to death. Reportedly the case began in 2009 and involved as many as 253 witnesses and over 1,500 pieces of evidence. A representative of the Indian American Muslim Council expressed to USCIRF that the death sentence for the 11 individuals was unduly harsh as those individuals were not the masterminds or planners of the train burning, but rather, just accomplices.

In 2002 the Gujarat government established the two-person Nanavati-Mehta Commission to examine the Godhra train fire and the violence that followed. In September 2008, after numerous extensions, the

Commission released the first part of a two-part report. The first part focuses on the train fire, while the second will focus on the subsequent violence. The report states that the fire was a premeditated conspiracy by Muslims. The report also absolved the Modi administration of any complicity in the train incident, despite documentation to the contrary gathered by journalists and official Indian government bodies. The Commission's final report was due on December 31, 2010, but the state government granted the Commission another extension. The second half of the report is now expected to be released in June 2011.

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. Compensation for all next of kin, including the 228 people who were presumed dead, was paid 350,000 rupees (\$8,333 U.S. dollars) per person. Also, some compensation has been paid for injuries and for homes or businesses that were damaged. Currently, organized survivor groups are seeking more compensation for homes and businesses. Also, the Gujarat High Court reportedly has asked the state government to decide by May 2, 2011 if compensation will be paid to victims of rape.

### *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. According to the 2010 Amnesty International annual report, only 20 people have been convicted of crimes associated with the riots.

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. 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, naming Tytler and Kumar. 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 witnesses and their families. In late 2010 the Central Bureau of Investigation (CBI) requested that the Delhi Additional Sessions Court begin criminal proceeding against Kumar and five others for their alleged role in the 1984 anti-Sikh riots. After pressure from the national government, the court accepted the CBI's request and proceedings have begun.

### *Violence in Karnataka State*

In September 2008, shortly after the outbreak of violence in Orissa, more than 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. The police have registered cases 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. State police did arrest the Karnataka state leader of the Bajrang Dal, Mahendra Kumar, in September 2008 after he publicly announced his group's leading role in the attacks. Mr. Yeddyurappa has attributed the violence to conversion activity and has blamed the attacks on groups seeking to tarnish the image of the BJP.



As a response to the 2008 incidents, the BJP-led Karnataka state government appointed a commission of inquiry, headed by Justice B.K. Somashekara, to probe the attacks. Although the commission's interim report, released in February 2010, found state, police, and BJP officials to be responsible for and/or complicit in the various church attacks, its January 2011 final report reversed these findings. While the report addresses the church attacks individually, it concluded overall that police provided adequate protection before, during and after the attacks, that neither the BJP government, nor Bajrangdal, nor Sangh Pariwar had any direct or indirect hand in the attacks, and that several resulted from the perpetrators' anger over Christian conversion practices.

Critics have accused the commission of political bias in favor of the BJP, and Christian leaders have demanded that the CBI perform its own investigation. For example, two NGOs, the People's Union for Civil Liberties (PUCL) and Transparency International (Karnataka), also conducted an inquiry into the 2008 Karnataka church attacks. PUCL is India's oldest and largest non-governmental human rights organization. The inquiry was conducted by Justice Michael F. Saldanha, a former judge on the Bombay and Karnataka High Courts. His report, released in early 2011, covered only the incidents that occurred in Dakshina Kannada, Udupi, and Bangalore, concluded that "every one of the[se] attacks and incidents . . . were instigated and pre-planned. They were State sponsored and not only supported by the State but were covered up for by the State."

Since the Indian government has not allowed USCIRF to visit India, the Commission has been unable to verify independently the contradictory information provided in these various reports.

#### 2007-2008 Bomb Attacks

In late 2007 and in 2008, a series of bomb attacks were perpetrated against Muslim places of worship including a mosque, Sufi shrine and cemetery, in Andhra Pradesh, Goa and Maharashtra. At the time, the bombings were attributed to Muslim terrorist groups. Dozens of young Muslim men were arrested and reportedly tortured. Later, a Hindu cleric, Swami Aseemanand, told a local magistrate that the bombings were perpetrated by Hindu radicals. The CBI began its own investigation. In 2010 eleven individuals were arrested and charged in conjunction with the various bombing, including Swami Aseemanand, senior RSS leader Indresh Kumar as well as other senior RSS leaders. However, nine Muslims remain in jail despite the arrests of the Hindu nationalists.

#### *"Freedom of Religion" Acts/Anti-Conversion Laws*

The harassment and violence against religious minorities appears to be more pronounced in states that have adopted "Freedom of Religion" Acts or are considering such laws. These laws, which are commonly referred to as "anti-conversion" laws, are written to protect against religious conversions deemed coercive due to the use of incentives or benefits. While the Indian Constitution protects the right of citizens to change and propagate their religion, five Indian states, including Chhattisgarh, Himachal Pradesh, Gujarat, Madhya Pradesh, and Orissa, have enacted controversial "Freedom of Religion Act(s)." Since 1978, Arunachal Pradesh has had an anti-conversion law on the books, but it has not been fully promulgated, causing it to be unenforceable. Rajasthan has passed a law through its state assembly, but it has not been signed by the state governor. An eighth state, Jharkhand, is poised to pass a similar law and the state of Karnataka reportedly is currently debating one. In some of these states, anyone intending to change his or her religion must give the government prior notice of a conversion away from Hinduism, but not toward it. In Andhra Pradesh the law goes a step further – it prohibits the propagation of a religion in or near another religion's places of worship or prayer.

Proponents of these laws allege that financial, educational, and/or other service-based benefits take advantage of economically-depressed or marginalized communities, particularly low-caste and tribal

peoples. The anti-conversion laws generally require government officials to assess the legality of conversions and provide for fines and imprisonment for anyone who uses force, fraud, or “inducement” to convert another. However, many provisions in the anti-conversion laws, in particular their terminology regarding inducements or coercive acts, are ill-defined and open to abuse. This lack of specificity allows religiously-biased governmental and police officials to apply the laws with little evidence needed. The vague language also promotes societal harassment.

These laws have led to few arrests and reportedly no convictions. According to the U.S. State Department, between June 2009 and December 2010 approximately 27 arrests were made in Madhya Pradesh and Chhattisgarh, but resulted in no convictions. Compass Direct reported that in March 2011, police arrested 12 tribals in Orissa’s Mayurbhanj district for violating the Orissa “Freedom of Religion Act” by converting to Christianity without a permit issued by the authorities.

Despite their limited application, human rights and Christian advocacy groups have expressed concern that these laws create a hostile atmosphere for religious minorities. States with such laws seem to have more reported cases of attacks on and harassment of religious minority communities, and greater problems of impunity, than elsewhere in India. The former UN Special Rapporteur on Freedom of Religion or Belief also expressed concern over these laws’ impact on religious minorities and their inconsistency with international norms guaranteeing the freedom to change one’s religion, and called for their repeal.

The issue of alleged “forced conversions” has played a significant role in violence in several states, including Kandhamal. For example, a National Commission on Minorities’ (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. However, according to the NCM, there have been no cases of forced conversions registered in Kandhamal in the past 40 years. Further, the NCM reported 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.” As recently as February 2011, Hindu nationalists organized a reconversion rally in Madhya Pradesh; Christians feared harassment and intimidation and obtained an order from the state High Court mandating police protection of their churches and community. While the rally included highly intolerant speech, there were no reports of physical violence or forced conversions.

In November 2010, Hindu nationalists disrupted a frequently held Christian youth gathering in the state of Chhattisgarh. Reportedly, approximately a dozen Hindu nationalists along with police stormed the Central India Youth Festival, which had about 900 in attendance, and accused organizers of forcible conversion. While no one was arrested, the festival organizers were forced to provide a list of participants. In another example, the Global Council of Indian Christians (GCIC) reported that on December 26, 2010, Hindu nationalists beat a Christian who was distributing gospel tracts in Madhya Pradesh. For nearly two hours, the extremists physically abused the man, forced him to the Kotwali police station, and accused him of being a convert who was forcing others to convert. The police made no arrest and provided him with medical attention; however, they did not arrest his attackers, either.

Asia News reported that Hindu nationalists made four separate attacks in December 2010 in the state of Karnataka. In one incident, 10 Hindu nationalists disrupted a prayer meeting and falsely accused the pastor and the Christians that were present of forcible conversion. Four Christians were verbally abused and dragged to the Gonilkoppa police station, where the extremists pressured police to arrest them. The Christians were released without charges, but were warned not to conduct future worship meetings at their

homes. Sajan George, president of the GCIC stated, “Police, however, did not take action against the extremists for attacking the Christians.”

In a positive development, in January 2011, the Supreme Court upheld the life sentence imposed by Orissa High Court on Dara Singh, a Hindu nationalist, for the 1999 murder of Australian missionary Graham Staines and his two minor sons, who were burnt to death. Although viewed as a victory by religious communities and NGOs, the case, which took 12 years, highlights the slow judicial process.

### *Scheduled Tribes and Castes*

Article 17 of the Indian Constitution outlaws untouchability, and the Indian government continues to implement various affirmative action schemes such as reserved quotas for government jobs and university education. However, these quotas are for Scheduled Tribes and Castes that belong to Hindu, Sikh or Buddhist religious communities; currently they do not apply to Muslims, Christians, or converts from Scheduled Castes either to Islam or Christianity. Christians and Muslims from Scheduled Castes do not qualify because they are considered to have removed themselves from the caste system. While affirmative action is not an internationally-recognized right, the quota system is frequently applied in a discriminatory manner. Disadvantaged Christians and Muslims are excluded from benefits, despite the economic and social challenges they face. The former UN Special Rapporteur on Freedom of Religion or Belief condemned this discriminatory system and called for the abolition of links between religion and caste or tribal status. In 2004, Christian groups filed a case with the Supreme Court to allow Dalit Christians and Dalit Muslims to access the same reservations as other Scheduled Castes. The Court was considering the case at the end of the reporting period.

### *Terrorism*

Threats and fear of terrorism in India, perpetrated or threatened by domestic actors, including Maoists, and foreign regional actors, particularly Pakistanis and Bangladeshis, remain high. However, there have not been large-scale terrorist acts in India in the last reporting period. India has labeled 34 domestic groups as terrorist organizations and in May 2010 banned 100 al-Qaeda- affiliated international groups.

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 since 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.”

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 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, the first time India’s small Jewish community was so targeted.

### *Jammu and Kashmir*

The Jammu Hindu majority area and the Kashmir Muslim majority area have seen intense religious-political tension and violence for decades. In the last few years, the State Department has reported that

the “levels of societal and insurgent violence declined in Jammu and Kashmir,” but militant 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 2009, the state government of Jammu and Kashmir reportedly provided approximately 16 billion rupees (\$32 million) for the return and rehabilitation of Kashmiri Pandit Hindus. Large public gatherings, including religious gatherings, 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 during Muharram commemorations. Over the summer of 2010, there were massive anti-India protests in the region. Reportedly, over 100 people, mostly young men, were killed in the clashes and several hundred people were arrested by Kashmiri security forces. In a positive development, in July 2010, India announced a commission of inquiry to review the deaths of civilians in Kashmir. In January 2011, the Indian government announced it may reduce troops in Indian-administered Kashmir by one quarter.

### *Ayodhya Mosque Verdict*

In September 2010, the Supreme Court of India released its Ayodhya mosque verdict. The disputed 2.77-acre site in the city of Ayodhya, located in the state of Uttar Pradesh, has been claimed by both Hindus and Muslims since the early 20<sup>th</sup> century. Hindus believe that the site is the birthplace of Lord Rama, and Muslims have claimed the site since the 1500s when the Babri Mosque was built. In 1992, Hindu extremists destroyed the mosque, setting-off violent riots in several cities, which left an estimated 2,000 people, mostly Muslims, dead.

As the verdict approached, the federal government feared widespread riots from both Hindus and Muslims. The federal authorities took proactive steps to lessen the potential for violence, such as issuing public appeals, placing advertisements in newspapers urging respect for the rule of law, and mobilizing tens of thousands of security forces to prevent sectarian violence. The issuance of the verdict over the disputed religious site occurred without incident, largely because of the proactive actions of the central government of India. The verdict ruled that the site would be shared between two Hindu sects, each receiving one-third of the disputed area and Muslims receiving the final one-third. A Hindu national political party, Akhil Bharatiya Hindu Mahasabha, and Sunni Wakf Board, a statutory body, constituted by the government of Uttar Pradesh in 1995, as well as several other Hindu and Muslims groups and organizations, have filed challenges with the Supreme Court against the Allahabad High Court verdict.

### **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 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.

The first state visit hosted by President Obama was for Prime Minister Singh in November 2009. In November 2010, President Obama made a three-day state visit to India. Discussions focused primarily on energy, relations with Pakistan, and counter-terrorism. In his speech to a joint session of parliament President Obama stated, “Faced with such gross violations of human rights, it is the responsibility of the international community – especially leaders like the United States and India – to condemn it. And if I can be frank, in international fora, India has often shied away from some of these issues. But speaking up for those who cannot do so for themselves is not interfering in the affairs of other countries. It’s not

violating the rights of sovereign nations. It is staying true to our democratic principles. It is giving meaning to the human rights that we say are universal.”

President Obama also publically supported India as a permanent member of the U.N. Security Council. In the same speech given to a joint session of parliament President Obama stated that “with increased power comes increased responsibility” and said that the United States “look[s] forward to working with India – and other nations that aspire to Security Council membership – to ensure that the Security Council is effective; that resolutions are implemented, that sanctions are enforced; [and] that we strengthen the international norms which recognize the rights and responsibilities of all nations and all individuals.” The President did not publicly address specific issues involving human rights or religious freedom in India.

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.

Three decades of U.S. nonproliferation policy toward India were reversed through an initiative launched by President Bush in 2005 and finalized by the 110th Congress in 2008, the U.S.-India Civil Nuclear Cooperation Agreement. In March 2010, India and the United States successfully concluded negotiations allowing India to reprocess spent nuclear fuel, a development which will further open commercial opportunities for U.S. nuclear energy companies.

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 10-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 between India and Pakistan increased dramatically after the Mumbai bombings. India was concerned, and remains concerned about increased U.S. military aid to Pakistan. New Delhi fears the aid bolsters the Pakistani military capabilities against India. In February 2011, India and Pakistan announced they would renew bilateral peace talks, which stalled after the 2008 Mumbai bombings. The talks will include the topics of terrorism and Kashmir. In March 2011, India and Pakistan announced that the two countries would establish a “Counter-Terrorism Hotline.” India’s home secretary and Pakistan’s interior secretary said publically that the hotline would help “facilitate real-time information sharing with respect to terrorist threats.”

India also has 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. U.S. aid programs to India continue.

## **Recommendations**

Various levels of the Indian government have taken positive steps to provide redress for past communal violence, including by creating SITs, fast track courts and commissions of inquiry. The success and effectiveness of these entities have been limited by police and judicial bias, corruption, insufficient police and judicial personnel, and an overburdened and antiquated judicial system. In addition, some states continue to have worrying levels of religiously-motivated harassment and violence and have passed laws, such as the so-called “Religious Freedom Act(s),” that run counter to the national government’s inclusive and religiously tolerant platform. Because justice for past communal violence continues to be slow and ineffective and because of concerns about the state “Freedom of Religion Act(s),” USCIRF recommends that the U.S. government in all diplomatic talks urge India to strengthen its law enforcement and judicial

structures so victims from past incidents of communal violence have their cases heard free of religious or political bias, corruption and in a timely manner.

## **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 President Obama's 2010 visit;
- 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, and meet with state and local officials to raise these concerns; and
- encourage India to accept delegations from non-governmental organizations and U.S. governmental agencies, including USCIRF, so they may independently assess religious freedom conditions in India.

## **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 standardized procedures for documenting and collecting evidence are promptly followed in instances of communal conflict and other religiously motivated crimes; including 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 all complainants are able to obtain legal representation, regardless of religion or caste status;
  - 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;
  - 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;
  - ensuring 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:

- 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;
- 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 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 people 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 Commissioners Felice D. Gaer and William J. Shaw:**

As troubled as we are by religiously-based violent incidents in India that have resulted in loss of life, physical abuse, displacement or other abuse, we respectfully express the view that the Commission’s categorization of India as a “Watch List” country this year is inappropriate.

As the Commission itself has noted, India is unlike the other countries on its Watch List. India is a respected constitutional democracy with religious traditions that coexist and flourish under extreme economic and other conditions; it is a country whose judiciary is independent, highly regarded, albeit slow-moving, but that can work effectively to hold the perpetrators responsible; it contains a vibrant civil society with many vigorous, independent non-governmental human rights organizations that have investigated and published extensive reports about religiously-motivated violence; and it is home to a free press that has widely reported on and strongly criticized the situation on the ground in Orissa and Gujarat, and elsewhere.

In identifying India for “Watch List” status this year, the Commission has cited two particular concerns – “justice for past communal violence continues to be slow and ineffective” and concern about state-level laws called “Freedom of Religion Acts.” The Commission has also questioned the capacity and will of the Indian government, criticizing what it terms a “culture” or a “climate” of impunity.

In our view, however, the Commission’s decision to place India on the 2011 Report’s Watch List is ill-advised. It ignores the logic of its own observations – namely, that the Indian national government and Supreme Court have taken a range of commendable and significant steps demonstrating the will to prevent new outbreaks of large-scale religiously motivated communal violence, to reign in excesses or to correct insufficient action at the state level, to ensure accountability of those responsible for past cases, and to provide rehabilitation and restitution to victims.

The Indian national government and Supreme Court have offered visible, effective and proactive interventions that have made clear that there is both the will and capacity to take action to ensure justice. Prior to the Ayodhya mosque verdict, Indian authorities issued public appeals, placed advertisements in newspapers urging respect for the rule of law, and mobilized tens of thousands of security forces to prevent violence.

In its findings, the Commission affirms that “there has been no large-scale communal violence” in the past year but that “progress” in ensuring religious freedom “continued to be mixed.” But inexplicably it does not credit the national government for the very measures that demonstrate the capacity and will of the government to be proactive and to prevent such large-scale violence.

For example, the Commission’s report cites new structures created at the national level and actively functioning to address cases relating to past large-scale communal violence in Orissa, Gujarat and elsewhere – special investigative teams, fast-track courts, and special commissions – but then it claims these are hampered by limited capacity, inconsistent use, political corruption and religious bias. While the functioning of some of these structures in such local settings may indeed reveal such inconsistencies, the results of them, taken together, should be understood to be substantial. The riots that followed the August 2008 murder of Swami Saraswati left 40 dead and tens of thousands of Christians displaced, but there has been a concerted effort by national authorities to ensure accountability

through the courts, as well as restitution and rehabilitative training to victims, through local and development agencies. In January 2011, India's official National Human Rights Commission called for more, including a full report from the Orissa state government, but acknowledged that the number of convictions by the courts in the past year – reportedly 279 persons had been convicted in 56 cases by two special courts – outpaces anything achieved elsewhere in the country in the past decade. USCIRF's chapter on India identifies even more convictions, citing 311 convicted in 59 cases according to the U.S. State Department, with nearly 200 cases still being heard. Even though many of those initially accused in Kandhamal have been acquitted or had charges dropped, and more remains to be done, such results are neither a "slow" nor "ineffective" response.

The Commission also raises, as decisive for Watch List status, the existence of 'freedom of religion' laws that prohibit coercion or allurement or fraud in decisions on changing religion. At issue is whether the laws themselves are abusive, or whether they are used for impermissible purposes. The Commission reports that the laws are "used by local authorities to harass and sometimes detain individuals perceived to be proselytizing..." and "contribute to an atmosphere of hostility." NGO reports also claim misuse of these laws – for example, the "jury" from the "National People's Tribunal" found that "communal forces have used religious conversions as an issue for political mobilization and to incite horrific forms of violence and discrimination against the Christians of Scheduled Caste origin and their supporters in Kandhamal."

Hindu and other groups point out that the laws prohibit *coercive* measures or *forced conversion*, not all acts of conversion per se, and that there have been no convictions in Orissa and few in the other localities where they are in force. The Hindu-American Foundation has written to the Commission about so-called "predatory proselytization," claiming that the measures taken by Christian missionary organizations seeking converts in parts of India has denigrated individual believers and the Hindu religion itself and gives vent to added religious intolerance.

Considering international human rights law norms, the UN Special Rapporteur on Freedom of Religion has expressed concern about the vague and overbroad terms in the so-called "anti-conversion laws," which have enabled local authorities to use "unfettered discretion" in interpreting and applying them. She called for authorities to "reconsider" them, and to take a number of pro-active measures, from promoting public debate to developing specific safeguards to avoid abuse of the laws, to other preventive steps such as creating a central telephone hotline for allegations against police. USCIRF, in its recommendations, calls for an impartial public commission to study the matter of religious conversion including allegations of forced conversion in those states that have such laws. A public commission and further forthright discussion of the issue, including at the national level, could also help to clarify whether these laws, in themselves, and their application in the states where they exist, are so arbitrary and restrictive as to merit national action.

India has the legal and democratic traditions to deal with religious intolerance and should be strongly encouraged to continue to do so. Its central government has demonstrated both will and capacity to bring about accountability for violent abuses. Its vibrant civil society is uniquely placed to urge sustained efforts to strengthen the ability of the national authorities and central police to prohibit and punish cases of religious violence, and to monitor those responses in the public arena.

**Statement of Chairman Leonard Leo, with whom Vice Chair Elizabeth H. Prodromou and Commissioner Nina Shea Join:**

To be sure, progress has been made in terms of bringing to justice the perpetrators of the religiously-related violence that took place in Gujarat in 2002 and in Orissa in 2007 and 2008. But is it progress

sufficient to remove India from the Watch List? Some have suggested that the delay in justice surrounding these and other cases of religious violence is no different from all other aspects of the court system. Perhaps that is so. But try as we might, we were unable to assess the number of prosecutions and convictions from those incidents in relation to the overall functioning of the justice system in India; the data is scant, and, unfortunately, the government of India has not responded to our requests for help in rounding out and interpreting the data.

Assuming, however, that we did in fact receive such cooperation, and that the data revealed that the sluggishness of legal action respecting religiously-related violence is not all that different from the way justice is handled in other cases, this begs yet another question: in light of India's near-uniquely pluralistic and diverse population, as well as its history of periodically-explosive ethnic and religious tensions, shouldn't the Indian government have given greater priority to prosecuting those legal cases expeditiously? Where resources are scarce and capacity is lacking, governments need to place a premium on addressing the matters that pose the greatest threat to peace, stability, and security. There is evidence that this has not happened with regard to such cases in India. Absent better information from the government of India, it is hard to see why the Watch List determination should be reversed.

Finally, the anti-conversion laws in a growing number of Indian states are problematic even though they do not result in many convictions. Not only do they burden India's justice system but they appear to encourage religious violence against minorities. They give rise to the reported arrests of alleged proselytizers so that their mere presence on the books creates a more hostile atmosphere for Christians and Muslims. In states with these laws, incidents of religious violence are greater and the problem of impunity from such violence is heightened -- confirming again that vaguely-worded, state-enacted blasphemy, apostasy, and anti-conversion laws serve to embolden extremists rather than create a climate of religious harmony.

## Indonesia

**FINDINGS:** Over the past decade, Indonesia has evolved into a stable democracy with stronger human rights protections than at any time in the nation's history. The government of President Susilo Bambang Yudhoyono has taken positive steps to address terrorism and past sectarian violence, end a civil war in Aceh, and curtail terrorist networks. However, religious tolerance has come under increasing strain in recent years. Religious minorities have experienced patterns of intimidation, discrimination, and societal violence often perpetuated by groups espousing intolerance and extremism under the banner of Islamic orthodoxy. The activities of extremist groups are sometimes tolerated by segments of the Indonesian government, including the police. In addition, despite legal protections for religious freedom, national laws and provincial decrees 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 in 2011. Indonesia has been on the Commission's Watch List since 2002.

Indonesia's well-known tradition of religious tolerance and pluralism is being challenged by religious radicalism and extremist groups who have found converts in the country, leading to sectarian and societal violence, terrorism, and religious freedom violations. Indonesians rejected extremism at the polls, but it often goes unchallenged by many political, civic, and religious leaders. During the reporting period, nearly 40 places of worship belonging to religious minorities were closed, either forcibly by extremist groups or through the denial of building permits by government officials. Extremist groups also instigated violence against religious minorities, including an attack that led to the death of three Ahmadiyah adherents. New provincial bans on Ahmadiyah practice have been put in place in East and West Java and South Sumatra. Despite some strong public statements and arrests, the reactive approach taken by the Indonesian government has not been an effective deterrent to the violence perpetuated by non-state actors against religious minorities. Indonesian government officials also continue to employ the "blasphemy law" (Article 156(a)) to harass and detain individuals considered religiously "deviant" and continue to allow the enforcement of local laws restricting the rights of women and some non-Muslims, particularly in Aceh. In addition, USCIRF remains concerned about the situation in Papua, where long-standing political and economic grievances and human rights abuses have deepened sectarian tension.

**PRIORITY RECOMMENDATIONS:** The interests of the United States are advanced by a democratic and prosperous Indonesia committed to countering terrorism and promoting religious freedom and related human rights. A USCIRF delegation traveled to Indonesia in May 2010, and met with government officials, members of the Indonesian House of Representatives, civil society, and religious communities. USCIRF recommends that the Obama administration use the U.S.-Indonesia Comprehensive Partnership to create regular human rights dialogues and target economic assistance to support government offices and civil society organizations 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. Additional recommendations for U.S. policy toward Indonesia can be found at the end of this chapter.

## Religious Freedom Conditions

### *USCIRF's 2010 Visit*

A USCIRF delegation visited Indonesia in May 2010, traveling to Jakarta, Yogyakarta, and the former conflict zone of Ambon. The delegation met with officials from the Yudhoyono administration, including individuals from the Foreign Ministry and the Ministries of Law and Human Rights and Religion. The delegation also met with justices from the Supreme and Constitutional Courts, senators and members of the House of Representatives, the Sultan of Yogyakarta, appointees to the National Human Rights and National Women's Commissions, and representatives of civil society and Indonesia's diverse religious communities.

The delegation discussed a wide-range of religious freedom issues while in Indonesia, including the rise of extremism, sectarian violence, the blasphemy law, protection of religious minorities, police impunity, the removal of the religious designation on national identity cards, and issues related to Aceh, Papua, and the former conflict zones of Central Sulawesi and the Maluku.

### *Indonesia's Tradition of Religious Tolerance and the Challenge of Extremism*

The majority of Indonesia's diverse religious communities operate openly and with few restrictions. Politicians, religious leaders, and civil society have vibrant public discussions about the role of religion in political life, and religious communities continue to play an important role in Indonesia culture and society. There are more Muslims in Indonesia than in any other single country, and Indonesian Islam is known for its accommodation of a variety of indigenous cultural and religious traditions. Over the past decade, there has been a revival of Islamic awareness and practice. 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 often played an important role in public life, and there are numerous religiously-based political parties, universities and schools, media, and other institutions.

The revival of Islamic devotion, coupled with Indonesia's new democratic openness, has strengthened Indonesia's mainstream Muslim institutions, 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, religious freedom violations, and violence.

Although extremist groups and religiously-conservative Islamic political parties have failed to win popular support, hard-line activists and extremist organizations, such as the Islamic Defenders Front (FPI), wield considerable influence, particularly in some provincial governments and in parts of the Indonesian bureaucracy. They have successfully pressed their agenda, pressuring government officials, judges, and politicians through private lobbying, media, demonstrations, threats, and mob action. Such efforts resulted in the 2008 Joint Ministerial Decree on the Ahmadiyah, the Anti-Pornography Law, and the extensive use of the "blasphemy law" (Article 156(a)), as well as a continued use of local sharia-inspired laws in some 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. Opponents of extremist groups, however, have become recent targets of intimidation and violence, including in March 2011 when "book bombs" were sent to police officials and moderate Muslim organizations who have opposed religious militancy, terrorism, and religious freedom violations.

Religious relations in Indonesia are increasingly strained. Anti-Christian and anti-Ahmadiyah sentiment is growing among hard-line Islamic groups, who view these groups' apparent growth as a threat to Islam.

The state occasionally intervenes in defining religious orthodoxy and deviancy, and has resisted calls to review provincial ordinances that discriminate against religious minorities. As a result, opinion polls in Indonesia demonstrate a marked decline in religious tolerance.

President Susilo Bambang Yudhoyono won major electoral victories in 2009. While his public statements have stressed that religious tolerance and pluralism are the cornerstones of Indonesian democracy, his administration has not taken active steps to improve religious relations and firmly protect constitutional guarantees of religious freedom. In fact, the President stated in February 2011 that he supported continuation of the 2008 decree restricting the rights of Ahmadiyah, and the Ministers of Law and Human Rights and Religious Affairs have actively supported new measures further restricting and banning Ahmadiyah religious activity in the provinces of East and West Java and South Sulawesi. Coordinating Minister for Political, Legal and Security Affairs Djoko Suyanto did say publicly that provincial bans were unconstitutional, but the national government has taken no action to invalidate the provincial bans against the Ahmadiyah community at this time.

Indonesian religious and civil society leaders also have criticized the Yudhoyono administration for being reactive to the violence and harassment perpetuated by extremist groups and for not vigorously enforcing the constitutional protections for the freedom of religion and belief. After violence targeting Christian and Ahmadiyah communities last year, President Yudhoyono and Coordinating Minister Djoko called for the arrest of perpetrators and the protection of religious minorities. Individuals who both instigated and carried out violence were arrested and convicted, but Indonesian non-governmental organizations (NGOs) continue to express concern that sentences handed down are not a sufficient deterrent and do not fit the crimes committed.

While Indonesia has demonstrated progress in advancing human rights overall, serious challenges remain. Religious freedom violations continue to be perpetuated by problematic laws that contradict Indonesia's constitutional protections and its international commitments, by extremist groups who use violence to intimidate religious minorities and human rights advocates, and by the passivity, and sometimes even complicity, of law enforcement and government officials to these groups' actions. These problems are a threat to Indonesia's tradition of religious tolerance and pluralism and undermine the trust of Indonesia's citizens in the institutions that are the foundation of a flourishing democracy.

#### *Addressing Past Sectarian Violence*

USCIRF first placed Indonesia on its Watch List in 2002, after sectarian violence in Central Sulawesi and the Maluku claimed thousands of lives and displaced tens of thousands of others. The USCIRF delegation visited the Maluku in May 2010. 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.

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. Local civic and religious leaders and government officials have worked to promote reconciliation and diffuse tensions in former conflict areas, creating “early warning” and mediation systems to deal with tensions. However, residential segregation between Muslims and Christians, as well as between different ethnicities, has grown in the past 10 years. USCIRF's interlocutors viewed this growing segregation and decreasing levels of communication between Christian and Muslim communities at local levels as increasing the potential for future conflict.

Police and prosecutors in former conflict areas continue to arrest and sentence individuals accused of carrying out sectarian violence. On January 27, 2010, police arrested Eko Budi Wardoyo in Sidoarjo (East Java), for alleged involvement in the 2005 bombing of the Central Market in Poso that killed 22 persons and injured more than 90 others in religiously-tinged violence. Wardoyo also was accused of the murder of Christian Pastor Susianti Tinulele in 2004. A decision in that case is still pending. On May 20, 2010, the Palu State Court prosecutor sought a 17-year prison sentence for Arifuddin Lako following his conviction for the murder of Ferry Silalahi, the prosecutor in numerous terrorism and corruption cases in Poso in 2004 – including one case involving the terrorist organization Jemaah Islamiyah. In December 2009, Indonesian courts sentenced 17 individuals to 14 years' imprisonment for taking part in sectarian violence in Ambon a decade ago.

Two individuals were sentenced in February 2009 for their part in instigating riots that destroyed parts of a Christian village in the Malukus in 2008. One of the individuals tried was a schoolteacher, Wilhelmina Holle, who reportedly denigrated Islam in her classrooms. Holle and the other suspect, Asmara Wasahua, coordinator of the Central Maluku Islamic Communication Forum, were charged with provoking the attacks and circulating inflammatory pamphlets. On April 28, 2009, Masohi State Court sentenced Holle to one year in prison under the country's blasphemy law. The Masohi State Court also sentenced Wasahua to one year in prison for inciting the riot. Holle was released on December 10, 2009.

Many grievances remain, and many persons remain displaced, from the sectarian conflict that occurred previously in Central Sulawesi and the Malukus. While local governmental officials and religious leaders are committed to decreasing tensions, sectarian flash-points continue between sometimes segregated communities. In addition, though crippled by recent government action, terrorist organizations still operate in the region, recruiting, and setting up training camps in remote areas. The arrest of suspected terrorist leader Abu Dujana confirmed that the goal of terrorist networks was to stoke sectarian tensions through bombings and assassinations of religious leaders, particularly in Papua, Central Sulawesi, and Ambon. These continue to be areas of concern moving forward, despite the apparent commitment by local religious and political leaders to quickly address sectarian tensions and head off future sectarian violence.

#### *Success of Counter-Terrorism Campaign*

The Indonesian government continues to make notable progress in capturing, apprehending, prosecuting and jailing persons accused of specific terrorist activities, including many individuals on the U.S. most wanted list. In general, terrorists have no significant support in Indonesia, and every attack has generated public outrage. This success, however, has come at the cost of a number of serious human rights violations committed by police, particularly the elite counter-terrorism unit Detachment 88.

The Indonesian government has been actively hunting the top commanders of the terrorist group Jemaah Islamiyah (JI). In the last year, Indonesian police disrupted a terrorist training camp in Aceh, arresting more than 50 members and killing eight, including Dulmatin, a key JI commander who allegedly carried out the 2002 Bali nightclub bombing and was said to be responsible for a string of church bombings in the Philippines in 2000. In August 2010, police again arrested Abu Bakar Ba'asyir, Indonesia's best-known radical cleric, for his support of the Aceh training camp. Ba'asyir is accused of funding the camp and heading an alliance called "al-Qaeda in Aceh."

These, and other efforts, have been criticized as unnecessarily abusive by Indonesian human rights groups. In particular, Detachment 88 has been accused of broadly interpreting Indonesia's anti-terrorism laws and holding suspects for up to seven days without publicly acknowledging charges, using mistreatment and intimidation to gain confessions from alleged terrorist suspects in the Bali and Central Sulawesi bombings, and using lethal force arbitrarily in confrontations with suspects.

According to the Indonesian human rights organization KONTRAS, between 2000-2010, 953 people were brought before a court on terrorism charges related to the 2002 and 2005 Bali bombings, the 2009 JW Marriott and Ritz Carlton bombings, 2005-2007 anti-Christian attacks in Poso, and the creation of terrorist training centers in Aceh. Eighty-seven people were killed during police operations in that time. One JI suspect in the Bali bombing died in police custody in 2003; the case has not been independently investigated.

In 2010, the Yudhoyono administration created the inter-departmental National Antiterrorism Agency (BNPT). The BNPT was created to be an oversight agency coordinating the efforts of police, the military, the Religious Affairs Ministry, academics, and civil society. The BNPT was also chartered to coordinate prevention, eradication, and counter-radicalism programs as well. The BNPT reportedly would have more authority than Detachment 88 in setting counter-terrorism policy in Indonesia. Human rights organizations have voiced concerns that the BNPT wields too much power and about the greater participation of the military in the antiterrorism efforts, though the police will maintain their leading role in antiterrorism activities.

Indonesia has not become a reliable front for terrorist activity and recruitment. According to the International Crisis Group, police activity and lack of public support have severely compromised Indonesian terrorist organizations, but there is still a danger that they can mobilize using as a recruiting tool fear of “Christianization” – a term that generally refers both to Christian efforts to convert Muslims and the alleged growing influence of Christianity in Muslim-majority Indonesia. At the September 2010 trial of those arrested for forming al-Qaeda in Aceh, fear of “Christianization” was a key concern of those who joined the organization. In Palembang, South Sumatra in 2008, a JI recruiter persuaded a local Muslim anti-apostasy organization that murder and suicide bombings were a more effective way to stop Christian proselytization than non-violent protests and public pressure.

### *Extremist Groups and Societal Violence*

The number and influence of groups pressing political and religious agendas under the banner of Islamic orthodoxy has grown in recent years. 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 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. They have intimidated judges and local officials; vandalized and destroyed minority religious sites, including Christian churches, Hindu temples, and Ahmadiyah and Shi’a mosques; threatened moderate Muslims or those considered to have “deviant” theological views; and forced the closure of some businesses during Ramadan. Though these groups are a tiny minority of Indonesia’s diverse Muslim community, they remain an active and organized 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. However, the government has not been as consistently vigilant about hindering the activities of extremist groups as they have about terrorist groups. Over the past several years, police have arrested individuals in high-profile incidents, including after violence at a church in the Jakarta suburb of Bekasi in September 2010 and after sectarian violence in



Banten and West Java in February 2011. Most of those arrested are currently awaiting trial. But these sporadic arrests have not effectively deterred these groups from using violence to advance their own religious positions or to target religious minorities.

Islamic extremist groups continue to attack Ahmadiyah sites, Christian churches, Shi'a mosques, Hindu temples, bars, and nightclubs with relative impunity. Moreover, their actions are to some degree legitimized by Indonesia's blasphemy law and government-funded institutions like the Indonesian Ulemas Council (MUI) and the Coordinating Board for Monitoring Mystical Beliefs in Society (Bakor Pacem). Both the MUI and Bakor Pacem have called for a ban on Ahmadiyah religious activities and restrictions on, among other things, interfaith marriage and worship, religious pluralism, and yoga. Local MUI chapters, often in the name of religious harmony, pressure provincial officials to close religious minorities' places of worship or take action against groups viewed as having "deviant" religious views. In addition, the police have frequently failed to protect religious minorities and sometimes have stood by while such attacks take place, or even participate in them, according to human rights and religious freedom studies by the Setara Institute for Democracy and Peace and the human rights organizations Imparsial and KONTRAS.

#### *Restrictions and Societal Violence Targeting the Ahmadiyah*

Extremist groups have been particularly active in seeking a ban on all Ahmadiyah activities in Indonesia. There are an estimated 400,000 Ahmadiyah living in the country. Civil society groups have documented at least 342 attacks on Ahmadiyah individuals and sites between 2005 and 2010, with the largest share occurring in 2005 and 2007. There has been a new surge in attacks on the Ahmadiyah community in Indonesia during the reporting period, as well as renewed public calls for their outright banning. Three Ahmadiyah followers were killed in mob violence in Banten province in February 2011.

Violence and legal restrictions targeting the Ahmadiyah community started after a July 2005 MUI *fatwa* that condemned them as a heretical sect, a decree that the Indonesian National Commission of the Human Rights (Komnas-HAM) has called unconstitutional. 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 Ahmadiyah in June 2008. While not an outright ban, the decree "froze" Ahmadiyah activities to private worship and prohibited Ahmadiyahs from proselytizing, although it also outlawed vigilantism against them.

Since the 2008 decree, 49 Ahmadiyah mosques have been vandalized and 34 mosques and religious meeting points forcibly closed. Ahmadiyah leaders report that they are allowed to gather for worship in most parts of the country, but that in some parts of West Java, South Sulawesi, East Java, and Lombok provinces, extremist groups interpret any visible Ahmadiyah activity as "proselytizing" and pressure local officials to close mosques or places of worship.

This reporting period has seen an increase in anti-Ahmadiyah violence. In June 2010, militant groups sealed off eight Ahmadiyah mosques in Cianjur, West Java, including the al-Ghofur Mosque, where a mob of 500 people tried to tear down the building and later clashed with police. Also in June 2010, a local FPI contingent shut down the Ahmadiyah headquarters in Makassar, South Sulawesi. In late July 2010, police allowed a mob to forcibly close an Ahmadiyah mosque in Manis Lor village, and in October, mobs attacked the Ahmadiyah community in Ciampa, south of Jakarta, burning their mosque and several houses.

On February 6, 2011, approximately 500 people attacked the house of a local Ahmadiyah leader in Cikeusik, Pandeglang, Banten province and murdered three Ahmadiyah followers. The attack was

reportedly instigated and coordinated by a group called the Cikeusik Muslim Movement (CMM). Police assigned to protect the Ahmadiyah did little to stop the violence, though the CMM had warned of an attack if the police did not shutter the Ahmadiyah mosque. President Yudhoyono ordered an investigation into the attack and several individuals were arrested; their trial is pending at this time. The National Police Chief also removed the Banten police chief commissioner in charge of the Cikeusik subdistrict and announced the creation of a new “anti-anarchy” unit to protect religious minorities and stop sectarian violence.

East Java, West Java, and South Sulawesi have issued bans on Ahmadiyah practice, and the Ministers of Religious Affairs and Law and Human Rights have endorsed these local measures. However, the governor of Jakarta refused to issue a similar ban, saying it would be unconstitutional. There are also reports, from evidence gathered by several Indonesian human right organizations, that government officials, mainstream Muslim religious leaders, and members of the Indonesian military (TNI) have been involved in efforts to “return” the Ahmadiyah to “the right path.” Ahmadiyah members reported in recent months that they were forced to renounce their faith tradition, sometimes in exchange for the cancellation of economic debt.

In West Java, the decree banning the Ahmadiyah has provoked societal violence. On March 29, 2011, a mob attacked and vandalized the house of an Ahmadiyah in the Sukagalih area of Tasikmalaya, West Java. On March 14, mobs attacked the villages of Cibuntu and Ciareuteun Udik in Bogor, damaging at least eight homes. On March 13, electronic equipment and books were burned in Cipeuyeum, Cianjur. And on March 10, 2011, locals and security officers sealed off a boarding school in Sukabumi.

An estimated 150 Ahmadiyah continue to live 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. 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 Ahmadiyah community has found both options unacceptable and has reportedly sought asylum in a third country, reportedly Australia, citing religious persecution.

#### *Detentions for Religious “Deviancy”*

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, the use of Indonesia’s “deviancy” law has expanded in the past decade. 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. Most such cases have been against allegedly heterodox Muslims, although a few have been against Christians. In the Maluku, the Christian teacher whose comment about Islam reportedly sparked sectarian violence in the city of Masohi in 2009 will reportedly be tried under Article 156(a).

In April 2010, the Constitutional Court upheld Indonesia’s 1965 blasphemy law, which outlaws distorting any of the six official religions of Indonesia. The court stated that the government had power to impose limitations on religious freedoms based upon security considerations. The law’s constitutionality had been challenged by the late former President Abdurrahim Wahid and an interfaith coalition of civil society groups. The Minister of Religious Affairs and the Minister of Home Affairs opposed the challenge. The Minister of Religious Affairs claimed that overturning the blasphemy statute would create “unlimited religious freedom” and the proliferation of sects, which would lead to social upheaval and potential violence against religious minorities.

In recent years, police, provincial officials, and local MUI have taken actions to break up allegedly deviant sects associated with groups such as al-Qiyadah al-Islamiyah, Lia Eden, and Noto Ati, among others. 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 groups as Dzikir Asmaul Husa, Dayak Segandhu Losarang Indramayu, Islam Model Baru, Tarekat Naqsabandiyah, and Hidup di Balik Hidup.

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. The sect’s leader, Ahmad Moshaddeq, remains in prison, serving a four-year sentence imposed in April 2008 for “violating the criminal code by committing blasphemous acts.” In May 2008, al-Qiyadah al-Islamiyah members Dedi Priadi and Gerry Lufthi Yudistira were sentenced in Padang district court to three years in prison under Article 156(a).

In June 2009, Lia Eden, leader of the Jamaah Alamulla Group, was again found guilty of “blasphemy and inciting hatred among religious adherents,” and Wahyu Wisbisono, a Jamaah Alamulla member, received a two-year sentence 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 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.

The East Java MUI issued an edict on October 28, 2009, accusing the Santriloka sect in Mojokerto, East Java of heresy. Santriloka's leader, Ahmad Nafan, stated that Muslims did not need to fast during Ramadan, de-emphasized the need for prayer, and taught that the Koran was originally written in Sanskrit and old Javanese. On October 30 locals from Mojokerto gathered in front of Ahmad Nafan's house and demanded that he stop his activities. The police closed Santriloka's activity center and took Nafan into custody. On November 2, 2009, Nafan apologized for his activities and said that the Santriloka would return to Islam. In spite of his statement, on November 5, 2009, police charged Nafan with blasphemy. No further information on the case was available at the end of the reporting period.

Indonesia’s “deviancy laws” are not only used against allegedly heterodox Muslim groups. In November 2010, American expatriate Gregory Luke was given a five months’ sentence for blasphemy after he reportedly asked a local mosque in Lombok province to turn down its loudspeakers. Luke allegedly turned off the speakers himself and made a disparaging remark about the “manners” of Muslims. The latter allegation is disputed because of Luke’s poor grasp of Indonesian. A mob burned down Luke’s house after the confrontation. On February 8, 2011, a court in Temanggung, West Java convicted a Christian man, Antonius Banwengan, to five years for distributing books and leaflets that made fun of some of Islam’s most sacred symbols. Though he was given the maximum sentence of five years under Article 156, a mob rioted, targeting churches and church property saying the verdict was too lenient. 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(a). 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).

### *Forcible Closure of Religious Venues*

During the reporting period, extremist groups reportedly forcibly closed as many as 40 religious venues and provincial officials have blocked and delayed building permits. The most forced closures of religious venues in the past year were in West Java, though instances were also reported in the provinces of East Java, West Lombok, Madura, and Riau. The most frequent targets were Protestant and Catholic congregations, which have spread, along with better economic and housing options, to new areas of Indonesia, and Ahmadiyah mosques and other facilities. In some areas, extremist groups interpret the existence of new Protestant or Catholic religious venues as evidence of proselytizing, an activity banned by Indonesian law. Hindu temples and Shi’a mosques have also been targeted in past years.

Police and local officials have sometimes intervened to prevent property destruction and disperse crowds and arrested individuals responsible for vandalizing or destroying property and instigating violence. But mob violence, often instigated by extremist groups, 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 acquiesced to pressure from militants and revoked permits for longstanding places of worship or allowed the destruction or closure 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 violence and vandalism occurred.

Local officials deny Christian churches that meet in private homes or storefronts permission to build permanent structures. In many cases, the congregations’ visibility raises community opposition, particularly if their membership grows. In May 2010, the USCIRF delegation visited several Protestant churches in North Bekasi, Jabotabek region, East Jakarta that had faced vandalism and protests by the FPI and another group, Musholla (Cooperating Bureau of Mosques and Praying Rooms), because they meet in private homes or on property where they had been denied permission to build. Although police protect the worship activities of these meeting points, there are protests almost every weekend, and two church leaders were stabbed in September 2010. Citing the coordinated opposition by the FPI and others, local officials have refused to grant these churches permission to build permanent structures, despite their having met the criteria established in the 2006 decree. A similar situation exists in South Rawa Badak, Koja region, North Jakarta.

Nevertheless, provincial officials are not uniformly opposed to issuing building permits to religious minorities who meet 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 Tangerrang, West Java, authorities issued the church a building permit in 2009. Construction of the new facility is nearly complete.

In January 2011, the Indonesian Supreme Court overturned Bogor city officials’ revocation of a building permit for the Yasmin Indonesian Christian Church (GKI Yasmin). The Yasmin church was meeting weekly at the site of their proposed church and faced constant FPI protests. However, despite the court decision and the interventions of the Minister of Religious Affairs, the mayor of Bogor continues to refuse to issue the church a permit. In March 2011, the mayor publicly called for “action against the church congregation if it insisted on the decision issued by the Supreme Court.”

The sizeable number of closed religious venues remains troubling. Specific incidents in recent years include the following: 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 and disrupted 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.

Also in April 2010, a mob burned a building under construction in Cibereum, Cisarua, Bogor, West Java, believing it to be a church; the building belonged to Penabur, a Christian educational organization. That same month, unknown assailants burned the Java Christian Church in Sukorejo, Kendal, Central Java.

In April 2010, authorities closed a Catholic pilgrimage location in Jati Mulya, Rangkas Bitung, Lebak, Banten because of public protest by a local extremist organization. The site has not been re-opened. Santa Maria Immaculata Catholic Church in Kali Deras, Jakarta, was under construction, with a permit, when demonstrators closed the access road to the site of the church on March 12, 2010. Construction remained halted at the end of the reporting period. While there has been a police investigation, there have been no further developments in this case.

A group of 200 people attacked Kairos Indonesian Baptist Church (GBI Kairos) in Jakarta during Sunday services on February 14, 2010. No injuries were reported.

Local residents and members of radical groups burned both the Batak Protestant Church building and pastor's residence in Sibuhuan, North Sumatra, on January 22, 2010. Local religious leaders condemned the violence. On the same day, the "Pentecostal Church" (*Gereja Pantekosta di Indonesia*) of Sibuhun, Tapanuli Selatan, North Sumatra Province was also burnt down.

In March 2010, the Indonesian Christian Church (*Gereja Kristen Indonesia*) in Taman Yasmin, Bogor, West Java province was attacked by a mob and later closed down by authorities citing opposition from the local community.

In May 2010, members of radical groups attacked a Catholic secondary school, Saint Bellarminus in Jatibening, Bekasi, purportedly in reaction to a student's anti-Islamic Internet posting. The 16-year-old student faces blasphemy charges, with a maximum penalty of two years of imprisonment.

In July 2010, local authorities destroyed a Pentecostal church in Jalan Raya Naragong, Bogor, West Java. In the same month, local authorities closed a Batak Protestant Church in Binanga, Padang Lawas, North Sumatra province because of protests by local extremist organizations.

Also in July 2010, local authorities in Jakarta ordered a Catholic retreat center, "Wisma Semadi Klender" to discontinue its Sunday meetings after protests by extremist groups. However, after religious leaders

met with local officials and the police, the center was allowed to conduct services again the next month. It remains open at this time.

The students of the Arastamar Evangelical School of Theology, known as Setia College, remain without permanent property and continue to face intimidation and extortion threats by the FPI. In November 2010, Setia College reached a settlement with the Jakarta governor's office regarding a new campus, but building has not started.

When religious venues are forcibly closed, it is often because they do not have building permits or because extremist groups claim they do not have "community support," the vaguely worded criteria of Joint Ministerial Decree 1/2006, which governs the building of 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.

The Ministry of Religion has made some efforts to establish and train provincial FKUB panels to mediate problems with local communities. The late, 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 faced difficulties obtaining licenses, frequently due to opposition by the FKUB.

#### *Aceh and Provincial Sharia Laws*

In 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. Aceh remained the only province for which the central government specifically authorized sharia law.

Since 2003, the provincial government has passed sharia laws governing relations between unmarried and unchaperoned men and women (seclusion), banning alcohol consumption and gambling, and prohibiting "un-Islamic" dress. Sharia courts have also created vice patrols, locally known as *Wilayatul Hisbah* (WH), which have taken on a prominent public profile, enforcing dress codes and banning alcohol consumption, gambling, and unchaperoned male-female liaisons. Punishments may include public canings and fines. Christians and other non-Muslims are specifically exempted. The WH presence and activities were particularly prevalent in the years following the 2004 tsunami tragedy in Aceh.

During April 2009 provincial elections, the political parties that won an estimated 80 percent of the vote promised to de-emphasize the continuation of sharia in Aceh and instead to implement fully the Helsinki Peace Accords granting Aceh political autonomy. According to local NGOs, government oversight of WH forces has improved recently, making them somewhat less intrusive than in the past. The new provincial government has sought to disband WH patrols in the city of Banda Aceh itself and civil courts gradually are taking up caseloads previously heard in sharia courts. The incidents of public canings continue to decrease.

The enforcement of sharia, however, remains a significant 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, claiming that it could not be enforced without his signature. At this time, the law has not been enforced, but has not been explicitly overturned.

WH police continue to be active, monitoring compliance with sharia regulations. NGOs in Aceh report that the WH police are largely hated for heavy-handed tactics that have on occasion turned mobs of angry residents against them. In recent years, their budgets have declined in some parts of Aceh. An exception to this trend seems to be in Western Aceh, where local WH patrols were expanded in response to a 2009 district regulation against women wearing tight pants. The State Department reported in 2010 that there were no new reports of roadblocks being set up to enforce Islamic dress, but reports by both the Indonesian Women’s Commission (Komnas Perempuan) and Human Rights Watch (HRW) contradict this. A 2010 HRW report documents numerous cases of enforcement of dress and seclusion laws, both by WH officials and by village and community groups.

According to the HRW report, 800 people were detained in 2009 under the seclusion law and another 2,600 were stopped under a law prohibiting un-Islamic dress. These two laws are often applied selectively and abusively, severely restricting the rights of women in particular, and violate Indonesia’s constitutional protections and international human rights law, including the freedoms of association, assembly, and religion. Aceh’s governor has stated publicly that the seclusion law prohibits only adultery, but it has been enforced much more broadly. In some parts of Aceh, WH officers prohibit any private meetings between unmarried members of the opposite sex. Women are sometimes forced to submit to virginity exams, and in some cases, the suspects are not released from custody until they agree to marry or pay large fines. According to the HRW report, vigilante groups and family members sometimes enforce the seclusion law, including through assault and other physical abuse, and often are not held accountable for these offenses.

According to the HRW report, women are the majority of those stopped, reprimanded and fined for wearing un-Islamic attire, in violation of their rights to personal autonomy, expression, and freedom of thought, conscience, and religion or belief. Public roadblocks have been set up to enforce compliance with the dress code, particularly near beaches. WH police issue lectures, take personal details, and threaten detention or caning if dress code violations continue. In some cases, detentions have led to mistreatment or abuse in custody. In several recent cases, WH police have been held accountable for abuses of women during detention. In January 2010, police arrested and sentenced two members of a local WH patrol for raping a 20-year-old student. The head of the local WH force was also replaced.

The implementation 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 syariah*, or local sharia laws, have been promulgated and enforced over the past eight years, almost all promulgated between 2001-2006.

According to the International Center for Islam and Pluralism, an Indonesian think tank, half of Indonesia’s 32 provinces have enacted some sort of 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. Over several years, 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.

Following the 2009 elections, 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. 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.” At this time, no review of provincial decrees has been completed.

### *Other Religious Freedom Concerns*

During its May 2010 visit to Indonesia, NGOs told the USCIRF delegation about the religious identification requirement on the national identity card (KTP). Many NGOs and religious groups have urged the Indonesian government to delete the religion category from the KTPs. The Indonesian government recognizes officially six religions (Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism). Members of other religions are sometimes unable to obtain KTPs unless they misidentify their religion. According to the State Department, there continue to be sporadic reports of local officials rejecting KTP applications from members of unrecognized religious groups. In some cases, local officials list “Islam” on the KTP cards of animists. Baha’is and Sikhs have sometimes found it difficult to register marriages or births, and without these registrations may face future difficulties with school enrollments, scholarships, or government jobs.

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

President Barack Obama traveled to Indonesia last year to formalize the U.S.-Indonesia Comprehensive Partnership, expanding bilateral cooperation in a number of areas, including education, health, trade and investment, food security, and regional security concerns, including anti-terrorism and anti-narcotics efforts. The President lauded Indonesia’s tradition of tolerance in public statements, without mentioning the growth of extremism and intolerance that has occurred in recent years or the importance of religious freedom. The Obama administration has stated recently that it looks forward to working with Indonesia in its role as Association of Southeast Asian Nations (ASEAN) chair and values its emerging, positive voice on global topics, such as democracy and climate change. President Obama will return to Indonesia in June 2011 to attend the East Asia Summit.

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. Since 2002, the U.S. has also provided an estimated \$250 million to Indonesia counter-terrorism efforts. Along with the European Union, United Kingdom, Germany, France, Australia, Singapore, and Japan, the United States has provided police training, equipment, buildings, and capacity.



In USCIRF's view, U.S. assistance is critical to bolster Indonesia's continued democratic transition and its fight against terrorism. But it is also important for the United States to assist Indonesia's fight against sectarian violence and religious intolerance. President Yudhoyono has said that tolerance and pluralism are the cornerstones of Indonesian democracy, and the preservation of those values is important to the success of U.S. interests. In addition, U.S. technical support and economic assistance should be targeted to assist the Indonesian government close the gap between its public commitments to human rights and their implementation. Specifically, U.S. assistance should be focused toward Indonesian government offices or officials, religious groups and leaders, and civil society organizations working to promote religious freedom, counter extremism, teach the values of tolerance and human rights, pursue legal reform and police training, and build interfaith alliances to deal with pressing social, political, and economic concerns.

## **Recommendations**

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. To these ends, the United States should establish a human rights dialogue as part of the U.S.-Indonesia Comprehensive Partnership, as well as support government officials, religious groups, and civil society leaders promoting religious freedom and human rights, countering extremism, teaching tolerance, and building interfaith alliances.

### **I. Establishing a Human Rights Dialogue**

As part of the new 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 Ahmadiyah community and any provincial bans on Ahmadiyah religious practice, fully protect the rights of religious minority communities under the Indonesian constitution and international law, and arrest or hold accountable any individual who organizes or carries out societal violence targeting the Ahmadiyah or other religious minorities;
- urging the Indonesian government to take a more pro-active role in improving religious tolerance, including by working with the National Broadcasting Commission to create new media focusing on the importance of religious freedom and developing curricula to teach respect for the adherents of all religions in elementary and secondary schools;
- urging the Indonesian government to set national policies regarding the protection of religious freedom and religious minorities, including narrow guidelines of what constitutes a "disturbance of public order," and "incitement" and implement these guidelines throughout the government, including the national police and various ministries that deal with human rights, law, and religion;
- urging the Indonesian government to ensure that no government funding is given to organizations that preach hatred, discrimination or intolerance or have a record of violence against religious minorities;
- urging the government of Indonesia to review all local laws that aim to promote morality, including in Aceh, and invalidate or petition the Supreme Court to review those that conflict with the constitution and Indonesia's international human rights commitments;

- urging the Indonesian government to amend or repeal Article 156(a) of the Penal Code, release anyone sentenced for “deviancy,” “denigrating religion,” or “blasphemy,” and provide clear guidelines to local governments on ending prosecutions of those detained under Article 156(a) of the Penal Code;
- urging the Indonesian government to ensure that the implementation of sharia law in Aceh respects national law and international human rights standards, including by amending or repealing provincial laws that do not comply with these standards and supporting efforts to enhance the capacity and human rights awareness of legislators and civil servants in Aceh and other provincial areas within the Ministry of Home Affairs in Jakarta;
- urging the Indonesian government to investigate and punish, including by dismissing, any official, including national police and *Wilayatul Hisbah* officials in Aceh, who exceed their authority, fail to protect women and religious minorities, or use violence against individuals under their control;
- 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; and
- facilitating a durable solution for internally displaced persons (IDPs) in Central Sulawesi, the Maluku, 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 Memorandum of Understanding (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 Joint Forums for Religious Tolerance (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 national campaigns that discourage societal violence and vigilantism, including related to the implementation of sharia in Aceh, and emphasizing that such violence, including acts taken in the name of community solidarity or morality, are criminal acts and are incompatible with Islam and national, provincial, and local laws;
- supporting academic and NGO research on areas of sectarian conflict and tensions, such as in Bekasi, Bogor, Ambon, Poso, and parts of Papua in order to map the key players and organizations,

document recent extremist activity, and develop with community leaders projects to ease the tension and marginalize extremist groups;

- 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), and the Constitutional Court;
- establishing programs to support monitoring of the implementation of sharia law in Aceh 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;
- supporting programs, through NGOs, academic institutions, Komnas HAM and Komnas Perempuan, to train police and law enforcement officials on national and international human rights principles and compliance, including emphasizing local officials' responsibility to prosecute perpetrators of violence, and ensuring that officers participating in such programs are thoroughly vetted to confirm they have not been implicated in abuses;
- 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:

- 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);
- conditioning any funds for the new anti-terror agency *Badan Nasional Penanggulangan Terorisme* (BNPT) in order to issue public reports on sectarian and societal violence and develop training guidelines for police and government officials on preventing and addressing sectarian conflict and societal violence that is consistent with international human rights standards;
- reform of the Indonesian military, including transfer to civilian control, training in international human rights standards, and technical assistance in military law and tribunals;
- transfer or remove 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; and
- ensure that officers participating in U.S. funded counter-terrorism programs are thoroughly vetted to confirm they have not been implicated in abuses and deny any funding, training, or visas to any police or military unit or security agency personnel found to have engaged in violations of human rights.

### **Statement of Commissioner Felice D. Gaer:**

While I support the placement of Indonesia on the Commission’s Watch List, I respectfully dissent from the recommendation that the United States should “condition[ ] any funds for the new anti-terror agency *Badan Nasional Penanggulangan Terorisme* (BNPT) in order to issue public reports on sectarian and societal violence and develop training guidelines for police and government officials on preventing and addressing sectarian conflict and societal violence...”

I am deeply concerned by the demonstrable increase in sectarian tension and societal violence in Indonesia over the course of the past year. But any U.S. funding for the BNPT should be for the purpose of supporting that new agency’s specific efforts to combat *terrorism*. U.S. funding to Indonesia for the purpose of addressing the broader issue of societal violence and sectarian conflict, particularly through monitoring and reporting on such conflict, should take place outside the counter-terrorism framework. It should be conducted by organs of the Indonesian government and civil society, including the Indonesian police, but also others, including the Ministry for Law and Human Rights, the National Human Rights Commission (Komnas HAM) and other independent bodies. Further, U.S. funding for the BNPT should not expand the role of the Indonesian military (*Tentara Nasional Indonesia* or TNI) in combating societal or sectarian violence throughout Indonesia. The United States should ensure that in providing any funding to the BNPT for counter-terrorism activities and otherwise, it does not have the effect of aiding individual units of the Indonesian police or military where the Indonesian government has failed to investigate allegations that those units have committed serious violations of human rights and to bring those responsible to justice. This would follow the spirit of existing limitations on U.S. funding for foreign security forces and avoid creating a “loophole” that permits funding to abusive units.

Efforts by the Indonesian authorities to address sectarian and societal violence will involve techniques like education, mediation, conflict prevention, and crisis response. These are very distinct from skills such as detecting, investigating and apprehending suspected terrorists, often with force. If the United States wishes to provide funding to the BNPT for the purpose of *countering terrorism*, this Commission should not recommend that it condition such funding on the BNPT’s becoming involved in *monitoring and addressing sectarian and societal violence*, a very different phenomenon.

I am concerned that encouraging counter-terrorism forces under the BNPT, including members of the counter-terrorism unit of the police, Detachment 88, to report on sectarian violence will promote an undesirable expansion of the unit’s “anti-terrorism” mandate and will increase the likelihood of the commission of human rights abuse by the authorities in situations involving sectarian tension. As the Commission’s chapter on Indonesia notes, Indonesian human rights groups have expressed criticism of the performance of Detachment 88, including on the basis of allegations that members of Detachment 88 have arbitrarily resorted to the use of lethal force in confrontations with suspects and have subjected individuals apprehended to abuses amounting to torture. Rights groups also allege that members of Detachment 88 have interpreted their mandate to allow them to apprehend and interrogate not only suspected terrorists, but also suspected separatists (such as in Maluku) – even in cases where the separatists have limited expressing their political beliefs to peaceful and non-violent acts.

I therefore recommend that any U.S.-funded monitoring of sectarian violence, whether by the police or by other organs of the Indonesian government (such as the Ministry of Law and Human Rights, Komnas HAM, or another agency), or civil society, be carried out outside rather than within the BNPT framework.

As noted in this chapter, U.S. funding for the BNPT will support the involvement of not only the police but also the Indonesian military (TNI) in counter-terrorism activities. In this regard, the BNPT framework represents a departure from the Indonesian government’s previous approach to counter-terrorism, which gave the police exclusive authority in this area. Human rights organizations in Indonesia

and leading experts on the region have expressed concern about the very fact that the BNPT will involve the Indonesian military (TNI) in its activities. TNI has a long and much-criticized history of impunity for serious human rights abuses, including with regard to regional and sectarian conflicts – a fact to which the Commission has previously pointed. Moreover, both the UN Committee against Torture and the Special Rapporteur on Torture have expressed deep concern over allegations of excessive force, widespread torture and abuse by members of the armed forces and paramilitary groups in military and ‘sweep’ operations in Papua and other provinces with armed conflicts. Further, as this chapter also notes, there have been credible reports that the Indonesian military has been involved directly in some of the very activities that give rise to the recent sectarian tensions, namely, “efforts to ‘return’ the Ahmadiyah to ‘the right path.’” Given such allegations, the Commission should not advocate U.S. funding for the BNPT that encourages the Indonesian military (TNI) to broaden its role.

If U.S. funding to the BNPT is to be conditioned, as the Commission recommends, it should include conditioning on respect for human rights by the actors involved. If evidence emerges that forces under the BNPT’s coordination have committed serious violations of human rights and the Indonesian government has failed to conduct prompt and effective investigations or otherwise follow up, then US funding to the BNPT should be withheld. I do support the Commission’s recommendation that the US should dedicate funds to elements of the Indonesian police for training in protecting human rights in these areas, a position the Commission has previously affirmed.

Additionally, I would like to correct certain points in the chapter related to the actions of the sharia police in Aceh. USCIRF claims that the activities of the sharia police have decreased in recent years, but according to eyewitnesses and human rights defenders in Indonesia and the government’s own statistics, this is not true. While the budget of the sharia police has been reduced, official records show a consistently high level of enforcement – with over 3,000 “violations” of the sharia laws documented annually – despite this. As to the issue of whether sharia police set up roadblocks to monitor Islamic dress, these continue to be conducted on a regular basis, including in Banda Aceh. I have received credible and reliable reports from an eyewitness to such roadblocks about 10 minutes from central Banda Aceh, including as recently as December 2010.

Since my service on the Commission began, in 2001, I have consistently drawn attention to any practices related to freedom of thought, conscience and religion that coerce, abuse or otherwise discriminate against women or destroy their rights. Unfortunately, the implementation of sharia law in Aceh belongs squarely in that category. Failure to discuss and acknowledge its ongoing coercive, discriminatory, and abusive elements (including the sanctioning of corporal punishment) amounts to turning a blind eye to the legal and practical abuse experienced in Aceh, particularly by women.

#### **Statement of Chairman Leonard Leo:**

The Commission has recommended that the United States condition “any funds for the new anti-terror agency *Badan Nasional Penanggulangan Terorisme* (BNPT) in order to issue public reports on sectarian and societal violence and develop training guidelines for police and government officials on the prevention of sectarian conflict and societal violence...” The rationale for this recommendation is that U.S. funding for BNPT should not support efforts to combat “terrorism” without also addressing “sectarian and societal violence” because they are inextricably intertwined.

Throughout the Commission’s annual report, we have conceived of sectarian conflict and societal violence to encompass acts of terrorism and the destructive and inhumane actions of terrorists. That is most apparent in the analyses of Afghanistan, Iraq (al-Qaeda), India, Pakistan (Lashkar-e-Taiba), Nigeria (Boko Haram), Somalia (Al-Shabaab), and Uzbekistan (Hizbut-Tahrir). To recognize this connection all

over the world, and not to do so in the case of Indonesia, would be disturbingly inconsistent and potentially dangerous.

As the Commission's findings make clear, in Indonesia there are demonstrable connections between religious freedom violations, societal violence, and support for terrorist activity. Extremist groups such as FPI target religious minorities and moderate Muslim religious leaders who support tolerance and human rights. The connection became apparent during the USCIRF delegation's visit to Indonesia, which I led, in May 2010. Civil society representatives and religious leaders reported that the FPI not only stokes violence against religious minorities, but it supports terrorist activity and terrorist groups, such as "al-Qaeda in Aceh," which has recruited directly from the FPI's ranks. In other words, root causes of terrorist activity in Indonesia include societal violence and sectarian tensions caused, in turn, by extremist groups. The USCIRF recommendation recognizes this is a serious problem on which BNTP should be publicly and transparently reporting. If the U.S. is to be giving financial support to BNTP, then the better part of judgment would be to condition those funds in a manner that aims for a greater likelihood of effectiveness by heightening attention to human rights.

To be sure, there are legitimate concerns regarding the role of the Indonesian military (TNI) in counter-terrorism efforts, particularly in light of the TNI's troubled record in Papua, East Timor, Aceh, and Central Sulawesi. It is not at all certain, however, whether the TNI would in fact play a larger role in domestic counter-terrorism efforts with the creation of BNTP. The chief of BNTP recently said that the TNI would "not play a major role in counter-terrorism efforts" but instead would assist the Indonesian police in coordinating intelligence gathering – a crucial contribution given the international nature of terrorist networks.

The Indonesia chapter makes abundantly clear that there are relevant concerns about the role BNTP would play within the Indonesian government. But rather than say nothing about the prospect of the U.S. giving funds without safeguards to an institution it has decided to support and then passively waiting to see what happens, we believe the U.S. should ensure that systems of accountability are put in place at the front end in order to prevent potential legal and human rights abuses in these counter-terrorism efforts. If, over time, BNTP takes a wrong turn, and the military ends up taking on a larger role in counter-terrorism efforts, the U.S. could (and should) scale its support accordingly or eliminate it altogether. In other words, the Commission's BNTP recommendation stands for building human rights capacity where most relevant and needed at present. In this regard, the USCIRF recommendation is similar to a proposal offered recently by the International Crisis Group.

The alternative would be to entrust monitoring and reporting of societal violence and sectarian conflict to institutions whose mandate is not specifically counter-terrorism, such as the Ministry for Law and Human Rights. Ironically, that Ministry is charged with managing Indonesia's program for the rehabilitation of terrorists, illustrating the impossibility of segregating counter-terror efforts from issues of societal and sectarian violence. It also bears noting that there are no guarantees that concerns about the heavy-handedness of the police and the military will be addressed solely by virtue of relying on the civilian nature of the Law and Human Rights Ministry. The head of this same ministry, Patrialis Akbar, who is on record as supporting measures to ban the Ahmadiyah religious community as heretics, is quoted in an Al Jazeera interview in June 2010 as stating that one of his goals for the terrorist rehabilitation program would be to encourage and even fund former Jemaah Islamiyah fighters to carry out "bomb attacks in Israel instead."

This Commission has no quarrel with the idea that protection of religious minorities from extremist groups can be solved by the efforts of police and security forces alone. In fact, USCIRF's chapter on Indonesia specifically recommends that U.S. assistance be directed to governmental agencies, civil society groups, and religious organizations to help train police and law enforcement officials on

national and international human rights commitments, to monitor sharia implementation in Aceh, and to provide research and recommendations for ways to minimize the appeal of extremist groups and address societal violence. Proper understanding and application of these commitments is essential to the recognition of the human dignity of all persons – whether Ahmadiyahs in West Java, Christians in Central Sulawesi, or women who continue to suffer under discriminatory and oppressive sharia dictates in Aceh.

## Laos

**FINDINGS:** The Lao government continues to restrict religious practice through its legal code, and has not curtailed religious freedom abuses in some rural areas. Over the past five years, conditions have incrementally improved for Lao Buddhists and for some religious minority groups in urban areas. Nevertheless, during the reporting period, provincial officials continued to severely violate freedom of religion or belief, particularly of ethnic minority Protestants, through detentions, surveillance, harassment, property confiscation, forced relocations, and forced renunciations of faith. However, Lao officials in charge of religious affairs have reportedly interceded at times with provincial officials to mitigate some of the worst mistreatment of ethnic minority religious groups.

Based on these ongoing concerns, USCIRF maintains Laos on its Watch List in 2011. 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 deeply embedded in 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. Lao Catholics have been allowed to build churches and, in the past year, to ordain a new bishop and priests. Lao Protestants in urban areas have also reported an increased ability to worship without restrictions and to re-open, build, and expand some religious venues in recent years. Lao authorities continue to view the growth of Christianity with suspicion and have linked it with both new calls for ethnic solidarity and a with decades-old and largely moribund resistance movement. Arrests and detentions of ethnic minority Protestants reportedly occurred in Luang Namtha and Khammouan provinces in the past year. Local officials in Salavan and Luang Namtha provinces reportedly pressured Protestants to renounce their faith. Restrictions on worship activities were reported in Savannakhet and Saravan provinces and in Vientiane City.

**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. With some success, the U.S. government has sponsored training for Lao officials on international religious freedom and the protection of religious minorities in law and practice. USCIRF recommends that the U.S. government initiate human rights and religious tolerance training for the Lao military and police as part of new bilateral programs to raise military professionalism and provide additional economic assistance to help 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, in fact, be conducted only with government approval. Minority religious leaders have reported that legally permitted religious activities, such as proselytizing and producing religious materials, are restricted in practice. They also complain that the requirement to obtain permission is used to restrict certain groups' ability to import religious materials and construct religious venues. In addition to the cumbersome approval requirements, the decree contains vague prohibitions on activities that create "social division" or "chaos" that reiterate 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 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 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. The government requires all Protestant groups to be part of either the LEC or the Seventh-Day Adventist Church, allegedly to prevent "disharmony," and has not allowed other Protestant denominations to apply for recognition, making their activities illegal.

### *Conditions for "Recognized" Religions*

Theravada Buddhism, the largest religion in Laos, occupies an elevated position in Lao society, a position ensured by government promotion and subsidies. 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. In some provincial areas, social tensions arise when members of minority religious groups, particularly Protestants, refuse to participate in Buddhist ceremonies.

In the larger cities, religious leaders report few restrictions on their worship activities. In recent years, the government has allowed the officially recognized religious groups, including the Baha'is, Lao Protestants, and Catholics, to re-open, build, and expand religious venues. In April 2010, a new Catholic bishop was ordained in Thakhek, Khammouan Province with the approval of the Holy See. The ceremony was held with clergy from other countries, provincial government officials, and several thousand Lao Catholic worshippers. The government continues to permit the Bishop of Luang Prabang to visit the north to conduct services for the Catholic communities in Sayaboury, Bokeo, and Luang Namtha provinces; however, it also continues to monitor his activities and to deny him residence in Luang Prabang. Between 1975 and 2008, the government did not permit the ordination of Catholic clergy in the country; however, five such ordinations were allowed in 2008 and 2009.

According to the State Department, the government monitors the activities of a small Muslim community in Vientiane but has not interfered with its religious activities. There are two mosques in Vientiane that conduct daily prayers and weekly services on Friday. Muslims from Thailand have come to conduct religious training.

### *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 have used threats of arrest to intimidate local religious communities.

Over the past year, there were continued reports of provincial authorities restricting the activities of ethnic minority Protestants, particularly those who refuse to join the LEC or the Seventh-day Adventists, 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. The Methodists continue to seek legal recognition.

Decree 92 restricts worship services to officially sanctioned houses of worship, and both LEC and non-LEC affiliated “house churches” have experienced various levels of harassment, particularly in Luang Namtha, Oudomasai, and Bolikhamsai provinces. In the past, provincial authorities have refused to grant Protestants permission to build church structures.

The government does not generally interfere with the activities of animist groups, according to the State Department’s 2010 *Annual Report on International Religious Freedom*. There are reports, however, of local authorities actively encouraging groups to adopt Buddhism and to abandon beliefs and practices the authorities considered “backward.”

### *Detentions*

There are several known prisoners remaining in custody for reasons related to religion. Khamson Baccam, an ethnic Thai Dam Protestant religious leader, was arrested in 2007 in Oudomsai province. According to the State Department, the Lao government has consistently refused to acknowledge his detention.

In September 2009, Lao officials arrested a Protestant church elder, Thao Oun, from Liansai village, Savannakhet province. He was reportedly 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. He refused to recant and was expelled from his village. According to one Lao human rights NGO, local officials have barred the children of Liansai village Protestants from attending school.

In January 2011, nine ethnic minority Protestants were detained in Nakoon village, Hinboun district, Khammouan province, and charged with holding “a secret meeting.” According to a Lao human rights NGO, Hinboun district officials have been harassing newly-established Protestant house churches in this area since 2008. In 2009, according to one Lao Human Rights NGO, police detained two religious leaders and pressured 150 Protestants to renounce their faith in both Nakoon and Nahine villages. In

October 2010, Protestants began to meet again in Nakoon village. Prior to their detention, the group had applied to hold Christmas celebrations. They reportedly are being held in Khammouan Provincial Prison.

In the past year, according to a variety of sources, there continue to be individuals detained briefly for reasons related to religion. Many of those detained were forced to sign letters renouncing their faith. For example, in July, 2010 three Protestant church leaders in Boukham village, Savannekhet province were detained for several months before being released. Police sought to get 63 members of the Boukham church to renounce their faith.

In April 2010, the last two of a group of eight Khmu Protestant religious leaders were reportedly released. Members of the group were arrested in 2008 for attempting to cross the border illegally from Bokeo Province into Thailand in March 2008. However, members of the group were reportedly carrying documents critical of the government's treatment of religious minorities.

#### *Forced Renunciations of Faith*

Reports of forced renunciations of faith also continued 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 continue 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.

#### *Lao Government Addresses Some Religious Freedom Abuses*

While the Lao government does not acknowledge that local officials commit religious freedom violations, it sometimes took steps to respond to reports of abuses in provincial areas. LFNC officials have sought to resolve disputes privately between religious groups and provincial officials, including intervening in some cases of detention or arrest, sometimes resulting in positive outcomes. However, the Lao government has been either unwilling or unable to take action publically against officials who have violated laws and regulations on religious freedom.

One example of positive LFNC intervention involves the situation of Protestants in Katin village, Saravan province. In February 2010, police and local officials forcibly removed 48 Protestants in Katin from their property, confiscated their personal belongings, and threatened to destroy the temporary shelters they had built. In 2009, in response to an apparent conflict among villagers in Katin, local officials banned the practice of Christianity and 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 March 2010, the Saravan provincial governor intervened in the dispute, reportedly meeting with the Protestants and assuring them that they could worship freely and return to their property. However, in the last year, the Protestants moved to another village.

In addition, according to the State Department, conditions in Luang Namtha province have stabilized in recent years after LFNC officials apparently helped to ameliorate harassment by issuing a document supporting the right of Protestants in Xunya village. Despite these occasional interventions, the number of reports of abuses coming from provincial areas are troubling, and it seems that local officials can act with impunity towards ethnic minority Protestants.

## *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 in Hmong areas. Repression of ethnic minority Hmong has created an acute refugee problem, as Lao Hmong have sought asylum in Thailand only to be forcibly repatriated. 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.

The U.S. continues to urge Lao officials to consider several measures to address the issue of Lao Hmong refugees, including: 1) establishing an office that could receive and respond to inquiries about the status and well-being of individuals who were returned; 2) regular access by international humanitarian organizations; and 3) allowing those individuals who were deemed by UNHCR to be Persons of Concern to take advantage of offers of resettlement that have been made by several governments, including the U.S.

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

U.S.-Laos relations have expanded over the past few years as the United States has demonstrated greater interest in economic engagement, military-to-military relations, and promoting human rights and religious freedom in Laos. Laos historically has had close ties with Vietnam, but China's influence has expanded dramatically with new economic investment in recent years. Major areas of U.S. assistance include security sector reform, counter-narcotics programs, trade capacity and legal reform projects, HIV/AIDS prevention and treatment, the clearance of unexploded munitions, and the recovery of Americans missing in action since the Vietnam War. The United States has also engaged in new programs to raise the professionalism of the Lao military and reform the security sector. Human rights groups have criticized the Lao military for engaging in abuses during operations against ethnic minority militia groups. As part of any new bilateral military programs, the United States should thoroughly vet those who participate in such programs to confirm that they have not been implicated in any human rights abuses.

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. The State Department's 2010 religious freedom report described conditions as "mixed," noting that "Protestant, Catholic, and Baha'i communities in some areas enjoyed greater tolerance," while minority religions experienced difficulties in rural areas.

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 forcibly Lao Hmong asylum-seekers. The United States has also urged the Lao government to accept independent, international monitoring of the resettlement of repatriated Lao Hmong.

Nevertheless, in a press statement marking the fifty-fifth year anniversary of U.S.-Laos relations, Secretary Clinton and Deputy Prime Minister Dr. Thongloun Sisoulith did not list refugee resettlement, human rights, or religious freedom as issues of "mutual concern." However, they did cite the need for more "exchanges and cooperation" between the United States and Laos in order to contribute to "peace, stability and cooperation."

### **Recommendations**

Most U.S. assistance programs in Laos invest in security sector reform and counter-narcotics programs. New programs in trade and economic development have been proposed for FY 2011. There are no U.S.-funded human rights, rule of law, and governance programs for Laos, except a small religious freedom training program. In order to further promote the freedom of religion and belief in Laos, 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, such as on Decree 92, 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 a formal human rights mechanism, perhaps including a regular dialogue with the government of Laos, that addresses 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 religion, expression, association, and assembly.
- initiate human rights and religious tolerance training as part of any new U.S.-Laos military programs to raise professionalism and reform the security sector, make sure that any officers participating in such programs are thoroughly vetted to confirm that they have not been implicated in any human rights abuses, and 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 technical assistance and human rights programs that support the goals of protecting and promoting religious freedom, including:
  - rule of law programs that provide assistance in amending, drafting, and implementing laws and regulations related to human rights, including Laos' law on religion (Decree 92);
  - training of provincial, district, and local officials to help them better understand both international human rights standards and Laos's own laws regarding the freedom of religion;
  - training and exchange programs in human rights and religious freedom targeting specific sectors of Lao society, including police, religious leaders, academics, lawyers, and representatives of international non-governmental organizations; and
  - 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.

## The Russian Federation

**FINDINGS:** Religious freedom conditions in Russia continue to deteriorate. In the past year, the government increased its use of anti-extremism legislation against religious groups and individuals not known to use or advocate violence. National and local government officials regularly apply other laws to harass Muslims and religious groups they view as non-traditional. Russian officials continue to deem certain religious and other groups alien to Russian culture and society, thereby contributing to a climate of intolerance. High levels of xenophobia and intolerance, including anti-Semitism, have resulted in violent and sometimes lethal hate crimes. Despite increased prosecution for these acts, the Russian government has failed to address these issues consistently or effectively.

Based on these concerns, USCIRF again places Russia on its Watch List in 2011. The Commission has reported on Russia every year since 1999, and placed Russia on the Watch List for the first time in 2009.

The reporting period witnessed an increased use in extremism-related accusations, with readers of the works of Turkish theologian Said Nursi and Jehovah's Witnesses repeatedly charged. Muslims. Several minority religious groups continued to experience denials of registration, and delays and refusals to permit construction of or grant permits to rent places of worship, with their members often harassed and detained. Numerous violent hate crimes continued to occur against members of various religious communities, with chauvinistic groups targeting individuals, groups, and judges and other government officials who defend minority rights. Although Moscow police officials stepped up arrests and prosecutions in 2010, most other regions lagged behind.

**PRIORITY RECOMMENDATIONS:** As part of the "reset" of bilateral relations, freedom of religion or belief should be an important human rights and security concern in the U.S.-Russia relationship. Although Russia does face genuine domestic security concerns, as evidenced by numerous bombings in the North Caucasus and the Moscow region, the United States should press Russia to reform its overly broad law on extremism and ensure it is not used against peaceful religious communities. The United States 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 and abuse of the extremism law. The U.S. government also should institute a visa ban and freeze the assets of Chechen leader Ramzan Kadyrov due to his continued gross human rights violations and alleged links to politically-motivated killings, and urge its European partners to do the same. 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 progress on freedom of religion or belief. This general retreat encompasses religious freedom and related human rights, as well as increased limitations on the media, political parties, and non-governmental organizations (NGOs); 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 defend human rights—particularly those who seek to bring violations to international attention—have been subjected to brazen killings and attacks, with the perpetrators acting with impunity. Moreover, Moscow has opposed international efforts to highlight these serious problems by terming such inquiries “meddling” or “interference in internal affairs.” This sharp deterioration in the human rights climate appears directly linked to the Russian government’s increasing authoritarian stance as well as the growing influence of violent chauvinistic or extremist groups in Russian society.

Within this climate, government respect for the freedom of religion or belief varies widely over the vast Russian Federation. The legal rights of a particular religious community often depend on its relationship with individual officials. Russia’s weak judicial system, inconsistent adherence to the rule of law, and local officials’ personal views and arbitrary decisions have also contributed to chronic problems for the country’s diverse religious communities.

Cases against Russia represent the second largest number of cases at the European Court of Human Rights (ECtHR). In February 2010, the Russian Constitutional Court called on the Russian parliament to amend the Civil Procedural Code so that a ECtHR decision would be considered a “newly discovered circumstance” that would require a Russian court to re-examine a previously-decided civil case. This change, if made, would be significant, because historically the Russian government has paid compensation in line with ECtHR decisions, but not undertaken reforms.

### *Application of Extremism Law*

As is the case in many countries, the Russian government faces difficult challenges in addressing acts of terrorism that claim a religious linkage, while also protecting the freedom of religion or belief and other human rights. The post-Soviet revival of Islam, along with the ongoing violence in the North Caucasus, compound difficulties for Russian government policies toward its estimated 20 million Muslims, the country’s second largest religious community. As the January 2011 terrorist attack at Moscow’s Domodedovo airport makes clear, Russia does face security threats from groups which advocate or perpetrate violence in the name of religion, particularly related to escalating violence often connected to Islamist radicals in the North Caucasus. Nevertheless, the Russian government’s broad-brush approach to this situation is problematic, due to its arbitrary application of vague anti-extremism laws against religious adherents and others who pose no credible threat to security.

Russia’s vague 2002 Extremism Law defines extremist activity broadly in a religious context by referring to “propaganda of the exclusivity, superiority or inferiority of citizens according to their attitude towards religion or religious affiliation; incitement of religious hatred; obstruction of the lawful activity of religious associations accompanied by violence or the threat of violence; committing a crime motivated by religious hatred.” In 2006, the legal definition of extremism was expanded to encompass “violation of the rights and freedoms of the person and citizen” and “harm to the health or property of citizens in connection with their beliefs.” In 2007, the definition of extremism was further expanded to include the “obstruction of the lawful activity (...) of social, religious or other organizations” without requiring that

these alleged obstructions involve the threat or the use of violence. Moreover, individuals who are alleged to have defended or even expressed sympathy with individuals charged with extremism were also made criminally liable to charges of extremism.

The Extremism Law empowers the Procurator-General to file a suit after one warning against private organizations, including religious ones, for alleged extremist activity, which could include the exercise of basic religious freedom rights such as claiming religious exclusivity. If the organization does not correct the alleged violation within two months after the warning, the Procurator-General can seek to close the organization.

The Extremism Law has been used repeatedly by Russian courts to rule religious literature extremist. Once such a ruling is made, the text is automatically added to the Justice Ministry's Federal List of Extremist Materials and is banned throughout Russia. The list was established in July 2007 with 14 titles; as of March 2011, there were 808 titles, including books, journals, recordings, and films. Thirty-two of these titles remain on the list despite higher court rulings against their inclusion. Islamic materials constitute most of the religious texts, including books recommended by the officially-approved Council of Muftis (which the chair of the Council of Muftis has protested repeatedly). Jehovah's Witnesses' publications were added in 2009. Although the Extremism Law does not prohibit private ownership of such material, the Russian police have interpreted it in this 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 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 15-day term of detention.

#### *Application of the Extremism Law against Muslims*

Human rights groups report that in the North Caucasus, but increasingly in other areas of Russia, Muslims viewed as "overly observant" have been killed, "disappeared", or arrested on vague official accusations of alleged religious extremism or for displaying sympathies to Islamist militancy. Hundreds of Russian Muslims have reportedly been imprisoned on the basis of planted evidence, including banned religious literature, drugs, or weapons. Persons suspected of involvement with Muslim extremist groups have reportedly been subjected to torture and ill-treatment in pretrial detention, prisons, and labor camps. Amnesty International has claimed that the Russian Internal Ministry's Center for Extremism Prevention (known as Center "E") engages in torture to extract confessions from suspects.

In 2003, the Russian Supreme Court banned 15 Muslim groups, including al-Qaeda, Hizb-ut-Tahrir, the Muslim Brotherhood, the Taliban, and Lashkar-i-Taiba as well as the Congress of Peoples of Ichkeria and Dagestan and the United Force of Caucasian Mujahideen, for their alleged ties to international terrorism. However, the official government newspaper *Rossiiskaya gazeta* did not publish a list of the terrorist-designated organizations drawn up by the Federal Security Service (FSB) until July 2006—a necessary step to give the ruling legal force. In 2006, the Russian Supreme Court added the Islamic Jihad Group and Jund-al-Sham (Soldiers of the Levant) to the list of banned terrorist groups. In 2009, the court also banned the *Tabligh Jamaat*, an Islamic missionary group with origins in South Asia. With a presence in 150 countries, its 12 to 80 million followers emphasize prayer and preaching. The State Department, the International Crisis Group, and Stratfor, among others, describe *Tabligh Jamaat* as a non-political, non-violent movement that stresses the strict practice of individual piety. Some former members, who reportedly left the movement in frustration with its apolitical stance, have attempted acts of violence. Human rights groups, such as "Memorial," are concerned that these bans have provided justification for arbitrary detentions, convictions, and imprisonment of hundreds of individuals for unproven ties to the



banned groups. Muslims have also claimed that they were beaten or tortured by police in order to force them to testify against other suspects.

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, on the grounds that they advocate "the exclusivity of the Islamic religious faith." In 2008, the Russian Supreme Court banned "Nurdzhular" – alleged groups of Nursi's followers – as an extremist organization, despite serious questions about whether such groups even exist. Since 2007, there have been dozens of police raids throughout Russia of individuals suspected of reading or owning Nursi's works. Authorities have initiated criminal charges against some individuals, and one has been convicted. In August 2010, Ilham Islamli was convicted of extremism for publishing Nursi's work on his website; he was sentenced to ten months' detention, suspended for one year. Criminal charges are pending against four Nursi readers – Aleksei Gerasimov, Fizuli Askarov, Yevgeny Petry, and Andrei Dedkov – and carry a maximum penalty of three years' imprisonment.

The Russian government also has 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 independent of the officially-approved Muslim Spiritual Directorates (MSDs)" of "extremism under cover of Islam." The director of the Interior Ministry's Department for Extremism Prevention has said that young Muslims who do not participate in the official MSDs thereby "transformed themselves" into anti-government militants. In several reported cases, Muslims in Tatarstan have been sentenced for alleged religious extremism for teaching texts that were not MSD-approved.

#### *Application of the Extremism Law against Jehovah's Witnesses and Protestants*

In 2009, a city court in the Gorno-Altai republic ruled 16 Jehovah's Witness publications extremist. The same year, the Russian Supreme Court upheld a lower court decision liquidating the Jehovah's Witness congregation in the city of Taganrog, partly on the grounds that 34 of its texts are extremist. During the reporting period, numerous raids, detentions, and literature seizures have occurred against Jehovah's Witnesses throughout Russia.

In October 2010, for the first time, a Jehovah's Witness was put on trial on criminal charges of extremism. Aleksandr Kalistratov is still on trial in Gorno-Altai for "incitement of hatred or enmity, and humiliation of human dignity," and faces a maximum two-year term for allegedly ordering and distributing "extremist" literature between October 2008 and late 2009. Similar cases against individual Jehovah's Witnesses on charges of extremism are pending in Asbest (Sverdlovsk Region), Chelyabinsk, Kemerovo, Omsk, Salekhard (Yamalo-Nenets Autonomous Region), Tambov, Tula and Yoshkar-Ola (Mari El Republic).

In June 2010, the ECtHR rejected the Russian government's claims that the Jehovah's Witnesses destroy families and infringe the rights and freedoms of citizens. Authorities had used these charges to ban the Jehovah's Witness community in Moscow. The European court also found that the domestic court proceedings in that case were unduly protracted, violating the Jehovah's Witnesses' right to a fair trial.

In March 2011, the Interior Ministry's Department against Extremism sent letters to the Association of Evangelical Christian Churches in the Sakha Republic (Yakutia) requesting data on their pastors' finances, place of residence, the location of religious services, the size of congregations, the circulation of religious literature, the number of children who attend Sunday school, and any possible "instances of religiously motivated conscription avoidance."

### *The Official Distinction between Traditional and Non-Traditional Religions*

Despite Russian constitutional provisions establishing a secular state with equal legal status for all religions and the 1997 religion law's declaration that all religions are equal under the law, that law's preface claims that only four religions – Russian Orthodoxy, Islam, Judaism, and Buddhism – have “traditional” status in the country. Based on this, Russian government officials and police during the reporting period continued to harass, discriminate, and make negative references about Protestant and other religious communities, such as Hare Krishnas and Jehovah's Witnesses, stressing their alien character and foreign funding and even implying espionage. Such statements contribute to a climate of intolerance that has led to acts of discrimination, vandalism, and violent hate crimes against members of religious and other minorities.

The Moscow Patriarchate Russian Orthodox Church (MPROC) – which claims adherents among 60 percent of Russians and has a special role in Russian history and culture – receives *de facto* favored status among the four listed faiths. The MPROC has special arrangements with numerous government agencies and bodies, including with the Ministries of Education, Defense, Health, Internal Affairs, and Emergency Situations, to conduct religious education and provide spiritual counseling. Thus, the vast majority of religious facilities in Russian prisons are Russian Orthodox. But while the MPROC receives most Russian state support for religious groups, Islam, Buddhism, and Judaism can also benefit from government funding, as can other groups, including Old Believers in Moscow. Protestants and other minority religious communities do not receive state subsidies.

In 2009, the Russian government established state-funded military chaplains. As of early 2010, 200 MPROC clergy, but no known Muslim, Jewish, or Buddhist chaplains, had been appointed to Russian military units. Various Russian military units have adopted Russian Orthodox saints in official insignia and there are MPROC chapels on army bases. Reportedly, Russian authorities rarely allow Islamic services in the military and often deny Muslim conscripts time for daily prayers or alternatives to pork-based meals.

In November 2010, President Medvedev signed new legislation establishing a process for the return of property to religious communities that was confiscated during the Soviet period, including land, buildings and movable property, seized during the Soviet period and held by state or local authorities. According to the Institute of Religion and Law, thus far the Russian Orthodox Church has been given priority in the denationalization process, while Baptists, Catholics, Lutherans, and Jews have had fewer properties returned; the level of return of such property varies greatly from region to region.

President Medvedev has advocated Russian official policies that favor the MPROC, but many Russian government officials and sectors of society strongly oppose these policies as violating constitutional guarantees of secularism. Nevertheless, as a result of state policies that favor the MPROC, a wider range of religious communities, including Baptists and Buddhists, have suffered from official discrimination in 2010, such as more frequent denials of registration requests and refusals of permits to build houses of worship.

### *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; in theory, its individual members 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 a centralized organization or as a local organization in existence for at least 15 years. Registered religious organizations can conduct activities denied to unregistered groups, including operating houses of worship and engaging 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.

Registered groups must re-register annually at both the national and local levels. Ministry of Justice officials reportedly ask certain groups, particularly Protestant churches and new religious organizations, for additional data such as passport details, personal addresses, financial documents, and information on the group’s activities. The law empowers officials to bring court cases which may result in decisions to ban the activities of particular religious communities found to have violated Russian law.

In 2009, in a case brought by the Church of Scientology, the ECtHR found that the 15-year existence requirement for registration violated the European Convention on Human Rights’ provisions on the freedoms of religion and association; the Russian government continues to deny registration to the Scientologists. Moreover, the Russian Justice Ministry recently cited the 15-year criterion in appealing a June 2010 lower court ruling invalidating its refusal to register an Armenian Catholic parish, St. Gregory the Illuminator, in Moscow.

The 1997 law required all religious organizations previously registered under the more liberal 1990 law to re-register by December 31, 2000. This process, which involved simultaneous registration at both the federal and local levels, required considerable time, effort, and legal expense. Nevertheless, at the federal level, most religious organizations that 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 Moscow in 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. The ECtHR decision also awarded the Jehovah’s Witnesses more than US\$ 88,000 in damages and costs, which have yet to be paid.

Russia’s 2006 NGO law, which also applies to religious communities, empowers the Ministry of Justice to interfere with NGO activities, examine their documents, attend their meetings with advance notice, and initiate court proceedings that may result in registration denials. NGOs also must submit detailed annual reports on their activities, governing bodies, and funding. After lobbying by the Russian Orthodox Church, the reporting requirements for religious groups under the NGO law were reduced in 2007, but these groups are still required to provide documentation of foreign donations, as well as the full names, addresses, and passport details of executive board members. In addition, if draft amendments to the Civil Code proposed in March 2011 are enacted, non-profit NGOs, including religious groups, would have to re-register and could be required to provide the government with financial documents to allow it to ascertain if their spending is in line with their charters.

### *Official Religious Affairs Agencies*

Governmental mechanisms exist at the national, regional, and local levels to interact with religious communities and monitor implementation of the religion law. 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 22

representatives of traditional and major non-traditional communities, including Russian Orthodox, Orthodox Old Believers, Islamic, Jewish, Catholic, and Buddhist faiths. There also is a Governmental Commission for the Affairs of Religious Associations.

In 2009, the Ministry of Justice established two new federal 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 decide whether an organization, one of its members, or the literature it produces or distributes is extremist. There remains concern over this body's establishment, composition, and expansive mandate. 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 articles exhibiting intolerance on Islam. The Council's members include five individuals known for their "anti-cult" activities. However, the SOVA Center reported that in early 2010 the two Justice Ministry officials who were in charge of liaison with religious communities were fired and that by late 2010 the Council's activities were "frozen."

The Council for Expert Analysis of Religious Literature with Regard to Extremism is chaired by Vitaly Naumkin, a member of the Russian Academy of Sciences Oriental Institute, with his deputy, Aleksandr Zaluzhny, a professor in the national security faculty at the Russian Academy of State Service. The Council's role is advisory; it has no authority to counteract court decisions finding literature extremist, although government officials have been instructed to take its findings into account.

There are religious affairs departments in the Office of the Federal Human Rights Ombudsman and its 89 regional offices which respond to complaints from religious and other communities, but these offices have limited authority. The Ombudsman protested the 2007 court ruling that deemed Said Nursi's writings extremist and asked the Supreme Court to review a lower court's 2009 ruling against Jehovah's Witnesses. The office also addressed religious freedom issues in its May 2010 annual report. The Ombudsman has opposed previous legislative attempts to restrict proselytism and opposed state confiscation of religious community property. The Ombudsman also has been critical of official classification of religious groups as "extremist," "sects," "totalitarian sects" or "destructive sects."

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 appointed 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. Many of these groups allege inordinate official interest in fire safety and other details regarding their worship facilities, which may result in court-ordered fines, temporary closures or official demolition threats. Most recently in the exclave of Kaliningrad, Russian officials also have confiscated buildings used by Catholics, and Protestants, and turned the sites over to the Russian Orthodox Church.

Muslims have encountered difficulties in gaining official permission to open and maintain mosques, particularly in Moscow and other large cities. One notable case involves the city of Sochi, the site of the

2014 Olympic Games. The city has a Muslim population of 20,000 but its mayor continues to refuse to allow an official mosque, despite the community's appeals to President Medvedev. As of this writing, the ECtHR is considering a case in which the Muslim community in Astrakhan was ordered by Russian courts in 2006 to demolish its own mosque, allegedly because it lacked the required building permits.

### *Violent 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, including death threats, against individuals, groups, and government officials that defend the rights of religious and ethnic minorities and migrants. While Russian police have offered some assistance to these defenders, their efforts are inconsistent and often ineffective. In many cases involving Russia's ethnic and religious minorities, Russian authorities, particularly on the local level, have not treated hate crimes seriously. Although police officials in Moscow stepped up arrests and prosecution of violent chauvinists, other regions, particularly Nizhny Novgorod, have lagged behind.

In recent years, human rights groups have expressed alarm over the high rate of hate crimes in Russia, often the result of attacks by "skinhead" racist groups, particularly against people from Central Asia, who are predominantly Muslim, as well as against Russian Jews. It should be noted that, as of 2009, the number of victims of racist and neo-Nazi motivated violence in Russia dropped slightly from the very high levels of the six previous years. Some credit belongs to the Moscow-region law enforcement agencies, which have undertaken more decisive steps against the most aggressive ultra-nationalist groups. Credit also belongs to the tireless work of Russian rights activist Galina Kozhevnikova, SOVA Center's deputy director, who died in March 2011 at the age of 36 after a long illness. In 2010, according to the SOVA Center, the number of murders by ultra-nationalists decreased but the overall level of racist violence remained similar: in 2010, there were 38 fatalities (including 15 Central Asians) and 377 injured or beaten. As of this writing, 2011 had seen 11 fatalities from hate crimes (including four Central Asians) and 22 injured or beaten (including one Central Asian.) The SOVA Report also noted major improvements in the criminal justice response, with the number of convictions for racist violence increasing to 316 in 2010, compared to 168 in the previous year.

The fatal shooting of a soccer fan, allegedly by a man from the North Caucasus in late 2010, sparked riots and ethnic clashes in St. Petersburg, Krasnodar, Nizhny Novgorod, and Rostov-on-Don. In response, President Medvedev said that inter-ethnic hatred threatens national stability and called upon police to punish the guilty, while Prime Minister Putin laid flowers on the grave of the slain soccer fan and urged soccer fans not to allow themselves to be manipulated by radicals.

Most expressions of xenophobia in Russia are directed at migrants from the North Caucasus and Central Asia, but some also target Russian Jews. After the nationalist outbursts in December 2010, larger numbers left for Israel out of concern that such violence may also turn against them, even though the Russian police stepped up security around Moscow synagogues and other Jewish sites.

Most officials and NGOs agree that many of these attacks are motivated largely by ethnic intolerance. Nevertheless, members of Muslim, Jewish, Russian Orthodox, Protestant, Catholic, and other religious communities have been subjected to attacks apparently motivated by religious factors. Religious minority leaders, particularly of Protestant groups, have expressed concerns that Russian government officials tacitly or actively support the view of many ethnic Russians that their country should be reserved for people of Russian blood and that Russian identity is threatened by a declining birthrate and high mortality among ethnic Russians.

Human rights advocates state that senior Russian government officials should increase their public support for the multi-ethnic and multi-confessional nature of the Russian state and society and to develop a long-term plan in that regard. Some Western and other observers have suggested that Russian authorities have manipulated xenophobia for political purposes, citing the ultra-nationalist *Rodina* political party and the Kremlin-backed nationalist youth movement *Nashi*. Others have observed that the Kremlin, by issuing nationalistic statements and often blaming non-Russians for crime, has encouraged intolerant attitudes toward non-Russians and those who do not identify with the Russian Orthodox Church.

### *Chechnya*

While the Russian government has targeted non-violent groups and individuals under the extremism law, Chechen leader Ramzan Kadyrov, who rules a particularly corrupt and lawless republic, has been allowed to operate without accountability. In early 2011, President Medvedev re-appointed Kadyrov to head the Chechen republic for a further five-year term. Kadyrov condones or oversees mass violations of human rights, including religious freedom, the rights of women, as well as humanitarian law by his own militia. As of April 2011, the ECtHR had ruled against Russia in 186 cases concerning Chechnya, most involving “disappearances” of civilians by Kadyrov’s militia. Kadyrov also stands accused of involvement in the murders of political opponents and human rights activists. Since being named by the Kremlin to head the Chechen republic in 2007, Kadyrov has exploited Islam, distorting Chechen Sufi traditions to serve his own ambitions and justify his arbitrary rule. He has declared that Chechnya “would be better off” if it were ruled by sharia law which contradicts secular Russian constitutional and legal precepts.

One recent case highlights the official mistreatment of religious prisoners in Chechnya. Islam Umarpashaev often discussed religion on Internet blogs and thus came to the attention of special Chechen security police. In December 2009, he was forcibly abducted in Chechnya. For four months, Chechen security forces held him incommunicado and reportedly tortured him in detention. According to his captors, his April 2010 release was due to his father “making trouble” and filing an application with the ECtHR in January 2010 seeking information about the case from the Russian government. Today, Umarpashaev, his family, and various Russian human rights activists that assisted him fear reprisals from the Chechen security police. Several official Russian human rights bodies, as well as a group of Russian NGOs, have asked that Umarpashaev’s case be transferred from the local to the federal level because impunity for such crimes in Chechnya has made an effective local investigation impossible.

In 2006 Kadyrov launched an often violent “virtue campaign.” He has said publicly that Chechen women must dress “modestly” to spare their male relatives the painful duty of killing them if they disobey. Over the past three years, nine women reportedly have been killed, most recently in January 2011, for “immodest behavior” and their killers are not known to have stood trial. In 2007, Kadyrov decreed that all women must wear headscarves in public buildings, and he has encouraged attacks on those refusing to wear the hijab. In 2010, there were dozens of incidents in which women were pelted with paintballs, including by police, for not wearing headscarves; one woman reportedly was blinded. Two years ago, Kadyrov reportedly issued an informal order that all Chechen officials must marry a second wife; reportedly, many have done so, often reluctantly.

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

President Obama has made improving relations with the Russian Federation a priority, most notably with the “reset” in relations attempted by Secretary Clinton. However, the current ruling structure is unclear, with Kremlin politics complex and veiled. While President Medvedev is the head of state, former president and current Prime Minister Vladimir Putin continues to exert a decisive influence on Russian policy, both domestically and internationally.

Despite increased U.S. engagement, its relations with Russia continue to oscillate between confrontation and cooperation. There are continued bilateral discussions on a range of contested issues, particularly relating to Iran and the Mideast. Areas of cooperation include nuclear arms reduction. In December 2010, the United States Senate ratified the Strategic Arms Reduction Treaty (START) between the United States and Russia. The U.S.-Russia Working Group on Civil Society has dealt with the issues of anti-corruption, child protection, prison reform, and migration. Presidents Obama and Medvedev formed the Bilateral Presidential Commission (BPC) in 2009, which has 16 working groups. One such group, the Civil Society Working Group (CSWG), first met in January 2010 and reflects input from government officials and NGOs from both countries. Human rights or religious freedom are not specific topics in this strategic dialogue.

The Obama administration has criticized human rights abuses, such as the murder of Chechen human rights defender Natalya Estemirova and the arrests of peaceful demonstrators. Speeches by President Obama and Secretary Clinton in Moscow have stressed the U.S. commitment to defense of human rights and advancing democracy, including in Russia. President Obama attended the parallel civil society summit in Moscow in July 2010. The Obama administration also has expanded financial support through the U.S. Agency for International Development (USAID) for programs on rule of law, human rights, civil society, media, and political processes.

In March 2011, Vice President Biden travelled to Russia and met with President Medvedev and Prime Minister Putin, as well as with opposition and civil society leaders. Vice President Biden discussed the U.S. government's support for Russia's rapid accession to the World Trade Organization, reportedly contingent on human rights improvements.

According to the State Department's 2010 *Annual Report on International Religious Freedom*, while Russia's constitution "provides for freedom of religion, and the government generally respected this right in practice," it also noted that "religious minorities, in particular Muslim followers of Turkish theologian Said Nursi's work, Jehovah's Witnesses, and Scientologists, faced bans on their religious literature and difficulties registering their legal entities." The U.S. government has worked closely with NGOs in Russia in support of democracy and human rights and helped enable a prominent Russian NGO "distribute its own annual report on the state of civil society and human rights in the country" to regional and national authorities, as well as international bodies.

## **Recommendations**

USCIRF concludes that the human rights and security aspects of the issue of freedom of religion or belief should be given a higher priority in the "reset" of U.S.-Russian bilateral relations. Russia faces security concerns as a result of serious threats from groups which advocate or perpetrate violence in the name of religion. Nevertheless, the Russian government's broad-brush approach to this situation is problematic, due to its arbitrary application of vague anti-extremism laws against religious adherents and others who pose no credible threat to security. In USCIRF's view, despite certain improvements, 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.

Accordingly, USCIRF recommends that the U.S. government respond to the deteriorating conditions in the Russian Federation by taking specific steps to strengthen promotion of human rights, including freedom of religion or belief; prioritize this problem in its bilateral and multilateral diplomacy; and address specific Russian human rights issues, particularly by pressing the Russian government to amend the extremism law, ensure the equal legal status and treatment of all of Russia's religious communities, and combat xenophobia, intolerance, and hate crimes.

## **I. Strengthening U.S. Promotion of Human Rights, including Freedom of Religion or Belief**

The U.S. government should:

- urge the Russian government, in public and at high political levels, 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 vague and overly-broad 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,
- reinstitute 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 on 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 interreligious 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 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 leader Ramzan Kadyrov, whom the ECtHR has found responsible for severe and on-going human rights abuses, and urge European partners to do the same, and consider recommending him for the Politically Exposed Persons list, which includes government officials whose bank assets should be frozen due to their corrupt practices and gross human rights violations;
- 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 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 unregistered religious communities;
- urge the Russian government to invite and schedule dates for one or more of the three Personal Representatives of the Organization for Security and Cooperation in Europe (OSCE) on combating intolerance and the UN Special Rapporteur on Freedom of Religion or Belief to visit the country during 2011;
- 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 issues 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 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

- advocate , along with other OSCE States, that human rights abuses in the North Caucasus receive greater attention in OSCE deliberations and programs and also encourage the OSCE to offer humanitarian and other assistance to the civilian populations affected by the decade-long conflict in Chechnya and in the North Caucasus.

### **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 abide by 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 nonviolent 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 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 U.S. government should urge the Russian government to:

- 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 allowing any court to rule that the Russian translation of a text constitutes extremism, resulting in its ban throughout Russia, and re-examine recent court rulings deeming as extremist the publications of the Jehovah's Witnesses and the Turkish theologian Said Nursi;
- reform the mandate and personnel of the Ministry of Justice's 2009 Expert Religious Studies Council in order to diversify its membership and 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 international law, relevant OSCE commitments, 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, the 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 U.S. government should urge the Russian government to:

- condemn – publicly, promptly and specifically – acts of xenophobia, anti-Semitism, intolerance, and hate crimes, and ensure that such acts will be fully and promptly investigated and prosecuted as human rights abuses and not “hooliganism”;
- condemn publicly rhetoric that promotes xenophobia or intolerance, including religious intolerance, while vigorously promoting freedom of expression;
- 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 press, public, 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 ECHR; 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 include: the killing of Sufi clerics and non-Muslims and the desecration of Sufi religious sites; the implementation of a strict interpretation of Islamic law, under which hudood punishments are performed and practices deemed “un-Islamic” are repressed; and an increase in violent interpretations of Islam and the growth of extremist Islamic schools. Violations are conducted outside the control of the Transitional Federal Government (TFG) by the U.S.-designated foreign terrorist organization al-Shabaab. The internationally-recognized TFG is dependent on the African Union peacekeeping force in Mogadishu (AMISOM) for survival, controls about 70 percent of the capital, and lacks the capacity to enforce religious freedom protections or address religious freedom violations.

Based on these concerns, USCIRF again places Somalia on its Watch List in 2011. Somalia has been on USCIRF’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, although some are being slowly rebuilt. 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 this reporting period, neither the TFG nor al-Shabaab managed to take control of central or southern Somalia. Al-Shabaab continues to seek to establish a Caliphate and challenge the TFG and AMISOM’s presence in the country. The continued TFG-al-Shabaab stalemate, as well as internal divisions in the TFG during the reporting period, prevented the government from extending its authority, governing the country or providing services to the Somali people. Few religious freedom violations were reported in the Puntland and Somaliland, although the constitutions in both regions restrict freedom of religion.

**PRIORITY RECOMMENDATIONS:** The promotion of freedom of religion or belief is not adequately addressed in U.S.-Somalia policy. The U.S. government works to stop al-Shabaab and al-Qaeda from establishing Somalia as a base for terrorism and the spread of radical Islam. However, more can be done to address the sectarian elements of the conflict and the increasing manifestations of radical Islam. USCIRF understands the need to provide security assistance to the TFG, as such assistance addresses significant U.S. national security concerns by helping the TFG exert control over Somalia. However, interpretations of Islam that encourage violence continue to result in severe violations of religious freedom and related human rights and have turned Somalia into a safe haven for terrorists. To address this situation, USCIRF recommends that the U.S. government increase efforts to promote freedom of religion or belief through support of civil society organizations and engagement with Somali government officials, clerics, elders, and diaspora communities, as well as increase assistance for programs to develop education and a 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 Transitional Federal Government (TFG) was formed in early 2009, following the election of President Sheik Sharif Ahmed by an expanded TFG parliament, and the appointment of other government officials. President Sheik Sharif was previously a leader in the Union of Islamic Courts (UIC), a group that briefly ruled Somalia in 2006 before being ousted by U.S.-supported Ethiopian troops. Although considered unacceptable to the international community when he was part of the UIC, due to concerns about radical elements within that body, President Sheik Sharif and the current iteration of the TFG are now recognized internationally as a legitimate Somali authority. Following advances by TFG and African Union peacekeeping forces, the TFG has increased its control of the capital city of Mogadishu to about 70 percent, with about 75 percent of the population residing in areas under its control. However, internal governing divisions remain and the TFG is dependent on the 9,000-strong African Union peacekeeping force in Mogadishu (AMISOM) for survival. Although the TFG is scheduled to expire in August 2011, TFG institutions sought to extend their terms despite international criticism. The TFG parliament extended its term by three years in February. In March, the cabinet, including the President and Prime Minister, sought a one-year extension, although at the time of this writing, this had not been granted by the Parliament, which is insisting on presidential elections in August.

In March 2010, the TFG signed a cooperation agreement with Ahlu Sunna waa Jamma (ASWJ), a militia created in 1991 as an apolitical organization to represent Sufi Islam in Somalia in response to the growth of radical Islam and the activities of Islamist groups. ASWJ is composed of Sufi clerics and various clan militias, and controls large parts of central Somalia. Following the desecration of Sufi gravesites and the killing of Sufi clerics in 2008, ASWJ took up arms to fight al-Shabaab's strict interpretation of Islam and thus far has been the only group to battle al-Shabaab effectively. The TFG-ASWJ agreement led to the appointment of several ASWJ leaders to TFG cabinet positions; however integration of ASWJ and TFG forces did not occur. Throughout this reporting period, disagreements between the two bodies hindered cooperation.

The Transitional Federal Charter, adopted in 2007, adheres to the 1960 Somalia Constitution's provisions of freedom of religion or belief, including the right to discuss and study one's religion of choice. Islam is established as the official state religion, and proselytizing for any religion other than Islam is prohibited. However, the lack of a functioning central government and the TFG's limited control over the country make these provisions unenforceable and hence irrelevant at the present time.

In August 2010, the Independent Federal Constitution Commission released the draft constitution of the Somali Republic. The first article states that it is "based on the foundations laid by the Holy Quran and Sunna..."; article 2 states that Islam is to be the religion of the state, no other religion is permitted to be proselytized, and no law contrary to sharia can be enacted; and article 3 declares that sharia is to be the law of the land. The draft constitution prevents state discrimination on the basis of religion and permits Somalis to practice their religion freely, although it also states that Muslims cannot convert from Islam. Members of the judiciary are to be qualified in constitutional, civil, and sharia law. Experts are concerned that the planned constitutional consultation process with the Somali people will not occur given conditions in the country.

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 nationwide implementation of sharia law, becoming the first Somali government to do so. However, Somali officials have given few indications about how sharia law would work in practice. Agreement on how to implement 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 Sheikh 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 in order to implement it "properly."

### *Somaliland and Puntland*

Puntland and Somaliland are governed by their own constitutions. Both regions establish Islam as the official religion, prohibit promotion of other religions, ban conversion from Islam, detain converts, and require presidential candidates to be Muslim. The Somaliland Constitution also requires Islamic education and that laws derive from and not contradict Islam. The May 2009 Puntland Constitution does provide non-Muslims the freedom to practice their religion.

There was little reporting of religious freedom violations in Somaliland and Puntland. In February 2009, a border official detained and beat Kenyan Christian convert Abdi Welli Ahmed when he tried to enter Somaliland with a Bible and other Christian literature. There were no new reports on Ahmed. Other violations in this reporting period include suicide attacks on government officials who spoke out against al-Shabaab's interpretation and practice of Islam in central and southern Somalia.

### *Al-Shabaab*

The vast majority of religious freedom abuses in Somalia were carried out by the terrorist organization al-Shabaab, which poses the greatest threat to the TFG. The goal of this extremist organization, which came to prominence as the UIC's military wing in 2006, is to turn Somalia into an Islamic state, build a greater Somalia by 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 opposes democracy, supports a theocracy, and has assassinated its opponents. For many al-Shabaab leaders, the formation of a Somali Islamic state has been a goal for more than 20 years. A number of its leaders received military training in the 1990s in Afghanistan and had ties with al-Qaeda. Al-Shabaab is designated a foreign terrorist organization by the United States and in fact announced a formal alliance with al-Qaeda in February 2010. In this reporting period, the terrorist organization proved itself to be a regional threat, taking responsibility for bombing attacks in Uganda in July and in Kenya in December.

In September, al-Shabaab failed in a Ramadan offensive to take control of Mogadishu. Subsequent reports indicated that this failure deepened divisions within al-Shabaab and that it was on the verge of splintering; however this did not occur. In December, it incorporated Hizbul Islam, an umbrella group of two Islamic militias also opposed to the TFG and AMISOM presence in Somalia.

Support for al-Shabaab continues to erode among Somalis who view its interpretation of Islam, and use of hudood punishments and al-Qaeda combat tactics, as foreign to Somali society. Since 2009, the presence and actions of al-Shabaab have left hundreds of thousands of Somalis displaced, due either to conflict or to fleeing al-Shabaab. There are 1.5 million internally displaced persons (IDPs) and almost 680,000 refugees worldwide. 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 well over 300,000 Somali refugees.

### *Al-Shabaab Attacks on Sufis*

While the vast majority of Somalis follow the Sufi tradition, al-Shabaab views Sufis as apostates and has attacked Sufi followers, destroyed and closed Sufi mosques, and killed Sufi clerics, including those who speak out against al-Shabaab and its interpretation of Islam. In May and August 2010, al-Shabaab

arrested Sufi clerics in Mogadishu and prevented them from conducting classes or attending mosques because of their “questionable” Islamic views. On February 15, 2011 a Sufi sheikh and eight students were arrested as they planned to celebrate the birth of the prophet Mohammed, a practice deemed “un-Islamic” by al-Shabaab.

Within the Somali Sufi tradition, Somali saints are venerated and their tombs, considered national shrines, are highly decorated. Religious ceremonies and worshipping, including annual pilgrimages, frequently occur there. Al-Shabaab views these activities as idolatrous and bans them. In 2009 and 2010, al-Shabaab engaged in a campaign of desecration of such gravesites, including those of some Somalia’s most revered religious leaders. The most recent desecration occurred in March 2010 when seven graves in Mogadishu were destroyed.

#### *Killings of Christians/Converts*

Al-Shabaab also targets the small and extremely low-profile Christian and Christian convert community in Somalia. Although conversion is currently legal in Somalia, it is not accepted socially. Proselytism is banned and also is socially unacceptable. The few Christians worship secretly in house churches. In this reporting period, al-Shabaab killed several Christians, including two in December 2010 and one each in April, May, July, and September. Most recently, on January 17, a Christian mother of four was killed in front of neighbors in Southern Somalia. There were also several reported kidnappings of Somali Christians in 2010, including in September when a mother and her children were released after agreeing to return to Islam.

#### *Sharia Law under al-Shabaab*

Although different al-Shabaab administrations vary slightly, overall the terrorist organization imposes orders to stop “un-Islamic” behavior and to “cleanse” Somali society of “moral pollution,” harshly punishing those accused of deviating from “accepted” behavior through stoning for adultery, amputations for theft, floggings, and detentions. Such punishments are carried out without legal proceedings. The UN Political Office in Somalia reported in September that between April and July 2010, there were nine executions by firing squad or stoning for alleged spying, adultery, or murder, and five amputations for alleged theft. Four hand amputations for alleged theft were reported in the second half of 2010. Witnesses reported that they were forced to attend the amputations and stonings.

Under al-Shabaab administrations, women are required to be fully covered while in public and are forbidden from engaging in commerce that brings them into contact with men, including traditional female occupations such as selling tea. Men are forbidden to shave their beards or wear their pants below their ankles; those deemed as having “inappropriate hairstyles” have had their heads shaved. The organization closes cinemas, sets fire to markets selling khat (a mild narcotic frequently chewed by Somalis), forbids cell phone ringtones unless they are verses from the Koran, bans all forms of smoking, as well as video games, dancing at weddings, watching soccer, and listening to non-Islamic music. As in the previous reporting period, radio stations that played music 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 pray. There is a strict division of sexes in public transportation and in interactions. A recent order forbids handshakes between men and women. In June, two Somali men near Mogadishu watching the World Cup were reportedly killed by al-Shabaab; the insurgents had previously warned Somalis against such activities, saying that football comes from Christian cultures and is incompatible with Islam. According to the UN, from April to July 2010, 28 individuals were flogged for violating such orders, and several others were also flogged in the second half of 2010 for similar offenses. In February 2011, al-Shabaab reportedly rounded up 150 Somalis in the Lower Juba region for “un-Islamic behavior.”

## **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 Somalis nationwide and operation of U.S. government programs are conducted through the Somalia unit at the U.S. Embassy in Nairobi, Kenya.

The U.S. government supports the TFG. In September 2010, the Obama administration announced a new “dual-track” Somalia policy which expands U.S. support to Somali areas outside of Mogadishu. The first track continues current U.S. policy of supporting the TFG, primarily by training, equipping, and financing its security officers. The second track will expand engagement with the governments of Puntland and Somaliland, focusing on development needs, health and education services, and governance capacity to strengthen those administrations and help them, per Assistant Secretary of State for African Affairs Johnnie Carson, “be a bulwark against extremism and radicalism that might emerge from the south.” The administration also announced it will, where possible, increase outreach to administrations in central and southern Somalia that oppose al-Shabaab.

Of the administration’s \$85.1 million budget request for fiscal year 2011 for Somalia, the peace and security category of \$65.6 million included \$57.6 million to fund peacekeeping operations and security sector reform training and operations. The remaining \$19.1 million budget request would fund programs directed at good governance, peaceful political competition, civil society, basic education and healthcare, and economic growth.

In keeping with its support of the TFG, the U.S. government also supports the African Union Peacekeeping Mission in Mogadishu. As of October 2010, U.S. support to AMISOM totaled \$229 million for equipment, logistical support, and training of Ugandan and Burundian soldiers. Although the administration opposed efforts by the African Union to change the AMISOM mandate from peacekeeping to a more active engagement with al-Shabaab, the United States supported UN resolutions to extend AMISOM’s mandate through 2011 and to increase the number of African troops within the peacekeeping force from 8,000 to 12,000.

In April 2010, President Obama announced Executive Order 13536 blocking the property and property interests in the United States of entities and individuals who have “engaged in acts that threaten the peace, security, or stability of Somalia,” “obstructed the delivery of humanitarian assistance to or within Somalia,” “supplied arms or related materiel in violation of the United Nations arms embargo on Somalia,” or “provided support for any of these activities.” Al-Shabaab and a number of its leaders and members are listed, as is former Hizbul Islam and current al-Shabaab member Sheik Hassan Dahir Aweys, and Yemane Ghebreab, the Eritrean President’s head of political affairs and senior advisor on Somali issues, due to previous Eritrean government financial support to al-Shabaab.

## **Recommendations**

In response to the serious violations of religious freedom in Somalia, the U.S. government should take a number of specific steps to help improve human rights, including religious liberty; ensure high-level and consistent U.S. and international engagement in Somalia; and address the dire humanitarian situation in Somalia and in the Dadaab refugee camps in neighboring Kenya.

### **I. Improving Human Rights, including Freedom of Religion or Belief**

The U.S. government should:



- directly engage, and work with international partners, to make clear that Transitional Federal Government must fully respect universal human rights, including freedom of religion or belief, in its practices, laws, and new constitution and that continued support for the TFG's mandate after August 2011 is contingent upon such actions;
- press the TFG to 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;
- urge the TFG and AMISOM not to tolerate human rights abuses by security personnel and hold perpetrators accountable;
- 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;
- work with the government of Somaliland to bring its constitution and laws into compliance with universal human rights, including freedom of religion or belief, and respect for rule of law and international standards;
- 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;
- increase International Visitor Program opportunities for Somalis from Somalia and the diaspora to learn about human rights, religious freedom, and democracy;
- support human rights training and monitoring programs by the UN Office of the High Commissioner for Human Rights; and
- support livelihood and education opportunities for young Somali men to discourage them from joining militias and being co-opted by religious extremism.

## **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; and

- 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, and encourage international partners to do likewise.

### **III. Addressing the Humanitarian Situation**

The U.S. government should:

- consider resumption of direct humanitarian aid to areas of Somalia not under al-Shabaab control;
- 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:** The religious freedom situation in Tajikistan continued to deteriorate during the reporting period, as it has sharply over the past several years. The state suppresses and punishes all religious activity independent of state control. The government's restrictions on the freedom of religion or belief primarily affect the country's majority Muslim community, but also target minority communities viewed as foreign-influenced, particularly Protestants and Jehovah's Witnesses. Jehovah's Witnesses have been banned, and reportedly as many as 17 Jehovah's Witnesses currently face criminal charges of inciting inter-religious discord. In recent years, the Tajik government has destroyed a synagogue, a church, and three mosques, and it has closed down nearly 75 mosques including 50 in early 2011.

Based on these concerns, USCIRF has decided to maintain Tajikistan on its Watch List in 2011.\* Tajikistan has been on the Watch List since 2009. Conditions in Tajikistan are close to meeting the statutory standard for a "country of particular concern" and require careful monitoring.

The 2009 Tajik religion law established onerous and intrusive registration requirements for religious groups; criminalizes unregistered religious activity, private religious education, and proselytism; sets strict limits on the number of mosques as well their size; allows government interference with the appointment of imams; requires official permission for religious organizations to provide religious instruction and communicate with foreign co-religionists; and imposes state controls on the publication and import of religious literature. A draft law under consideration would ban minors from any organized religious activity except funerals. Women are not permitted to go to mosques or wear headscarves in educational institutions, and men are not permitted to wear beards in public buildings.

**PRIORITY RECOMMENDATIONS:** Tajikistan is strategically important for the United States due to its long and porous border with Afghanistan to the south and in part to the key role ethnic Tajiks play in that country. U.S. policy towards Tajikistan should place greater priority on freedom of religion or belief, particularly in light of the issue's effect on regional security. The U.S. government should press Tajik officials and work with civil society to bring the relevant laws into conformity with international commitments and should oppose the draft law on parental responsibility which would exclude children from organized religion. 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 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, particularly at the upcoming October 2011 UN Human Rights Council Universal Periodic Review (UPR) of Tajikistan. Additional recommendations for U.S. policy toward Tajikistan can be found at the end of this chapter.

\*Commissioner Van Der Meid dissented from the Watch List placement, concluding that the status of freedom of religion or belief in Tajikistan meets, or is close to meeting, the legal criteria for a “country of particular concern” and that the situation has deteriorated in the past year. Not only has the government imprisoned 60 people on unproven criminal allegations linked to religion, it has destroyed or forced the closure of over 75 mosques and other houses of worship; it also bans women from praying in mosques. Further, the 2009 Tajik religion law contains many provisions that violate international standards, such as setting onerous registration requirements and banning private religious education and proselytism. The law also requires that the government permit an institution or organization to provide religious instruction and also approve the content and “appropriate quantities” of all published or imported religious literature. The law particularly restricts Islam, the country’s majority population: Muslim worship is restricted to mosques, homes and cemeteries, and is not permitted in places of work and streets around mosques; only state-licensed mosques are permitted to hold Koran study classes. In this way, the Tajik government attempts to tightly restrict any worship other than that sanctioned by the state.

## **Religious Freedom Conditions**

### *Restrictive Legal Framework*

#### 2009 Religion Law

Tajikistan enacted a highly restrictive new religion law in March 2009 and increased its enforcement of the law after February 2010 parliamentary elections. The law places onerous burdens on religious groups, which has the affect of preventing or controlling religious activity. Non-violent unregistered religious groups, which either chose that status or were denied registration, are deemed “illegal” and the government has closed their houses of worship. Under these provisions, in January 2011, the government closed approximately 50 mosques in the capital Dushanbe.

The law requires religious groups to register, and the Tajik Administrative Code penalizes unregistered religious activity. Under the law, there are two types of registration: as a religious organization, which has legal personality, or as a religious community, which does not. National religious centers, central mosques, central prayer places, religious educational institutions, churches, and synagogues can apply for registration as religious organizations; other religious entities, including smaller central mosques and prayer mosques, can register only as religious communities. To register as a religious organization, ten adult citizen founders must present a certificate from local officials attesting that they have lived in the area for at least five years, as well as provide proof of citizenship, dates of birth, home addresses, and descriptions of their beliefs and religious practices, their views on education, family, and marriage, and their adherents’ health. State officials and members of political parties are not eligible to be among the ten founders. Religious organizations must specify all their activities in their charters and report annually on their activity or face loss of registration. The religion law also requires that the charters define the geographic status of religious organizations as well as religious communities, thereby limiting their activities to the national, town, or district level. According to the State Department’s 2010 *Annual Report on International Religious Freedom*, the Tajik government uses the registration process to “hinder, influence, or intimidate religious organizations and communities.”

The 2009 religion law imposed a re-registration deadline of January 1, 2010. As of March 2011, some mosques had been denied re-registration and many others were still waiting for registration. Also, the Tajik government had not granted registration to the Baptist Union and the country’s only synagogue. According to a January 2011 statement by the Chairman of the Tajik Religious Affairs Committee, 74 non-Muslim religious groups had been registered by that date, and 3,347 mosques, 327 Friday prayer mosques, and 31 central mosques had been registered. The Tajik Ministry of Justice was still considering the registration applications of 10 central mosques, 14 Friday prayer mosques, and 65 other mosques.

The law singles out mosques for particularly strict regulation: one large Friday prayer mosque is allowed in a district of 10,000-20,000 people and one smaller five-time-daily prayer mosque is permitted in an area of 100-1,000 people. While the quotas are higher for the capital, Dushanbe, they also exist there. Mosques that exceed the quota for an area can be shut down. Under the law, “appropriate state bodies in charge of religious affairs” select all imams and their assistants (imam-khatibs); other religions appear to be allowed to appoint their own leaders. Muslim worship is restricted to mosques, homes, and cemeteries, and is not permitted in places of work or on streets around mosques. Under the religion law, only state-licensed mosques are permitted to hold Koran study classes; previously, any mosque could do so.

The 2009 law also prohibits private religious education, requires state permission for an institution or organization to provide religious instruction, and requires that both parents provide written permission for a child to receive such instruction. It is not clear whether, under the law, religious instruction includes children attending religious services, though police have tried to prevent children from praying at mosques after school hours on Fridays. The law also bans proselytism and requires prior official approval for religious organizations to invite foreigners into the country or attend religious conferences outside the country. Under the law, the government must approve the content and “appropriate quantities” of all published or imported religious literature, and religious communities must pay for this “service.” Although Tajikistan has the only legal Islamic political party in Central Asia, the law forbids religious associations from participating in political activities.

The law’s preamble notes the “special role of the [Sunni] Hanafi school of Islam” in Tajik culture, downplaying the role of the country’s Ismaili Shi’a Muslims, who comprise from five to ten percent of the population, as well as the contributions of Tajik Jews and Orthodox Christians.

The international community, including the United Nations, Organization of Security and Cooperation in Europe (OSCE), and USCIRF, raised numerous concerns about the 2009 law. 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.

Tajik government officials, however, have said that concerns about the religion law are baseless and have accused Tajik organizations that share these concerns of supporting “alien ideas.” In April 2009, President Emomali Rahmon told parliament that the law would not be changed. In March 2011, however, the Islamic Renaissance Party (IRP) told Forum 18 that it was planning to seek a Constitutional Court ruling on the law’s constitutionality, as well as to propose a draft revised law. Members of various Tajik minority religious communities have expressed similar concerns about the law’s impact on freedom of religion or belief.

#### *Law on Traditions and Rituals*

Tajikistan’s 2007 Law on Observing National Traditions and Rituals regulates private celebrations, allegedly to protect the public from spending excessive amounts of money; reportedly the law is supported by some Tajiks. This law restricts the manner in which individuals can conduct private celebrations, including those with religious significance, such as weddings, funerals, gatherings after the return of a pilgrim from the *hajj*, and the birthday of the Prophet Muhammad. National minorities are specifically exempted from restrictions in celebrating their national events.

### Draft Parental Responsibility Law

The Tajik parliament is currently considering a draft law on Parental Responsibility for the Education and Upbringing of Children, initiated by President Rahmon. A wide range of human rights defenders and religious communities have expressed concerns about the draft, which includes numerous vague requirements that could impinge upon parental rights to raise children according to their religious beliefs. The law would require that children be educated “in the spirit of respect for the homeland, national and universal values,” omitting religious values. It would also require parents “give a worthy name to the child according to [undefined] national values,” leading members of various religious communities to complain that this could make it difficult to give children religious names. Further, adolescent children would not be allowed “to participate in the activity of religious associations and organized religious activities with the exception of funeral rituals.” The draft law also could open the door to banning religious garb due to its stipulation that the government must provide children “a school uniform at all levels of education” and “control the wearing of it within the bounds of etiquette.”

The deadline for public discussion was March 15, 2011, and it remains unclear whether there will be any amendments or when the parliament may pass the law.

### *Restrictions on Muslims*

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 sets controls on Islamic clergy through the state-appointed Council of Ulema. The Council is the only “national center” allowed for Muslims under the religion law, and its “decisions and *fatwas* are viewed as government policies,” according to the State Department. Council members draft and approve sermons for distribution to imams throughout Tajikistan to read as Friday sermons. In January 2011, Tajikistan’s Religious Affairs Committee announced that it and the Council were compiling a list of some 60 topics deemed suitable for sermons, which would be distributed to all imams. The government also indirectly controls the selection and retention of imams, including through “attestations” on Islamic teachings and religious principles. In addition, the Religious Affairs Council selects, controls and limits the age and the numbers of those who participate in the *hajj*; in 2010, 5,500 were allowed to participate amidst numerous allegations of official corruption.

In 2010, Tajik courts jailed at least 59 people for terms of three to eight years, and fined at least 33 others between US \$5,340 and US \$10,680, for alleged membership in *Tabligh Jamaat*. According to Forum 18, those imprisoned include Igbolsho, Amirali and Murodali Davlatovs (brothers), Nosir Rakhimov, Doniyor Khashimov, Saynurdin Kalugshoyev, Churabek Saidzoda, Jamshed Boyakov, Mahkamjon Azizov, Umarjon Azizov, Nasrullo Khisomov, Talabsho Abdusamadov, Abdumanon Sattorov, Khudaydod Alnazarov, Churakhon Mirzoyev, Toirjon Samadov and Abduvali Murodov. Tajik officials claimed that the Supreme Court banned the group as extremist in 2006, but two Supreme Court officials said in May 2009 that they were not aware of this ban.

*Tabligh Jamaat* is an Islamic missionary group with origins in South Asia. With a presence in 150 countries, its 12 to 80 million followers emphasize prayer, preaching and respect for others. The State Department, the International Crisis Group, and Stratfor, among others, describe *Tabligh Jamaat* as a non-political, non-violent movement that stresses the strict practice of individual piety. Some former members, who reportedly left the movement in frustration with its apolitical stance, have attempted acts of violence. Tajik officials have expressed concern that the group propagated foreign ideology and was a

threat to social stability. In March 2011, four Tajik women accused of belonging to *Tabligh Jamaat* were released from detention, although their husbands reportedly continue to serve prison terms for alleged membership in this group.

Although there have been no known criminal acts linked to followers of Salafism in Tajikistan, the Tajik Supreme Court banned the Salafi school of Islamic thought in February 2009. The court did not release the text of its decision, but reportedly it was based on the need to protect the constitutional order, strengthen national security, and prevent conflict between religious confessions. A Tajik official also told Forum 18 that Salafis engage in “hooliganism” by disturbing other believers with their bodily gestures and shouting during the prayers in mosques.

In May 2010, the Tajik Interior Ministry launched “Operation *Madrassa*,” mainly targeted at individuals teaching Islam to children and youth without official licenses. This effort included police raids of “illegal” (unregistered) private Koran lessons. In January 2011, local authorities in the southern province of Khatlon detained two groups of alleged members of the banned Salafi school who reportedly had held classes on Islam for some 60 local children and planned to send them abroad to study.

In 2009, the Tajik president established a Center for Islamic Studies, under the Presidential Administration, to direct religious policy. This center is headed by a former director of the state Committee on Religious Affairs, Murodullo Dovlatov, who reportedly is also linked to the security services.

#### *Restrictions on Religious Minorities*

The Tajik government banned Jehovah’s Witnesses in 2007 for allegedly causing “discontent” among the people. According to reports, a Tajik Culture Ministry official stated that the main reasons for the ban were the Jehovah’s Witnesses’ conscientious objection to military service and refusal of blood transfusions. In 2009, after a raid as many as 17 Jehovah’s Witnesses were criminally charged for “inciting inter-religious hatred.” As of March 2011, these charges, which carry a possible prison term of between five and nine years, remain pending. The prosecutor reportedly has said that the accusation is based on the fact that Jehovah’s Witnesses do not interpret the Bible as Protestants do.

In 2008, the Tajik government temporarily halted the activity of the Ehyo Church and the Abundant Life Christian Center, two Protestant churches in Dushanbe. The Ehyo Church was allowed to resume its activity in late 2008, but the Abundant Life Christian Center decided in May 2008 to close permanently due to official restrictions.

#### *Closures of Houses of Worship*

In recent years, the Tajik government has closed dozens of unregistered mosques and prayer rooms, and ordered the demolition of three unregistered mosques in Dushanbe. Recent examples of closures include the following: In December 2010, the Religious Affairs Division in the south-eastern Badakhshan Region denied registration to 22 out of the 32 mosques in that region, forcing their closure. In January 2011, the government closed around 50 mosques in Dushanbe. Asked whether the authorities would demolish these places of worship, an official of the Dushanbe Mayor’s Office said: “None of the places will be torn down, but the people were warned not to use them for religious worship.” It was not clear what, if any, measures would be taken if individuals continued worshipping in the closed mosques.

In contrast, however, it is important to note that the first center for Ismaili Muslims in Central Asia, the Aga Khan Cultural Center, opened in Dushanbe in October 2009.

In 2008, the nation's only synagogue, located in Dushanbe, was bulldozed. Dushanbe's Jewish community later 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 rather was donated by one of the country's richest bankers, who is also President Rahmon's brother-in-law. 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."

In 2009, the Grace Sunmin Church, the country's largest Protestant congregation, lost its appeal to save its property from repossession by Dushanbe city authorities and had to vacate the premises. Another registered Protestant church in Dushanbe, whose building was demolished in 2008, has not received any compensation. The government typically does not pay compensation for such demolitions.

The Council of Ulema has claimed that Tajik authorities hold consultations with those who attend houses of worship to reach a consensus about their future, but as of March 2011, Forum 18 was unable to confirm from worshippers at any demolished place of worship that such a consultation process exists.

#### *Restrictions on Religious Literature*

As previously mentioned, the government must approve the production, import, export, sale, and distribution of religious literature and other items, which may only be done by registered religious organizations (not religious communities) and only "in an appropriate quantity," which is not defined. The literature and other items must carry the full name of the registered religious organization that produced them. These rules effectively ban private or commercial publishing by any religious group that is not represented by a registered religious organization. It is unclear whether this ban extends to publications on anti-religious, atheist, or agnostic material.

In January 2011, the Code of Administrative Offences was amended to increase the fines for violating these rules. Individuals may be fined up to US \$800; groups, up to US \$1,600; and up to three times these amounts for repeat violations. The 2010 official minimum monthly wage and pension in Tajikistan is US \$19.

The Ministry of Culture has confiscated religious literature it deems inappropriate, including from the Jehovah's Witnesses. A Jehovah's Witness reported that three tons of confiscated Jehovah's Witnesses literature was destroyed in early 2010 after three years of open storage caused it to become "decayed and unusable."

Although in the past it restricted printing in Arabic by government publishing houses, in recent years, the Tajik government has printed Tajik-language versions of the Koran and several Koranic commentaries in Tajik and Arabic.

#### *Restrictions on Religious Education*

As previously discussed, a state license is required to conduct religious instruction, and both parents must give written permission for children aged between seven and 18 to receive such instruction. These rules mean that only registered religious organizations can provide religious instruction and that children under the age of seven cannot participate. Another restriction applies only to Muslims: large central mosques and smaller central mosques can set up basic educational groups, but local mosques cannot. The religion law permits parents to teach religion to their own children at home, but religious homeschooling outside the nuclear family is forbidden.



In 2008, the government nationalized the previously independent Islamic University, the country's only religious institution of higher learning, and took full control of its activities and curriculum. Teachers underwent a vetting process, and the institution was downgraded from a university to an "Islamic institute." In an August 2010 speech on state television, President Rahmon called on parents to recall their children from foreign Islamic colleges to prevent them from becoming "extremists and terrorists." A senior advisor to the president later told Forum 18 that he did not mean all students who are studying abroad, but only those "studying in violation of the [2009] Religion Law." As of late 2010, a Committee of Religious Affairs official reported that about 1,435 Tajik students in foreign Islamic institutions had returned to their native country; of this number, 800 had been enrolled in Tajik schools and institutes.

### *Restrictions on Religious Dress*

Although four women students reportedly were expelled from Tajikistan State University for wearing the Islamic headscarf, or *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 for going on the *hajj*, but authorities reportedly prevented women from wearing "non-traditional" headscarves and men from wearing Islamic-style beards in public.

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. In January 2011, the Tajik government reportedly began to enforce a policy of detaining and fingerprinting men who wear long beards, and took action against 30 teachers and others whose official identity documents show them wearing beards.

### *Restrictions on the Religious Role of Women*

The government-influenced Council of Ulema issued a *fatwa* in 2004 that bans women from praying in Tajik mosques. The ban remains in effect, though reportedly some unregistered mosques still allow women to pray. In October 2010, a fire destroyed the IRP's Dushanbe cultural center, the country's only mosque that officially allowed women to pray alongside men. An IRP official has claimed that the fire, which took place one day after Religious Affairs Committee officials visited the center to tell party officials that they could no longer use it for prayers, was not an accident.

## **U.S. Policy**

Tajikistan is strategically important for the United States, due in part to the key role of ethnic Tajiks in Afghanistan, the country's southern neighbor. Tajiks are the second largest ethnic group in Afghanistan, and include a former Afghan president and Ahmad Shah Masoud, the head of the Northern Alliance who fought the Soviets and the Taliban and was murdered in 2001. 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, which 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. In 2006, the UN Committee against Torture called on the Tajik government 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 \$49 million in FY 2010. According to the State Department, the U.S. priority for human rights and democracy promotion in Tajikistan is to increase

respect for the rights of Tajikistan's citizens and strengthen the country's sovereignty and stability, which is a difficult task due to "acute challenges" including "border security issues, failed educational and healthcare systems, and a legacy of Soviet repression."

According to the State Department, "U.S.-Tajik relations have developed considerably since September 11, 2001" and "the two countries now have a broad-based relationship, cooperating in such areas as counter-narcotics, counterterrorism, non-proliferation, and regional growth and stability." In February 2010, the United States and Tajikistan launched an annual bilateral consultations process to enhance cooperation on a broad range of policy and assistance issues. The United States continues to assist Tajikistan on economic reforms and integration into the broader global marketplace, for example in pursuing World Trade Organization (WTO) accession.

In 2010, the United States expanded its security cooperation with Central Asian states to allow it to ship cargo bound for U.S. and NATO forces in Afghanistan overland through Central Asia via the "Northern Distribution Network" (NDN), rather than through areas in Pakistan that are subject to constant Taliban attack. According to the U.S. Transportation Command, 40 percent of supplies for U.S. and NATO troops in Afghanistan are now shipped via the NDN. In 2011, U.S. Special Operations Forces were given permission to enter Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan on a "case-by-case" basis, with permission from the host nation, when conducting counter-terrorism operations, as the U.S. Central Command confirmed in March. In September 2010, U.S. Special Forces reportedly provided tactical support to helping Tajik government troops repel an attempted Islamic militant operation, which left 20 militants and one Tajik government soldier dead.

As it has in the previous three years, the State Department's 2010 *Annual Report on International Religious Freedom* for Tajikistan stated that the government's respect for religious freedom "remained poor." It emphasized the following concerns: the tight controls on religious institutions, including places of worship and schools, under the 2009 religion law; the restrictions on some forms of religious dress; and the banning of religious groups deemed "extremist" and the sentencing of some individual alleged members to long prison terms. In addition to religious freedom, the following human rights problems in Tajikistan were highlighted: torture and abuse of detainees and other persons by security forces; impunity for security forces; denial of the right to fair trial; harsh and life-threatening prison conditions; prohibition of international monitor access to prisons; and restrictions on the freedoms of speech, press, and association.

## **Recommendations**

### **I. Promoting Reform to Protect Freedom of Religion or Belief**

The U.S. government should:

- urge the Tajik government to limit its definition of extremism to address only acts that involve violence or incitement to imminent violence and to drop bans on non-violent organizations, literature, and groups;
- 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 seek amendments to the 2009 religion law and other relevant legislation to bring it into conformity with Tajikistan's international commitments, including those of the OSCE, on freedom of religion or belief;

- continue to monitor the status of individuals who are arrested for alleged religious, political, and security offenses, and continue to monitor the trials of leaders or members of religious communities that lose their registration and urge that appropriate legal measures be adopted;
- urge the Tajik government officials, particularly President Rahmon, to affirm publicly their intention to comply fully with Tajikistan's international commitments to respect freedom of religion or belief, as well as the rights of members of all non-violent religious communities in the country.

## **II. Emphasizing Tajikistan's Religious Freedom and Human Rights Record**

The U.S. government should:

- 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, particularly at the October 2011 UN Human Rights Council Universal Periodic Review (UPR);
- urge the OSCE Mission in Tajikistan to pay particular attention to violations of freedom of religion or belief and to undertake relevant programs, including holding training sessions with local officials and journalists on international obligations;
- ensure that U.S. assistance to the Tajik government, with the exception of assistance to improve humanitarian conditions and advance human rights, be contingent upon establishing and implementing a specific timetable for the government to take concrete steps to reform the religion law and improve conditions of freedom of religion or belief;
- ensure that U.S. security and other forms of assistance are scrutinized to make certain that this assistance does not go to Tajik government agencies, such as certain branches of the Interior and Justice Ministries, which have been responsible for violations of religious freedom;
- work with the international community in Tajikistan to undertake efforts to improve judicial standards and to provide training for judges and prosecutors in civil law and international human rights standards; and
- increase opportunities for Tajik human rights advocates and religious figures to participate in exchange programs, and use appropriate avenues of public diplomacy to explain to the people of Tajikistan 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.

## Turkey\*

**FINDINGS:** The Turkish government continues to impose serious limitations on freedom of religion or belief, thereby threatening the continued vitality and survival of minority religious communities in Turkey. Turkey has a democratic government, with an energetic civil society and media, and the country's constitution protects the freedom of belief and worship and the private dissemination of religious ideas. However, the Turkish government's formal, longstanding efforts to control religion by imposing suffocating regulations and by denying full legal status to religious institutions results in serious religious freedom violations. The government has failed to take decisive action to correct the climate of impunity against religious minorities and to make the necessary institutional reforms to reverse these conditions. Instead, Turkey continues to intervene in the internal governance and education of religious communities and to confiscate places of worship. The alleged involvement of state and military officials in the Ergenekon conspiracy, which included alleged plans to assassinate minority religious leaders and to bomb mosques, is also of serious concern, as is the alleged use of preventive arrests to repress critics of the AK Party. Also concerning is the rise in anti-Semitism in Turkish society and media.

Due to these concerns, and others set forth in this chapter, USCIRF continues to place Turkey on its Watch List in 2011.\*\* Turkey was first placed on the USCIRF Watch List in 2009, and the Commission notes with concern that conditions have deteriorated further since then, underscoring the need for continued vigilance in monitoring.

State secularism in Turkey has significantly restricted religious freedom, especially for religious minority communities, including the Greek, Armenian, and Syriac Orthodox Churches; Roman Catholic and Protestant Churches; and the Jewish community, but also for the majority Sunni Muslim community and the minority Alevites, which some view as a unique sect of Islam. The government officially permits the Hanafi school of Sunni Islam, but controls all official mosques and the training of Sunni Muslim clergy. However since 2007, imams reportedly may choose the content of sermons, indicating greater official openness. Despite Turkey's obligations under the Universal Declaration of Human Rights and the 1923 Treaty of Lausanne, the government has not recognized minority religious communities, such as the Ecumenical Patriarchate of the Greek Orthodox Church, as independent entities with full legal status. These restrictions, including policies that deny non-Muslim communities the rights to train religious clergy, offer religious education, and own and maintain places of worship, have led to the decline, and in some cases the virtual disappearance, of these communities in Turkey. Additionally, Turkey's military control over northern Cyprus supports a web of arbitrary regulations implemented by the local Turkish Cypriot authorities, which results in serious limitations on religious freedom. These regulations limit the religious activities of all non-Muslims living in northern Cyprus and deny these religious communities the right to restore, maintain and utilize their religious properties. Such regulations are threatening the long-term survival of all non-Muslim religious communities in the area.

As part of its EU accession process, Turkey has adopted some reforms relevant to religious freedom, and although the Turkish government has arrested those suspected of violent hate crimes linked to religion and has instituted legal reforms to decrease military involvement in civilian politics, protracted trials underscore judicial weakness in correcting impunity on religious freedom violations.

**PRIORITY RECOMMENDATIONS:** The United States regards Turkey as an important strategic partner and continues to support Turkey’s EU accession process. U.S. policy should place greater emphasis on Turkey’s compliance with its international commitments regarding freedom of religion or belief. Specifically, the United States should encourage the Turkish government to end the longstanding denial of full legal recognition for religious communities and to permit religious minorities to train religious clergy in Turkey, including by reopening the Greek Orthodox Theological Seminary of Halki and returning the entire territory of the Mor Gabriel Syrian Orthodox monastery to its rightful owners. The United States should also encourage the Turkish government to allow women the freedom to express their religious or non-religious views through dress. The United States should also urge Turkey to end the prohibition on religious minorities wearing religious dress in public. With respect to northern Cyprus, the United States should urge the Republic of Turkey and the Turkish Cypriot authorities to abandon all restrictions on Christians and Jews regarding the access, use, and restoration of places of worship and cemeteries, to cease the ongoing desecration of these religious sites and items, and to end limitations on freedom of worship.

\* House Resolution 1631 called on USCIRF to “investigate and make recommendations on violations of religious freedom in the areas of northern Cyprus under control of the Turkish military.” To fulfill this congressional request, USCIRF travelled to Cyprus between February 19 and 21, 2011.

\*\* Commissioner Eid voted against the Watch List recommendation, concluding that the situation in Turkey is not as serious as it is in Greece, which is not on the USCIRF’s Watch List. Furthermore, Commissioner Eid is not in agreement with linking Turkey to matters of religious freedom in northern Cyprus without investigating matters of religious freedom in southern Cyprus as well. Resolution 1631 calls for the USCIRF to investigate violations of religious freedom in northern Cyprus, but there is no reference for not investigating violations of religious freedom in the south, especially since USCIRF is an independent, bipartisan federal body. Thus, violations of religious freedom in Cyprus, both north and south, should be reported in a separate chapter in the same manner as it is reported in the “2010 Report on International Religious Freedom” submitted to Congress by the U.S. Department of State.

## **Religious Freedom Conditions**

### *USCIRF 2011 Visit*

USCIRF traveled to Turkey between February 21 and 26, 2011. The delegation met with Turkish government officials, including the Deputy Prime Minister, the Minister for European Union Affairs and Chief Negotiator for EU Accession, the President of the *Diyanet* (Directorate of Religious Affairs), and the Director General of the *Vakıflar* (Directorate of Foundations). The Commission also met with the Ecumenical Patriarch of the Greek Orthodox Church, the Patriarchs of the Syriac and Armenian Orthodox Churches, the Chief Rabbi of Istanbul, and leaders and representatives from the Alevi, Protestant, Jehovah Witnesses, and Mormon communities. The USCIRF delegation also met with numerous Turkish journalists, academics, and civil society representatives.

### *Secularism in Turkish Politics*

Under the 1923 founding constitution, the Republic of Turkey is a secular state. Secularism, equated as the ideology of Mustafa Kemal Atatürk, has been a continuous source of political-social tension. 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.

Over the decades, political parties that disagreed with the state's definition of secularism have been suppressed or banned. In 1960, 1971, and 1980, the Turkish military ousted governments, due in part 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 military coup and was forced to disband.

Despite its roots in the *Refah* Party, the platform of the ruling Justice and Development Party (known in Turkish as the AKP, or the AK Party), which was first elected in 2002, favors Turkey's accession to the EU and the democratic integration of Islam into public life. 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 Turkish constitutional court ruled that the AK Party had violated the constitution by serving as a center for "anti-secularist activities," but rather than ban the AK Party, the constitutional court reduced the party's state funding by half.

In September 2010, an AK Party constitutional reform package focusing on judicial reform was adopted by a wide margin in a popular referendum. The changes increased presidential appointments to the judiciary and granted parliament the power to prevent the closure of political parties. In a parliamentary speech, Prime Minister Erdoğan said that these amendments would "pave the way to EU accession and global integration for Turkey." Critics, however, noted that the measures appeared to be aimed at solidifying AK Party power, particularly regarding the judiciary; Prime Minister Erdoğan has promised more constitutional amendments after the June 2011 parliamentary elections.

Turkish society is coming to grips with religious and ethnic diversity, but questions remain as to the ruling AK Party's will – or ability – to fully recognize such diversity in law and practice. In this respect, the AK Party faces difficulty due to continuing opposition from the "deep state" -- comprised of the judiciary, military, and entrenched supporters of traditional Turkish secularism, which is usually defined as excluding religion from public life. Most religious minority communities have noted that the ruling AK Party has made positive gestures towards them, but that the Turkish government had not made institutional reforms, particularly on corporate legal status. Rather, rights and privileges are granted on an ad hoc basis. In a February 2011 meeting with Deputy Prime Minister Bülent Arınç, USCIRF Commissioners expressed the view that further reforms should include religious freedom improvements, such as making religious education in state schools voluntary and officially recognize Alevi sites as houses of worship. After the June 2011 general election, many observers hope further constitutional reforms will be initiated to address these and other human rights issues.

### *Restrictions on the Practice of Islam*

The government does not officially permit the individual or communal practice of Islam outside of government-regulated institutions. The majority Sunni Muslim community is under the control of the *Diyanet*, or Presidency of Religious Affairs, which reports directly to the Prime Minister. The *Diyanet*, which is funded from the national budget, only officially allows the propagation of the Hanafi Sunni school of Islam. Some propose that the *Diyanet* should be financed on a voluntary basis by individual taxpayers so only those citizens who benefit from its services would pay for it. Many Alevis, Turkey's largest religious minority, believe that the *Diyanet* should be abolished while some secularists and others believe that the *Diyanet* contradicts Turkish secularism.

The *Diyanet* oversees 85,000 Hanafi Sunni community mosques and pays imams' salaries. Most mosques are owned by the *Diyanet* foundation, which is legally independent of the *Diyanet*. Mosques are also owned by local communities or individuals, and 22 mosques are owned by the secular Turkish army. Every province has an official mufti, also employed by the *Diyanet*, to which each imam in that province

reports on a monthly basis. In a February 2011 meeting, *Diyanet* President Mehmet Gormez told USCIRF that all sermons were the same throughout Turkey until 2007, but since that time, each of Turkey's 81,000 imams decides on his own sermon, indicating greater official openness towards the country's Sunni Muslim majority. In addition, according to Gormez, the *Diyanet* produces information about religion for sermons, but it does not determine their content. He also said that, while there are no officially-approved translations among the many Turkish translations of the Koran, the *Diyanet* has undertaken a project to make a new compilation of the Koranic commentary known as the *Hadith*.

Other Islamic groups operating independently from the *Diyanet*, however, are technically banned under Turkish law, but generally are able to function freely. The Gülen movement, which includes an estimated one to eight million Sunni Muslims, lacks separate legal status in Turkey. Sufi brotherhoods and other Muslim social orders (*tarikats*) and lodges (*cemaats*) have been officially banned since 1925; nevertheless, they remain active and widespread. The Caferis, Turkey's main Shi'a Muslim community, which is comprised largely of Azeris and Iranians in eastern Turkey and in Istanbul, de facto are permitted to build and operate mosques and appoint imams. The leader of Turkey's Caferi community, Selahattin Gündüz, in March 2010 called for ending obstacles to opening non-*Diyanet* mosques.

The legal vacuum in which Muslim groups exist outside the *Diyanet* results in a lack of transparency on funding sources and other key communities have reported being subject to discrimination, including in public-sector employment.

#### *Religious Dress for Muslims*

Turkish secularism bans religious dress, including the wearing of headscarves, in state buildings, including public and private universities, the parliament, courts, and schools. Under Turkish law, only the titular head of any religious group may wear religious garb in public facilities; thus, for Muslims, only the *Diyanet* president can do so legally. Women who wear headscarves, and their advocates, have been expelled from universities and have lost public sector jobs, such as nursing and teaching.

In 2005, the European Court of Human Rights (ECtHR) ruled that in view of Turkey's constitutional definition of secularism, a Turkish university's headscarf ban did not violate the European Convention on Human Rights, even though it contravened religious freedom standards. In February 2008, the Turkish parliament voted to amend the 1982 constitution (written by a military-led caretaker government after the 1980 military coup) to guarantee all citizens the right to attend university. Under the amendment, only traditional scarves would be allowed; headscarves that cover the neck, as well as the full veil, would still be banned. In June 2008, the Turkish constitutional court ruled these amendments unconstitutional because they violated Turkish secularism. As a result, the headscarf ban at Turkish universities technically remains in effect, though reportedly many universities no longer enforce it.

In October 2010, the Turkish Higher Education Board (YOK) reportedly issued a directive that universities could not expel women for wearing headscarves, although USCIRF was told in February 2011 that the Council of Ministers had overturned that directive. Reportedly, Prime Minister Erdoğan has said that any new law easing the headscarf ban can occur only after the 2011 national elections. In late March 2011, the *Yeni Şafak* daily newspaper reported that students of Batıkent High School and at Kastamonu Abdurrahmanpaşa High School in Ankara were forced to remove their headscarves prior to taking the Transition to Higher Education Examination. According to the report, the Student Selection and Placement Center (ÖSYM) Web site indicated headscarves during the examination would be permitted. Students from Kastamonu Abdurrahmanpaşa High School have reportedly filed a criminal complaint against the examination administrator. As of this reporting no further details are available.

In February 2010, the ECtHR ruled that a Turkish court violated the rights of 127 members of a Sufi brotherhood, *Aczimendi tarikaty*, by sentencing them for wearing religious dress in public. The plaintiffs had worn the garments in the street as they walked to a mosque, not in public institutional buildings where, according to the ECtHR, religious neutrality is required 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, putting inappropriate pressure on passersby, either of which could have been restricted under the European Convention. The *Diyamet* President told USCIRF in February 2011 that in this case the Turkish government had paid the plaintiffs the required compensation.

### *Religious Dress for Non-Muslims*

Non-Muslim clerics face more stringent restrictions on clerical dress than Muslim clerics. All Christian (Orthodox, Catholic, and Protestant) and Jewish clerics – with the exception of the highest-ranking cleric from each – are prohibited from wearing clerical garb anywhere in public, not only in state buildings. The Syriac Metropolitan, Yusuf Cetin, told USCIRF in February 2011, that the retired Metropolitan was prohibited from wearing his religious dress in public.

### *Restrictions on Alevis*

The Alevis are Turkey's largest religious minority community and comprise 15 to 25 percent of the population or as many as 25 million people. Alevi beliefs and practices are a source of debate both inside the Alevi community and within Islam. Although the Turkish government (and many Alevi) views the Alevis as heterodox Muslims, many Sunni Muslims do not accept that definition. Some Alevis identify as Shi'a Muslim, while others reject Islam and view themselves as a unique culture. While *Diyamet* President Gormez told USCIRF that most Alevi want a closer relationship with the *Diyamet*, Ali Balkiz, the Alevi Bektasi Foundation's president, told USCIRF that his group believes that the *Diyamet* should not exist in a secular state.

In the past several years, the Turkish government has held regular workshops with the Alevi community to discuss their concerns, though some Alevis have complained that these include only the community's groups that are close to the government. The Alevis are seeking to address five key issues: legal status for Alevi houses of worship; the abolishment of compulsory religious education classes (see discussion under *Religious Education in State Schools*); an end to the building of Hanafi Sunni 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 Alevis were killed in a 1993 arson attack.

Alevis worship in what are called "gathering places" (*cemevi*) and in Ottoman times, the Alevi worshipped in Sufi dervish lodges (*tekke*), which were banned in 1925. The Turkish government does not officially recognize *cem* houses as houses of worship, but considers them to be "cultural centers." According to the Alevi Bektashi Foundation, the Alevi are denied local building permits because Turkish laws omit any reference to *cem* houses. According to a news report from "Today's Zaman," the State Minister Faruk Çelik released a final non-binding report from the workshops over the last several years. Reportedly, it indicates that all interested parties agreed in workshops that *cemevis* should have legal status. However, how legal status is interpreted in the future is still open for debate.

Ankara authorities are attempting to close down an Alevi association, the Cankaya Cemevi Building Association (CCBA), because its legal statute describes it as a place of worship. According to Forum 18, the Interior Ministry asked the CCBA to remove from its statute references to *cemevi* as a place of worship, but the CCBA refused. On the basis of that refusal, the Ankara prosecutor's office initiated a court case to shut down the CCBA. As of March 31, 2011, the case remains unresolved.



### *Restrictions on Non-Muslim Minorities*

Turkey has a diverse but small (about 1% of the total population) non-Muslim minority population, one that is ancient and historically and culturally significant. Since Turkey is constitutionally secular, religious identity is not among the questions included in the census; therefore, official population statistics on Turkey's minority religious communities are unavailable. However, according to the State Department, current religious minority population statistics include 65,000 Armenian Orthodox Christians; 23,000 Jews; 15,000 Syriac Christians; 10,000 Baha'is; 5,000 Yezidis; 3,300 Jehovah's Witnesses; 3,000 Protestant Christians; and 1,700 Greek Orthodox Christians, as well as small Georgian Orthodox, Bulgarian Orthodox, Maronite, Chaldean, Nestorian Assyrian, and Roman Catholic communities.

In May 2010, Prime Minister Erdoğan issued a circular noting that all non-Muslim minorities have the "right to enjoy and maintain their own identities and cultures in parallel to the national identity and culture of Turkey." It directed all government institutions and offices to prevent any infringements on the rights of non-Muslim minorities, so as to ensure they "feel that they are part of the Turkish nation." Among other issues, the circular highlighted the protection and maintenance of cemeteries placed under the control of municipalities, as well as the right of non-Muslim community leaders to initiate legal actions "against publications inciting hatred and enmity against non-Muslim communities."

Nevertheless, the Turkish government continues to impose significant restrictions on these minorities' rights to own, maintain, and transfer both communal and individual property, and to control internal governance, and to train religious clergy. These kinds of restrictions have led to a critical shrinkage of these communities, and in many cases, make it impossible for these religious institutions to chart a sustainable and vibrant future for themselves. In addition, members of these groups face societal discrimination and occasional violence. 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.

#### *Property, including Houses of Worship*

Turkish law places minorities in two general categories: 1) the three "non-Muslim minorities" which the Turkish government acknowledges as protected by the 1923 Lausanne Treaty (the Armenian Orthodox, Greek Orthodox, and Jewish communities), as well as three other religious communities that existed in Turkey in 1923 but which the Turkish government does not view as covered by that treaty (the Syriac Orthodox, Chaldean, and Roman Catholic communities), which together are referred to as the "Lausanne Treaty plus three;" and 2) religious communities not linked to a specific ethnic minority, such as the Protestant and Jehovah's Witnesses communities and the Baha'is.

The 1923 Treaty of Lausanne, a peace treaty between Turkish military forces and several European powers, contained specific guarantees and protections for non-Muslim minorities in Turkey. As a constitutionally secular state, however, Turkey does not recognize the corporate legal status of any religious minority communities. Instead, it has created a complex framework of laws and regulations that provide religious minorities with limited and varying legal opportunities to own property, conduct religious services, and open schools, hospitals, and other institutions. This framework includes the Lausanne Treaty, which the government only applies to the Armenian Orthodox, Greek Orthodox, and Jewish communities; the Foundations Law, which generally applies to the "Lausanne Treaty plus three" groups (One Istanbul Protestant Foundation was established in June 2001); and the Associations Law, which applies to all religious minorities. In addition, municipal and local officials often use zoning laws,

implementation guidelines for religious facilities, and purported security concerns to restrict the ability of members of these groups to open and maintain houses of worship and conduct religious services.

Only the Armenian Orthodox, Greek Orthodox, and Jewish minorities have the right to refer to their churches and synagogues as such. All other religious minority groups, including those established in Turkey at the time of the Lausanne Treaty, must officially refer to their houses of worship as cultural or community centers.

Under the Foundations Law, a government agency, the General Directorate for Foundations (*Vakiflar*), regulates the activities of all foundations in Turkey. The law allows foundations established by the “Lausanne Treaty plus three” groups to purchase, own, and sell property in accordance with appropriate zoning and safety rules. When the law was passed, 161 religious foundations, the vast majority of which existed during the Ottoman Empire, were grandfathered in. These foundations can administer property used for religious purposes or for revenue-generating activities, but they cannot conduct religious activity. In other words, the law makes a distinction between the individual legal entity of a foundation and the larger religious community with which it is affiliated. Consequently, minority groups cannot use funds from their properties in one part of Turkey to support their population elsewhere in the country.

In 2008, as a result of pressure from the European Union, the Foundations Law was amended to allow foundations to change their scope or purpose from that specified upon the original incorporation and to permit the Armenian Orthodox, Greek Orthodox, and Jewish communities to have one elected representative on the *Vakiflar*, but not other minority communities. The 2008 amendments also allowed religious groups covered by the Foundations Law to appeal through their foundations for the return of confiscated property that is under Turkish state control (but not property sold to third parties). However, these amendments did not solve the most fundamental problems of the basic Foundations Law. A 2009 Turkish Economic and Social Studies Foundation (TESEV) report highlighted some of these issues. For example, the *Vakiflar* has maintained the right to seize minority properties and the Turkish government has expropriated approximately 1,500 minority properties, in most cases without the permission or consent of the communities concerned. Further, the report indicated that the 2008 amended Foundations Law requires that in order for the property to be returned, it must be in the “possession” of the entity requesting its return. If a religious minority foundation is requesting a return of property, by definition they do not “possess” it, thereby setting up an impossible vicious circle.

In February 2011, USCIRF met with Dr. Adan Ertem, Director General of the *Vakiflar*, who reported on the results of the reform regarding property claims. He stated that the *Vakiflar* had received around 1,400 applications for the return of confiscated minority properties. Of these, he maintains that approximately 150 applications were immediately approved and the property returned. Some 940 applications had no documentation or insufficient documentation, so the *Vakiflar* extended the application deadline; however, of these, only about 500 were resubmitted. As of February 2011, approximately 50 of the resubmitted applications had been approved and the property returned; the rest are still in the review process. Dr. Ertem also told USCIRF that the *Vakiflar* was working to set up procedures for the Turkish government to pay compensation for foundation properties that had been sold to third parties between 1974 and 1999.

Under the Associations Law, which was adopted in 2004 and amended in 2007, any religious minority in Turkey may form a legally-recognized association. An association can be formed with a minimum of eight people, and has the right to conduct religious services and determine religious curriculum. An association cannot, however, own property; as a result, a minority community that cannot establish a foundation cannot own its own house(s) of worship. In addition, association status is granted and may be revoked by provincial governors, providing little long-term protection.

The Jehovah's Witnesses and approximately 20 Protestant churches have organized themselves into associations. Jehovah's Witnesses reported to USCIRF in February 2011 that despite their association status, they continue to experience official harassment of their worship services and positive lower court decisions on zoning issues are often reversed on appeal. In addition, a Christian was prosecuted in Istanbul in May 2010 for calling his association (set up to conduct Christian seminars) a church. He was acquitted after he claimed that his poor knowledge of the Turkish language had led to this description. The Protestant community association in Antalya, comprised of four communities, told USCIRF in February 2011 that it has not been able to build a church to suit its needs and currently lacks a house of worship. Allegedly, the municipal authorities will not grant a building permit because the church's architect refuses to give his written approval for the building's design.

During its February 2011 visit, USCIRF was told that some religious minority groups choose not to register as foundations or associations because such registration makes their names and their religious faith matters of public record, leading to possible further societal discrimination or harassment.

In 2008, the ECtHR ruled that the Turkish government had violated Article 1 of Protocol No. 1 (protection of property) of the European Convention on Human Rights by expropriating a Greek Orthodox orphanage on the Turkish island of Buyukada. In June 2010, the ECtHR ruled that the orphanage must be returned to the Ecumenical Patriarchate, and in late November 2010, the deed was registered in the Patriarchate's name. Some observers have argued that by registering the deed to the Patriarch, the Turkish government had provided *de facto* legal recognition to the Patriarch. However, in January 2011 Deputy Prime Minister Bülent Arinc stated publically, "The institution represented by Greek Orthodox Patriarch Bartholomew does not have a legal personality under current Turkish law." He continued saying, "We are seeking an arrangement that recognizes the existence of the patriarchate but doesn't offer a legal personality to it, in line with the [1923] Lausanne Treaty and our laws."

Since 2008, there has been an ongoing dispute over the Turkish government's attempted seizure of some territory of the 1,600-year-old Mor Gabriel Monastery, the Syriac Patriarch's residence from 1160 to 1932. In June 2009, the local district court of Midyat ruled against the government. In January 2011, the Turkish Supreme Court overturned the lower court's decision and granted substantial parts of the monastery and adjacent religious center to the Turkish treasury. In meeting with USCIRF in February 2011, the Syriac Orthodox Patriarch verified that their foundation owns only one church, which is inadequate to meet the community's needs and which requires that the Syriac Orthodox Church must rely on the goodwill of other Christian denominations to use their churches. The Syriac Patriarch confirmed to USCIRF that an application was submitted to the proper government authorities to build a larger church, but since that location is near to the Istanbul airport, the community was told that the pending application requires approval by the Minister of Defense.

In August 2010 the Turkish government granted permission to the Greek Orthodox community to hold a liturgy service at the Sümela Orthodox Monastery in Trabzon, but each participant had to be pre-approved by the Turkish authorities. In September, several thousand worshippers were permitted to attend a service in the 1,000-year-old Akdamar Armenian Orthodox church on Lake Van, abandoned since the 1915 Armenian genocide and restored by the Turkish government in 2007. The event was marred because the Turkish government had not replaced the church's cross which was replaced a week later. In October, the Turkish government authorized a Muslim religious event at the historic Armenian Orthodox Cathedral of Ani. According to reports, the Turkish government permitted the leader of the Nationalist Action Party (MHP), Devlet Bahçeli, and forty heads of the party's provincial offices, to conduct a Muslim Friday prayer service in the Cathedral. His remarks indicate that it marked the start of Bahçeli's campaign for the 2011 general elections.

### Interference in Internal Governance

The Turkish government interferes regularly in the internal governance of all non-Muslim religious minorities. The government has interfered in the selection procedure of the Armenian Patriarchate's religious leadership, which lacks a legal procedure to replace Mesrop Mutafian, the current Patriarch, who is very ill. The Armenian Patriarchate falls under an 1863 regulation which sets procedures only after the Patriarch's death or resignation. In response to his illness, two factions in the Turkish Armenian community each approached the Turkish government with different requests in late 2009. The Patriarchal Advisory Council asked for the selection of a Co-Patriarch, while the Council of Armenians in Turkey asked for the election of a new Patriarch. The Interior Ministry proposed a candidate for a new post of Patriarchal Vicar-General until Mesrop's death, and in July 2010, Archbishop Aram was selected by an Armenian Orthodox council to this temporary post. Nevertheless, the Patriarchal Advisory Council had rejected this proposal as not consistent with Armenian Orthodox Church tradition and because it placed the Turkish government in the role of arbitrator. The Turkish Embassy in Washington, in response to a USCIRF letter, rejected any claims of government interference in internal deliberations on this matter. The letter stated that "the Turkish legislation currently in force, limits the responsibilities of the relevant Turkish institutions only to taking the necessary measures that will ensure the safe and orderly conduct of the elections of the Patriarch." USCIRF met Acting Patriarch Aram who stressed, among other issues, that the Turkish government should allow some 12,000 Armenian children of economic migrants to attend Armenian minority schools in Turkey.

The Turkish government does not officially accord the ecclesiastical title "ecumenical" to the Ecumenical Patriarch. 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. During an official visit to Athens in May 2010, Prime Minister Erdoğan said that the Turkish government has "no issue with the title of ecumenical." However, at a November 2010 public event in Brussels, Turkey's Minister for European Affairs stated that the government would not recognize the Patriarch's ecumenical status.

Until recently, the Turkish government had insisted that only Turkish citizens can be members of the Church's Holy Synod and vote in patriarchal elections. In 2004, the government did not block the Ecumenical Patriarch's appointment of six non-citizen metropolitans to participate rotationally on the Holy Synod, and in 2010, Prime Minister Erdoğan approved dual citizenship for 25 Metropolitans (including from Austria, France, the United States and some parts of Greece) who fall within the jurisdiction of the Ecumenical Patriarch. Formal documentation has not yet been provided for those approvals. The line of succession for the Ecumenical Patriarch, and thereby the survival of the religious community, can only be elected through the Holy Synod. The Minister for European Affairs, in his meeting with USCIRF, cited the recent approval of dual citizenship as an important development, over the concerns expressed by the Commission that these ad hoc accommodations – while helpful – fail to ensure the level of institutional integrity and independence in intra-religious decisions contemplated by international human rights standards.

The inherited title of Alevi leaders is *Dede* (elder) for men or *Ana* for women, but the Alevi are not entitled to official or legal recognition of that title under a 1925 Reform Law, which, under the current Turkish Constitution, cannot be amended.

### Training of Clergy

The Turkish state has closed minority communities' seminaries, denying these communities the right to train clergy and thereby the ability to build church communities for succeeding generations. The

Armenian Orthodox community, which is Turkey's largest non-Muslim religious minority, lacks a seminary in the country to educate its clerics and today has only 26 priests to minister to an estimated population of 65,000. In 2006, the Armenian Patriarch submitted a proposal to the Minister of Education to enable the Armenian Orthodox community to establish a state university faculty on Christian theology including instruction by the Patriarchate, but to date, the Turkish government has not responded to this request. According to the Acting Armenian Patriarch, his church has sent seminary students to Lebanon and Armenia.

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. USCIRF was told by various Turkish officials in February 2011 that they are actively exploring with the Patriarchate the reopening of the Halki seminary. The USCIRF delegation also discussed with the Ecumenical Patriarch the potential benefits of forming a technical committee, comprised of representatives from the Ecumenical Patriarchate and the Turkish government, to collectively review all details relevant to an expeditious reopening of the Halki seminary.

### Minority Schools

The Turkish government maintains that there are only three officially-designated Lausanne minorities, and therefore accepts that only they 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; under a 2007 law, non-Muslims were allowed 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.

According to the Acting Armenian Patriarch, the Turkish government does not allow some 12,000 school-age children of Armenian migrant workers to attend Armenian minority schools in Turkey. During its February 2011 visit, USCIRF raised this issue with various Turkish officials, who said that a solution to the problem would soon be forthcoming.

### *Religious Education in State Schools*

The constitution establishes compulsory religious and moral instruction in public primary and secondary schools, with a curriculum established by the Ministry of National Education's Department of Religious Instruction. Until a 2010 change in the curriculum to include information on all religions as well as atheism, these classes focused largely on Islam. Although non-Muslim children can be exempted from the classes, there have been cases of individual schools failing to act on this policy. There also have been reported cases of societal discrimination as a result of children being excused from the classes. Christians also have complained that school history textbooks used in the classes refer to Christian missionaries in the 20<sup>th</sup> century as criminals.

Alevi have long objected 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 for the abolition of required religion courses. A member of the Turkish Alevi community brought this issue to the ECtHR, which ruled in 2007 that religious education should be optional for

Alevites since the curriculum was limited to Sunni Islam; that position was later upheld by a Turkish regional court. The Islamic religion curriculum for Turkish schools was modified in 2008, but some Alevites maintain that the new texts are still inadequate as they treat their community as a mystic order within Islam. The Alevi Bektashi Foundation told USCIRF in February 2011 that it views the ECtHR ruling as requiring the religious education requirement to be dropped. According to a news report from Today Zaman, the State Minister Faruk Çelik released a final report from the workshops that have been held over the last several years. According to the news report, new textbooks for the 2011-2012 school year will be released. The new textbooks reportedly will be revised to eliminate discriminatory wording and include corrected information about Alevism.

### *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 has continued to restrict applicants' choice of religion. The Turkish government treats Jehovah's Witnesses as a "sect" within Christianity, and many Jehovah's Witnesses officially identify themselves as Christians; however, school administrators reportedly often view them as a separate religion and deny them exemptions from religious education classes. Individuals who leave the religious designation blank also encounter difficulties in opting out of Islamic religion classes. There were reports that local officials harassed Muslim converts when they tried to amend their identity cards.

In a case brought by an Alevi librarian, the ECtHR ruled in February 2010 that it is a violation of the European Convention for Turkish identity cards to require the listing of religious affiliation. Under the September 2010 Turkish constitutional amendments, personal ID data is supposed to remain private unless otherwise specifically authorized by the individual concerned, thereby addressing the ECtHR's concerns.

### *The Ergenekon Conspiracy and Violence against Religious Minorities*

In recent years, Turkish authorities have acted against a conspiracy by Ergenekon, an underground, ultra-nationalist organization with ties to the military and security forces, as well as the judiciary and secularist political elites (collectively known as "the deep state"). Allegedly, Ergenekon has plotted to overthrow the AKP government and has been implicated in carrying out and planning violence against religious minorities. By March 2010, nearly 200 alleged Ergenekon members had been charged in Turkish courts, including police and army officials, businesspeople, lawyers, academics, politicians, journalists, and organized crime figures. The group has allegedly been implicated in the 2006 murder in Trabzon of a Catholic priest, Father Andrea Santoro, the 2007 murder of three Protestant employees, Necati Aydın, Uğur Yüksel and German national Tilmann Ekkehart Geske, of the Zirve Publishing House in Malatya, and the 2007 murder of a prominent ethnic Armenian journalist, Hrant Dink, in Istanbul. In March 2011, Turkish police detained 20 individuals, including a professor and members of the military, as part of a probe into the 2007 Malatya murders. That same month, seven individuals, including six journalists, were arrested as part of the Ergenekon probe. According to Prime Minister Erdoğan, 27 journalists currently are imprisoned in Turkey, but none of them were arrested on journalism-related charges. Critics of the government and the Ergenekon investigation claim the journalists were arrested due to their anti-AK Party or anti-government articles or books.

Ergenekon plotters also allegedly planned to kill the Ecumenical and Armenian Orthodox Patriarchs, an Alevi leader, and a prominent Jewish business leader. In another Ergenekon-related case, a Turkish army general is alleged to have plotted to plant weapons in the homes of followers of Muslim preacher

Fethullah Gülen 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 a separate alleged conspiracy to overthrow the AKP government, known as the “sledgehammer conspiracy.” This conspiracy allegedly included plans to bomb two Istanbul mosques. Turkish military representatives have denied institutional involvement by the army. Others have alleged that the “sledgehammer conspiracy” data was forged, because some of the groups mentioned in the supposed evidence did not exist at that time.

Some analysts claim that current government officials are themselves engaged in political manipulation of the Ergenekon investigation, pointing out that many of the detainees, including those who were arrested preemptively, are prominent critics of Erdoğan’s government and individuals who support strict secularism. 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. Turkish researcher and USCIRF Crapa Fellow Ziya Meral has noted that, although there have not yet been final verdicts in the Ergenekon cases, fatal attacks on Christians decreased after key public figures who called for being vigilant of Christian activities were arrested in the Ergenekon operation.

In September 2010, the ECtHR ruled that Turkey had violated the European Convention’s guarantees of the rights to life, to freedom of expression, and to an effective remedy in failing to protect Turkish-Armenian journalist Hrant Dink, who was killed in Istanbul in January 2007, and in refusing to prosecute two gendarmerie officers despite evidence of involvement. Dink, with whom USCIRF met in Istanbul in 2006, had been convicted under Article 301 of the Turkish Penal Code for “insulting Turkishness” by referring to the 1915 killings of Armenians as genocide and, therefore, had become a target for extreme nationalists. The ECtHR underlined that all member states had the responsibility to create an environment where all individuals can participate in social discussions. In response to the ruling, the Ministry of Foreign Affairs announced that “all possible precautions will be taken to avoid the repetition of similar violations.” In a February 2011 meeting with USCIRF, Mr. Dink’s relatives expressed the hope that the Turkish State Audit Institution, which is under the President’s office, will conduct its own investigation into his murder, as President Abdullah Gül suggested in January 2011. In March 2011, the Turkish parliament’s Human Rights Commission completed an investigatory report on the Dink murder, which was sent to the Trabzon General Prosecutor’s Office. Dink’s alleged killer is from Trabzon province.

In June 2010, Bishop Luigi Padovese, the Vicar Apostolic of Anatolia, was murdered in the city of Iskenderun while en route to join the Pope in Cyprus. The vicar’s driver, who suffered from psychological problems and has confessed to the crime, reportedly shouted “God is great” before committing the murder. The case is now reportedly under investigation as part of the Ergenekon conspiracy.

### *The Jewish Community and Anti-Semitism*

Representatives of the Jewish community in Istanbul reported that their situation in Turkey is better than for Jews in other majority Muslim countries. Jews in Turkey are able to worship freely, and their synagogues generally receive government protection when needed. According to the Chief Rabbi, if Jewish property is vandalized, the Turkish police are generally responsive. Jews also operate their own schools, hospitals, two elderly persons’ homes, and welfare institutions, as well as a newspaper.

Nevertheless, al-Qaeda linked terrorists attacked a synagogue in Turkey in 2003 and other violent attacks have occurred on Jewish property, and anti-Semitism has increased in some sectors of Turkish media and society. In meetings with USCIRF in February 2011, Jewish community representatives in Istanbul explained the rise in anti-Semitism as a function of Turkey’s opposition to U.S. involvement in Iraq, the

2009 Israeli military campaign in Gaza, and the fall-out from the 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, due to general public opinion and some media reportage in Turkey that links the country's Jewish minority community to the policies of the Israeli state. As a result, criticism of Israeli actions may turn into acts of hostility and anti-Semitism against the Jews of Turkey.

Jewish community leaders told USCIRF that, after the May 2010 Marmari Free Gaza flotilla incident (the flotilla departed from Turkish-controlled northern Cyprus) between Turkey and Israel, Turkish government leaders at all levels, as well as political opposition parties, made public declarations distinguishing Turkish Jews from the Israeli government. Jewish community leaders reported that they received increased police protection, which prevented acts of vandalism. Nonetheless, Jewish community leaders told USCIRF in February 2011 that popular perception of their community and acts directed against Jews in Turkey are "directly linked to events in the Mideast."

### *Conscientious Objectors*

Turkish law does not include a provision for alternative military service. Although a draft law was introduced in late 2008, as of this writing it has not been 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 in Turkey 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. Reportedly there are approximately 120 conscientious objectors in Turkey, about 30 of whom are Jehovah's Witnesses.

Bariş Görmez, a 33-year-old Jehovah's Witness, has been imprisoned periodically since 2007 for being a conscientious objector. Since 2008, four conscientious objectors, including Görmez and three other Turkish Jehovah's Witnesses, have a pending case at the ECtHR. In July 2010, the ECtHR reportedly directed the Turkish government not to execute any sentence against Görmez until the Grand Chamber rendered a decision in another case concerning conscientious objectors in Armenia, but in January 2011, a Turkish military court sent Görmez back to prison where he reportedly has been beaten. Görmez, who is seven feet tall, was not provided a suitable bed and therefore had to sleep in contorted positions.

Enver Aydemir, a Muslim who refused to serve in the Turkish army, was placed in military detention in late 2009; in March 2010, he was sentenced to 10 months' imprisonment for desertion. Aydemir has alleged he has been tortured, and his father complained to the Turkish parliament's Human Rights Commission, which is investigating the case.

### *EU Accession and Legal Reforms*

In March 2001, the EU adopted the Accession Partnership which required the Turkish government to implement numerous reforms to ensure that its laws are consistent with EU standards. In accord with this goal, since 2002 Prime Minister Erdoğan has instituted a number of unprecedented domestic human rights reforms, including limiting convictions on incitement charges, narrowing the scope of defamation of the state, and strengthening the principle of equality between men and women. The Turkish constitution was amended to ensure the primacy of international and European human rights conventions over domestic



law and Turkey has boosted efforts since 2002 to comply with ECtHR rulings. In February 2008, the Council of the European Union revised the accession partnership with Turkey and set goals that include human rights and religious freedom.

The Turkish government has ratified numerous major international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR). In 1966, it placed a reservation on Article 27 of the ICCPR, setting conditions on its commitment to cultural, religious, and linguistic rights for those religious minority groups covered by the Lausanne Treaty. 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.” Therefore, the reservation potentially undermines the guarantees to “profess and practice” religion in Article 27, and possibly the more extensive religious freedom guarantees in Article 18.

In its 2010 progress report, the European Union found that Turkey generally respected freedom of worship and noted that there had been the following specific improvements for non-Muslim religious minorities: “Ecumenical Patriarch Bartholomew celebrated on 15 August, after almost nine decades, the Divine Liturgy of the Dormition of Theotokos at the Soumela monastery in the Black Sea province of Trabzon. On 19 September the first religious service since 1915 was held at the Armenian Holy Cross church on the Akhdamar Island in Lake Van. The Turkish authorities granted Turkish citizenship to fourteen members of the Greek Orthodox clergy. This facilitates the work of the patriarchate and of the Holy Synod. The Turkish authorities, including the State Minister for EU Affairs, the EU Secretariat-General and relevant line ministries, have had frequent meetings with the religious leaders of non-Muslim communities. In May 2010, the Prime Minister issued the first circular instructing all relevant authorities to pay due attention to the problems of non-Muslim Turkish citizens.” The U.S. delegation at the 2010 OSCE Human Dimension meeting said, “the U.S. welcomes steps by Turkey to allow the liturgical celebration of Orthodox believers, led by the Ecumenical Patriarch, at the historic Sumela Monastery and renews President Obama’s call for the Turkish authorities to reopen the Halki Seminary without further delay.”

#### *Issues in the Area Administered by Turkish Cypriots or Turkish Military in Cyprus*

In September 2010, in Resolution 1631, the U.S. House of Representatives called on USCIRF to “investigate and make recommendations on violations of religious freedom in the areas of northern Cyprus under control of the Turkish military.” To fulfill this congressional request, USCIRF travelled to Cyprus between February 19 and 21, 2011, and met with political authorities, religious leaders, and representatives from civil society and religious minority communities, including the Greek Orthodox, Maronite Catholic, and Jewish communities. The USCIRF delegation traveled into northern Cyprus and visited the Church of St. George, located within the borders of a Turkish military base, as well as the Church of St. Sinesios and St. Andreas Monastery, both located on the Karpas peninsula. The religious minority communities in northern Cyprus have been intimidated and substantially diluted through a web of arbitrary regulations and reported harassment by the authorities. Consistent with House Resolution 1631, the USCIRF delegation investigated the religious freedom issues in northern Cyprus only. USCIRF did not examine or comment on the legal status of northern Cyprus or ongoing efforts of reunification.

The USCIRF delegation found three main issues in northern Cyprus: 1) the inability of Orthodox Christians, other religious communities, and religious clergy to access and hold services at their places of

worship and cemeteries in the north, particularly those that exist within the borders of Turkish military bases and zones; 2) the disrepair of churches and cemeteries and issues relating to the preservation of religious heritage, such as iconography, mosaics, and other religious symbols; and 3) the lack of schools and opportunities for young people in the north, which has led to an exodus of Greek Cypriots and other religious minorities. These combine to hamper the freedoms of the remaining members of these communities, including religious freedom and any meaningful perpetuation of these minority faiths in the north.

The northern territory of the Republic of Cyprus falls under the economic, military, and political control of the Republic of Turkey. Turkey has approximately 35,000 to 40,000 military troops in northern Cyprus and provides an estimated US \$6 to 8 billion annually to subsidize the economy of the area. Overall, the degree of autonomy of the local Turkish Cypriot authorities vis-à-vis Turkey is very unclear, although most experts agree that Turkey exercises substantial control over the politics and security of the local Turkish Cypriot authorities. The presence of the Turkish military in northern Cyprus directly impacts all aspects of religious freedoms for religious minorities in the north, including the small Greek Orthodox Cypriot enclaved community living in the north and all religious minorities seeking access to the northern part of the island. USCIRF requested, but was denied, meetings with Turkish military officials in northern Cyprus, who communicated to the U.S. Embassy in Nicosia that USCIRF should raise its concerns about religious freedom in northern Cyprus with officials in Ankara. USCIRF made a request through the U.S. Embassy in Turkey for a meeting with the Turkish military, but no response was received.

#### *Denial of Access to Churches and Cemeteries*

Since the 1974 invasion, the island of Cyprus was divided into two parts, with a UN Peacekeeping Force (UNFICYP) patrolling the “Green Line” between the two. The Green Line was virtually impassible until 2003, when one crossing point was opened. There are now seven crossing points, and 13,000 crossings between north and south reportedly occur every day. With the exception of the Greek Orthodox Cypriot enclaved community – approximately 350 individuals living in the north – all non-Muslim minorities were displaced in 1974 to the southern part of the island under the control of the Republic of Cyprus. All access to northern Cyprus occurs at the crossing points, and every single aspect of religious freedom for Greek Orthodox, Armenian Orthodox, Maronite, and Jewish citizens of the Republic of Cyprus living in the south is subject to control by the Turkish Cypriot authorities and Turkish military.

Religious and civic leaders from religious minority communities reported to USCIRF that Turkish military bases and zones in the north include their historic churches and cemeteries, but that these are inaccessible. The Turkish military only allows access to churches in military areas on a limited basis, generally once a year for specific religious festivals. In March 2011, two Greek Cypriots were arrested and fined, and two former EU parliamentarians were detained but later released, for jumping the fence of the Turkish military zone of Varosha; the four individuals were attempting to visit religious sites. Other members of their group who did not enter the base, including the Bishop of Neopolis, who is also the Church of Cyprus’ representative to the EU, were detained and questioned by Turkish Cypriot “police.”

In areas not directly under the control of the Turkish military, there is greater access to religious sites, but some wide restrictions exist. On Christmas Day 2010, Father Zacharias, the only Greek Cypriot priest who resides in the north, was stopped in the middle of the Christmas Liturgy at the Church of St. Sinesios. The local Turkish Cypriot authorities forced all those in attendance, including Father Zacharias, out of the church. Some were physically pushed out and one young boy was kicked in the back. The Turkish Cypriot authorities claimed that permission was needed since the service fell on a day other than Sunday. Father Zacharias and community representatives told USCIRF that this was the first time in 36 years that they were unable to hold a service at the church and the first time the church was required to

seek permission. Reportedly, Father Zacharias has held services on days other than on Sunday without ever needing permission. USCIRF addressed this issue with local Turkish Cypriot authorities who claimed that permission has always been required for services that do not fall on a Sunday. The Turkish Cypriot authorities claimed advance permission of thirty days was needed due to security concerns. The Turkish Cypriot authorities claimed that they had sent reminders to the church prior to Christmas to submit their application.

USCIRF met with representatives of the local administration of the Turkish Cypriot authorities, who reported that they would soon change their policy requiring permission for services that do not fall on a Sunday. On February 21, 2011, two days after the meeting, the Turkish Cypriot administration released a statement changing its policy, allowing Greek Orthodox Cypriots to hold services on any day and at any time in churches already in use in their areas of residence; previously the Turkish Cypriot authorities claimed that permission was needed for any day other than Sunday. For religious services in churches or monasteries that are not already in use, or for services administered by a priest other than the two priests already serving northern Cyprus, or for services that southern Greek Cypriots plan to attend, permission will be required 10 working days prior to the service, down from the previous requirement of 30 days. Lastly, when southern Cypriots apply for religious services through UN peacekeepers, the advance application requirement is also to be reduced from 30 days to 10 working days.

#### *Disrepair of Churches and Cemeteries and Preservation of Religious Symbols*

The Republic of Cyprus and Christian and Jewish leaders report that approximately 500 monasteries, churches, and cemeteries in northern Cyprus have been purposely desecrated, are in ruins due to Turkish and Turkish Cypriot authorities' negligence, or are being used for non-religious purposes such as storage or community halls. During the visit to northern Cyprus, the USCIRF delegation visited several of these churches, including St. Andronikas and St. George.

The restoration and protection of churches is an issue in the ongoing reunification negotiations. In the case of St. Andreas Monastery, Greek Cypriots and Turkish Cypriots on several occasions have been close to agreement to repair and restore the monastery, but this has been frustrated by both sides thus far. The ownership of the monastery and its surrounding land has been an issue at the center of these talks. A Turkish Cypriot official told USCIRF that the "The Republic of Northern Cyprus" does not claim ownership over the monastery or its surrounding land, but it does see it as its protectorate. The Greek Cypriot population cannot make any changes or repairs, or restore anything in or around the monastery, even if the Church incurs all costs.

Cemeteries in northern Cyprus are largely in disrepair and in some cases deliberately desecrated. Head stones are broken or missing and religious symbols have been removed. Religious community representatives expressed their sadness to USCIRF that the cemeteries are in poor condition and that they cannot visit the ones that are located on military bases.

Iconography, mosaics, and other religious symbols have been damaged and looted from churches, and many can be found on the black market. Turkish Cypriot authorities claim that many of these items were removed from churches in order to protect them from looters and black market thieves and that they are being stored in several warehouses in Kryenia. USCIRF expressed concern over whether the ancient religious art was being stored and catalogued adequately.

#### *Lack of Schools and Opportunities*

Economic conditions have been bleak in northern Cyprus for decades, due to an international embargo impacting the economy and banning other forms of investment. From this, there is lack of schools and

opportunities in northern Cyprus for all the area's population. Economic problems fall particularly hard on northern Cyprus's enclaved Greek Orthodox population, which is estimated to consist of 350 mostly elderly people, as well as on the few remaining Maronites and Jews. While northern Cyprus has both public and private primary and secondary schools, the religious minority population does not have enough schools or teachers to educate their own youth outside of the established northern Cyprus school system. Religious community leaders told the USCIRF delegation that they have tried to provide incentives to teachers to move to and teach in the north.

In northern Cyprus, as in Turkey, the state controls religious education and teaching. This allows Turkish Cypriot authorities to censor textbooks that contain religious content. Further, as a result of the existing political situation, all textbooks meant for northern Cyprus must be submitted to the UN starting in June of each year for delivery to the schools. Also, all items entering northern Cyprus are subject to a customs duty, including items coming from Turkey.

In March 2011, a Greek Cypriot who works for schools in both the north and south, the director responsible for religious affairs at the Education Ministry, and the Metropolitan Bishop of occupied Trimithounta tried to cross into the north with books and other gifts, including icons of St. Barnabas, Bibles, and prayer books. They stated that the items were not for schools or teaching purposes, but were gifts for Greek Cypriot students and teachers. At the crossing, Turkish Cypriot officials confiscated the books, but let the three individuals continue on with the icons and other non-book items. Turkish Cypriot officials claimed that it would take 1-2 weeks for the books to be cleared. As of this reporting, it is not known if the books have been cleared.

The lack of education and opportunities in the north mean many young people move south for brighter futures. Religious minority women often return to the north to care for elderly relatives, but young Greek Cypriot men who leave the north for their required military service are prohibited from returning to the north to live, contributing to the declining population of these minority communities.

## **U.S. Policy**

The U.S. government engages 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 has put it on the frontlines of U.S. foreign policy. The United States' bilateral and multilateral agenda with Turkey spans stability and security in countries such as Iraq and Afghanistan, trade and investment, and counterterrorism. 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 recovered.

In his April 2009 visit to Turkey, President Obama emphasized the important U.S.-Turkey partnership which began in 1927 when the Turkish Republic was established, but the President also challenged Turkey to reopen the Halki island seminary. The United States continues to support Turkish accession to the EU, encouraging Turkey to continue the reforms necessary to complete the membership process, and arguing that a Turkey that meets EU membership criteria would be good for the United States, for the EU, and for Turkey. The bilateral and multilateral agenda with Turkey spans stability and security in Afghanistan, trade and investment, and counterterrorism. The United States has worked to criminalize the sources of material support for the Kurdish Workers' Party (PKK) by designating the PKK a Foreign Terrorist Organization; the United States has supported Turkish military operations against the PKK in northern Iraq. At the same time, the United States has criticized domestic limitations on human rights.

According to the State Department's 2010 *Annual Report on International Religious Freedom*, the Turkish government generally respected religious freedom, but continued to place "significant restrictions ... on Muslim religious expression in government offices and state-run institutions, including universities, for the stated reason of preserving the 'secular state.'" In addition, the report noted that minority religious groups continue to face "difficulties in freedom of worship, registration with the government, and the training of their followers and clergy." It also noted that members of minority groups, particularly Christians, Baha'is, and Jews, as well as heterodox Muslims, experience "societal abuses and discrimination based on religious affiliation, belief, or practice." The United States promotes policies to protect freedom of religion, including to allow the free functioning of non-Muslim religious institutions and the return of expropriated minority properties.

Since President Carter, every U.S. president has called consistently 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 also cooperates with Turkey to assist in the advancement of freedom of expression, respect for individual human rights, civil society, and promotion of ethnic diversity. In February 2011, one day after police raided a news Web site and detained four journalists on the claim of alleged links to the anti-government Ergenekon conspiracy, U.S. Ambassador Francis Ricciardone said that the United States was trying to "make sense" of Turkey's stated support for press freedoms on the one hand and the detention of journalists on the other. The next day, some AK Party members accused the ambassador of interfering in Turkey's internal affairs.

The United States does not officially recognize the "Turkish Republic of Northern Cyprus." However, the United States government does discuss religious freedom with Turkish Cypriot authorities and supports international efforts to reunify the island. In the context of reconciliation between the Republic of Cyprus and northern Cyprus, the United States provides funds for programs, such as the Bicomunal Support Program and the Cyprus Partnership for Economic Growth program. These programs promote civil engagement, business, and trade between the Republic of Cyprus and northern Cyprus, and seek to preserve cultural heritage sites on the island, including those USCIRF visited.

## **Recommendations**

USCIRF's trip to Turkey and northern Cyprus in February 2011 highlighted the ongoing religious freedom restrictions imposed on religious minorities in both Turkey and northern Cyprus by the Turkish government and military. USCIRF recommends that the U.S. government, in its bilateral relations with Turkey, urge the Turkish government to bring its laws and practices into compliance with international standards on freedom of religion or belief.

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

On the legal status of minority religious communities and governance of their internal affairs, the United States should urge Turkey to:

- grant full legal recognition for all religious communities in Turkey, such as the Alevis; Greek, Armenian, Georgian and Syriac Orthodox; Roman Catholics; Protestants; Jews; and others, by:

--fully implementing the 1923 Lausanne Treaty and the Universal Declaration of Human Rights 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; and

--fully respecting articles 18 and 27 of the International Covenant on Civil and Political Rights and withdrawing the reservation that limits its application to the three Lausanne minorities;

- permit religious communities to select and appoint their leadership in accordance with their internal guidelines and beliefs, according to Turkey's international obligations, end Turkish citizenship requirements for the Ecumenical Patriarchate and Holy Synod of the Greek Orthodox Church, and grant official recognition to the Ecumenical status of the Greek Orthodox Patriarch, in line with the 2010 opinion by the Council of Europe's Venice Commission;
- encourage the Prime Minister's office and the *Diyanet* to work with the Alevi community regarding the recognition of that community in Turkey, and grant legal status to Alevi *cem* houses of worship as places of worship; and
- allow for the independent and peaceful practice of Islam outside of the *Diyanet* and end the legal prohibitions on Shi'a Islam and on Sufi spiritual orders.

Regarding restrictions on religious expression, the United States should urge Turkey to:

- abolish Article 301 of the Turkish Penal Code, which restricts the freedoms of thought and expression and negatively affects the freedom of religion or belief;
- remove restrictions on all clergy and members of religious minority communities to wear religious garb in public areas, state institutions, and public and private universities, and remove additional restrictions on leaders of the minority Christian, Jewish, or other religious communities from wearing clerical garb in the public space;
- allow women the freedom to express their religious or non-religious 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;
- draft legislation to provide alternative service to military service, on the grounds of conscientious objection and release imprisoned conscientious objectors; and
- 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, including the adoption of specific steps to implement this new requirement.

Regarding property and education rights for religious minorities, the United States should urge Turkey to:

- 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, end the authority of the *Vakıflar* or any government agency to seize the property of any religious community, and submit the recent Supreme Court decision on the land property case of the Mor Gabriel Syrian Orthodox monastery to Turkey's constitutional court or to the European Court of Human Rights;

- permit all religious minorities, including those not covered by the Lausanne Treaty, to train religious clergy, including by:
  - permitting the reopening of the Halki Theological Seminary, according to Turkey's international obligations, and allowing for religious training to occur;
  - organizing a technical committee comprised of representatives from the Ecumenical Patriarchate and Turkish government representatives, to review all technical details relevant to expeditious opening of the Halki seminary;
  - returning the Greek Orthodox school on the island of Imvros to the Ecumenical Patriarchate and approving the Patriarchate's application for the operation of the school; 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;
- encourage the Ministry of Education to respond favorably to requests from the Armenian community to allow children of migrant workers to attend Armenian minority schools in Turkey; and
- amend public school curricula on religion in line with the 2010 European Court of Human Rights ruling in the case brought by an Alevi.

Regarding combating intolerance, the United States should urge Turkey to:

- 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;
- 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 such acts, and, while vigorously protecting freedom of expression, counteract anti-Semitic rhetoric and other organized anti-Semitic activities; and
- act in accordance with international human rights obligations to protect and punish discrimination against Alevis.

## **II. Advancing Religious Freedom through Multilateral Efforts**

The U.S. government should:

- encourage the Turkish government, in view of its invitation to UN human rights special rapporteurs, to actively schedule such visits, including by the UN Special Rapporteur on Freedom of Religion or Belief and the UN Independent Expert on Minority Issues;

- encourage the Turkish government to remove its reservation to Article 27 of the ICCPR to ensure full respect for the protection of freedom of religion or belief to minority communities;
- 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
- urge the Turkish government to interpret the Turkish Constitution and the Lausanne Treaty consistent with international obligations, such as Article 18 of the ICCPR and OSCE commitments on freedom of religion or belief.

### **III. Recommendations concerning northern Cyprus**

The U.S. government should:

- urge the Turkish government to allow religious communities living in the Republic of Cyprus and religious minority communities living in northern Cyprus access to (including rights to restore, maintain, and utilize) religious sites, places of worship, and cemeteries that are located within the borders of Turkish military bases and zones in northern Cyprus;
- urge the Turkish government and/or Turkish Cypriot authorities to abandon all restrictions on the access and use of churches and other places of worship, including requiring applications for permission to hold religious services;
- urge the Turkish Cypriot authorities and Turkish military to return all religious places of worship and cemeteries to their rightful owners; cease any ongoing desecration and destruction of Greek Orthodox, Maronite, Armenian Orthodox, and Jewish religious properties; and cease using any such religious sites as stables, military storage sites, vehicle repair shops, and public entertainment venues or any other non-religious purpose;
- urge the Turkish government and/or the Turkish Cypriot authorities to permit the restoration of St. Andreas monastery and other churches located in northern Cyprus;
- urge the Turkish government and/or the Turkish Cypriot authorities to return Christian religious iconography and other religious art that is in the hands of Turkish Cypriot authorities and that remain in churches to their rightful owners; and



- urge the Turkish Cypriot authorities to provide a full list of catalogued religious artifacts and to allow access by UNESCO authorities, if UNESCO deems it appropriate and necessary to review such materials under possession of the Turkish Cypriot authorities and/or Turkish military.

**Statement of Commissioner William J. Shaw:**

I have voted against the report on Turkey, not on the merits or lack thereof of its analyses and recommendations, but because the report attempts to cover in one document issues of religious freedom both in Turkey and that part of the Republic of Cyprus referenced as northern Cyprus.

In 1983, the local Turkish Cypriot Administration in the north declared unilaterally its independence as the “Turkish Republic of Northern Cyprus.”

Turkey recognizes that area as “The Turkish Republic of Northern Cyprus.” The U.S. government does not recognize “The Turkish Republic of Northern Cyprus.” The Republic of Cyprus does not recognize “The Turkish Republic of Northern Cyprus.” The United Nations Security Council does not recognize “The Turkish Republic of Northern Cyprus.” Any examination of issues of religious freedom in any part of Cyprus by USCIRF, an independent agency of the U.S. government, should be done in a report separate from one on the Republic of Turkey, though Turkey may be referenced. Even if Turkey’s influence in northern Cyprus is considerable, USCIRF’s own report states that the degree of autonomy of the Turkish Cypriot authority is very unclear. Conclusions regarding Turkey may be inherently compromised by that lack of clarity.

Further, because the examination of matters of religious freedom in northern Cyprus involves evaluating the movement of people between southern and northern Cyprus, that examination, in fairness, should include both territories and not just a part.

## Venezuela

**FINDINGS:** Violations of freedom of religion or belief continue in Venezuela. These violations include: government failure to investigate and hold accountable perpetrators of attacks on religious leaders and houses of worship, and virulent rhetoric from President Hugo Chavez, government officials, state media, and pro-Chavez media directed episodically against the Venezuelan Jewish and Catholic communities.

Based on these concerns, USCIRF again places Venezuela on its Watch List in 2011. Venezuela has been on USCIRF's Watch List since 2009.

Since 1998, there has been a steady increase of government rhetoric, and in some cases government actions, 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 political control over the economy, non-governmental organizations, and society, as well as his backtracking on democracy and respect for human rights. 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 vulnerable to attack.

**PRIORITY RECOMMENDATIONS:** The U.S. government should increase its efforts to promote freedom of religion or belief in Venezuela, stress the importance of holding perpetrators of attacks on religious institutions accountable and continue to speak out against attacks on religious leaders and institutions when they occur. The U.S. government also should work with countries such as Brazil that have influence with the Venezuelan government to encourage it to end issuing anti-Semitic statements; fully investigate attacks on religious communities, institutions and leaders; and hold perpetrators accountable. Importantly, considering the poor state of relations between the two countries and President Chavez's opposition to the United States, all activities must be conducted in a way that minimizes the risk to religious communities. Additional recommendations for U.S. policy towards Venezuela can be found at the end of this chapter.

## Religious Freedom Conditions

### *Impunity*

The government of Venezuela has not taken sufficient action against the perpetrators of two attacks in January 2009, one on a Jewish synagogue and the other targeting a Catholic institution. The Venezuelan government also has failed to take action against the perpetrators of other attacks on religious institutions.

The investigation into the attack on the Tiferet Israel Synagogue remains open. The incident occurred over a five hour period during which masked men overran security guards and broke into and vandalized the Tiferet Israel synagogue in Caracas, throwing Torah scrolls on the floor and spray-painting hateful messages such as “Death to all” and “Jews, get out.” Within a week, 11 men were arrested for the attack. No actions have been taken against them and they have yet to be prosecuted. Representatives of the Jewish community do not expect the case to ever be brought before a judge.

No state actions have been initiated in response to tear gas canisters being thrown into the Apostolic Nunciature. The Nunciature was attacked because it provided asylum to student activists and opposition members. A pro-Chavez organization, “La Piedrita,” has publicly taken credit for the attack as well as earlier ones against the Nunciature. No investigations into this incident or arrests have been made despite this public statement.

In addition, no arrests or prosecutions have occurred for the February 2009 forceful entry and occupation of the residence of the Archbishop of Caracas by Chavez supporters to hold a press conference denouncing Catholic leaders and the Papal Nunciature. Furthermore, no one has been arrested for the February 2009 vandalism of the Beth Shmuel synagogue, or the March 2009 robbery and vandalism of the Ibrahim al-Ibrahim mosque.

### *Anti-Semitism*

There were some welcomed improvements for the Jewish community during the reporting period, especially the reduction of anti-Semitic statements in state media and the government’s efforts to provide security to synagogues during the Jewish holidays. However, the Jewish community continues to feel at risk of being deemed responsible for actions taken by the government of Israel by President Chavez, government officials, government controlled media, the President’s supporters and others.

Anti-Semitism has appeared in waves corresponding to important international events related to the state of Israel, such as the 2006 Israel-Lebanon conflict and the 2008 Israel-Gaza conflict. In this reporting period, following the June 2010 Gaza flotilla incident, President Chavez called Israel a “genocidal state.” In that same speech President Chavez also said that he is not an “enemy of the Jews” and that he did not believe that Venezuelan Jews would support the actions of Israel, thereby implying that the Venezuelan Jewish community must choose between its ties to Venezuela and Israel. In past years, following such incidents and statements, Jewish institutions were vandalized and individual Jews were threatened. According to the State Department’s religious freedom report, in this reporting period, Jewish institutions and businesses continued to be graffitied.

President Chavez’s and other senior government officials’ severe criticisms of the state of Israel frequently cross the line into anti-Semitism. They include 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 spreads anti-Semitic sentiments across the country through cartoons and opinion pieces, radio programs and rallies. Anti-Semitic cartoons and graffiti repeatedly have equated the Star of David with the Nazi swastika.

During the reporting period, anti-Semitic statements made by government officials and in state media declined from the levels seen at the end of 2008 and early 2009. Much of the decline followed a September 2010 meeting between President Chavez and Jewish community representatives, during which these representatives presented him with a dossier of anti-Semitic statements in state media. A few months after the meeting, Jewish leaders reported a noticeable decline in such statements in state and state-supportive media. The improvement also followed statements by Cuba leader Fidel Castro, President Chavez's mentor, against Iranian President Mahmoud Ahmadinejad's denials of the Holocaust, saying, "I don't think anyone has been slandered more than the Jews."

The Venezuelan Jewish community also has expressed concern about the increasingly-documented diplomatic, military, financial, and trade ties between Venezuela and Iran, and about the growing relationship between President Chavez and Iranian President Mahmoud Ahmadinejad. Given President Ahmadinejad's history of anti-Semitic and anti-Israel statements, the community sees a link between this relationship and the increase of similar statements by President Chavez. Of particular concern is the fact that direct flights between Caracas and Tehran undergo less stringent security checks than other flights to Caracas.

#### *Government-Catholic Church Tensions*

Given that more than 90 percent of Venezuelans are Catholic, the Catholic Church is a large and influential entity in Venezuela, and therefore a potential threat to President Chavez. President Chavez and his supporters often try to discredit the Church in statements and in state media to try to neutralize the Church's criticisms of government actions. Tensions between the Catholic Church and the Venezuelan government increased in 2010 as Church leaders intensified their criticism of government actions against independent media and the opposition. In response to 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." In 2010, such statements against the Catholic Church and its leadership began to be replicated in state media and pro-Chavez media. In July, the President threatened to end the Concordat following criticism by Catholic leaders, although leaders of the Catholic Church did not take the threat seriously.

#### *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, and no groups were refused registration in the past few years. The DJR provides religious groups with subsidies to conduct educational and social programs that historically have been distributed to Catholic organizations. Recently, the government has reduced subsidies for Catholic organizations and the Episcopal Conference of Venezuela and increased funding to evangelical groups implementing government-approved social programs and state-operated social programs.

In a positive development, the government did not implement provisions of an education law and an initiative to protect nationally important historic buildings that could negatively impact religious communities. However, these troubling provisions continue to exist and can be implemented at any time. Such provisions include: the creation of ruling party-dominated "communal councils" to oversee the curriculum, teachers, and school administrators of all public and private schools, including religious schools, and the authority to confiscate historic Catholic Church property, including churches, schools, and other ecclesiastical buildings.

It also is positive that despite threats at the end of 2010 to do so, the National Assembly took no action on legislation drafted in early 2010 by President Chavez's party that would increase the oversight of non-governmental organizations, including religious organizations. However, if passed, this law would require all non-governmental organizations that receive at least 10 percent of funding from foreign sources to obtain advance government approval of their activities and funding sources and provide the government with information on their sources of funding, organizational leadership, and activities.

As in previous years, the Venezuelan government restricted foreign missionary activity in the country, particularly for those with close ties to U.S. religious groups. Foreign missionaries are required to hold special visas, and for several years the rates of refusal for first-time applicants have increased and the rates of renewals decreased, particularly for groups based in the United States.

## **U.S. Policy**

U.S.-Venezuelan relations remained poor during the reporting period and deteriorated further in late 2010 when President Chavez refused to accept the newly-appointed U.S. Ambassador to Venezuela, Larry Palmer. During his confirmation hearing, Ambassador Palmer commented on low morale in the Venezuelan armed forces and on Venezuela's providing shelter to Colombian FARC rebels. His comments instantly drew criticism from President Chavez. In response to Venezuela's actions against Ambassador Palmer, the United States revoked the visa of the Venezuelan Ambassador to the United States, Bernardo Alvarez Herrero.

There are some areas of cooperation between the two nations, principally on trade and 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, and increased its criticism of this throughout this reporting period. U.S. government assistance in Venezuela is relatively small, only \$5 million in fiscal year 2011. 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 are devoted to increasing political competition and pluralism in the nation.

The U.S. government routinely meets with members of 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 further discussion of ways to improve freedom of religion or belief between the two nations.

## **Recommendations**

USCIRF recommends that the U.S. government take a number of critical steps to advance religious freedom in Venezuela through key programs and policies and through multilateral efforts.

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

The U.S. government should:

- at the highest levels, urge the Venezuelan government to address the growing climate of impunity by immediately investigating, arresting, prosecuting, and holding accountable individuals responsible for all attacks on religious institutions, including the 2009 attacks against the Tiferet Israel synagogue and the Papal Nunciature, the vandalism of the Beth Shmuel synagogue, and the robbery and vandalism of the Ibrahim al-Ibrahim mosque;
- at the highest levels, publicly denounce Venezuelan government rhetoric and raids against, as well as societal attacks on, religious communities, institutions, and leaders;
- at the highest levels, speak out publicly and continue to draw international attention to state-sponsored anti-Semitism and to recently intensified efforts to pressure and silence the Catholic Church in Venezuela;
- dispatch the Ambassador-at-Large for Religious Freedom and the Special Envoy to Monitor and Combat Anti-Semitism to Venezuela to report on religious freedom abuses in that country;
- work within the current overall policy framework to ensure that violations of freedom of religion or belief, and related human rights, are included in all bilateral discussions with the Venezuelan government, including economic and energy sector discussions; and
- ensure that funding for democracy and human rights promotion in Venezuela includes support for activities advancing freedom of religion or belief.

## **II. Advancing Religious Freedom through Multilateral Efforts**

The U.S. government should:

- work with countries that have influence with the Venezuelan government to encourage the government to address the climate of impunity by immediately investigating attacks on religious communities, institutions, and leaders, and holding 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 countries that 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 hold perpetrators of abuse accountable;
- work with countries that have influence with the Venezuelan government to encourage the government to end its recently intensified efforts to pressure and silence the Catholic Church;
- 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 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. The placement of Bangladesh on the Watch List 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 governance to Bangladesh, after two years of a military-backed caretaker regime. The 2008 elections brought to power the Awami League, considered the most secular and favorably disposed toward minority rights among Bangladesh's major political parties, and were free of the anti-minority violence that had followed previous elections. Soon thereafter, new Prime Minister Sheikh Hasina 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. Due to these positive developments, USCIRF removed Bangladesh from its Watch List in 2009.

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 provisions, made Islam the state religion, and made "absolute trust and faith in Allah" one of the fundamental principles of state policy and "the basis for all [government] actions."

In October 2010, Bangladesh's High Court declared that the 1972 Constitution would be restored, though as of this writing it is unclear whether this has taken effect. The 1972 Constitution espouses secularism, democracy, socialism, and nationalism as the political philosophy of the country and has no reference to Islam as the state religion. This ruling could provide a legal basis for banning existing Islamist political parties, even those that espouse achieving Islamist goals through democratic means. However, Prime Minister Sheikh Hasina has stated publically that while secularism will be restored to the Constitution, Bangladesh will remain an Islamic state. Further, she has publically stated that the ban on religious parties will not strictly be enforced. It is unclear if she meant that, as a Muslim majority country, Bangladesh will always be an Islamic state even if the Constitution does not recognize it as such, or that Islam would play some other role in Bangladesh's economic, political, and social make-up through a different legal mechanism.

Since 2008, the Awami League government has initiated a number of steps affecting freedom of religion or belief. The Awami League government included three non-Muslims among 38 ministerial positions. Members of minority communities also were appointed to other senior government and diplomatic positions. Currently, non-Muslims hold significant positions in both the judiciary and ministerial offices. There is a non-Muslim judge serving in the appellate division of the Supreme Court. Also, the ministerial offices of Cultural Affairs, Chittagong Hill Tract Affairs, Telecommunications, Fisheries and Live Stock,



and the Environment are all directed by non-Muslims. However, religious minorities are underrepresented in elected political offices, including the national parliament.

Since the Pakistan era, The Vested Property Act (VPA) has allowed the majority population 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. In January 2010, Bangladesh's National Assembly began consideration 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. By late November 2010, the Bangladeshi cabinet had approved the Vested Property Return (Amendment) Act. However, as of December 2010, the Land Minister had tabled an amendment in parliament, and the proposed legislation was on hold.

The proposed legislation calls for a list of all "restorable" vested property to be produced and reported in all districts. Once the list is reported to the public, all claimants have 90 days to file property rights claims to their district committees, and in return the committees have 45 days to review claims and make recommendations to deputy commissioners, who then must make a decision within 30 days of receipt of the recommendation. If denied, a claimant has 30 days to appeal the decision. Many Hindu communities and NGOs, however, believe the definition of "restorable" vested properties is unclear and will include only a small portion of the properties seized since 1965. Also, according to representatives of the Bangladesh Hindu, Buddhist, and Christian Unity Council, USA, the draft law allows for the confiscation of property from Hindus if they have not lived continuously in Bangladesh since 1965, but does not place the same restriction on Muslims.

In December 2009, the government established a three-member official judicial commission to investigate the violence, primarily against Hindus, that followed the October 2001 elections. The commission members (former district judge Muhammad Shahabuddin, Deputy Secretary of the Home Ministry Manwar Hossain Akand, and Additional Deputy Inspector-General of Police Meer Shahidul Islam) reportedly received approximately 5,500 allegations of violence. They conducted field interviews, collected data from six states, requested information from political figures and human rights and other civil society groups, and held several public meetings. After several extensions of the original four-month timeframe for the completion of its work, the commission submitted its final report to the Home Ministry in late January 2011, according to media reports. A public release was expected in February 2011, but had not happened as of this reporting.

The government has continued the process, begun under the previous caretaker government, of establishing a National Human Rights Commission. The Ministry of Religious Affairs also continues to support funds for religious and cultural activities, including for Hindu and Buddhist minorities. The Christian community has rejected government involvement in their religious affairs. The government also helped support the Council for Interfaith Harmony-Bangladesh, which is an organization that promotes interfaith dialogue and understanding among various communities in Bangladesh.

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 Chittagong Hill Tracts (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. The CHT conflict began in the 1970s when the minority community protested that the government of Bangladesh recognized only Bengali culture and

language and considered only ethnic Bengalis citizens of Bangladesh, thereby denying indigenous ethnic groups citizenship. Although the current Prime Minister declared after taking power that her government would keep past commitments to the predominantly non-Muslim indigenous peoples of the CHT region, the government has not enforced the CHT Accords and has not ensured that all members of all tribal communities are afforded the full rights of Bangladeshi citizenship.

Bangladesh's small Ahmadi community of about 100,000 has been the target of a campaign to designate them as "non-Muslim" heretics. In January 2004, the then-government, led by the Bangladesh Nationalist Party (BNP) in coalition with Jamaat-e-Islami Bangladesh and a smaller Islamist party, banned the publication and distribution of Ahmadi religious literature. Since then, the ban has not been enforced, although it has never been officially rescinded. Also, violence against Ahmadis has diminished in recent years due to improved and more vigorous police protection, although in August 2010, 40 Ahmadis were attacked and seriously injured by a group of Islamists in the Tangail district. In February 2011, Bangladeshi Ahmadis were prevented from holding their annual convention in the Gazipur district. The group had received advance official permission to hold the three-day event, but police shut it down on the first day based on a provision in the Code of Criminal Procedure that allows local people to object to an event based on public order concerns.

The government's appointments, public statements, and actions have given increased confidence to members of religious minority communities. For the last two years, Bangladesh has generally been free of the extremist violence that had escalated earlier in the decade. Also, for the second year in a row the State Department's 2010 *Annual Report on International Religious Freedom* on Bangladesh states that societal abuses and discrimination have declined significantly. Nevertheless, incidents of harassment and violence against religious and ethnic minorities and women continue to occur, and the judiciary and police officials are often ineffective in upholding law and order. They also are sometimes slow to assist victims, especially at the local level, because they can be vulnerable to corruption, intimidation, and political interference.

While Bangladesh's High Court has ruled that the issuing of *fatwas* ordering punishments for activities deemed un-Islamic is illegal, the case of Hena Akhter indicates that women are still vulnerable to the religious edicts. In January 2011, a local imam and six local religious leaders in the Shariatpur district issued a fatwa against Ms. Akhter for having an illicit affair with a married man, who was also her cousin, and ordered 101 lashes. The fatwa was issued despite the fact that her family had filed a claim with the local police that Ms. Akhter was raped and did not have an affair with the man. Nonetheless, the fatwa was carried out, and Ms. Akhter was lashed with a wet cloth twisted into a rope. Reportedly, Ms. Akhter collapsed unconscious after approximately 50 lashes. She died of her injuries 11 days later.

Following Ms. Akhter's death two autopsies were done, with the second autopsy concluding that she died from internal bleeding and septicemia caused by wounds "of a homicidal nature." The imam and the six local religious leaders that issued the fatwa and assaulted Ms. Akhter have been arrested and charged with her murder. The man accused of raping Ms. Akhter has also been arrested and charged.

The Constitution of Bangladesh provides the right to profess, practice, or propagate all religions, but that right is made subject to law, public order, and morality. In what appears to be an isolated case, in February 2011, Biplob Marandi was arrested and sentenced to one year in prison for "creating chaos at a religious gathering" by selling and distributing Christian religious literature. However, in late March, a district court judge exonerated Marandi of the charge and ordered his release.

Recently, Bangladesh has taken a positive step in reforming its school curriculum. In May 2010, Bangladesh introduced the National Education Policy. The new policy aims to streamline the primary and secondary general, *madrassas*, and vocational education system. The reforms also aim to create a

secular environment that allows all religious groups to learn their own religions, and to teach social and moral values of tolerance and mutual respect to promote a pluralistic society.

Despite improvements, the government of Bangladesh nevertheless continues to show weaknesses in protecting human rights, including religious freedom, and religious extremism remains a threat to the rule of law and democratic institutions. Based on these 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 providing compensation 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 given a broad mandate that includes freedom of religion or belief; include in all public and *madrassas* 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.

USCIRF will continue to monitor how the Bangladeshi government strengthens protections for all Bangladeshis to enjoy the right to freedom of religion or belief, and how it undertakes further efforts to improve conditions for minority religious communities. These efforts would include: the government of Bangladesh working with representatives from civil society and affected religious minority communities to restore property seized under the Vested Property Act and fully implement the Chittagong Hill Tracts Peace Accords; investigating and, to the fullest extent of the law, prosecuting perpetrators of violent acts against members of minority religious communities, women, and non-governmental organizations; and reforming the judiciary and the police 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.

## **Kazakhstan**

USCIRF has monitored Kazakhstan since 2008. In recent years, Kazakhstan's human rights record, including its record on freedom of religion or belief, has come under increased international scrutiny due to the government's tightening control over civil society and religious communities and its 2010 chairmanship of the Organization for Security and Cooperation in Europe (OSCE). Despite many calls for his release, including by President Obama, Kazakhstan's most prominent human rights activist, Evgeny Zhovtis, is still serving a four-year term in a remote labor colony after being sentenced in 2009 in a trial that was widely viewed as unfair. A Commission representative visited him in July 2010; Zhovtis noted that he was the only inmate who was never allowed to leave the compound.

The legal climate in Kazakhstan, traditionally one of the more liberal countries in Central Asia, is increasingly precarious. The Kazakh parliamentary calendar has set late 2011 for consideration of changes to the religion law similar to those passed in 2008 but voided by the constitutional court, which established stricter registration procedures, required re-registration, and banned unregistered activity and proselytism, among other things. Some observers believe the introduction of the new amendments may occur sooner.

Problems also exist under current laws and regulations, as individuals who lead, participate in, or finance unregistered religious organizations or unapproved religious activities may be subject to administrative

finer or detention. The Kazakh authorities continue to enforce these penalties, particularly against unregistered Baptists, registered Ahmadis, and Jehovah's Witnesses. In March 2011, for example, a Baptist pastor was fined 100 times the minimum monthly wage for leading unregistered religious worship in the city of Taraz.

Although the Kazakh Constitution bans discrimination on the ground of religion and the religion law states that all religious communities are equal under the law, government officials seem to divide communities into those they tolerate, such as Jews, Catholics, and small communities of Buddhists, from other groups they deem "sects," including independent Muslims, Ahmadis, most Protestants, Hare Krishna devotees, and Jehovah's Witnesses. In 2010, human rights activists and religious groups expressed concern about a new religious studies textbook, which reportedly contains "aggressive, sometimes insulting and even offensive" language about Ahmadis, Protestant Christians, Hare Krishnas, and Jehovah's Witnesses. In addition, a July 2010 internal document from the ruling Nur Otan political party called for stricter religion laws and attacked "non-traditional" faiths. 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. In March 2011, however, a judge in the city of Shymkent banned the local New Life Pentecostal Church from conducting worship services in the house where it is registered.

The government-approved National Administration of Muslims in Kazakhstan (SAMK), directed by the Muslim Board and headed by the Chief Mufti, exerts significant influence over the practice of Islam in the country, 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. The government has registered and continues to register some mosques and Muslim communities not affiliated with the SAMK, although reportedly the number of independent mosques has decreased from 90 to 12 in recent years. The SAMK reportedly occasionally pressures non-aligned imams and congregations to join it. For two years, the Muslim Board and Kazakh government agencies in the Karaganda region have been pressuring five independent mosques to join the Muslim Board. According to a Culture Ministry official quoted by Forum 18, all mosques in Kazakhstan "must be" under the Muslim Board. Moreover, a Muslim Board official has alleged that independent mosques "will breed terrorists," but has not cited any evidence. In a June 2010 discussion with Commission staff, the Deputy Head of the SAMK denied that Sufis are Muslims even though Sufism used to be the predominant form of Islam in Kazakhstan. Several Sufi communities have been denied registration as religious groups.

As of November 2010, Sunni and Shi'a Muslim ethnic minority communities face major state-imposed obstacles in opening mosques. If these ethnic minority mosques gain registration, they are subject to particular state or Muslim Board limitations on religious activity, including bans on Friday prayers. Appointing Kazakh imams and enforcing Kazakh as the priority language in mosques may be part of a general government policy promoting Kazakh ethnic dominance.

The Law on Extremism, effective since February 2005, gives the government wide latitude to identify and designate religious or other groups as extremist organizations, to ban a designated group's activities, and to criminalize membership in a banned organization. Government officials have expressed concern about possible political and religious extremism, particularly in southern Kazakhstan, where many ethnic 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, that their trials did not follow due process, and that the public is denied information about these cases.

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. At least three different regional police Departments for the Fight against Extremism, Separatism and Terrorism raided unregistered religious communities in 2010, both Baptist and Muslim, in various regions of the country. Other unregistered Protestant communities also are subject to official harassment.

Although the Hare Krishna movement is registered at the national and local levels, its leaders report continuing harassment, including destruction of their 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 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." After meetings with government officials and human rights organizations, however, the Jehovah's Witnesses announced at an October 2009 session of the OSCE Human Dimension conference in Warsaw that they and the government of Kazakhstan had resolved this dispute.

Several groups reported difficulty in registering foreign religious workers, while others reported greater difficulties than in previous years with the issuance of visas, denials of special visas, or shorter-term visas. Under new visa regulations that came into force in March 2010, a "missionary visa" is valid for a maximum of 180 days and is not renewable. The registered Ahmadi community has encountered major delays in the issuance of visas, and two Ahmadi imams were forced to leave Kazakhstan after their visas were denied. The Jewish community has expressed concern, according to a Jewish leader, that "it will be difficult for us to open new synagogues, since it will be very difficult to invite rabbis to lead them." After one Catholic priest failed to get a visa for two months, the nuncio spent a week going to the Foreign Ministry before a business visa was granted.

On the international level, however, the Kazakh government in recent years has organized events to showcase what it views as its record of official religious tolerance. President Nazarbayev has hosted three conferences attended by hundreds of leaders of "traditional" religious communities from around the world. At the June 2010 OSCE High-Level Tolerance Meeting in Astana, Kazakh government officials participated in a side event on freedom of religion or belief in Kazakhstan organized by a Norwegian NGO coalition, and responded to religious community and NGO questions and comments.

## **Morocco**

A USCIRF delegation traveled to Morocco in October 2010 at the invitation of the government of Morocco. Earlier in 2010, the Moroccan government had summarily expelled or denied re-entry to approximately 150 expatriate Christians, including 45 Americans, allegedly for proselytizing. The expulsions, which contrast with the government's general respect for due process and religious tolerance, deeply concerned several members of the U.S. Congress, who asked USCIRF to engage the Moroccan government on the issue. USCIRF's visit resulted in Moroccan government officials promising a number of procedural concessions related to the deportations.

The USCIRF delegation met in Rabat and Casablanca with a range of high-level Moroccan government officials, religious leaders, and civil society activists, as well as U.S. Ambassador Samuel Kaplan and other U.S. Embassy staff. The delegation met with the Ministers of Interior, Justice, and Islamic Affairs, as well as the Secretary-General from the Ministry of Foreign Affairs. In addition, the delegation met with the government-appointed Senior Council of Oulema, of which the King of Morocco serves as chair. A smaller USCIRF delegation also visited the *Village of Hope*, an orphanage in Ein Leuh previously run

by 16 expatriates, including Dutch, British, and American nationals, who had been expelled by Moroccan government authorities in March 2010.

Government officials and civil society activists alike pointed out the many significant reforms that have been undertaken since King Muhammad VI came to power in 1999, particularly promoting the rights of women, reforming the family code, establishing the *mourchidat* program for female Muslim preachers, advancing human rights generally, and combating extremism. Government interlocutors stated that the Moroccan constitution guarantees religious freedom and that the King, as “Commander of the Faithful,” is responsible for protecting all people of various faiths and creeds living in Morocco.

While the Moroccan government traditionally has been tolerant of the presence and practice of faiths other than Islam in the country, over several months in early-to-mid-2010, nearly 150 foreign Christians living in Morocco, including at least 45 Americans, were deported, denied re-entry, or had deportation orders entered against them for allegedly proselytizing Moroccan Muslims. These actions were taken with no notice to the individuals involved or to the U.S. Embassy. There was an initial wave of dozens of such actions in March, a second in May, and a third in July. Some of the individuals had been living in the country for more than 20 years without incident. None was charged with a crime; rather, all the cases were administrative and involved civil charges. The Moroccan government claimed that the deportations were based on thorough investigations and that it had informed those affected that they could appeal. Most of the deported individuals have said that they were not informed of either the evidence against them or given the opportunity to appeal. Some were given less than 48 hours to leave the country.

During USCIRF’s visit, Moroccan government officials agreed that certain procedures remained available to the expatriates who had been expelled or denied re-entry. The Minister of Justice stated that any lawyer representing an expatriate will have the opportunity to lodge a complaint with his Ministry’s Office of the Secretary-General seeking access to the dossier containing evidence that supports the deportation. The Ministry of Justice would then appeal to the Ministry of Interior to release the file, which is permitted under the law. The Minister of Interior conceded that lawyers for those individuals appealing expulsions should be permitted to secure access to their dossiers and any other evidence against them from the administrative court. Furthermore, he confirmed that anyone who wants to lodge an appeal should get one.

Since USCIRF’s October 2010 visit, U.S. Embassy Rabat has informed all Americans with pending cases, as well as their lawyers, about the details of USCIRF’s meetings with the Ministries of Justice and Interior regarding the procedures that the government agreed would be afforded to those who wished to obtain the dossiers against them. It does not appear that any Americans or expatriates tested the procedural guarantees and sought to obtain their dossiers during the reporting period. According to the Embassy, most of the Americans who were expelled or denied re-entry have either moved on or do not wish to pursue appeals. During its visit, the USCIRF delegation met with some Americans who received deportation orders in June 2010. After intervention by the U.S. Embassy and the State Department, the Moroccan government rescinded these deportation orders and the individuals remain in the country.

However, there are a few ongoing cases. One American, who was expelled from Morocco in March 2010, is now based outside the country with his family and is still pursuing his case. There is also another case involving several of the former *Village of Hope* (VOH) workers of various nationalities, including Americans. This case remains in limbo, in part because their lawyer in Morocco has not attempted to obtain the dossiers supporting the deportation orders against his clients. Simultaneously, U.S.-based lawyers representing the former *VOH* workers are looking for an additional lawyer in Morocco to bring a separate claim stemming from the deportations concerning assets taken by the Moroccan government.

During USCIRF's visit, the delegation repeatedly was told by government officials that Moroccan law prohibits proselytism of Muslims (but not any other religious group), which can result in a fine or prison sentence. The USCIRF delegation expressed its concern that the law is contrary to Morocco's obligations under international human rights law, including Article 18 of the International Covenant on Civil and Political Rights (ICCPR), to which Morocco is a party. As the UN Special Rapporteur on Freedom of Religion or Belief noted in a 2005 report, "[m]issionary activity is accepted as a legitimate expression of religion or belief and therefore enjoys the protection afforded by article 18 of ICCPR and other relevant international instruments."

The internationally-protected right to religious freedom includes the freedom to change one's religion or belief. It also includes the freedom to manifest one's religion or belief through public expression, including expression intended to persuade other individuals to change their religious beliefs or affiliation voluntarily. Such expression is an essential manifestation of religious belief, and in some cases a mandatory injunction, for members of many faith communities. Also, the freedom to change religion would be diminished if the freedom to engage in religious persuasion were not ensured.

However, religious persuasion is not an unlimited right, and governments can restrict this type of expression in some circumstances. Under the ICCPR, governments can limit the freedom to manifest one's religion or belief, but any such limitations must be both "prescribed by law" and "necessary to protect public safety, order, health, or morals, or the rights and freedom of others." They also must be consistent with the ICCPR's provisions that require equality before the law for all and that prohibit any measures that would destroy guaranteed rights.

In assessing their validity under international human rights law, limitations on religious persuasion must be examined carefully and with some measure of suspicion. They are often broad, vague, and discriminatory, and they can mask the intention to silence unpopular religious expression or to vitiate the religious freedom rights of, or even to persecute, particular groups or individuals. Governments that prohibit religious persuasion and/or conversion often argue that doing so is necessary to protect vulnerable individuals from being converted by force, fraud, or duress. However, those types of improper conduct, whether used in a religious or any other context, are already prohibited under laws against assault, blackmail, fraud, bribery, and duress. This calls into question the need for additional laws specific to religious activity, particularly given such laws' frequent vagueness and risk of abuse.

USCIRF will continue to monitor closely any additional developments with regard to these issues.

## 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 the 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 this regard, USCIRF commends the United States for its leadership in bringing about the creation, in March 2011, of a new UN Special Rapporteur on the human rights situation in Iran.

In recent years, USCIRF has been seriously concerned about initiatives by some UN member states 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 the so-called “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. USCIRF welcomes the UN Human Rights Council’s move away from the flawed defamation of religions approach at its March 2011 session, but urges the United States and other UN members who support universal human rights to remain vigilant against further efforts by its proponents to insinuate the defamation of religious concept into international human rights law, including attempts to expand the meaning of incitement.

The OSCE continues to be an important forum in which the 56 participating states are held accountable for the extensive religious freedom commitments elaborated in various OSCE documents. In recent years, however, some participating states, led by Russia, have sought to curtail or derail the organization’s focus on human rights activities. These activities are particularly important at a time when the Russian government and governments of other post-Soviet countries 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 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 human rights records have never before been reviewed 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 all 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 first spoke at the May 2009 session, and since then has participated actively in the UPR process, including raising religious freedom concerns during the reviews of Vietnam, Egypt, Iran, Iraq, Kazakhstan, Laos, and Turkey. 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 “countries of particular concern,” or CPCs, under IRFA. 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. In this regard, USCIRF commends the United States for its leadership in bringing about the creation, in March 2011, of a new UN Special Rapporteur on the human rights situation in Iran.

#### *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 body 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 Human Rights Council most recently renewed the Special Rapporteur's mandate in June 2010 and appointed Professor Heiner Bielefeldt from Germany to the position as of August 2010. Like his predecessor, Ms. Asma Jahangir, Professor Bielefeldt has continued to focus, correctly, on protecting individuals from violations of the right to freedom of religion or belief, not protecting religions from criticism as sought by the proponents of the campaign discussed below. USCIRF Commissioners met with Professor Bielefeldt after his first presentation to the Third Committee of the UN General Assembly in October 2010 to discuss issues of mutual concern.

### **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 majorities 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).

As USCIRF has explained, the defamation of religions effort undermines individual rights to freedom of religion and expression, exacerbates religious intolerance, discrimination and violence, and provides international support for domestic blasphemy laws that often have led to gross human rights abuses. In conjunction with the State Department, Congress, and a broad coalition of human rights NGOs, USCIRF has worked to raise awareness of the dangers of the defamation of religions approach and to urge UN member states to vote against the concept.

As a result of these efforts, support for the problematic defamation of religions resolutions eroded significantly in both Geneva and New York over the past several years. Since 2008, the resolutions consistently have been supported by only a plurality of member states. In 2010, at both the Human Rights Council and the General Assembly, defamation of religions resolutions garnered the least support and most opposition the issue had ever received, coming within, respectively, four and 13 votes of defeat.

In a positive development, the UN Human Rights Council did not adopt a defamation of religions resolution at its March 2011 session. Instead, the Council adopted a consensus resolution on “combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence, and violence against persons based on religion or belief.” The new resolution properly focuses on protecting individuals from discrimination or violence instead of protecting religions from criticism. The resolution protects the adherents of all religions or beliefs, instead of focusing on one religion, and it does not conflate race and religion. Moreover, unlike the defamation of religions resolutions, the new resolution does not call for legal restrictions on peaceful expression. In fact, as the U.S. delegation pointed out in its explanation of position, the new resolution calls for criminalization only in the case of incitement to imminent violence. This follows the U.S. First Amendment standard and is more protective of expression than Article 20(2) of the ICCPR. Nevertheless, the United States and other UN members who support universal human rights should remain vigilant against continued efforts by the defamation of religions

proponents to insinuate that concept into international law, including the attempts to conflate defamation of religions and incitement discussed below.

### *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 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. 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.” 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.

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. 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.

### **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 the work of the UN Special Rapporteur on Freedom of Religion or Belief, including the Rapporteur’s focus 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, 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 national 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 the 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:

- 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 of religions resolutions, as well as moderate OIC countries, about the human rights abuses perpetrated under this concept and urge them to oppose any future such 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 of religions 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 Organization for Security and Cooperation in Europe (OSCE), comprised of 56 participating states from Europe, the former Soviet Union, the United States, and Canada, has established the most extensive international 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 disregard 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. Countries covered in this report, such as Uzbekistan, Turkmenistan, and Tajikistan, continue to repress human rights and freedom of religion or belief. Other OSCE participating states, particularly Azerbaijan and the Kyrgyz Republic, have adopted restrictive new laws and policies regarding religious freedom.

Kazakhstan's election as the first former Soviet republic to serve as the OSCE Chair-in-Office in 2010 raised concerns about whether the new chair would attempt to reduce the OSCE's traditional emphasis on human rights, weaken its human rights institutions and traditions, and undermine its efforts to combat violent hate crimes. These concerns were based on Kazakhstan's poor record on freedom of religion or belief and on the four-year labor camp term it imposed on its leading human rights activist, Evgeny Zhovtis, just before assuming the OSCE chair. Civil society activists have long played an important role at OSCE conferences. In 2010, the Kazakh chair did not play a helpful role when the United States and other delegations opposed the Turkmen government's repeated efforts to exclude three Turkmen human rights activists from the 2010 Human Dimension Implementation Meeting (HDIM) and other meetings.

As chair, Kazakhstan hosted an OSCE summit in Astana in December 2010, the first such high-level meeting since 2001. Although Russia sought a focus on "hard security," the Astana summit declaration set forth a comprehensive concept of security. For example, Article 6 of the declaration states "categorically and irrevocably that the commitments undertaken in the field of the human dimension are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned." Article 7 calls for the safeguarding and strengthening of "[r]espect for human rights, fundamental freedoms, democracy and the rule of law," and for "greater efforts ... to promote freedom of religion or belief and to combat intolerance and discrimination." After the Kazakh OSCE chairmanship ended on January 1, 2011, observers concluded that, on balance, its chairmanship had neither promoted nor undermined core OSCE human rights values, institutions, and activities.

Lithuania became the OSCE Chair-in-Office in early 2011. Its announced goals for its chairmanship include finding ways for the OSCE to support human rights in Belarus, despite the termination of the

OSCE Office in Minsk, as well as to promote “programs to develop tolerance education and to combat hate crimes and all forms of discrimination” throughout the OSCE area.

### **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. The OSCE Office of Democratic Institutions and Human Rights (ODIHR) sponsors the largest human rights meeting in Europe, usually held in Warsaw in October, to review participating states’ implementation of their human rights commitments, including those related to 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 was held in October 2010. USCIRF Commissioner Felice Gaer presented the official U.S. intervention during the plenary on freedom of religion or belief, marking the first time that USCIRF has done so during its many years of participation in the U.S. delegation. The USCIRF delegation also met with Uzbek, Turkish, and Tajik officials in bilateral discussions of religious freedom concerns.

Under ODIHR’s auspices, the OSCE also convened a Supplementary Human Dimension Meeting (SHDM) on Freedom of Religion or Belief in Vienna in December 2010, the second such meeting in two years, reflecting the OSCE’s unique level of activity on the issue. The SHDM provided an opportunity to evaluate more thoroughly the status of freedom of religion or belief in the OSCE region. The UN Special Rapporteur on Freedom of Religion or Belief participated, as did representatives from the Venice Commission of the Council of Europe. In his opening remarks, the ODIHR Director observed that the OSCE has adopted a dual-track approach to freedom of religion or belief: promoting tolerance and promoting rights. He stressed that while “promoting tolerance is a worthwhile undertaking, it cannot substitute for ensuring freedom of religion or belief.”

#### *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 composed 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 and presents recommendations that would bring legislation into conformity with OSCE standards. The Panel has also issued publications, such as the “Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools,” which offers a human rights framework for the development of curricula. The Panel is currently updating its 2004 publication, “Guidelines for Review of Legislation Pertaining to Religion or Belief.”

The Panel also responds to requests by governments or OSCE field missions for legal opinions on draft legislation relevant to OSCE religious freedom commitments. The Panel has provided such assistance to Bulgaria, Macedonia, Kyrgyzstan, Tajikistan, and Uzbekistan, among others. In 2008, two expert reviews by the Panel found problems with a draft Kazakh religion law. While the Kazakh government refused to make the Panel’s views public, the Kazakh Constitutional Council in February 2009 ruled the law unconstitutional. USCIRF has also criticized numerous restrictive amendments to the Azeri religion law and urged Azerbaijan to request a Panel review, but that government ignored the suggestion and in 2010 further restricted religious freedom.

## **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 religious and ethnic minorities, particularly Jews and Muslims, in a number of countries in the OSCE region. 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 by governments as human rights violations that require unequivocal responses. The OSCE has set up several mechanisms to address intolerance and related human rights issues. Due in part to U.S. leadership, the OSCE has convened since 2003 more than 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. 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 Kazakh Chair-in-Office held a high-level meeting to discuss tolerance issues in late June 2010 in Astana, the capital of Kazakhstan. The “High-Level Conference on Tolerance and Non-Discrimination” continued the OSCE’s longstanding commitment to discussing tolerance issues at a high political level. USCIRF staff participating in the U.S. delegation noted that the event was another example of how these conferences continue to generate political support within the OSCE to address anti-Semitism and other forms of intolerance. The U.S. statement noted that “banning head coverings and other forms of religious attire, as well as the building of mosques and minarets, often constitute restrictions on religious expression, can be discriminatory, and can marginalize members of minority groups,” and expressed concern about a spike in anti-Semitism in the region.

In November 2010, ODIHR convened a special meeting at the OSCE headquarters in Vienna with education ministry officials and experts from throughout the OSCE region. The Personal Representative of the OSCE Chairmanship on Combating Anti-Semitism participated, as did representatives from the EU Agency for Fundamental Rights, the Task Force on International Co-operation on Holocaust Education, Remembrance and Research, and UNESCO. The meeting also highlighted ODIHR’s efforts to work with education ministries in 14 participating states to develop programs to combat anti-Semitism.

In March 2011, the Lithuanian Chair-in-Office convened a high-level meeting in Prague entitled “Confronting Anti-Semitism in Public Discourse.” The meeting focused on concerns that expressions of anti-Semitism in public discourse remain a serious issue in many participating States leading to hostility and sometimes to violent acts. The meeting examined how such comments can create a dangerous atmosphere for Jews and discussed the role that media and public discourse can play in promoting tolerance and preventing hate crimes. At the meeting, the representative of the Lithuanian Chair-in-Office stated, “We are called upon to find new ways to teach, at an early age, the story of the Holocaust and inoculate our children from the virus of anti-Semitism.”

### *OSCE Personal Representatives*

In December 2004, OSCE participating States authorized the then-Chair-in-Office (CiO), Bulgarian Foreign Minister Solomon Passy, to name three Personal Representatives to promote tolerance, which has been continued by subsequent chairmanships. 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 adopted by the OSCE

Ministerial and Permanent Councils. The persons selected by the OSCE CiO for these part-time and unpaid positions come from a variety of backgrounds.

In 2011, the Lithuanian Chairmanship re-appointed Rabbi Andrew Baker, Director of International Jewish Affairs at the American Jewish Committee, as the Personal Representative on Combating Anti-Semitism; reappointed 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 appointed Dr. Massimo Introvigne, an Italian professor, as the Personal Representative on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions. Mario Mauro, an Italian member of the European Parliament, previously held the last position.

During the reporting period, the Personal Representatives contributed to relevant OSCE meetings, including the Warsaw HDIM and the Astana tolerance meeting. Rabbi Baker visited the Netherlands and Sweden 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 to hold direct meetings with NGOs and community and religious leaders.

Observers have noted that the Representatives' work has been hampered by inadequate funding for staff and travel expenses, and that the OSCE does not adequately promote the activities of the Personal Representatives to ensure that their findings and recommendations have greater impact. For example, the Representatives have not been asked to report in person at the annual OSCE ministerial meetings nor are their reports published and distributed throughout and beyond the OSCE system.

#### *The ODIHR Tolerance Program*

The ODIHR Tolerance Program represents a major OSCE response to growing concerns on religious intolerance. Created in 2004, 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.

Among other projects, the Tolerance Program 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." 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. 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.



## **Recommendations**

### **I. Supporting the OSCE**

The U.S. government should:

- express strong support for the OSCE from 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, in the 2011 U.S. contributions to the OSCE, specially designated funds 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; and
- hold regular consultations at the State Department and at OSCE meetings for members of the U.S. government and the NGO community concerned with OSCE issues and expand the number and range of invitees.

### **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;
- commit promptly, publicly, and specifically to condemn hate crimes and investigate and prosecute their perpetrators; and
- 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.

### **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;
- convene 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 annual 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;
- 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, as part of the Unified Budget, to hire experienced staff at the working level, to direct the Tolerance Program, to monitor compliance with OSCE obligations on freedom of religion or belief, and to combat discrimination, xenophobia, and anti-Semitism; and
- provide funding for the translation of additional ODIHR Tolerance Program reports into OSCE languages, particularly Russian, and for the employment of at least one ODIHR Tolerance Program staffer with Russian-language capability.

## 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 45,000 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 the United Nations Educational, Scientific, and Cultural Organization.

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 by President George W. Bush in 2007, and was reappointed by President Bush in 2008. Mr. Leo was reappointed in June 2010 by Senate Minority Leader Mitch McConnell (R-KY).

#### **Dr. Don Argue, Vice Chair**

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) 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.

Commissioner Argue was appointed in 2007 and reappointed in 2010 by Senate Majority Leader Harry Reid (D-NV).

#### **Dr. Elizabeth H. Prodromou, Vice Chair**

Dr. Elizabeth H. Prodromou is Assistant Professor in the Department of International Relations at Boston University, where she is also 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. Prodromou holds a Ph.D. and a M.S. in Political Science from the Massachusetts Institute of Technology; she completed 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, as well as 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, Prodromou has been an invited policy consultant in the United States, 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.

Commissioner Prodromou has served on the Commission since 2004. She was reappointed in June 2010 by Speaker of the House and Congresswoman Nancy Pelosi (D-CA). Dr. Prodromou is currently Vice Chair for 2010-2011, and previously served as Vice Chair for 2009-2010, 2008-2009, and 2006-2007.

## **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, the Massachusetts General Hospital in Boston, and the Brigham and Women Hospital in Boston. 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.

Commissioner Eid was appointed 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. The Institute conducts research and advocacy to strengthen international human rights protections and institutions worldwide.

Ms. Gaer was 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 147 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. She has served as Vice Chair (2004-2006), General Rapporteur (2006-2008), and year-round Rapporteur on Follow-up to Country Conclusions (2003 to present).

In 2010, Ms. 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. Among her articles on freedom of religion and human rights are “Echoes of the Future? Religious Repression as a Challenge to U.S. Human Rights Policy” in the volume, *The Future of Human Rights: U.S. 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 its 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 capacity as Chair and Vice Chair of the USCIRF.

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. 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 reappointed to the Commission in 2010 by President Barack Obama. Previously, she was appointed by Speaker Nancy Pelosi (D-CA) and Democratic leader Richard Gephardt (D-MO).

### **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* and *Richard Land Live!*, two 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, *The Divided States of America? What Liberals and Conservatives Get Wrong About Faith and Politics*, is published by Thomas Nelson and was re-released in January 2011 with a new

preface. 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 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 2007 and 2010 by Senate Republican leader Mitch McConnell (R-KY).

Dr. Land served as Vice Chair of the Commission from 2007-2008.

### **Dr. William J. Shaw**

Dr. William J. Shaw is the immediate past President of the National Baptist Convention, USA Inc. and Pastor of White Rock Baptist Church in Philadelphia, a position he has held since 1956. In addition to his work as Pastor of the White Rock Baptist Church, Dr. Shaw is a recognized leader in Pennsylvania and across the nation. He was previously appointed to serve on the Bush-Clinton Katrina Fund and currently sits on the Board of the Hospital of the University of Pennsylvania.

Dr. Shaw has served as President of The Baptist Ministers' Conference of Philadelphia and Vicinity, The Metropolitan Christian Council of Philadelphia, and the Union Theological Seminary National Alumni Association. From 1981 through 1994, Dr. Shaw served as Director of the Ministers' Division of the National Congress of Christian Education. He has been the recipient of numerous awards, including most recently, the Unitas Award, given by the Alumni Association of the Union Theological Seminary, and the T. B. Maston Foundation Christian Ethics Award from the Southwestern Baptist Theological Seminary.

Commissioner Shaw was appointed in 2010 by President Barack Obama.

### **Nina Shea**

An international human-rights lawyer for 30 years, Nina Shea is a senior scholar at the Hudson Institute, where she directs the Center for Religious Freedom.

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 helped found in 1986 as the Puebla Institute.

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. She has authored and/or edited three widely acclaimed reports, *Saudi Arabia's Curriculum of Intolerance* (2006) and *Update* (2008) and *Saudi Publications on Hate Ideology Invade American Mosques* (2005), each of which translated and analyzed Saudi governmental publications that teach hatred and violence against the religious "other."

Ms. Shea is the co-author of *Silenced: How Apostasy and Blasphemy Codes are Choking Freedoms Worldwide* (Oxford University Press, November 2011).

She regularly presents testimony before Congress, delivers public lectures, organizes briefings and conferences, and writes frequently on religious freedom issues in the Wall Street Journal, National Review Online, Huffington Post and other publications. Her 1997 book on anti-Christian persecution, *In the Lion's Den*, remains a standard in the field.

She was appointed as a U.S. delegate to the United Nations' Commission on Human Rights by both Republican and Democratic administrations. In January 2009, Ms. Shea was appointed as a commissioner on the U.S. National Commission to the United Nations Educational, Scientific, and Cultural Organization.

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.

Ms. Shea has served as a Commissioner since USCIRF's founding in 1999. She was first appointed to the Commission in 1999 by then-Speaker of the House Dennis Hastert (R-IL) and was reappointed in 2007 and 2010 by Rep. John Boehner (R-OH).

### **Ted Van Der Meid**

Mr. Van Der Meid, a native of Rochester, New York, has spent over 23 years on Capitol Hill, including as Counsel to Speaker J. Dennis Hastert and Director of Floor Operations. He served as Chief Counsel and Chief of Staff to the House Committee on Standards of Official Conduct, and as Counsel to the Republican Leader, Robert H. Michel.

He has been an adjunct professor for several universities in New York State.

Mr. Van Der Meid is a graduate of North Park University, Syracuse University College of Law, and the Kennedy School of Government at Harvard University.

Commissioner Van Der Meid was appointed in 2010 by Rep. John Boehner (R-OH).



**APPENDIX 2**  
**THE INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998<sup>2</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>3</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.

**Section 405. DESCRIPTION OF PRESIDENTIAL ACTIONS (22 U.S.C. § 6445)**

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<sup>2</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>3</sup> The authority to make decisions and take actions under IRFA has been delegated by the President to the Secretary of State.

[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>4</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>5</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>4</sup> See Para. 4, UN HRC General Comment No. 22; Art. 6, UN 1981 Dec.; Art. 16(h-j), Vienna Document.

<sup>5</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.  
—UN 1981 Dec., Arts. 4(1) and 4(2)
- Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all nations, racial or religious groups ....  
—*UDHR Art. 26(2)*
- State parties will “foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers.”  
—*OSCE Vienna Document, principle 16b*

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

[ICCPR, Art. 20]

- No manifestation of religion or belief may amount to propaganda for war or advocacy of national, racial or religious hatred that constitutes incitement to discrimination; hostility or violence... [and] States parties are under the obligation to enact laws to prohibit such acts.  
—*HRC General Comment No. 22 (para. 7)*
- State parties should take the measures necessary to fulfill the obligations contained in article 20 of the ICCPR, and should themselves refrain from any such propaganda or advocacy.  
—*HRC General Comment No. 11 (para. 2)*
- Article 20 does not authorize or require legislation or other action by the United States that would restrict the right of free speech and association protected by the Constitution and laws of the United States.  
—*United States reservation to ICCPR Art. 20*
- States will take effective measures, including the adoption of laws, to provide protection against any acts that constitute incitement to violence against persons or groups based on national, racial, ethnic or religious discrimination, hostility or hatred, including anti-Semitism.  
—*OSCE Copenhagen Document*



- States commit themselves to take appropriate and proportionate measures to protect persons or groups who may be subject to threats or acts of discrimination, hostility or violence as a result of their racial, ethnic, cultural, linguistic or religious identity, and to protect their property;

—*OSCE Copenhagen Document*

## **E. THE RIGHTS OF PARENTS IN RELATION TO FREEDOM OF RELIGION OR BELIEF**

[ICCPR Art. 18(4), OSCE Vienna Document Art. 16(f) and 16(g)]

- State Parties undertake to respect the liberty of parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

—*ICCPR Article 18(4)*

- The liberty of parents and guardians to ensure religious and moral education cannot be restricted.
- Public school instruction in subjects such as the general history of religions and ethics is permitted if it is given in a neutral and objective way.
- Public education that includes instruction in a particular religion or belief is inconsistent with ICCPR Art. 18 (4) unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.

—*HRC General Comment No. 22 (paras. 6 & 8)*

- Parents or legal guardians have the right to organize family life in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.
- Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.
- The child shall be protected from any form of discrimination on the ground of religion or belief.
- In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.
- Practices of a religion or belief in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account article 1(3) of the present Declaration.

—*UN 1981 Dec., art. 5*

## **F. FURTHER ELABORATION ON SELECTED TOPICS**

### **1. Obligation to Ensure Rights/Provide Remedies for Violations**

[ICCPR Arts. 2(2) and 2(3), UDHR Art. 8, UN 1981 Dec. Art. 7]

The ICCPR requires State parties to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the Covenant. This obligation includes ensuring:

- effective remedies for any person whose rights or freedoms are violated;
- that such remedies are determined by competent judicial, administrative or legislative authorities; and
- that such remedies are enforced when granted.

### **2. Relationship between Religion and the State**

- The fact that a religion is recognized as a state religion or established as official or traditional, or that its followers comprise the majority of the population, shall not result in any impairment of

the enjoyment of any of the rights under the ICCPR, nor in any discrimination against adherents to other religions or non-believers.

- In particular, measures restricting eligibility for government service to members of the predominant religion, or giving economic privileges to them, or imposing special restrictions on the practice of other faiths are not in accordance with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under ICCPR article 26.
- If a set of beliefs is treated as official ideology in constitutions, statutes, proclamations of ruling parties, etc., or in actual practice, this shall not result in any impairment of the freedoms under article 18 or any other rights recognized under the ICCPR nor in any discrimination against persons who do not accept the official ideology or who oppose it.  
—*HRC General Comment No. 22 (para. 9)*
- State parties are required to grant communities of believers, practicing or prepared to practice their faith within constitutional boundaries, “recognition of the status provided for them in their respective countries.”  
—*OSCE Vienna Document*

### **3. Women’s Equal Right to Freedom of Religion or Belief**

- The principle of non-discrimination is so basic that each State party is obligated to ensure the equal right of men and women to the enjoyment of the rights set forth in the ICCPR.  
—*HRC General Comment No. 18 (para. 2)*
- Inequality in the enjoyment of rights by women throughout the world is deeply embedded in tradition, history and culture, including religious attitudes. The subordinate role of women in some countries is illustrated by the high incidence of prenatal sex selection and abortion of female fetuses. States parties should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women’s right to equality before the law and to equal enjoyment of all ICCPR rights.
- State parties should report and provide data on a number of issues related to religion and women’s rights, including:
  - pregnancy- and childbirth-related deaths of women, as well as gender-disaggregated data on infant mortality rates;
  - information on the extent of any practice of genital mutilation, and on measures to eliminate it;
  - measures to protect women from practices that violate their right to life, such as female infanticide, the burning of widows and dowry killings;
  - regulation of clothing to be worn by women in public; and
  - whether women may give evidence as witnesses on the same terms as men; whether measures are taken to ensure women equal access to legal aid, in particular in family matters; and whether certain categories of women are denied the enjoyment of the presumption of innocence.
- Freedoms protected by article 18 must not be subject to restrictions other than those authorized by the ICCPR and must not be constrained by, inter alia, rules requiring permission from third parties, or by interference from fathers, husbands, brothers or others. Article 18 may not be relied upon to justify discrimination against women by reference to freedom of thought, conscience and religion;
- The commission of so-called “honor crimes” which remain unpunished constitutes a serious violation of the ICCPR and laws which impose more severe penalties on women than on men for adultery or other offences also violate the requirement of equal treatment.  
—*HRC General Comment No. 28 (paras. 5, 10, 11, 13, 18, 21, 31)*
- Certain religious practices have an adverse effect on women’s rights. These practices include :

- cultural stereotypes, including preference for male children, religious extremism, and regulation of women's clothing;
- discrimination in medical well-being, including genital mutilation, traditional childbirth practices, and dietary restrictions;
- discrimination resulting from the condition of women within the family, including practices related to marriage and divorce (e.g.: polygamy, family planning, division of responsibilities);
- discrimination related to transmission of nationality;
- discrimination related to inheritance and independent management of finances;
- discrimination related to right to life, including infanticide, cruel treatment of widows, and honor crimes,
- attacks on dignity, including sexual abuse;
- social ostracism, including denial of the right to education, and denial of access to professional fields such as politics and religion; and
- aggravated discrimination against women who also are members of a minority community.

To ensure that freedom of religion does not undermine the rights of women, it is essential that this freedom not be understood as a right of indifference with respect to the status of women.

—*UN Special Rapporteur on Freedom of Religion or Belief, Study on Freedom of Religion or Belief and the Status of Women with Regard to Religion and Traditions (Amor Report)*<sup>6</sup>

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<sup>6</sup> Commission staff translation.