

2006 ANNUAL REPORT OF THE UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

CHINA: COMMISSION MAKES FIRST OFFICIAL VISIT

In August 2005, the Commission traveled to China for the first time. The purpose of the visit was to engage senior officials responsible for the management of religious affairs and the protection of human rights in discussions on Chinese policies and practices relating to religious freedom. The Commission's visit to China followed several years of diplomatic effort by the U.S. government. An invitation was first promised during the 2002 U.S.-China human rights dialogue; however, two subsequent attempts to travel to China were postponed due to unacceptable conditions placed on these trips by Beijing, including denial of access to Hong Kong by the Chinese government.¹ Following further requests by the U.S. State Department, congressional leaders, and the White House, the Chinese government issued another invitation to the Commission in 2005.

The Commission delegation was led by Chair Michael Cromartie and Vice Chair Felice D. Gaer and included Commissioners Preeta D. Bansal, Archbishop Charles Chaput, Dr. Richard Land, Dr. Elizabeth Prodromou, and Bishop Ricardo Ramirez. During the two week visit, the Commission traveled to the cities of Beijing, Shanghai, and Chengdu, Urumqi and Kashgar in Xinjiang, and Lhasa in Tibet. The delegation met with Chinese Vice-Premier Hui Liangyu, senior officials from the Foreign, Justice, and State Ethnic Affairs Ministries, the National People's Congress, the Supreme People's Procuratorate, and the State Administration on Religious Affairs, as well as provincial and local officials from the various Religious and Ethnic Affairs and other relevant bureaus. The Commission also met with Chinese academics and lawyers, UN officials, and representatives of the government-sanctioned Buddhist, Catholic, Islamic, Protestant, and Taoist religious organizations.

During the visit, the Commission raised questions on Chinese law and international human rights norms, the management of religious affairs, Chinese policies concerning unregistered religious organizations and the religious education of minors, new regulations on cults and religious affairs, the situations in Tibet and Xinjiang, and the conditions facing North Korean asylum-seekers in China. The Commission also raised several specific cases of concern with law enforcement officials and others. Notably, when in Lhasa, the delegation was allowed to meet briefly with Tibetan Buddhist nun Phuntsog Nyidron, who had recently been released after 15 years in prison and who, at that time, remained restricted in her movements by the Chinese authorities. (In March 2006, she was allowed to go to the United States.)

The Commission appreciated the opportunity to gain familiarity with several places in China, including Xinjiang and Tibet, as well as the efforts of its Chinese hosts, the State Administration on Religious Affairs and the Ministry of Foreign Affairs, to arrange meetings with a range of senior national and local officials. Nevertheless, virtually all of the delegation's interactions and activities were monitored and controlled by government representatives.

Commissioners sought to have candid, comprehensive, and constructive discussions on international human rights norms and Chinese law and practice. The delegation recognizes the effort of several Chinese officials to respond to the Commission's questions. Unfortunately, however, discussions were often far from candid. Chinese government officials were present at all meetings, including those with religious leaders and others who were not part of the government. At one meeting, the Catholic Bishop from Shenyang, affiliated with the government approved Catholic Patriotic Association, responded to a Commission question stating that he was aware of the harassment and arrest of neighboring Bishop Wei Jingyi, who was associated with the unregistered Catholic Church. Chinese officials present at the meeting did not allow the remarks to be translated and immediately ended the Bishop's presentation.ⁱⁱ Moreover, the delegation was not able to meet and talk freely and privately with interlocutors of its own choosing. The Commission's requests for access to prominent religious prisoners were denied.

For a summary of religious freedom conditions in China, as well as recommendations to advance U.S. human rights diplomacy with China, see the country chapter on China in this report.

The “Patriotic Religious Associations”

The Commission met with representatives of the five officially recognized “patriotic” religious organizations, visited various religious sites associated with these organizations, and observed their use. Chinese government officials and religious leaders told the Commission delegation that the number of religious believers associated with the five recognized groups was growing steadily.

In order to operate legally, all religious organizations and “venues” for religious activities must be registered with the appropriate government agency. In order to do so, they must be affiliated with one of the five officially recognized religious organizations. Registration is thus limited in practice to the five recognized religions—Buddhism, Catholicism, Islam, Protestantism, and Taoism. In response to Commission inquiries as

to whether the Chinese government would allow other religious communities to register organizations or sites for religious activities, Chinese officials told the delegation that they are considering accepting registration from Orthodox Christians, Jews, Mormons, and Baha'is. The Commission was unable to verify with leaders from these communities whether Chinese officials have approached them to discuss this possibility.

Registered religious organizations submit to government monitoring of their activities and the requirement of government approval of several religious activities—such as selecting a leader, printing materials, building or renovating religious venues, inviting religious leaders from other provinces, or holding a joint religious ceremony—that are explicitly protected from government interference under international human rights standards. In addition, most religious activities can only be conducted at registered venues. Religious groups that are legally registered in China have also accepted restrictions on what doctrines and traditions can be conveyed and taught. There are numerous credible reports, for example, of Christian leaders having to refrain from teachings involving the second coming of Jesus, divine healing, the practice of fasting, and the virgin birth because these doctrines or practices are considered by the government to be superstitious or contrary to the Chinese Communist Party's social policies.ⁱⁱⁱ

In meetings with government officials in attendance, religious leaders in the government sanctioned religious organizations denied that any restrictions were placed on what they could preach or teach. They claimed, however, that direct criticism of government policy was disruptive to “social harmony,” and that they tried to emphasize the aspects of their faith traditions that, in their view, “strengthened socialistic society.” This is in line with official Chinese policy that religion must adapt to the development of a socialist society.

Over the last decade, the Chinese government and the Communist Party have made some accommodation for the spiritual aspirations of the people of China, and have openly praised the contributions to society of government sanctioned religious organizations. The Commission was able to observe a “zone of toleration” where members of the approved religious organizations, working within the limitations described above, are given some latitude to practice their religion. The delegation was told that Chinese law now protects the property of registered groups, allows them to bring charges against abusive government officials, and permits them to perform some charitable and social service work in local communities. Religious leaders from the government approved organizations believed that these legal reforms were beneficial, though most could not be independently verified by the delegation. Commissioners met with religious leaders conducting social welfare work, noting that several programs of this nature have been started or are under development.

Government relations with the five patriotic religious associations appear to differ from religion to religion and region to region. For example, official tolerance for Buddhism (among Han Chinese) and Taoism appears to be greater than for other groups in China. Religious leaders from these communities claimed that they face few restrictions. Nevertheless, Tibetan Buddhists and Uighur Muslims have more difficulties than their religious counterparts in other parts of the country, despite being affiliated with the government sanctioned religious organizations.

Commissioners were able to gain some insight into the relationship between the Catholic patriotic religious organization and the Chinese government through their discussions with representatives of the government sanctioned Catholic Patriotic Association. Commissioners were told there was a growing communion between the Vatican and the clergy of the officially sanctioned church. At recent ordination ceremonies, clergy from the government approved church openly pledged fidelity to the Holy See. Catholic religious leaders in China told Commissioners that, though difficulties and suspicions remain, there was some reconciliation between the officially registered church and unregistered Catholics. However, most unregistered Catholics will not worship in churches of the Catholic Patriotic Association unless the bishop or priest is known to be in communion with Rome. The Chinese government does not allow Catholics to run schools or recognize openly the authority of the Papacy in many fundamental matters of faith and morals.

The Chinese government continues to insist, as a precondition for establishing diplomatic relations, that the Vatican renounce the Papal role in the selection of bishops and break all relations with Taiwan. The Commission was told that the Chinese government's insistence on approving and selecting bishops has made the ordination process very slow. At least twelve bishops are needed to fill current openings. The Commission learned that in the last year, the Chinese government has quietly arranged for the ordination of at least some bishops approved by the Holy See. In Shanghai and Xi'an, auxiliary bishops from the "unregistered" Catholic Church were chosen with the full right of succession and with the approval of both the Chinese Catholic Patriotic Association and the Vatican. During its meeting with two bishops of the Catholic Patriotic Association in Shanghai, the Commission was told that the Chinese government and the Holy See cooperated quietly to reconcile the registered and unregistered Catholic communities in the Shanghai diocese.

Also in Shanghai, the Commission was told of improved educational and spiritual formation opportunities for clergy and nuns and of expanding Catholic social service programs. The Commission was shown a new government sanctioned Catholic seminary in Beijing and was told that it would expand the number and quality of clergy.

The Commission noted, however, that the Chinese government monitors and inspects all the registered seminaries and has severely restricted foreign professors from teaching at these institutions. In addition, the transmission of traditional Catholic moral teaching on such subjects as abortion, contraceptives, and divorce is forcefully suppressed as contradicting official Communist Party policy.

The Problem of the Unregistered

Most of China's religious practice occurs outside the system of government approved religious organizations. Yet, the Chinese government actively seeks to control and suppress the activities of "unregistered" religious organizations to prevent the rise of sources of authority outside the control of the government and the Communist Party. The Commission raised concern over these practices with Chinese government officials, but did not seek to meet with leaders of "unregistered" religious groups because concerns were raised regarding their safety and their continued ability to operate in the country.

Chinese law bans unregistered religious organizations and provides severe penalties for engaging in unregistered religious activities. The Commission pointed out to government officials that under international human rights standards, failure to register cannot alone justify government imposed limitations on religious activities, or the harassment, detention, and imprisonment of members of unregistered religious groups. A senior official with the Communist Party's United Front Works Department said that because the process of registering all religious groups under the new Regulations on Religious Affairs (see below) would take time, he did not think unregistered groups should be harassed or punished during that process. Nevertheless, Chinese officials confirmed that unregistered activity was illegal and would continue to be suppressed.

Tibet and Xinjiang

Tibetan Buddhists and Uighur Muslims face serious restrictions on the free practice of their respective religions and severe abuses of their human rights. China's policies on religious affairs have produced ongoing tensions between the government and these religious communities in regions where they predominantly reside, including the Tibet Autonomous Region (TAR or Tibet) and Sichuan province for Tibetans and the Uighur Autonomous Region, or Xinjiang, for Uighurs. Because the Chinese government fears secessionist activities and recent calls for greater autonomy in these regions, crackdowns on religious activities in Xinjiang, Sichuan, and the TAR are often harsher

than in other parts of China. Although religion is an important aspect of ethnic identity for both Tibetans and Uighurs, Chinese government officials told the Commission that fervent religious practice among these groups was an impediment to economic modernization and an organizational pole around which terrorists or “splittists” may gather.

There are similarities in the methods used by the Chinese government to control the practice of religion by Uighur Muslims and Tibetan Buddhists. The Commission delegation was told that “patriotic education” of religious leaders continues to occur in both Tibet and Xinjiang. Muslim imams and Tibetan monks and nuns are required to attend patriotic education sessions, all religious publications are controlled, and there are tight restrictions on religious celebrations, the religious education of minors, as well as the number of religious venues and religious leaders. In Xinjiang, even government officials must participate in “patriotic education.” The Commission was told that government officials dealing with religious affairs in Xinjiang must complete political education to avoid “paralyzed thinking” and to “distinguish between normal and illegal religious activities” and, as in all other areas of China, are required to be atheists.

Xinjiang

In Xinjiang, all collective home worship services, after-school religious instruction, and other unauthorized religious instruction are strictly prohibited. The Commission was informed that Uighur Muslims have not received permission to build new mosques for the past six years. The Commission was also told that all imams are required to undergo yearly political training seminars in order to retain their licenses. Commissioners learned of the existence of an “Islamic Affairs Steering Committee,” which is reported to author and approve sermons and censor religious texts and any material with religious content. The purpose of such oversight by the government is to create Muslim religious leaders who will “ardently love their country.”^{iv}

Chinese authorities in Xinjiang use the “war on terror” as a pretext to monitor and control Uighur Muslim religious activity. This manipulation of terrorist concerns was evident during the Commission’s visit. Upon arrival in Xinjiang, provincial officials announced to the Commission delegation that “elements of Al-Qaeda” were targeting the Commission itself during its visit. The Commission requested that such threats be reported through official channels, and the unspecified threat, found later not to be credible by U.S. and Chinese security officials in Beijing, seemed to have been issued to restrict Commission activities and to monitor its contact with local people not approved by government officials. Commission requests to visit specific mosques,

imams, and churches in Xinjiang were subsequently denied. There was particularly tight control on Commission movement during its visit to the city of Kashgar.

In March 2005, the Chinese government issued a press statement declaring that Chinese law does not prohibit the religious education of minors. Yet in Xinjiang, the Commission was told by provincial officials that the religious education of minors in mosques, *madrassas*, or any type of multi-family setting was prohibited until the child has completed the requisite nine years of compulsory general education. Officials stated that minors who have completed their education but were not selected to attend university could receive religious training and attend mosque, and that parents could give private religious instruction to their children. While the Commission delegation was in China, security forces arrested a woman in Xinjiang for teaching a religious class on the Quran. She was reportedly detained for “illegally possessing religious material and subversive historical material.”

The Commission noted that the Chinese government does allow some Muslim groups in Xinjiang to engage in social welfare programs. Commissioners met with imams who participate in alcohol, drug, and HIV/AIDs education programs. The Chinese government has praised the positive contributions of such officially approved religious organizations in meeting China’s growing social welfare and medical needs.

Tibet

The Chinese government continues to control tightly religious activity, including education and places of worship, in Tibet. Although the Commission was able to observe instances of private religious devotion at Tibetan Buddhist temples and monasteries, the activities and education of monks and nuns are closely monitored, monasteries are governed by government approved management committees, and the Communist Party continues to insist on approving the designation and training of all reincarnate lamas. In addition, Commissioners learned that monks and nuns are required to renounce the Dalai Lama as the spiritual leader of Tibetan Buddhists. When asked why this is required, government officials answered either that the Dalai Lama supported independence or “splittist” activities, or that continued public religious devotion to the Dalai Lama and his “clique” was a hindrance to economic modernization. Government officials claimed that the Dalai Lama’s influence had to be eliminated to protect “social harmony” and to raise the standard of living in Tibet and other regions with Tibetan Buddhist populations.

Commissioners asked whether Tibetans were permitted to own or display pictures of the Dalai Lama or his chosen Panchen Lama, Gendun Choekyi Nyima, or hold prayer ceremonies for them. Religious leaders responded that Tibetans may own pictures of the Dalai Lama and hold private devotions for him, but that they may not publicly display or distribute the portrait or engage others in their ceremonies. In a separate meeting, public security officials agreed that private ownership of his portrait was not a punishable offense, only its public display was. Security officials conceded that no provision of Chinese law specifically prohibited arranging a prayer for the Dalai Lama, but told the Commission that the Dalai Lama's political activities rendered any public recognition of him a threat to public order and social harmony and thus was prohibited. Owning pictures or holding ceremonies for the Dalai Lama's chosen Panchen Lama was prohibited, they stated.

During its visit, the Commission asked to meet with the Dalai Lama's chosen Panchen Lama. The young man has not been seen in more than a decade after being kidnapped by Chinese officials upon receiving recognition by the Dalai Lama. The Commission's request was denied. Chinese government officials claimed that he was safe and studying Tibetan Buddhism but that his family was "unwilling for him to have a public life." The Commission urged Chinese officials to end restrictions on access to the young man and his family and to allow them to receive visits from international representatives.

On the subject of the religious education of minors in Tibet, Commissioners were told that, with the exception of boys approved by the government and formally designated as reincarnate lamas, persons under the age of eighteen were not permitted to receive religious education. Tibetan children must spend their time in public education and there was no time for both. When pressed on this issue by the delegation, one Chinese official said that "Tibet cannot be developed by chanting." Yet, religious education of minors apparently goes on in some places despite official prohibitions. There have been reports of monastic schools in some remote parts of the TAR and other provinces with significant Tibetan populations. Government officials insisted, however, that such schools were prohibited from teaching religious subjects to minors.

During a visit to Drepung monastery in Lhasa, one of the largest in Tibet, the Commission was able to observe that a monk, sitting near where the delegation passed, was visibly younger than the other monks. When questioned in private by a Tibetan-speaking member of the delegation, the monk acknowledged that he was 14 years old. He also said that he was a full-time monk and had been at Drepung for "a few years," and that there were some twenty monks under the age of 18 at the monastery. Religious leaders at the monastery did not have any insight on the apparent

discrepancy between official pronouncements on religious education of minors and monastery practice.

Despite some ambiguity regarding the religious education of minors in Tibet, it is the Commission's conclusion that Chinese government controls on religious practice in Tibet and Xinjiang contravene both China's own constitution and its international human rights obligations. Policies enforced by Chinese officials that restrict human rights in order ostensibly to protect "national unity" or "national security" exceed those restrictions permitted under international standards and override other protections in Chinese law. Like other governments, the Chinese government does have a duty to protect its nationals from terrorist attacks, but it too often conflates peaceful political opposition or efforts to maintain religious and ethnic identity with violent separatist activity, extremism, and terrorism.

The National Regulations on Religious Affairs

In March 2005, the Chinese government officially implemented new National Regulations on Religious Affairs. The regulations were introduced in order to clarify a patchwork of laws, ordinances, and regulations regarding religious practice. Chinese leaders heralded the regulations as "a significant step forward in the protection of Chinese citizens' religious freedom." However, when the new regulations were officially implemented, a senior official from the State Administration of Religious Affairs emphasized that the primary goal of the new regulations was to help expand government management of religious affairs.^v

The new regulations have not been in place long enough to assess their implementation and actual impact. However, it is important to note that one year prior to the announced implementation of the present regulations and until the present, the crackdown targeting unregistered Christians intensified in several parts of China. It is the Commission's position that until it is clear how the provisions of the new rules are interpreted and implemented, the new regulations threaten the rights and security of religious believers and are not fully consistent with international norms on freedom of thought, conscience, and religion or belief.

The new regulations contain provisions that could be used to limit the activities of registered religious groups and punish those who engage in unregistered activities. For example, criteria for the approval of registration of a site for religious activities includes an official determination that there is a "need" for local religious practitioners to "frequently carry out collective religious activities," as well as that the site is "rationally located without interfering with the normal production and livelihood" of the local area.^{vi}

The new regulations also make clear that religious activities on a national level can only be conducted by registered religious bodies at approved religious sites.^{vii} As noted above, Chinese officials confirmed to the Commission that religious activities conducted by unregistered groups are illegal under the new regulations,^{viii} which provide for civil fines for individuals who engage in such activities.^{ix} The Public Security Bureau is also authorized to impose penalties if religious activity is being carried out at a venue that has not been properly registered with the relevant authorities.^x In addition, the Religious Affairs Department is authorized to disband any religious group that fails to gain official approval for its leadership, membership or management procedures; accepts donations without receiving prior approval; or refuses “to accept supervision and administration conducted by the Religious Affairs Department according to law.”^{xi} Individuals who participate in religious activities not authorized under the new regulations are subject to criminal punishment.^{xii}

In discussions with Chinese officials, the Commission raised questions about the clarity of the registration requirements in the regulations, the language used in regulating religious publications, and the official oversight required with regard to leadership decisions.

The new regulations do include several provisions that are, on their face, potentially significant advances. These include establishing conditions under which religious organizations can provide social services in local communities, protect their property, bring complaints against abusive government officials, accept donations from overseas religious groups, and receive prompt responses from government agencies on registration applications. However, a group must be registered in order to engage in these activities or take advantage of the provisions under the regulations.

It may be a positive step that the planned release of implementation guidelines for Shanghai was withdrawn, reportedly so that Chinese government officials could study reservations raised by the Commission and other international legal scholars and commentators. The Commission plans to offer Chinese officials a detailed analysis of the new regulations and to compare them with international human rights standards regarding the freedom of thought, conscience, and religion or belief.

The Rule of Law

Although Communist Party leaders have made it clear that they intend to strengthen the one-party state, they have also promised to move toward a system governed by the rule of law. Similar promises were expressed in almost all of the

Commission's meetings with Chinese government officials. However, although many statements have been made about legal reform and establishing the rule of law in China, few concrete steps have actually been taken, particularly in the area of protecting the rights of the individual. Thus, despite promises of legal reform, redress for violations of human rights by government officials is not available on a consistent basis.

There has been some discussion by Chinese officials of extending greater legal protections to individuals. In 2002, the Chinese government called for a complete review of its civil, administrative, and criminal procedure codes. In recent years, the Chinese government has also shown a willingness to permit some independence of the courts in cases involving official corruption, to hold qualifying examinations to raise the competency level of judges, and to consider amending laws to protect detained suspects. Notably, in March 2004, China amended its Constitution to include a provision that the state should protect human rights. This last measure is largely symbolic because the Constitution is not enforceable in Chinese courts, but it signals, at the very least, a growing awareness in official circles of human rights concerns. It represents an important commitment, but at present there is no way to require its implementation.

In the last year, the Chinese government has permitted public criticism of the criminal justice system after cases of wrongful prosecution and death in police custody became national scandals. In response to the scandals, the Supreme People's Procuratorate has taken steps to investigate cases of illegal detentions and to punish law enforcement officers who use torture to extract confessions. It is hoped that these reforms will bring more transparency and accountability into legal proceedings.

Yet, Chinese legal reforms appear to be hindered by widespread and persistent corruption and lack of official accountability. The Chinese legal system does not provide individuals the means to seek full or fair redress for human rights violations through the courts. In addition, the criminal system still relies on confessions, which are frequently obtained through torture; lawyers who are outspoken in defense of defendants' rights are themselves often threatened, disbarred, or imprisoned. Too often, the law is used as a tool of repression to harass, detain, and imprison dissidents, religious practitioners, the disadvantaged, or the politically suspect. For example, vague criminal law provisions prohibiting acts "endangering national security," "subversion," or "inciting splittism" are often used to detain individuals for political offenses.

One of the more significant steps that could be taken by the Chinese government to provide legal protections for human rights would be to ratify and implement the International Covenant on Civil and Political Rights (ICCPR), which was signed by China in 1998. In response to questions about the status of ratification, the Commission delegation was told that, while China intended to ratify the ICCPR at some point, changes to the legal system had to be considered first in order to bring Chinese law into line with international standards. The parameters of needed legal reforms are, the Commission was told, currently under study by the National People's Congress and others. Despite specific questions, no one could identify for the Commission the points in need of further study or provide a timetable for the ratification process.

The Commission is convinced that many reforms are needed to bring Chinese law in the areas of religious affairs and protections for human rights into conformity with international standards. China's Constitution, its new regulations on religious affairs, and its Criminal Code are all at odds with standards set forth in the ICCPR. Prompt legal reforms in these areas, rather than being delayed for further discussion, should be implemented. Prompt ratification of the ICCPR would demonstrate China's commitment to protecting the rights of individuals.

The Commission discussed the issue of arbitrary detention and the use of torture to gain confessions with senior officials of the Justice Ministry and the Supreme People's Procuratorate. The Commission discussed potential changes to Article 306 of the Criminal Procedure Code, which provides penalties for lawyers whose clients are accused of perjury and has been used to curtail the active legal defense of individuals accused of political crimes. Noting allegations of irregular trial procedures and/or reported evidence of torture in the cases of Pastor Gong Shengliang of the South China Church and Tibetan Buddhist Tenzin Delek Rinpoche, the Commission reiterated requests by the U.S. government and others in the international community for a review of the cases by the Supreme People's Court. The Justice Ministry and the SPP agreed to accept further evidence from the Commission in these two cases. One senior official stated that investigations should be opened if there was evidence of torture and legal irregularities in these cases.

Meeting with Phuntsog Nyidron and Cases of Special Concern

During its visit to China, the Commission raised a number of individual cases with Chinese authorities of alleged arbitrary detention or "enforced disappearance" on account of religious belief or practice or of other religious freedom violations in China. The Commission discussed in detail with Chinese officials a list of known religious prisoners, including Buddhists, Muslims, Protestants, Catholics, and members of the Falun Gong. The delegation asked for information on the current status of these cases

and requested they be considered for immediate review and/or release. The Commission also asked to meet with several prominent religious figures whose detention or disappearance has raised international concern, including the Dalai Lama's chosen Panchen Lama, Gendun Choekyi Nyima; Catholic Bishops Su Zhimin and An Shuxin; Tibetan Buddhist monk Ngawang Phuljung; Protestant "house church" leader Cai Zhuohua; and Uighur historian Tonti Tunyaz. The Commission also asked to meet with former Tibetan nun Phuntsog Nyidron, in light of reports that her freedom of movement and association remain highly restricted, despite her release from prison a year earlier.

The Commission's requests to meet with all but one of these prisoners were denied. In addition, the information that Chinese government eventually formally transmitted to the Commission on the status of the individuals on its list was cursory, adding nothing to previous statements by the Chinese government on the status of these persons. The Commission also did not receive any information on the list of Uighur prisoners it submitted to Chinese officials. In a formal response to the Commission, the Chinese government continued to claim that "no one has ever been punished by law or put into prison for his/her religious belief" and that information on "criminals involved in separatist activity...was an internal affair" of China. Such responses clearly indicate that Chinese law and practice do not fully allow for religious activities that are protected by international human rights treaties to which China is a signatory, not least because such activities are often interpreted by the government as illegal political acts of subversion or separatism. The Commission called on the Chinese government to release all those imprisoned or detained on account of the manifestation of religious belief in contravention of international human rights standards, and to establish a mechanism for a full and fair review of cases of persons detained under suspicion of, or charged with, offenses relating to state security, disturbing social order, "counterrevolutionary" or "splittist" activities, or organizing "illegal" gatherings or religious activities. This mechanism should also review cases of detained or imprisoned religious leaders, many of whom have been charged with specious criminal offenses related to national security.

The Commission was granted a brief interview with Phuntsog Nyidron in the presence of Chinese officials, who denied the Commission's request to conduct the interview in private. In 1989, Phuntsog Nyidron was sentenced to nine years in prison for holding a peaceful demonstration celebrating the Dalai Lama's Nobel Peace Prize award. Her sentence was extended by eight years after she recorded songs about Tibet and the Dalai Lama that were smuggled from prison. According to numerous witnesses, Phuntsog Nyidron and the other nuns imprisoned with her were beaten during their imprisonment.

During the interview, Phuntsog Nyidron told the Commission that she had debilitating health problems that required special medical attention and limited her ability

to make a living as a farmer in the village where she now resides. She was unable to address these health concerns, however, because of a lack of money and restrictions on her movement. In response to the Commission's question of whether a passport might facilitate needed medical treatment, she said that it was impossible for her to travel because of her conviction on "counter-revolutionary crimes." She also stated that due to her status as a "counter-revolutionary criminal," security officials accompany her at all times. She did not discuss whether she was subjected to other restrictions.

The day after the meeting, ostensibly to "clarify" Phuntsog Nyidron's statements, government officials told Commissioners that public security officials no longer accompany her because her parole was completed in February 2005. Commissioners were also told that she was now "free to travel." The Commission is pleased to note that in March 2006, she was in fact permitted to leave Tibet for the United States.

Bishop Su Zhimin

Background: Unregistered Catholic bishop arrested in 1996 along with auxiliary Bishop An Shuxin. Neither have been seen publicly since 1997, nor has the Chinese government offered information on their status or whereabouts.

Chinese response: Relevant departments have taken no coercive action to punish the Bishops and they are not under Chinese government control.

USCIRF Assessment: Response from the Chinese government includes no new information. Both Bishop Su and Bishop An were detained without trial and have been in custody without acknowledgement by the Chinese government for nearly a decade. Commission requests to meet with them were denied. Bishop Xin of Shanghai told the USCIRF delegation that Bishop Su was in good health and was being held in a government rest home in Hebei.

Gedun Choekyi Nyima

Background: Recognized by the Dalai Lama on May 14, 1995 as the Panchen Lama. Chinese officials denounced the choice as "illegal and invalid" and named another boy as Panchen Lama. Gedun Choekyi Nyima and his parents were taken into Chinese custody on May 17, 1995 and remain in incommunicado detention. The Chinese government has not revealed the precise location where they are being held, nor has anyone been permitted to meet with them.

Chinese response: Request to meet with him denied. The boy's parents do not want him to have a public life. The boy, age 16, is studying and in the care of his parents.

USCIRF Assessment: Response from the Chinese government includes no new information. Continues pattern of repeated denials for access by international observers to Gedun Choekyi Nyima. Shows government interference with leadership decisions of a religious community, as well as the rights of Gedun Choekyi Nyima.

Liu Fenggang

Background: House Church leader arrested and tried in secret on charges of "gathering and illegally providing state intelligence to foreign entities." Sentenced to three years imprisonment in 2004.

Chinese government response: Liu Fenggang was imprisoned on charges related to "spying." The trial was conducted in secret in accordance with PRC criminal law regarding national security cases.

USCIRF assessment: Response from the Chinese government includes no new information. Implies evidence of the use of national security provisions to quell information that may be deemed embarrassing to the government. Liu Fenggang was actually arrested for publishing a story about church destructions in Zhejiang province. Using such vague definitions of "state secrets," authorities can charge persons with criminal activity for virtually anything that the government does not want people to know or to discuss.

Wei Yumei and Wei Yufen

Background: Sisters and Falun Gong practitioners. Arrested in May 2004 after they were found producing and distributing Falun Gong literature. Both were convicted of "using a cult to undermine implementation of the law" and sentenced to ten years imprisonment.

Chinese response to USCIRF: Both taken into custody "on suspicion of committing a crime" and sentenced to ten year terms on charges as specified above.

USCIRF Assessment: Response from the Chinese includes no new information. Fails to detail the justification for the government's restriction on the manifestation of religion or belief, Chinese criminal law contains vague restrictions related to so-called "cults."

Tohti Tunyaz

Background: Uighur historian sentenced in 1999 to eleven years imprisonment on charges of inciting splittism and illegally acquiring state secrets for compiling documents used in his thesis on Chinese government policies towards ethnic minorities. In 2001, the UN Working Group on Arbitrary Detention ruled that the detention of Tohti Tunyaz was arbitrary.

Chinese Response to USCIRF: Regarding this case and all other enquiries involving Uighurs, the Chinese government gave no response, continuing a policy of failure to comment on Uighur prisoners.

USCIRF Assessment: Policies that restrict human rights in order to protect "national unity" or "national security" in Xinjiang Uighur Autonomous Region exceed international standards and often override other protections in Chinese law. The Chinese government should establish a mechanism for reviewing cases of persons detained under suspicion of, or charged with, offenses relating to state security, disturbing social order, "splittist" activities, or organizing or participating in "illegal" gatherings or religious activities.

North Korean Asylum-Seekers

The Commission raised with Chinese officials the status of North Koreans in China, who, after fleeing starvation and persecution, face harsh conditions when they cross the border into China. Many have been forcibly repatriated to North Korea, where they face severe penalties upon their return.

The Chinese government refuses to allow representatives of the UN High Commissioner for Refugees (UNHCR) to interview North Koreans. China views North Koreans as "economic migrants" and therefore does not recognize them as asylum-seekers under international law. This policy, coupled with China's active repatriation of North Koreans to their country of origin where they face reprisals, contravenes China's obligations under the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol which states that "no Contracting States shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom

would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”^{xiii} Forced return to a country where they face a risk of torture would also contravene the Convention against Torture to which China is a party. In addition, Chinese policy violates the 1995 UN-Chinese Agreement stating that “UNHCR personnel may at all times have unimpeded access to refugees and to the sites of UNHCR projects in order to monitor all phases of their implementation.”^{xiv}

Chinese security forces reportedly guard the UNHCR office in Beijing and a number of foreign consulates in order to prevent North Koreans from entering them and seeking asylum. Chinese officials told the Commission that they must repatriate North Koreans under terms of a 1961 agreement with North Korea.^{xv} Commissioners responded that repatriated North Koreans face harassment, mistreatment, detention, torture, and possible execution. Chinese officials claimed that they had no evidence of such conditions and have repeatedly asked North Korean officials not to mistreat those repatriated. Some officials suggested that the fact that North Koreans often enter and re-enter China numerous times was evidence that they did not face bodily harm if repatriated.

The Commissioners reiterated to Chinese officials that North Koreans in China should be considered refugees, either as persons who have a well founded fear of persecution had they remained in North Korea, or as persons who may not have fled persecution in the first place but who nonetheless are refugees because they risk persecution upon return to their country of origin. In addition, Commissioners offered to provide Chinese government officials with evidence that significant numbers of North Koreans face persecution because of their family connections, political views, or religious beliefs. The Commissioners also discussed the ways in which the vulnerable status of North Koreans in China encourages human smugglers, trafficking in women and children, and a host of other social problems. At least one Chinese official, Minister Li Dezhu of the State Ethnic Affairs Commission, acknowledged in a meeting with the Commission the growing problems associated with North Korean asylum-seekers in China and expressed the need to find humane solutions to these and other problems occurring on the border.^{xvi} Nevertheless, Commissioners pressed Chinese officials on the need for representatives of the UNHCR to be allowed access to North Koreans in China and for unimpeded humanitarian assistance to the affected regions.

Human Rights and the U.S.-China Relationship

The space for political openness, public activism, and greater civil and individual freedoms is narrowing in China. Over the past year, the Communist Party has tightened its control over religious leaders as well as journalists, intellectuals, the

Internet, and non-governmental organizations. President Hu, in a speech to the Central Committee in September 2004, warned against “hostile forces” seeking to undermine the Party by “using the banner of political reform to promote...parliamentary democracy, human rights, and the freedom of the press.” The Chinese President warned that the Soviet Union fell because of the policies of “openness and pluralism” and because of “international monopoly capital with the United States as its leader.”^{xvii} Chinese political leaders view pressure to guarantee individual and political rights as evidence of a “strategic plot to Westernize and split China.” From the Chinese perspective, global concerns regarding human rights are at worst subversive and at best peripheral to improving economic ties.

In the past, Chinese officials have argued that slow progress on civil and political rights was a temporary trade-off to achieve economic modernization. Given China’s impressive economic growth, this argument can no longer be sustained. The Chinese government has embraced some of the benefits of the free market with dramatic results. The Chinese people now have greater mobility, increased property rights, and somewhat greater access to information than in the past. These advances have raised the aspirations of the Chinese people and the international community, but fulfilling these hopes will require a commitment to respect civil and political rights, in addition to economic and social rights. It will also require an acknowledgement that human rights are indeed universal and are currently not protected in Chinese law and practice, despite the Chinese government’s international commitments in this regard.

Respect for human rights is also important for regional security and prosperity, both in China and throughout the region. Such respect is a critical element in any peaceful outcome to the Taiwan issue, successful management of Hong Kong under Beijing’s control, and final resolution of security concerns on the Korean peninsula. Any social or political crises in these areas will certainly involve Western and other actors in spheres which at present, China considers its exclusive national domain.

Human rights concerns remain on the agenda of U.S.-China bilateral relations. In the past, critics of a vigorous human rights diplomacy have argued that economic liberalization would eventually lead to political change. This has not happened. Although China has gotten richer, economic freedom has not led to political liberalization. China’s achievements in the economic sphere represented a key component in Beijing’s successful bid to host the Olympic Games in 2008. After securing the right to host the games, Chinese officials made promises to create an open and free environment. The Chinese government should now be held to those promises. Clearly, reliance on market forces alone will not secure progress toward human rights and political openness. Given the chronic critical human rights problems in China, the Commission concludes that these concerns must be raised at the highest levels and that U.S. officials should provide a consistent, candid, and coordinated message about

human rights, including religious freedom, in their interactions with Chinese officials. The U.S. government should therefore continue to pursue broad-ranging policy options and discussions to ensure that progress on human rights and the rule of law remain core components of its bilateral relationship with China.

How the Chinese government responds to the aspirations of its own people is important for the future of China itself, for the flexibility and scope of future U.S.-China relations, and for China's standing in the international community. The United States should continue to help foster political, economic, and legal reforms in China. To this end, the Commission presents the following recommendations for U.S. policy to strengthen the protection of human rights, in particular the freedom of thought, conscience, and religion or belief, in China.

ⁱ The Commission traveled to Hong Kong in January 2004, at the invitation of the Hong Kong government.

ⁱⁱ Attempts by Commissioners to gain further information about this incident were rebuffed. The Commission remains concerned about the safety and independence of Bishop Wei and other Chinese bishops and will continue to monitor this situation closely.

ⁱⁱⁱ United States Commission on International Religious Freedom, *Annual Report 2001, "China,"* May 2001.

^{iv} "PRC: Qinghai Enhances Religious Work to Guard Against Separatist Infiltration," *Qinghai Daily*, September 8, 2004 (FBIS, 11 January 2005); Ma Pinyan, "The Implementation of the Party's Religious Policy in Xinjiang," *Xinjiang Social Sciences*, no. 1, 2005, pp. 49-55.

^v Nailene Chou Wiest, "Religious Groups Get More Room to Move," *South China Morning Post*, October 20, 2004; Wang Zuoran, "Establish the Idea of Managing Religious Affairs According to Law," *Chinese Religions*, February 26, 2005 (FBIS 26 February 2005).

^{vi} See Regulations on Religious Affairs, Article 14.

^{vii} See Regulations on Religious Affairs, Article 20.

^{viii} The only exceptions were ad hoc home meetings among family members that occurred on an irregular basis to read the Bible and sing hymn. The precise description of what was permitted varied and was not included in the new Regulations or otherwise committed to written law or other regulations.

^{ix} See Regulations on Religious Affairs, Articles 43, 44, 45. See also Congressional Executive Commission on China, "China's New Regulations on Religious Affairs; A Paradigm Shift," Transcript of Congressional testimony from March 14, 2005.

^x See Regulations on Religious Affairs, Articles 41, 43, 46.

^{xi} See Regulations on Religious Affairs, Articles 39, 43.

^{xii} Criminal law provisions regularly used to prosecute those associated with unregistered religious activity include the Regulations on the Registration and Management of Social Organizations; the Law on Assembly, Procession and Demonstration, Regulations on Public Order Control and Punishment; the Law

on Protecting State Secrets; and Chinese Criminal Code Articles 111, 277, 282, 300, 398. See: Human Rights Watch. "Appendix II: Laws and Regulations to Crackdown on Falun Gong," from *Dangerous Minds: China's Campaign Against the Falun Gong*, January 2002 (<http://hrw.org/reports/2002/china/China0102-09.htm>).

^{xiii} *The Status of North Korean Asylum Seekers and the U.S. Government Policy Towards Them*, Report issued by the U.S. Department of State Bureau of Population, Refugees and Migration pursuant to section 301 of the North Korean Human Rights Act of 2004 (P.L. 108-333) (March 11, 2005).

^{xiv} Agreement Between the Government of the People's Republic of China and the Office of the United Nations High Commissioner for Refugees on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China (December 1, 1995), (United Nations Treaty Series Vol. 1899-1-32371).

^{xv} 1961 China-DPRK agreement entitled "Mutual Cooperation Protocol for the Work of Maintaining National Security and Social Order in the Border Areas."

^{xvi} Minister Li invited the Commission to travel to the China-North Korea border on a return visit and provide him with information on both humanitarian need and ongoing human rights abuses.

^{xvii} Philip Pan, "Hu Tightens Party's Grip on Power," *Washington Post*, April 24, 2005.