

Testimony on the IRFA Process, Religious Freedom in Russia, and the May 1, 2000 Report of the U.S. Commission on International Religious Freedom

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U.S. Commission on International Religious Freedom
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Good

morning Mr. Chairman and members of the Committee. I'm Rabbi David Saperstein and I am honored to serve as Chair of the United States Commission on International Religious Freedom. Let me begin by thanking the Committee for holding this hearing.

IRFA Process

Today

we report to you on a milestone event: The issuance of the first Annual Report of the U.S. Commission on International Religious Freedom as foreseen under the International Religious Freedom Act, or IRFA, passed in October 1998. The vision of the IRFA process is this: The Founders of our country understood that the words, "We are endowed by our Creator with certain inalienable rights," put freedom of religion at the center of those fundamental rights. It is the first of the enumerated rights in the First Amendment. It is central to the human condition and to what we have striven for during so many decades of the 200-plus-year history of this country: to ensure that the religious life of the individual and of religious communities could flourish without the government restraining or interfering with that freedom; that this is part of the vision of human rights that cuts across the global community, and as such, it ought to be at the heart of American foreign policy.

As we look around the world, however, we find this fundamental liberty under serious threat. In Sudan, the Islamist extremist government is bombing Christian churches, church-run schools, and hospitals. In China we see mass arrests of Falun Gong practitioners, the harassment and arrest of leaders of the Muslim Uighur community, the continued systemic infringement of the Tibetan Buddhists' religious freedom, and the arrests of leaders of the underground Catholic and Protestant Churches. In Iran, Baha'is are sentenced to death just because they are Baha'is. All these things testify that the work of this Commission is urgent work, work of fundamental liberty and of priority importance.

The IRFA process created an Ambassador-at-Large for International Religious Freedom at the State Department and mandated a State Department report once a year. That report, which you have seen, marked a significant change in the way business is done in the American foreign policy establishment. Over an extended period of time, there were foreign service officers, in embassies across the world and in regional bureaus here at the State Department, who were focused on what to say about religious liberty, how to deal with it, how to express it, how to define it, how to describe what is happening on the ground and what America's interests are regarding this issue. More difficult decisions required the attention and involvement of high-ranking State Department officials. That alone marked an important structural change. As our Commissioners traveled to other countries this year, they met with and worked with foreign service officers who are now knowledgeable about issues of religious liberty and involved in diplomatic efforts to combat religious persecution and who made lasting contacts with religious communities and NGOs (foreign and domestic) working in the field.

It is the role of this Commission on an ongoing basis, and then summarized once a year in an annual report May 1st, to make recommendations to the President of the United States, the Secretary of State, and the Congress of the United States on how to address policy related to combating religious persecution and enhancing religious freedom. Because of the delay in appointments of members of the Commission and in Congressional funding for its work, we have only been staffed for six months and in offices for about four months. As a result, we decided that, while engaging in ongoing monitoring of general U.S. policy on religious freedom, in visiting a number of nations, and while making ongoing policy recommendations regarding emerging urgent situations where they occurred (in total these recommendations addressed urgent situations in nearly a dozen countries), we would focus on three priority countries. Two are nations designated by State in the IRFA process as "countries of particular concern." These are countries in which there are systematic, egregious, ongoing manifestations of religious persecution. Those countries are China and Sudan.

At the same time, we also selected another country, Russia, which reflected a completely different dynamic, a country that allows much more religious freedom. There are not the same manifestations of religious persecution, but there are growing problems. This is a country with which the United States has close relations and the ability to make its voice heard more effectively. So we targeted Russia because there are so many religious groups in that country, and in many ways it is a litmus test for all the other new independent states that have sprung up after the collapse of the Soviet empire.

The report we released May 1 was the culmination of our work since the Commission first met late last June. We've held day-long hearings on Sudan here in Washington and on China in Los Angeles. Commissioner Elliott Abrams traveled to southern Sudan and other Commissioners have visited a number of other countries. We've reviewed the State Department reports and met with human rights and church groups, experts on economic sanctions and war-crimes, and others with first-hand information about the situation of religious freedom in these

countries. We tried to visit China, but the Chinese authorities have yet to respond to our requests for visas. We held meetings at least twice a month, one in person, lasting one or two days, another by conference call. In addition, in the run-up to May 1, we spent at least 25 hours in conference calls going over every word in our recommendations and text for the Annual Report.

To me one of the most extraordinary results of the work of this religiously and politically diverse Commission is that both throughout the year and in this report, every recommendation and action was approved by consensus or unanimity. Bonded by a deep and profound commitment to addressing religious persecution for all religious groups and furthering religious freedom for all, these Commissioners' openness to diverse views, new ideas, and different approaches, combined with the respect we had for one another's expertise, allowed us to present this report with the same overwhelming support as we have manifested in our recommendations during the year. There is only one dissent by one Commissioner from two of our Sudan recommendations.

Lest there be any confusion, our formal report is the document so named. The second document is a staff report for the Chair, drawing on our work during the year. It provides helpful background, particularly for those not familiar with the details of religious life in these countries. While I think you will find it a compelling indictment of religious freedom abuses in China and Sudan, we did not feel it necessary to resolve outstanding differences nor to adopt it formally.

Russia

The Annual Report contains a host of recommendations on our three countries of primary focus. You have heard from my colleagues on China and Sudan. Let me briefly address Russia.

On the first of May the Commission presented to the Congress its Report that included a brief analysis of the state of religious freedom in Russia, and several recommendations. The Commission noted that today Russia enjoys an incomparably greater degree of religious freedom than she did under the Soviet regime. The Russian government, the Report says, "has taken some positive steps to promote religious freedom." The Constitution of the Russian Federation guarantees freedom of religion within a secular state, and the federal government has by and large adhered to these constitutional guarantees.

Regrettably, in 1997 the Duma passed the so-called Religion Law that "creates a hierarchy of religious organizations and effectively restricts the rights, powers and privileges of smaller, newer, and foreign religious communities. It also establishes an onerous and intrusive registration process and other mechanism of state interference with the activities of religious organizations."

On March 26 President Putin signed the little noticed amendment to the 1997 Religion Law, extending by one year the deadline for the registration of religious organizations that had not been able to register by December 31, 1999. This positive measure was accompanied, however, by a negative one, requiring that unregistered groups be "liquidated" after December 31, 2000. "In addition," the Commission reports, "in January 2000, President Putin signed an important directive specifying that one of the measures necessary to protect Russian national security is a 'state policy to maintain the population's spiritual and moral welfare and counter the adverse impact of foreign religious organizations and missionaries.'"

It is too early to say how this directive will be interpreted by regional and local authorities who have been the most zealous in denying registration, harassing, and liquidating unregistered religious communities including Roman Catholics, Mormons, Baptists, Seventh-day-Adventists, Jehovah's Witnesses, and even Orthodox Old Believers. The liquidation of unregistered religious communities after December 31 of this year would have particularly grievous consequences for hundreds if not thousands of small religious groups. The Commission has therefore recommended that the United States government continue, as a major diplomatic priority, to make efforts to insure that legitimate religious groups that have not registered by January 1, 2001 are not liquidated.

Regional and local authorities have not only interfered in practice with the religious freedoms of unregistered groups. One-third of Russia's constituent regions have enacted regulations that are plainly unconstitutional. Central authorities, however, have in most cases failed to enforce federal law and in many instances have themselves been guilty of violating both national and international human rights standards.

In its Report the Commission observed that in Russia the inadequacies of law are exacerbated by three widely shared traditional attitudes:

First, many hold prejudices against ethnic and religious minorities, including ... Muslims, Jews, and various Christian groups other than the Russian Orthodox Church. Second, among many Russians, longstanding nationalistic resentment against 'foreign influences' affects the treatment of religious groups that are perceived to have strong foreign ties (such as Roman Catholics, Protestants, and some Muslim groups). Third is the related belief among some that the Russian Orthodox Church or the 'traditional' religions of Russia should be accorded special privileges and protection in contrast to smaller, newer, and 'foreign' religious groups.

The Commission, having been in existence less than a year, had neither time nor opportunity to investigate in greater detail the religious situation in the Russian Federation, a formidable task considering that country's size, the heterogeneity of its population, and the number of religious groups active within it. Given the persistent threat to religious freedom in Russia and the recurring instances of violation of that freedom, particularly in regions loosely supervised by the federal government, the Commission will monitor, and recommends that the United States government continue to monitor conditions of religious freedom in Russia.

The Commission is particularly concerned about local and regional regulations enacted in violation of the Russian Constitution. Such regulations provide provincial authorities with a convenient cover, giving the appearance of legitimacy to unconstitutional acts. Instances of official harassment have reported from a number of localities in central Russia, in Tatarstan, Siberia, and elsewhere. This has prompted the Commission to recommend that the United States government "urge the Russian government to monitor the actions of regional and local officials that interfere with the right to freedom of religion or belief, and to take steps to bring local laws and regulations on religious activities into conformity with the Russian Constitution and the international human rights standards."

Religious, cultural, and ethnic or racial prejudices unfortunately exist in all societies. Russia has had a long history of virulent anti-Semitism that has varied in intensity from place to place and from time to time. Although Judaism has been accorded the status of a "traditional religion," popular anti-Semitism has not disappeared and should be carefully watched. Islam is another faith accorded the status of "traditional religion" in Russia. Yet anti-Muslim feelings are quite widespread there. The ferocity of the war in Chechnya has undoubtedly been exacerbated by the religious element. The Commission has noted that,

While the conflict in the Caucasus is primarily political and ethnic in nature, religion appears to play a role on both sides of the conflict. Islam forms the basis of Caucasian Muslim identity, and it is a significant element of resistance to domination by Moscow. Russian authorities, meanwhile, have played upon deep-seated and historic prejudices against Muslims to rally domestic support for the war, which in turn has fueled anti-Muslim attitudes in Russia by making Islam and Muslims synonymous with terrorism and extremism. These actions have apparently had a direct impact on the religious freedom of Muslims who are independent of the officially sanctioned Muslim organizations.

The Commission has recommended that the State Department make the humanitarian and human rights crisis in Chechnya a high priority issue in its bilateral relations with Russia and that Congress continue to include the "Smith Amendment" in its appropriations bills.

Ultimately religious freedom must be assured to the peoples of the Russian Federation by its own citizens through their own government. Tolerance, the acceptance of religious diversity, freedom from ethnic and religious prejudice are not easily achieved in any society, let alone in a society that has freshly emerged from decades of officially sponsored intolerance. Fortunately Russian culture is not devoid of such qualities. One has only to mention the names of Herzen, Tolstoy, Solovyev, Chekhov, or Berdyaev to make the point. The Commission has recommended that,

The United States government should actively promote religious tolerance in Russia by providing support to willing non-governmental organizations, journalists, and academic institutions engaged in programs aimed at preventing intolerance and discrimination and supporting international standards on freedom of religion or belief. The United States government should also promote religious tolerance through appropriate activities such as exhibits, conferences, and media and Internet broadcasting, particularly in regions where numerous manifestations of intolerance have occurred.

Unfortunately religious intolerance is not confined to the government or secular nationalist groups. Within Russia's traditional religious communities that have lived for decades or even centuries in relative isolation there is much suspicion of and at times open antagonism toward so called foreign religions and newer movements. A number of leaders of major religious communities have supported, or even promoted, the Religion Law of 1997, invoking the power of the state to protect themselves from the intrusion of unfamiliar ideas. To increase mutual understanding through personal contacts and dialogue, the Commission has recommended that,

The United States government should promote contacts with leaders of the Russian Orthodox Church and members of other religious communities in Russia who may benefit from traveling to the United States and meeting with American political and religious leaders. The U.S. government also should encourage appropriate American religious leaders and seminarians in traveling to Russia to discuss issues of tolerance and religious freedom.

In spite of its many defects the Russian legal system provides many opportunities to defend human rights and religious freedom. In many instances the courts have put a liberal interpretation on the Religion Law of 1997 and have protected individual believers and religious communities from overzealous officials. Recognizing the importance of effective legal advocacy for the protection of religious freedom in Russia, the Commission has recommended that the United States government support "the activities of Russian public interest organizations that defend the right to freedom of religion or belief in Russian courts. The U.S. government should promote exchanges between Russian judges, lawyers, and legal rights organizations with their counterparts in the United States."

Russia is a signatory to the Universal Declaration of Human Rights and the various covenants that establish freedom of religion or belief as a universal standard. It is therefore appropriate for the United Nations Commission on Human Rights to monitor the status of religious freedom in that country. Yet the UN's Special Rapporteur for Religious Intolerance stated in his 2000 report to the UNCHR that his request for a site visit has not been answered. The Commission therefore has recommended that the U.S. government "encourage the government of Russia to agree to the request of the UN Special Rapporteur on Religious Intolerance to visit Russia."

The Commission believes that the implementation of these recommendations would have a positive effect on religious freedom in the Russian Federation.

State Department's Annual Report on International Religious Freedom

Finally, I would like to say a few words about our review of the State Department's first Annual Report on International Religious Freedom, issued last September.

The State Department and the Office of International Religious Freedom deserve high praise for the high quality and timely publication of the first Annual Report on International Religious Freedom. Equally important was the impact of the Report in making religious freedom a higher priority for the work of every U.S. embassy and consulate.

Even so, the Commission believes that the Report can be strengthened by (a) prioritizing and evaluating information, (b) placing information in context, (c) referencing relevant law, (d) eliminating the potential for bias, (e) referencing international law incorporated into IRFA, and (f) improving the methodology for information-gathering. The Commission's comments in

this regard also apply to those sections of the Country Reports on Human Rights Practices that touch on matters related to freedom of religion or belief.

Specifically, the Reports should clearly identify the most significant religious-freedom problems in each country. Gaps in information should be identified, particularly where a foreign government itself is responsible for the inadequacy of available information. The facts and circumstances in the reports should be summarized and evaluated in light of the standards set out in IRFA.

The Report should contain enough historical, religious, and political context to present a more complete picture of religious freedom in each country. State interference with other human rights that are integral to religious exercise should be discussed. The Report should identify each country's relevant constitutional, statutory, and regulatory provisions affecting freedom of religion; explain the relationship between the state and religion; and assess whether the government and courts enforce the laws in a way that promotes religious freedom.

To mitigate bias, the Report should distinguish between religious concepts and how a foreign government may interpret them; politically loaded terms such as "cult," "sect," "orthodox," "fundamentalist," "jihad," or "Shariah" should be used in defined and appropriate ways. The consequences of state sponsorship of a favored religion should be discussed.

Commission's Upcoming Work Plan

Let me close by reviewing the Commission's work plan for the next year. First, we will continue to monitor and make recommendations on the three countries we focused on this year: China, Sudan, and Russia. The conditions that make them worth our attention unfortunately won't go away soon.

Second, we intend to issue recommendations regarding how the State Department identifies so-called "countries of particular concern" before the Department's next report in September.

Third, the Commission will continue to respond to instances of religious persecution whenever they occur. It will also begin the process of analyzing and addressing U.S. policy regarding religious-freedom issues in a larger number of countries. Countries that will draw greater attention during the next phase of the Commission's work are the seven designated by the State Department last October as "countries of particular concern" and the nearly 40

countries discussed in the Executive Summary of the State Department's Religion Report of September 9, 1999.

Fourth, the Commission will also evaluate U.S. policy options that could promote the right to change one's faith and the right to seek to persuade others to change theirs. This issue will address religious freedom issues in a large number of countries.

Lastly, the Commission will make further recommendations on the extent to which capital-market sanctions and other economic leverage should be included in the U.S. diplomatic arsenal to promote religious freedom in other nations.

Mr. Chairman, thank you again for this opportunity to speak to the Committee. With your permission, I would ask that the Commission's May 1, 2000 Report and the Staff Memorandum that accompanied it be included in the hearing record with my testimony.

Thank you.