Hearing on The Status of International Religious Freedom: an Analysis of the State Department's 2003 Annual Report

Testimony by Michael K. Young, Chair

The U.S. Commission on International Religious Freedom
Before the House International Relations Subcommittee on International Terrorism, Non-Proliferation and Human Rights of the United States House of Representatives

February 10, 2004

Mr. Chairman and distinguished Members of the Subcommittee, thank you for the opportunity to testify before you today at this important hearing. I plan to summarize the Commission's testimony in my oral remarks, but would like to request that my full written statement be included in the record.

The 2003 Annual Report on International Religious Freedom, required by the International Religious Freedom Act of 1998 (IRFA), is a noteworthy achievement demonstrating the hard work and dedication of countless foreign-service officers in our embassies around the world, as well as the Ambassador at Large and the staff of the State Department's Office of International Religious Freedom.

Countries of Particular Concern: Commission Recommendations

One of the purposes of the Annual Report is to provide the factual basis on which to shine a spotlight on those countries that have engaged in systematic, ongoing, egregious violations of religious freedom. The designation of those nations as "countries of particular concern" (CPCs) under IRFA is one of the most important human rights decisions for any administration.

The information in the 2003 Annual Report demonstrates that several countries merit CPC status in addition to those that have been named by the Secretary of State in previous years. The U.S. Commission on International Religious Freedom finds that the governments of Eritrea, India*, Pakistan, Saudi Arabia, Turkmenistan, and Vietnam have engaged in or tolerated particularly severe violations of religious freedom, and recommends that they be designated as CPCs this year. Of those that have been designated in prior years by the Secretary of State - Burma, China, Iran, Iraq, North Korea, and Sudan - it is the opinion of the Commission that, with the exception of Iraq, nothing has changed to warrant the removal of these countries

from the list.

For example, Saudi Arabia, Vietnam, and Turkmenistan have not been named CPCs, despite the appalling religious freedom conditions described in the Annual Report.

Saudi Arabia

According to the State Department, religious freedom "does not exist" in Saudi Arabia. The Saudi government forcefully bans all forms of public religious expression other than that of the government's interpretation of one school of Sunni Islam. Yet the U.S. government still has not designated Saudi Arabia a CPC. Since September 11, 2001, high-level Saudi government officials have made statements on political and educational reform, religious extremism, and the treatment of foreign workers. However, concrete steps leading to improvements in human rights have not yet been taken.

What is more, there are credible reports that the Saudi government and members of the royal family directly and indirectly fund the propagation of an exclusivist religious ideology, Wahhabism, which allegedly promotes hatred, intolerance, and other abuses of human rights, including violent acts, against non-Muslims and disfavored Muslims. This is clearly a serious problem for U.S. policy, one of global proportions. At the very least, these types of activities conflict with two important American goals outlined by the Administration: defeating extremism and terrorism, and promoting democracy and tolerance in the Middle East.

The U.S. government should be concerned when there are credible allegations that Saudi Arabia, which is itself a severe violator of religious freedom and other human rights, is engaging in activities that have a detrimental effect on the protection of freedom of religion or belief in foreign countries, including in the United States.
We have seen reports regarding almost 30 countries. Because of this, the Commission has recommended that the U.S. government examine closely whether, how, and to what extent the Saudis are funding extremist activities. We have urged Congress to fund such a study and make public its findings. It is a matter that requires immediate attention. The U.S. government should also urge that the Saudi government account for their funding of religious activities outside the Kingdom to ensure that it is not promoting human rights violations, including violence.1

Vietnam

With regard to Vietnam, passage of the Bilateral Trade Agreement with Vietnam in 2001 provided grounds for hope that it would be a catalyst in improving religious freedom and other human rights conditions. However, no improvement has occurred. Repressive policies to control religious activity remain in place; key religious leaders continue to be in prison or under house arrest, and religious believers engaged in "unrecognized religious activity" face harassment, surveillance, and detention. Moreover, Vietnamese government officials are engaged in campaigns to force members of religious minorities in the Central Highlands and northwest provinces to renounce their faith or face beatings, relocation, detention, and the loss of government services.

Ambassador John Hanford, the Ambassador at Large for International Religious Freedom, has visited Vietnam twice and discussed steps that the government should take to avoid CPC designation. Because no improvement has occurred, Vietnam should be designated this year as a CPC.

The Commission also supports passage of the Vietnam Human Rights Act, introduced by Congressman Chris Smith, which would cap non-humanitarian economic aid at 2003 levels and provide funds to improve U.S. public diplomacy and refugee programs in Vietnam. The Act would also provide funds to overcome jamming of Radio Free Asia and the Voice of America by the government of Vietnam and assistance to NGOs to support programs that promote internationally recognized human rights in Vietnam. Passage of the Vietnam Human Rights Act will make a clear statement that despite expanding trade, human rights, including religious freedom, will remain a key element of U.S.-Vietnamese bilateral relations.

Turkmenistan

For the second year in a row, the State Department has concluded that conditions of religious freedom have deteriorated in Turkmenistan. The Turkmen government effectively bans religious activity other than that of the government-controlled Sunni Muslim Board and the Russian Orthodox Church. Conditions are likely to decline even further after the passage of a new religion law that criminalizes "illegal" religious activity. Turkmenistan has not responded to U.S. concerns on religious freedom, and it should be designated this year as a CPC.

A copy of the Commission's most recent recommendations to the Secretary of State on CPC designations is attached to this testimony.

U.S. Government Efforts to Promote Religious Freedom: North Korea

and China

The overall quality of Annual Report is an indication that the U.S. government is taking seriously the issue of religious freedom. At the same time, the Annual Report is meant to be a report on U.S. policies and activities to promote those policies, and not only a report on conditions. However, it is not apparent from the information presented in the Annual Report that the State Department has conducted its activities in a coordinated way to implement particular policies and to achieve specific goals.

Ambassador Hanford has visited several countries of concern to the Commission and other senior Administration officials have raised religious freedom problems with foreign governments. Their efforts should be fully reported so that the Congress and the public can better determine if all of the tools Congress made available under IRFA to advance the protection of religious freedom abroad are being used. From the information presented in the 2003 Annual Report, the Commission is concerned that this is not the case.

A couple of examples follow.

North Korea

North Korea is another country where religious freedom does not exist. In fact, the people of North Korea are perhaps the least free on earth, barely surviving under a totalitarian regime that denies basic human dignity and lets them starve while pursuing military might and weapons of mass destruction. By all accounts, there are no personal freedoms of any kind in North Korea, and no protection for human rights. What little religious activity that is permitted by the government is apparently staged for foreign visitors.

Even in the absence of diplomatic relations, the United States could do more to promote religious freedom in North Korea. For example, the U.S. government has taken the lead in forging the 6-Party Talks on nuclear disarmament of the Korean peninsula. These talks provide an opportunity for the U.S. government to take the lead in spearheading the effort to address the non-existence of human rights, including religious freedom, in North Korea.

Bipartisan legislation has been introduced in Congress by Senators Brownback and Bayh and Congressmen Leach and Faleomavaega, and reflects several of the policy recommendations of the Commission, including expanded broadcasting into North Korea, funding for organizations

addressing human rights of North Koreans, and greater access of North Korean refugees to the U.S. refugee program. The Commission hopes that both houses of Congress take up and adopt this legislation.

North Koreans in China

Up to 300,000 North Koreans have fled their country in search of refuge and asylum during the past several years. It is a tragic and outrageous fact that those North Koreans who risk their lives to enter China face continued persecution in that country. China has labeled the Korean refugees as economic migrants and repatriates those who are caught. The Chinese government has also cracked down on non-governmental organizations (NGOs) that attempt to assist North Korean refugees, and have arrested and punished members of these organizations. The Chinese government carries out these policies even though it is clear that any alleged contact with foreigners makes a North Korean a traitor in the eyes of the regime and leads almost inevitably to a long prison term or summary execution upon return to North Korea.

The Commission strongly urges the U.S. government to press the Chinese on this matter. It is time for Chinese authorities to see this for the humanitarian crisis that it is and take affirmative steps to work with the UN High Commissioner for Refugees and NGOs in developing a process for helping these refugees. In accordance with its international commitments, China should recognize North Koreans as refugees and not forcibly repatriate them.

China

The Commission remains especially concerned about the general situation in China, where repression of religious freedom continues to be a deliberate policy of the Chinese government. In the past year, Chinese authorities have intensified their violent campaign against religious believers, including Evangelical Christians, Roman Catholics, Uighur Muslims, Tibetan Buddhists, and other groups, such as the Falun Gong. This campaign has included imprisonment, torture, and other forms of ill treatment.

For four years in a row, the U.S. government has designated China a CPC, indicating the gravity of the religious freedom abuses occurring there. However, the Secretary of State has determined that pre-existing sanctions satisfied IRFA requirements for a significant response. Although technically permissible under the statute, this is not a defensible policy. Reliance on pre-existing sanctions provides little incentive for the government of China to reduce or end severe violations of religious freedom. It is time for the State Department

to use the full range of policy tools available under IRFA and take additional actions with respect to China.

The U.S. Congress regularly funds multi-million dollar programs to promote democracy, the rule of law, and "respect for religious freedom" in China. The State Department should provide Congress with an evaluation of the impact these programs have had in promoting religious freedom and other human rights in China. Such information is important for Congress to determine how these appropriations should be spent in the future. In addition, the U.S. government should enhance its public diplomacy efforts, focusing serious attention on the plight of Uighur Muslims and Tibetan Buddhists. Radio Free Asia and Voice of America broadcasts should be expanded, and exchanges facilitated between Tibetan and Uighur and U.S. scholars, religious leaders, students, NGOs, and appropriate government officials.

The United States should also sponsor and promote a resolution to censure China at the 60th session of the U.N. Commission on Human Rights beginning in March 2004. China must know that the U.S. government will continue to raise human rights, including religious freedom, as part of its bilateral relations with China-and seek multilateral support for this effort-until the Chinese government significantly improves its protections of international standards of human rights and fully complies with its international obligations.

The Commission attempted to travel to China twice in the past year but was thwarted in both attempts by unacceptable limits imposed by the Chinese government. The Commission recently visited Hong Kong, but continues to seek a visit to other regions of China.

Actions in Response to CPC Designations

Under IRFA, the designation of a severe violator of religious freedom as a CPC is not by itself sufficient action by the U.S. government. In fact, CPC designation carries an obligation that one or more of certain actions specified in section 405 of IRFA be taken, unless the President determines that pre-existing sanctions are adequate or otherwise waives the requirement. Yet, for every country named a CPC to date, the only official actions taken have been to invoke already existing sanctions rather than taking additional action to advance religious freedom pursuant to IRFA. We strongly urge the U.S. government to engage these governments in as many ways as possible in order better to promote religious freedom in these countries, and particularly encourage use of the means outlined in Section 405 of IRFA.

USCIRF Watch List

In addition to its CPC recommendations, the Commission has established a Watch List of countries where religious freedom 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. Egypt, Indonesia, Nigeria, and Uzbekistan remain on the Commission's Watch List due to concerns about the serious abuses in these countries, and because the governments have either not halted repression and/or violence against persons amounting to severe violations of freedom of religion, or failed to punish those responsible for perpetrating those acts. Because religious freedom continues to be sharply curtailed in Cuba, and due to the deteriorating religious freedom conditions in Belarus and Georgia, the Commission has decided to place those countries on its Watch List. As a result of the continuing religious freedom problems in Laos, that country has also been placed on the Commission's Watch List.

Ensuring the Rights of Every Individual: Essential to Promoting Freedom and Democracy

In the 2003 Annual Report, the State Department recognizes the importance of advancing religious freedom as "a cornerstone of democracy [and] a central tenet of United States foreign policy." The Commission agrees. Indeed, one of the most critical components of any democratic society is the guaranteed protection of individual rights and freedoms, including the individual right to freedom of religion or belief. The Commission cannot stress strongly enough the importance of securing protections for individual rights, as affirmed in international human rights documents. Recognizing the rights and freedoms of groups does not go far enough, not least because it leaves open the possibility that a small minority within any group will usurp the power to define-or limit-the fundamental freedoms of everyone in that group.

Afghanistan

The Commission is concerned that this fundamental aspect of freedom is not getting the attention it warrants by officials in the Administration. A case in point is Afghanistan. Advancing human rights, including religious freedom, is critical to the reconstruction of Afghanistan into a state that no longer promotes terrorism and regional instability. The United States can have an enormous impact on the process of democracy building and ensuring that individual rights and freedoms are institutionally guaranteed.

In January of this year, Afghanistan adopted a new Constitution, one that was lauded by many as "one of the most enlightened constitutions in the world." It is true that the new Constitution's explicit recognition of equality between men and women and the reference to Afghanistan's commitment to its international human rights obligations

represent important steps forward in the creation in Afghanistan of a democratic system that respects the human rights of its citizens.

Yet, there is a crucial-and potentially fatal-flaw in Afghanistan's new Constitution: the absence of a guarantee of religious freedom for individual Afghan citizens. Though the Constitution provides for the freedom of non-Muslim groups to exercise their faith, it does not contain explicit protections for the right to freedom of thought, conscience, and religion for individual Muslims in Afghanistan, the overwhelming majority of the country's population. This flaw is compounded by a repugnancy clause that states that "no law can be contrary to the beliefs and provisions of Islam," and provisions for a judicial system empowered to enforce the repugnancy clause and apply Hanafi jurisprudence to cases where there is no other law on point.

With no guarantee of the individual right to religious freedom and a judicial system able to enforce Islamic principles and Islamic law, the new Constitution does not fully protect individual Afghan citizens against, for example, unjust accusations of religious "crimes" such as apostasy and blasphemy. There are also fewer protections for Afghans to debate the role of religion in law and society and to question interpretations of Islamic precepts without fear of retribution. These are not hypothetical situations, as there have been examples in the past year of blasphemy charges being used against religious and political moderates, including a sitting government minister, in order to silence them. As Afghanistan continues its transition process, the United States should take every opportunity to insist that individual human rights guarantees be instituted in Afghanistan.

It is important to note that constitutional guarantees of this kind of religious freedom and other rights exist in the constitutions of several other countries where Islam is the religion of the state.

Iraq

The Commission strongly urges U.S. officials to work vigorously to ensure that what happened in Afghanistan is not repeated in Iraq. It is the task of the United States to see that democracy is established in Iraq; indeed, it is the President's stated goal.

Although the people of Iraq are now experiencing many religious freedoms for the first time in more than two decades, some prominent individuals and groups in Iraq have been demanding the implementation of Islamic law (Sharia) in a manner that would constitute a potential threat to the freedom of thought, conscience, or religion of all

the citizens of Iraq.

Moreover, a draft of Iraq's Transitional Administrative Law (TAL) recently posted on the Internet by the Arab press indicates that a limited group right to religious freedom is provided for non-Muslims only. The individual right to freedom of religion and belief is not mentioned as one of the fundamental freedoms or human rights set forth in the draft document.

We urge the U.S. government to make every effort to ensure that the TAL and Iraq's permanent constitution contain an explicit guarantee that "everyone has the right to freedom of thought, conscience, and religion" as affirmed in article 18 of the Universal Declaration of Human Rights. Without such a guarantee, the rights of all individuals in Iraq, whether women or disfavored or non-conformist Muslims, will be at risk. The TAL should also contain a statement that the principles of democracy, pluralism, social justice, rule of law, and Iraq's international obligations are to be fundamental sources for legislation, in addition to Islam or better still, "the basic principles of Islam." Taking into account Islamic values and principles should be left to the legislative branch of government and not be judicially enforceable. Otherwise, judges believing in the primacy of Islamic law may use their positions to enforce decisions based on their own interpretations that are in contravention of international human rights standards.

Now is the time, when U.S. influence in Iraq is at its height, to ensure that protections for individual rights become institutionalized in Iraq. This is the best protection we can leave the Iraqi people. In the future, when debates on contentious issues involving religion, such as family law, inevitably arise, the people of Iraq will have tools in the TAL and the permanent constitution to prevent their democratic rights and freedoms from being rolled back.

The Annual Report on International Religious Freedom

Many of the individual country reports in the 2003 Annual Report are comprehensive and up to date, for example, those on India, Indonesia, Pakistan, and Russia. In some cases, however, questionable conclusions have been reached. The reports on Russia, Bangladesh, and China conclude that religious freedom conditions have essentially remained the same, yet the reports themselves appear to belie that conclusion. In the case of Egypt, the report concludes that the situation has improved, with little evidence to back up such a claim.

Other individual reports, while adequate on the whole, nevertheless contain significant errors or omissions. For example, in the report on Sudan, there continues to be no mention of the role of oil development in the government's previous policies of forced displacement of people from oil areas. The report on Saudi Arabia states that "the local press rarely printed articles or commentaries disparaging

other religions," when the government-run media in Saudi Arabia regularly vilifies other religions and members of other religions, including Jews, Christians, and non-Wahhabi Muslims. A particularly glaring omission in that report is the absence of any mention of reports of the Saudi export of an intolerant and hate-filled religious ideology. The report on Uzbekistan reads as if it accepts with little question the Uzbek government's view that its crackdown on religious freedom, which has swept up many observant Muslims who wish to practice independently of the state sanctioned Muslim establishment, is only a campaign against terrorists or extremists. That report also downplays the problem of torture in Uzbekistan, despite the fact that there has been no indication that the problem, described in detail last year by a report of the UN Special Rapporteur on Torture, has improved to any degree. Similarly, the executive summary of the report on Turkmenistan, a country run by a despotic dictator, seems to suggest that there is some validity to President Niyazov's concerns about political dissent as a justification for his repressive religious freedom policies.

We would also like to express concern about Appendix E of the report, the "Overview of U.S. Refugee Policy." One function of the religious freedom report is to serve as a resource for officials adjudicating refugee and asylum claims.2 Appendix E, however, contains information that can mislead these officers, and does not adequately explain the linkage between the refugee program and religious freedom. One example is the East Asia paragraph, which simply states "Most countries in the region permit freedom of worship." There is no mention at all of Burma, China or North Korea-each of them a CPC-nor of Vietnam, which the Commission has recommended for CPC status.3

Religious Persecution and the U.S. Refugee Program

Consistent with sections 601 and 602(d) of IRFA, the international religious freedom report includes a refugee section, and the Refugee Admissions Report to Congress contains sections on religious freedom. Neither document, however, adequately details the response of the refugee program to refugees who have fled religious persecution in general, or CPCs in particular.

Several steps should be taken to improve the institutional linkages between religious persecution and access to the U.S. Refugee Program. These include: 1) better training of refugee and consular officers in the field on refugee and asylum adjudications and human rights, particularly religious freedom, as required by sections 602 and 603 of IRFA; 2) a systematic effort to improve access to resettlement for those who have fled CPCs and other countries where there are severe violations of religious freedom, and (3) the implementation of the operational requirements imposed on the refugee program by IRFA.4

It should be noted that the processing of religious minorities from Iran is inaccurately characterized in the 2003 Annual Report, which states that "Iranian refugees who belong to religious

minorities are able to apply directly for U.S. resettlement."5 In fact, an Iranian may not "directly" apply to the United States for resettlement without first obtaining a visa to Austria. Austria, however, recently stopped issuing visas to Iranian Christians, citing the high denial rate of this group by U.S. refugee adjudicators. In January of this year, Congress responded by passing the Specter Amendment, which clarifies the adjudication standard for refugee applications from members of Iranian religious minorities. Nonetheless, we understand that the United States and Austria may soon require Iranian Jews, Baha'is, and Christians to complete a "preliminary questionnaire" at the Austrian Embassy in Iran explaining the persecution that they face in Iran. The Commission is concerned that this procedure will be administered, at least in part, by Iranian nationals employed at the Austrian Embassy. Such a procedure is not only potentially dangerous for those members of religious minorities seeking asylum, but is now entirely unnecessary with the passage of the Specter Amendment.

Conclusion

Thank you again for holding this important hearing and inviting the Commission to testify. I am happy to answer any questions that you may have regarding my statement.

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* Commissioners Bansal, Gaer, and Young dissent from the Commission's recommendation that India be designated a country of particular concern (CPC). Their views with respect to India are reflected in a separate opinion, attached to a letter sent to Secretary of State Colin L. Powell on February 4, 2004. Commissioner Chaput also joins this separate opinion, and would place India on the Commission's Watch List rather than recommend that it be designated a CPC.

1 There are other steps the U.S. government should undertake immediately with respect to Saudi Arabia. For example, the U.S. government should urge Saudi Arabia to safeguard the freedom to worship privately; permit clergy to enter the country and perform private religious services; and permit non-Wahhabi places of worship to function openly in special compounds or in unadorned buildings. These represent the barest minimum that could be done to improve the appalling religious freedom situation in Saudi Arabia. In addition, U.S. programs to promote democracy and educational reform in the Middle East should include components for Saudi Arabia.

2 IRFA Section 601.

3 In other regional sections, there is little indication of the serious problem of intra-religious persecution, but there is instead an almost exclusive focus on inter-religious strife. Moreover, there is no mention whatsoever of refugee-source countries such as Eritrea and Afghanistan, where serious religious freedom problems persist. Saudi Arabia and Pakistan, which the Commission has recommended be designated as CPCs, are cited in the refugee section for their mistreatment of religious minorities. However, the section does not indicate how the U.S. Refugee Program has been responsive to this mistreatment. Indeed, the U.S. admitted only 18 refugees from Pakistan last year and none from Saudi Arabia.

4 Of the programs put in place in response to IRFA's training requirements, the Asylum Corps has distinguished itself with its enthusiastic compliance. The Commission urges the other refugee and asylum decision-making entities-the Consular Service, the Executive Office for Immigration Review, and the nascent Refugee Corps-to comply with IRFA requirements by emulating the Asylum Corps' basic training and continuing education programs. The Commission is ready to support and participate in such training efforts. The importance of training adjudicators, judges, and consular officers, who have the authority to refer refugees to the Department of Homeland Security for an interview, cannot be over-emphasized in ensuring protection for those who are fleeing religious persecution.

5 Appendix E.