

May 2, 2008: USCIRF Names 11 Countries of Particular Concern, Keeps Vietnam on List

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Contact: Judith Ingram,

Communications Director,

(202)
523-3240, ext. 127

communications@uscirf.gov

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WASHINGTON-The U.S. Commission on International Religious Freedom (USCIRF) today announced its 2008 recommendations to Secretary of State Condoleezza Rice on "countries of particular concern," or CPCs. The 1998 International Religious Freedom Act (IRFA) requires that the United States designate as CPCs those countries whose governments have engaged in or tolerated systematic and egregious violations of the universal right to freedom of religion or belief.

"Developments of the past decade have strengthened the importance of freedom of religion or belief, as the U.S. government navigates a world threatened by religion-based extremism and religion-imbued conflict," said Commission Chair Michael Cromartie. "In the past year, violent government repression of religious communities in China, Burma, and Sudan, among other countries, confirms that religious freedom is vulnerable human right that must be protected by the international community."

Today the Commission also released its 2008 Annual Report with recommendations on U.S. policy for the President, Secretary of State, and Congress with regard to CPC countries, as well as other countries where the United States can help to promote freedom of religion or belief.

The Commission's recommendations for CPC designation for 2008 are Burma, Democratic People's Republic of Korea (North Korea), Eritrea, Iran, Pakistan, People's Republic of China, Saudi Arabia, Sudan, Turkmenistan, Uzbekistan, and Vietnam.

In contrast to the State Department, which removed Vietnam from the CPC list in 2006, the Commission concluded that Vietnam still merits designation as a CPC. There has been notable progress, but it has occurred alongside persistent abuses, discrimination, and restrictions. The government continues to imprison and detain dozens of individuals who advocate for religious freedom reforms in Vietnam. Ethnic minority Buddhists and Protestants are often harassed, beaten, detained, arrested, and discriminated against, and they continue to face some efforts to coerce renunciations of faith.

The Commission has also established a Watch List of countries where conditions do not rise to the statutory level requiring CPC designation but which require close monitoring due to the nature and extent of violations of religious freedom engaged in or tolerated by the governments. Countries on the Commission's Watch List for 2008 are Afghanistan, Bangladesh, Belarus, Cuba, Egypt, Indonesia, and Nigeria.

The Commission remains seriously concerned about religious freedom conditions in Iraq. In 2007, the Commission placed Iraq on its Watch List, citing escalating unchecked sectarian violence, mounting evidence of collusion between Shi'a militias and Iraqi government ministries, and the severe plight of the country's smallest religious minorities, including ChaldoAssyrian Christians, Sabeian Mandaean, and Yazidis, who face widespread violence from Sunni insurgents and foreign extremists, as well as pervasive violence, discrimination, and marginalization at the hands of the government officials and para-state militias. The Commission is traveling to the region later in the month and plans to issue its report and recommendations on Iraq in the near future, including a recommendation concerning the appropriate designation of Iraq this year under IRFA.

The following is the text of the Commission's letter to Secretary Rice with 2008 CPC recommendations:

May 1, 2008

The Honorable Condoleezza Rice

Secretary of State

United States Department of State

Washington, DC

Dear Secretary Rice:

This year marks the tenth anniversary of the adoption of the International Religious Freedom Act (IRFA), legislation that underscores the importance of religious freedom around the world and the need to promote this freedom as an integral component of U.S. foreign policy. Developments of the past decade have strengthened the significance of this critical freedom, which affects the political and humanitarian interests of the United States, as well as America's national security concerns.

As required by IRFA and pursuant to our review of the facts and circumstances regarding violations of religious freedom around the world, the United States Commission on International Religious Freedom continues to recommend that the following 11 countries be designated as "countries of particular concern," or CPCs: Burma, Democratic People's Republic of Korea (North Korea), Eritrea, Iran, Pakistan, People's Republic of China, Saudi Arabia, Sudan, Turkmenistan, Uzbekistan, and Vietnam.

Severe Religious Freedom Violators: the Commission's
CPC List

Re-Designations: Persistently Severe Violators

In November 2006, you re-designated Burma, China, Eritrea, Iran, North Korea, Saudi Arabia, Sudan, and Uzbekistan as CPCs. The Commission agrees that there have been no improvements substantial enough to warrant the removal of these eight countries from the CPC list. In many of these countries, conditions have instead deteriorated further.

— The military junta that governs Burma has directed increasing repression at ethnic and religious minorities, democracy activists, and international humanitarian agencies over the past year. In September 2007, the Burmese government violently cracked down on the peaceful "Saffron Revolution" demonstrations by Buddhist monks, killing at least 30 people and unleashing a wave of killings, arrests, de-frockings, and disappearances. Ethnic minority Christians and Muslims have encountered the most sustained repression in recent years. Moreover, following the September 2007 unrest, the junta has also increased repression of Burmese Buddhists.

— In China, severe crackdowns targeting Tibetan Buddhists, Uighur Muslims, "underground" Roman Catholics, "house church" Protestants, and various spiritual movements such as Falun Gong continue unabated. The recent, concentrated wave of repression in Tibet has thrown a glaring new spotlight on the repressive policies and practices of the Chinese government, which continues to restrict religious practice to government-approved religious associations and tries to control the growth and activities of both registered and unregistered religious groups. Ethnic minority religious groups such as Tibetan Buddhists and Uighur Muslims, unregistered groups, and those derided and termed by the government to be "cults" are subject to the most brutal abuses.

— The conditions for religious freedom in Eritrea appear to have worsened over the past year, including arbitrary arrests and detention without charge of members of unregistered religious groups, and the torture or other ill-treatment of hundreds of persons on account of their religion, sometimes resulting in death. The State Department reports that the number of long-term prisoners continues to grow, noting that at least 160 additional members of unregistered religious groups were detained without charges by Eritrean authorities in the past year.

—The already poor religious freedom record of Iran has deteriorated further, especially for religious minorities—including Baha'is, Sufi Muslims, and Evangelical Christians—who face relentless arrests, imprisonment, and harassment. Fears among Iran's Jews have grown due to President Mahmoud Ahmadinejad's repeated denials of the Holocaust and other anti-Semitic statements. Dissidents and political reformers continue to be imprisoned on criminal charges of blasphemy and for criticizing the Islamic regime. Nearly 150 Baha'is have been subjected to a wave of arrests and detention since late 2004; some have been sentenced to prison terms ranging from 90 days to one year on dubious charges that include "spreading propaganda against the regime," and the fear of arbitrary arrest has grown.

—North Korea affords its citizens no protections for universal human rights, including religious freedom; the regime perceives religion as a security threat to be combated at all costs. The government severely represses public and private religious activities and maintains a policy of pervasive control over government-sanctioned religious practice. A new Commission study released in April 2008 confirms that refugees who are forcibly repatriated from China face severe persecution, including harsh interrogations, long-term imprisonment, and torture if they are found to have converted to Christianity or have had ongoing contact with South Korean churches. The report also revealed that new efforts are underway to suppress the growth of religious activity in North Korea spurred by cross-border contacts with China.

—The government of Saudi Arabia continues to commit serious violations of freedom of religion and related human rights of the members of Muslim communities from a variety of schools of Islam, as well as non-Muslims, by banning all forms of public religious expression other than that of the government's own interpretation of one school of Sunni Islam and by interfering with private religious practice. The government in Saudi Arabia also continues to be a source of funding used globally to finance religious schools, hate literature, and other activities that support religious intolerance and, in some cases, violence toward non-Muslims and disfavored Muslims—actions that are incompatible with the Saudi government's commitments as a member of the United Nations. In addition, the government's policy of curtailing universal rights for non-Saudi visitors to the country and inhibiting the enjoyment of human rights on an equal basis for expatriate workers, particularly the two - three million non-Muslim workers, including Christians, Hindus, Buddhists, and others, who have gone to Saudi Arabia for temporary employment, results in severe religious freedom violations.

—In Sudan, an authoritarian government—which has pursued coercive policies of Arabization and Islamization resulting in genocide—severely restricts the religious freedom and other human rights of its population. Most of the victims of Sudan's decades-long North-South civil war were Christians or followers of traditional African religions.

With the signing of the Comprehensive Peace Agreement (CPA) in January 2005, religious freedom conditions have improved in southern and central Sudan. However, there are serious government-directed obstacles to implementing the CPA, and despite the creation of the constitutionally-required Commission on the Rights of Non-Muslims in the National Capital, the CPA agreement has not yet resulted in significant changes in practice in government-controlled areas of the North. The government's continuing attacks and genocide in Darfur, as well as its deliberate obstruction of the CPA and in Darfur of international peacekeepers and humanitarian assistance, including its failure to cooperate with the Security Council-mandated investigation by the International Criminal Court of alleged war crimes, impugn the commitment of Sudanese leaders to support human rights guarantees.

—In Uzbekistan, which was designated in 2006, the government has continued to arrest Muslims and harshly repress groups and close mosques that do not conform to government-prescribed practices or that it alleges to be associated with extremist political programs. Thousands of Muslims who reject the state's control over religious practice have been imprisoned in recent years, many of them are denied the right to due process, and there are credible reports that many of those arrested are tortured or beaten in detention. As of 2007, according to your Department's own estimate, there were at least 5,000 non-conforming Muslims in prison, including some interned in psychiatric hospitals. Moreover, Uzbekistan has a highly restrictive law on religion that severely limits the ability of religious communities to function, leaving more than 100 religious groups currently denied registration. The Uzbek government faces security threats, but these threats do not justify the government's harsh abuse of religious believers or the continued practice of torture, which reportedly remains widespread.

CPCs: the Need
to Designate and Adequately Respond*

The Commission is concerned that the State Department has not designated any country as a CPC since November 2006. As you know, IRFA specifically directs the Secretary of State, as delegated by the President, on an annual basis, to review religious freedom conditions around the world and, based on that review, to designate as CPCs those countries in which the government has engaged in or tolerated "particularly severe violations of religious freedom." The annual review must occur by September 1 of each year and, while IRFA does not set a specific deadline for the CPC designations, the fact that those designations are based on that review indicates that they should be made in a timely way thereafter. It is now May 2008 and no CPC designations have yet been made based on the review that had to be completed by September 1, 2007. The State Department issued its annual International Religious Freedom Report in September 2007, as required by statute, but without making any CPC designations. While the report is extremely valuable, its purpose is to help the Administration identify the very worst religious freedom violators as required by IRFA. The CPC designation process is vital to that legislation. The State Department's delay in naming CPCs following the annual review deadline undermines IRFA's statutory scheme, and may send the unfortunate signal that the U.S. government is not sufficiently committed to the IRFA process, including by seeking improvements

from the most severe religious freedom violators.

IRFA

prescribes a list of actions from which the President can select appropriate policy responses for each CPC. This was done in the case of Eritrea, to which, in September 2005, you announced the denial of commercial export of defense articles and services covered by the Arms Control Export Act, with some items exempted. This was the first unique presidential action to be undertaken under IRFA as a result of CPC designation. With respect to Burma, Iran, North Korea, and Sudan, substantial and important sanctions are in place, initially imposed on other grounds and then redesignated for religious freedom reasons under IRFA. In the case of China, the Chinese government's egregious religious freedom violations have been met with a relatively weak U.S. response, a redesignation of sanctions restricting exports of crime control and detection instruments and equipment. The designation of a severe religious freedom violator as a CPC should be followed by the implementation of a clear policy response uniquely directed at addressing religious freedom violations such as the recommendations for each CPC that are provided in the Commission's report.

Moreover,

the Commission encourages the State Department to comply with the requirements of IRFA in the case of the most recently named CPC, Uzbekistan. As stated in the Report on International Religious Freedom, the State Department has opted "to establish a dialogue aimed at improving religious freedom" in lieu of a presidential action. The Commission hopes that these negotiations are directed toward negotiating a binding agreement on Uzbekistan for measures to improve religious freedom, which would be an acceptable action provided under IRFA. A single CPC, Saudi Arabia, was granted a 180-day waiver exempting it from any presidential action whatsoever; first announced in 2005, the waiver was subsequently extended in 2006 for two years, "to further the purposes of the (International Religious Freedom) Act." With the waiver, the U.S. has not implemented a single policy response to the denial of religious freedom in Saudi Arabia, one of the world's most egregious violators.

Vietnam: Severe Religious Freedom Violations Continue

Vietnam was

removed from the State Department's CPC list in November 2006, on the eve of President Bush's visit to Hanoi for the Asian Pacific Economic Conference. The Commission expressed its concern over the decision to lift the CPC designation, citing continued arrests and detentions of individuals in part because of their religious activities and the persistent, severe religious freedom restrictions targeting some ethnic minority Protestants and Buddhists, Vietnamese Mennonites, Hao Hoa Buddhists, and monks and nuns associated with the Unified Buddhist Church of Vietnam (UBCV).

A Commission delegation

traveled to Vietnam in October 2007 and found that progress in improving conditions for religious freedom has been very uneven: improvements for some religious communities do not extend to others; progress in one province is not similarly realized in another; national laws are not fully implemented at the local and provincial levels; and there continue to be far too many abuses and restrictions of religious freedom, including the imprisonment of individuals for reasons related to their religious activity or religious freedom advocacy. In view of the overall deterioration of human rights conditions in Vietnam, which includes continued abuses of religious freedom and related human rights, the Commission continues to find that lifting the CPC designation for Vietnam was premature. We recommend that Vietnam be re-designated as a CPC in 2008.

In contrast to the State

Department, the Commission maintains that there continue to be religious "prisoners of concern" in Vietnam, the long-term detention of whom should be a factor in determining whether Vietnam continues to be a severe violator of religious freedom. Since the CPC designation was lifted and Vietnam joined the World Trade Organization, positive religious freedom trends have not kept pace with other elements of the U.S.-Vietnamese relationship. Arrests, detentions, discrimination, and other restrictions continue, perpetrated by recalcitrant provincial officials and abetted by the central government's suspicion of religious leaders believed to have political motives or the expansion of religious adherence in some ethnic minority areas. In addition, Vietnam has initiated a severe crackdown on human rights defenders and advocates for the freedoms of speech, association assembly, and religion, including many religious leaders.

Saudi Arabia: the U.S. Government Response to an Important CPC Designation

In

July 2006, you decided to leave in place a waiver "to further the purposes" of IRFA by announcing that bilateral discussions with Saudi Arabia had enabled the United States to identify and confirm a number of policies that the Saudi government "is pursuing and will continue to pursue for the purpose of promoting greater freedom for religious practice and increased tolerance for religious groups."

The Saudi government's stated reforms, however, have not been implemented. As a consequence, the Commission remains seriously concerned about: (1) whether and how the Saudi policies will be put into effect and (2) how the United States will monitor and report publicly on them.

A Commission delegation traveled to Saudi Arabia last summer and found that, in spite of many promises by government officials, little has changed on the

ground to improve religious freedom conditions.

The Saudi government persists in severely restricting all forms of public religious expression other than the government's interpretation and enforcement of its school of Sunni Islam.

It is clear that the government has not substantially revised the Ministry of Education textbooks used in schools across Saudi Arabia and abroad to remove material that incites violence and fuels extreme religious intolerance, even though this pledge for textbook reform was included in the Department's July 2006 statement confirming Saudi policies.

The Commission therefore continues to recommend that the State Department report publicly to Congress every 120 days on the implementation of the policies identified in the bilateral discussions. The policies in question-if implemented in full-could advance much-needed efforts to dismantle some of the institutionalized policies that have promoted severe violations of freedom of religion or belief in Saudi Arabia and worldwide.

Other Severe Violators Not on the State Department List

Of the countries not on your CPC list, in addition to Vietnam, the Commission continues to find that Pakistan and Turkmenistan persist in engaging in or tolerating particularly severe violations of religious freedom. We strongly recommend that these countries be designated as CPCs.

—Despite the dramatic events in Pakistan in the past year, the Commission finds that of all of the serious religious freedom concerns, including violence, on which it has previously reported persist. Sectarian and religiously motivated violence continues in Pakistan, particularly against Shi'a Muslims, Ahmadis, Christians, and Hindus, and the government's response remains inadequate. A number of the country's laws, including legislation restricting the Ahmadi community and laws against blasphemy, have been used to silence members of religious minorities and dissenters, and they frequently result in imprisonment on account of religion or belief and/or vigilante violence against the accused.

The Hudood Ordinances-Islamic decrees predominantly affecting women that are enforced alongside Pakistan's secular legal system-provide for harsh punishments, including amputation and death by stoning, for alleged violations of Islamic law. There is also mounting evidence from multiple sources that Pakistan's government has been complicit in providing sanctuary to the Taliban.

Finally, the government of Pakistan has extended its undemocratic practices into the international arena by promoting measures at the UN to halt the so-called "defamation of religions," which clearly violate the right to freedom of expression, as well as freedom of thought, conscience, and religion.

—Significant

religious freedom problems and official harassment of religious adherents persist in Turkmenistan, where police raids and other forms of harassment of registered and unregistered religious groups continue more than a year after the death of longtime dictator Saparmurat Niyazov. The repressive 2003 religion law remains in force, causing severe difficulties for the legal functioning of religious groups. The government is still promoting the former president's personality cult in the form of the Ruhnama in religious affairs and as a mandatory feature of public education.

Although the new president has taken some isolated steps, including the release of the country's former chief mufti, systemic legal reforms directly related to religious freedom and other human rights have not been made. Turkmenistan's removal from the Commission's CPC list is therefore not warranted.

The Commission's Watch List

In addition to its CPC recommendations, the Commission has established a Watch List of countries where conditions do not rise to the statutory level requiring CPC designation but which require close monitoring due to the nature and extent of violations of religious freedom engaged in or tolerated by the governments. Afghanistan, Bangladesh, Belarus, Cuba, Egypt, Indonesia, and Nigeria comprise the Commission's Watch List. The Commission is concerned about the serious abuses in these countries, and that the governments either have not halted repression and/or violence amounting to severe violations of freedom of religion, or have failed to punish those responsible for perpetrating those acts. We urge you to pay particular attention to the poor situation for religious freedom in these countries, which, if not reversed, may deteriorate and require CPC designation during the coming year.

— In Afghanistan, conditions for freedom of religion or belief continue to be highly problematic. The country's flawed new constitution does not protect the right of individuals to dissent from the prevailing orthodoxy regarding Islamic beliefs and practices, leading in some cases to serious abuses, including judicial action that violates the rights of the accused. The Afghan government's incapacity to exercise authority effectively outside the capital, Kabul, contributes to a progressively deteriorating situation for religious freedom and other human rights in many regions, and religious extremism, including through the return of the Taliban, is an increasingly real threat once again in Afghanistan.

— In Bangladesh, Islamist radicalism and violence and the threat of serious violence and

continued discrimination against members of religious minority communities remain significant concerns. Since the installation of a new caretaker government, there have been numerous and alarming reports of serious human rights abuses, including suspected extrajudicial killings by the security forces, arbitrary detentions, torture, and curbs on press freedom. In addition to violent attacks against Hindus, Christians, and Ahmadi Muslims, the pre-independence Vested Property Act continues to be used as justification for some Muslims to seize Hindu-owned land with impunity.

— Already harsh religious freedom conditions in Belarus deteriorated in 2007, with the government harassing and imposing the payment of sharply increased fines on members of certain religious groups, especially those whom officials allege to have links to foreign entities or political agendas. In January 2008, Belarus issued a decree that further tightened strict government regulations on foreign religious workers. The authoritarian government of President Aleksandr Lukashenko enforces the country's harsh 2002 law on religion, resulting in serious regulatory obstacles and bureaucratic and legal restrictions on the activities of many religious communities. In 2007, 50,000 Christians of various denominations in Belarus signed a petition to reform the 2002 law, but in March 2008 the Belarusian government rejected it.

— In Egypt, the government has taken inadequate measures to stop repression of minority religious adherents and "unorthodox Muslims" or, in many cases, to punish those responsible for violence or other severe violations of religious freedom. Despite some increased public space to discuss religious freedom issues in the media and other fora as well as some positive, but limited, judicial rulings on some religious freedom cases, serious religious freedom violations continue to affect Coptic Orthodox Christians, Jews, and Baha'is, as well as members of minority Muslim communities, all of whom are also subject to religiously-motivated attacks. The government has also done too little to combat rampant anti-Semitism in the state media.

— Religious belief and practice remain under tight governmental control in Cuba despite a change in governmental leadership. Both registered and unregistered religious groups continue to suffer official interference, harassment, and repression. Political prisoners and human rights and pro-democracy activists continue to be denied the right to worship. There are reports of religious leaders being attacked, beaten, or detained for opposing government actions, and political prisoners, as well as human rights and pro-democracy activists, are increasingly limited in their right to practice their religion.

— Although the situation has continued to improve in Indonesia, concerns remain about ongoing communal violence and the government's inability or unwillingness to curb it, the forcible closures of places of worship belonging to religious minorities, the growing political power and influence of religious extremists who harass and sometimes instigate violence against moderate Muslim

leaders and members of religious minorities, and the arrests of individuals considered "deviant" under Indonesian law.

There are persistent fears that Indonesia's commitment to secular governance, ethnic and religious pluralism, and a culture of tolerance will be eroded by some who promote extremist interpretations of Islam.

— Nigeria

continues to suffer from violent communal conflicts along religious lines. Other concerns in Nigeria are the expansion of sharia (Islamic law) into the criminal codes of several northern Nigerian states and discrimination against minority communities of Christians and Muslims. At least 29 Christians were killed and numerous churches burned in religiously motivated rioting in September and December 2007, which led to the flight of some 3,000 people. In February 2008, riots broke out among a mob of Muslim youths who torched a police station and looted the homes of Christian and police officers. One person was killed and five were seriously wounded.

Serious, Targeted Violence in Iraq

Finally, Madame Secretary, we wish to highlight the grave situation for religious freedom and other human rights in Iraq. Since 2003, the Commission has reported on religious freedom conditions in post-Saddam Iraq. During this period, the Commission pointed to alarming patterns of religiously-motivated human rights abuses. The Commission has been concerned about the particularly dire conditions affecting non-Muslims in Iraq, including ChaldoAssyrian Christians, other Christians, Sabeen Mandaean, Yazidis, and other minority religious communities, who face widespread violence from Sunni insurgents and foreign extremists, as well as pervasive violence, discrimination, and marginalization at the hands of the national government, regional governments, and para-state militias, including those in Kurdish areas. The Commission also concluded that Iraq's government was failing to curb the growing scope and severity of other religious freedom violations. In 2007, the Commission placed Iraq on its Watch List, citing escalating unchecked sectarian violence, mounting evidence of collusion between Shi'a militias and Iraqi government ministries, and the severe plight of the country's smallest religious minorities.**

We remain seriously concerned about religious freedom conditions in Iraq. The Commission is traveling to the region later in the month and plans to issue its report and recommendations on Iraq in the near future, including a recommendation concerning the appropriate designation of Iraq this year under IRFA.

* * *

Summaries

of conditions in the countries discussed in this letter can be found in the Commission's Annual Report, which is enclosed and which will be released to the public tomorrow concurrently with this letter.

We request that you give special attention to the policy recommendations contained in this report. We also respectfully urge the Department of State to take all actions necessary to implement the IRFA legislation, particularly with regard to the countries designated as CPCs.

Madame Secretary, the 10 years since the adoption of IRFA have made clear that promoting religious freedom continues to be vital to our own political and national security interests. It is also the right thing to do. The Commission looks forward to meeting with you to discuss its 2008 CPC recommendations.

Respectfully yours,

Michael Cromartie

Chair

cc: John
D. Negroponte, Deputy Secretary of State

Daniel Fried, Acting Undersecretary of State for Political
Affairs

Paula J. Dobriansky,
Undersecretary of State for Global Affairs

David J. Kramer, Assistant
Secretary of State for Democracy, Human Rights, and Labor

John

V. Hanford, III, Ambassador-at-Large for International Religious Freedom

Stephen Hadley, National
Security Advisor

Michael G. Kozak, Senior Director for Democracy, Human
Rights and International Organizations, National Security Council

* Commissioner Leo declines to join this portion of
the letter. A separate statement setting forth reasons is attached as Appendix
A.

** In the Commission's letter to Secretary of State
Condoleezza Rice last year, Commissioners Bansal, Gaer, and
Prodromou concluded that based on the severe human rights and religious
freedom conditions extant in the country, and the sovereign government's
complicity with, or toleration of, abuses as outlined in the Iraq chapter
of the Commission's 2007 Annual Report, Iraq should have
been recommended for designation as a CPC.

Appendix A: Separate Statement of Commissioner Leo Regarding the Need to Designate and Adequately Respond to CPCs

"I
cannot join the portion of the Commission's letter to Secretary Rice that
discusses the need of the Department of State to make CPC designations within
certain time periods, and that further urges the U.S. government to go beyond
pre-existing sanctions and add new and unique presidential actions upon CPC
designation. I shall not express an
opinion one way or the other on these matters.

"I
do not believe it is this Commission's duty to police the executive branch's
compliance with Sections 401 and 405 of the International Religious Freedom Act
(IRFA). That is Congress's
responsibility as part of its oversight role.
The Commission's only responsibilities are those set forth in Section
202 of the Act, and they are essentially confined to evaluating the condition

of religious freedom abroad and making particular recommendations about how to improve it.

"Section 202 of IRFA sets forth two 'primary responsibilities.' The first is to review 'the facts and circumstances of violations of religious freedom presented in the Country Reports on Human Rights Practices, the Annual Report, and the Executive Summary, as well as information from other sources as appropriate.' In other words, the Commission is to cull facts and circumstances demonstrating religious freedom violations from a review of a broader set of human rights practices and materials.

"The second responsibility is to make policy recommendations 'with respect to matters involving international religious freedom.' This is not a general mandate, but instead flows naturally from the previous subsection. Specifically, the Commission develops factual findings about a country's religious freedom violations (Section 202(a)(1)), and then makes policy recommendations about how to rectify them (Section 202(a)(2)).

"A broad interpretation of the second responsibility-that the Commission can make general pronouncements about Executive Branch action (or inaction) under IRFA-is not, in my view, supported by the language or structure of Section 202. That reading of Section 202 would be correct if the first responsibility captured both a command to make findings about violations and a command to make recommendations for their resolution. The second responsibility would then stand alone, as a general mandate. However, as written, the second responsibility of making policy recommendations is simply a follow-on to the specific country-by-country findings we are to make. At least that is the reading that I think is dictated by the plain meaning of the statute's structure and words.

"No other part of Section 202 suggests a broader charge or mandate. The Commission is to 'recommend policies of the United States Government with respect to each foreign country.' It is to 'monitor facts and circumstances of violations of religious freedom.' And, the job of 'evaluating United States Government policies in response to violations of religious freedom' is tied to making policy recommendations with respect to 'each foreign country.' If Congress wanted us to generally police executive branch compliance with Sections 403 and 405 of IRFA (timely issuance of reports, decisions to issue sanctions, etc.), it knew how to say that and should have said so explicitly.

"I agree with the notion that, in a manner of speaking, the Commission was established to 'keep State honest.' However, we did not get that job by Congress having delegated to us in 1998 a piece of its oversight responsibility, which entails an overall performance review. Rather, we 'keep State honest' through the thoroughness of our findings and the incisiveness of our recommendations in relation to particular countries, because that gives the President, Congress, and the public a set of benchmarks from which they can make their judgments about the Department's performance, and, in particular, the performance of the State Department's Office of International Religious Freedom.

"There are practical issues here, also. I have no objection to the Commission saying that more should be done respecting a particular country (such as Uzbekistan) based upon a review of the facts on the ground and what we think might be most effective. That can produce specific action by the U.S. government that improves religious freedom for a specific population or group. The Commission is at its best, and works with the greatest amount of unity and collegiality, when this kind of technical work is tackled. However, a blanket criticism or review strikes me as not yielding the same value, and I fear that blanket pronouncements and criticisms are far more susceptible to being construed as political broadsides."