

CHINA

A. Introduction

Despite the Chinese government's signature on and/or ratification of several international human rights treaties, and its stated adherence to the Universal Declaration of Human Rights, it has continued to commit severe violations of freedom of religion and belief and to discriminate against individuals on the basis of their religion or belief. The widespread and serious abuses of the right to freedom of religion and belief in China are documented by the State Department, this Commission, and religious and other non-governmental organizations (NGOs). In October 2001, the Secretary of State concluded for the third straight year that the Chinese government severely and systematically violates freedom of religion and belief, and named China as a "country of particular concern" (CPC) under the International Religious Freedom Act of 1998 (IRFA). There are numerous egregious violations against members of many of China's religious and spiritual communities, including Evangelical Christians, Roman Catholics, Tibetan Buddhists, Uighur Muslims, and other groups, such as the Falun Gong, that the government has labeled "evil cults."

In order to protect freedom of thought, conscience, religion, and belief, the Chinese government must take effective steps in the following four critical areas. U.S. policy should encourage such steps and effectively respond to whether or not such steps are indeed taken.

(I) Ending the Crackdown

The Chinese government should end the abusive practices that constitute its current crackdown on religious and spiritual groups throughout China.

(II) Reforming the Repressive Legal Framework

The Chinese government should substantially change its system of laws, policies, and practices that govern religious and spiritual organizations and activities. It should establish an effective mechanism of accountability for alleged violations of the right to freedom of religion and belief and the human rights of religious believers, and for related abuses.

(III) Affirming the Universality of Religious Freedom and China's International Obligations

The Chinese government should fully respect the universality of the right to freedom of religion and belief along with other human rights. The Chinese government should also ratify the International Covenant on Civil and Political Rights (ICCPR). The U.S. government should undertake to strengthen scrutiny by international and U.S. bodies of China's human rights practices and the implementation of its international obligations.

(IV) Fostering a Culture of Respect for Human Rights

In light of its international obligations to ensure and protect human rights, the Chinese government should take steps to initiate and foster a culture of respect for human rights in China. The Chinese government can be assisted and motivated in this effort through U.S. government

action in the areas of foreign assistance, public diplomacy, securities disclosure requirements, business practices, as well as other avenues.

B. Commission Recommendations

I. Ending the Crackdown

The Chinese government should end the abusive practices that constitute its current crackdown on religious and spiritual groups throughout China.

1. The U.S. government should urge the Chinese government to:

1.a. halt the harassment, surveillance, arrest, and detention of persons on account of their manifestation of religion or belief;

1.b. end abusive practices such as detention, torture, and ill-treatment in prisons, labor camps, psychiatric facilities, and other places of confinement against such persons;

1.c. cease practices that coerce individuals to renounce or condemn any religion or belief;

1.d. cease discrimination against individuals on the basis of their religion or belief, which currently exists in the areas of government benefits, including education, employment, and health care; and

1.e. provide access to religious persons (including those imprisoned, detained, or under house arrest or surveillance) in all regions of China (including Tibet and Xinjiang) by foreign diplomats, humanitarian organizations, and international human rights and religious organizations, as well as the U.S. Commission on International Religious Freedom.

Despite the Chinese government's signature on and/or ratification of several international human rights treaties and its stated adherence to the Universal Declaration of Human Rights, it has continued to repress and discriminate against individuals on the basis of their religion or belief.¹ The widespread and serious abuses of the right to freedom of religion and belief in China are documented by the State Department, this Commission, and religious and other non-governmental organizations (NGOs). In October 2001, the Secretary of State concluded for the third straight year that the Chinese government severely and systematically violates freedom of religion and belief, and named China as a "country of particular concern" (CPC) under the International Religious Freedom Act of 1998 (IRFA). The 2001 State Department report on China concludes that the Chinese government's "respect for freedom of religion and freedom of conscience worsened" during the period of that report (July 2000 – June 2001).

The Chinese government's crackdown on freedom of religion and belief targets several groups, including Evangelical Christians, Roman Catholics, Tibetan Buddhists, Uighur Muslims, and other groups, such as the Falun Gong, that the government has labeled "evil cults." It has

resulted in torture and scores of deaths at the hands of police and other security officials, as well as surveillance, detention, imprisonment, and other abuses in confinement. As part of its violent repression of the Falun Gong, the government has pressured individuals to condemn Falun Gong adherents and renounce that group's beliefs. The U.S. government should continue to strengthen its efforts to oppose these and other abusive practices that constitute the Chinese government's crackdown on religious and spiritual believers.

The Chinese government continues to deny access to religious persons in all parts of China by international human rights and religious organizations, humanitarian groups, and in many cases, foreign diplomats. As an example, the State Department, in its 2001 *Annual Report on International Religious Freedom*, stated that Chinese authorities "were increasingly unwilling to allow" U.S. diplomatic personnel stationed in China to visit Tibet." The Chinese government also continues to deny foreign diplomats and human rights monitors, including UN representatives, access to the boy designated by the Dalai Lama to be the 11th Panchen Lama. He has not been seen since 1995. The Chinese government has hosted a visit by the UN Special Rapporteur on Religious Intolerance, and has reportedly invited the UN Special Rapporteur on Torture to visit China (although the visit had not taken place by the time of this report). However, the Special Rapporteur on Religious Intolerance reported that he was not given the access that he requested, and the Chinese government has failed to implement recommendations made in his report. The UN High Commissioner for Human Rights has visited China on several occasions since 1998 and has made several recommendations for human rights reforms. However, NGOs have not been allowed to investigate reports of human rights violations. Finally, since 2000, this Commission has made three formal requests to the Chinese government for permission to visit China. The government has either failed to respond or denied the Commission's requests.

2. The President of the United States should ensure that efforts to promote religious freedom in China are integrated into the mechanisms of dialogue and cooperation with the Chinese government at all levels, across all departments of the U.S. government, and on all issues, including security and counter-terrorism.

The U.S.-China bilateral relationship encompasses a broad range of issues, including security matters, counter-terrorism cooperation, and a sizable bilateral economic relationship. In 2000, U.S. companies directly invested approximately \$4.3 billion in China. Total trade between the two nations rose from \$4.8 billion in 1980 to \$116.4 billion in 2000, making China the fourth largest U.S. trading partner. Since September 11, 2001, U.S.-China relations have expanded as the U.S. government welcomed Chinese cooperation in the international campaign against terrorism. In October, President Bush attended the Asia Pacific Economic Cooperation (APEC) summit meeting in Shanghai and met with Chinese President Jiang Zemin.

As one of the human rights most abused by the Chinese government, the right to freedom of religion and belief must be a part of U.S. initiatives to promote human rights in China. The U.S. government has stated that human rights is an issue over which there is disagreement with the Chinese government, and that President Bush raised religious freedom concerns directly with President Jiang Zemin during their meeting in October 2001. Following the President's example, abuses of religious freedom, alongside other human rights, should be raised and

progress should be reviewed at all levels of interaction and on all issues with the Chinese government, including security, counter-terrorism, trade, and investment. Isolating concern for human rights from other aspects of the relationship – for example, relegating it only to the bilateral U.S.-China human rights dialogue – may signal a lack of concern on the part of the U.S. government or a false compartmentalization within U.S. foreign policy toward China.

Given the human rights situation of Uighur Muslims in China, it is particularly important to raise religious freedom concerns in the context of counter-terrorism cooperation with China. Although the Chinese government claims that Uighurs are associated with international terrorism, the State Department has documented serious human rights abuses as part of the crackdown against them, including religious freedom violations. President Bush, in his address to the UN General Assembly in November 2001, cautioned against using the anti-terrorism campaign “as an excuse to persecute” ethnic minorities. Moreover, in January 2002, in response to a question relating to the Chinese government’s issuance of a report on the alleged terrorist activities of Uighur separatists in Xinjiang, the State Department spokesperson reiterated that while the U.S. government “oppose[s] terrorist violence in Xinjiang or anywhere else in China...we have made clear to Beijing that combating international terrorism is not an excuse to suppress legitimate political expression. Effective counter-terrorism requires a respect for fundamental human rights.”²

3. Prior to any state visit by the respective heads of state of the United States and the People’s Republic of China, the President of the United States should obtain assurances that: (a) freedom of religion and belief will be included as a prominent agenda item for his discussions; and (b) he be given an opportunity to address the Chinese people directly by live, uncensored broadcast of a major speech on fundamental human rights and freedoms, particularly freedom of religion and belief.

4. During any state visit to China, the President of the United States should take further steps to promote religious freedom in his activities and those of the delegation. The Commission should be invited to designate representatives to participate in the delegation.

In February 2002, President Bush will be conducting a state visit to China. The Commission recommends that before the President undertakes the visit, he should obtain assurances from the Chinese government that freedom of religion and belief will be included as a prominent part of the agenda, and that the President will be given an opportunity directly to address the Chinese people about U.S. concerns for the protection of freedom of religion and belief in China. These conditions will not only demonstrate U.S. resolve in promoting religious freedom in China, but the Chinese government’s reaction to them will be a measure of its commitment to a meaningful dialogue on human rights, including religious freedom.

An important aspect of promoting religious freedom in China is for representatives of the United States to inform the Chinese people why the U.S. government is concerned about human rights practices in China. During his state visit to the former Soviet Union in 1988, President Ronald Reagan gave an address to Russian students at Moscow State University in which he

described in detail the commitment of Americans to democracy, freedom of speech and the press, and freedom of religion. The address was well received among Russians.

The Commission urges the President, in his upcoming visit to China, to follow this precedent and address the Chinese people directly in similar fashion to express why the U.S. government, on behalf of the American people, is concerned with violations of internationally recognized human rights, including religious freedom, and why it is U.S. policy to oppose such violations anywhere in the world – and not just in China. Recalling that Chinese state television essentially censored Secretary of State Colin Powell’s remarks during his visit to China in July 2001, the President should obtain assurances from the Chinese government that his address would not be censored and would be accurately translated into the Chinese language in its entirety.³

In addition to raising religious freedom concerns with Chinese leaders, the President should also personally express his support for a renewed U.S.-China human rights dialogue and the hope that such a dialogue will produce concrete results in the protection of religious freedom. He should also invite Chinese officials, religious leaders, scholars, and others concerned with religious freedom to visit the United States and seek opportunities for American counterparts to visit China.⁴ Finally, the President should invite the Commission and the Ambassador-at-Large for International Religious Freedom to participate in the presidential delegation as a demonstration of the U.S. government’s concern for promoting religious freedom in China.

5. The U.S. government should consistently raise with the Chinese government at the highest levels individual cases of violations of the right to freedom of religion and belief.

6. The U.S. government should instruct the U.S. Embassy in Beijing and U.S. consulates in China to continue to monitor the status of individuals who are arrested or detained in violation of their human rights.

As part of China’s crackdown on religious and spiritual believers, individuals have been charged with, or detained under suspicion of, offenses that essentially penalize the otherwise harmless manifestation of freedoms of religion or belief, speech, association, or assembly. In addition, prominent religious figures have been detained or charged with trumped-up criminal charges (such as rape and other sexual violence, or financial crimes). The U.S. government should consistently raise these cases at all levels of interaction with the Chinese government. Recent examples include a Hong Kong resident, Mr. Li Guangqiang, who was arrested in May 2001 and charged with importing Bibles associated with an “evil cult.” The President, the State Department, and Members of Congress publicly raised concern about this case. Mr. Li’s charges were reduced and he was given a sentence of two years – much less than was originally sought by Chinese government prosecutors – following this public intervention. Mr. Li was apparently released in February 2002. At the same time, and reportedly for the first time since the adoption of the 1999 “evil cult” law, a Protestant Christian pastor has been sentenced to death. Pastor Gong Shengliang of the underground “South China Church” was sentenced to death in December for founding an “evil cult” and on reportedly questionable charges of assault and sexual violence.

Other prominent cases include Bishop Su Shimin, who has spent more than 20 years in prison and who is perhaps the most prominent leader of China's underground Catholic Church movement. He was re-arrested in October 1997 after spending 17 months in hiding. Ms. Wang Yulan was arrested, along with 35 Chinese Christians, in May 2001 in Inner Mongolia while attending a religious service held at a private home. Ms. Wang was sentenced to serve three years in a re-education labor camp. Dr. Teng Chunyan is a U.S. permanent resident and Falun Gong practitioner who was arrested in China in May 2000. She was sentenced to three years in prison on charges that she provided state secrets to foreigners while documenting the illegal detention and abuse of Falun Gong practitioners in China's mental hospitals. Khenpo Jigme Phuntsok was chief abbot of Serthar Buddhist Institute, or Larung Gar, a semiofficial Buddhist academy in Kanze, Sichuan Province. Thousands of his followers were reportedly expelled from the academy following his arrest in June 2001. Mr. Jalaliddin Abdumanak has reportedly been detained in Urumqi Bajahu Prison since June 1995 for engaging in illegal religious activities.

U.S. diplomatic personnel in China should continue and expand their efforts to monitor the status of individuals such as these who have been arrested or detained in violation of their human rights, including, where appropriate, by visiting these individuals and attending legal proceedings.

7. In its reporting on conditions of religious freedom in China, the State Department should:

7.a. articulate regional and local variations in the protection of the right to freedom of religion and belief;

7.b. identify specific individuals and/or entities that commit violations of this right; and

7.c. consider the record of provincial and local officials in protecting freedom of religion and belief when deciding whether to deepen cultural and economic cooperation between the United States and China.

There are significant regional and local variations in the protection of the freedom of religion and belief in China. The State Department's Annual Report on International Religious Freedom has for several years chronicled Chinese government abuses of freedom of religion and belief. The reports, however, would benefit from an analysis of regional and local variations in the protection of religious freedom. The State Department should also identify government agencies, instrumentalities, and specific individuals who are responsible for violations. The International Religious Freedom Act of 1998 (IRFA) requires the identification of parties responsible for particularly severe violations of religious freedom in CPC countries.⁵ Identification of responsible parties is important for several reasons. IRFA explains that designation is to be made in order to target appropriately the sanctions imposed under that Act. In addition, developing a list of individual responsible parties is necessary to enforce immigration provisions excluding them from the United States. Section 604 of IRFA provides that government officials who are "responsible for or directly carried out" particularly severe violations of religious freedom are ineligible for visas or entry to the United States (including

spouses and children of the said officials). The State Department has in the past been committed to identifying responsible parties when reliable information becomes available. The Commission believes that the Department should now have such information in at least some cases. Finally, when promoting cultural or economic activities in China, the U.S. government should consider the record of provincial and local officials on protecting the freedom of religion and belief.

II. Reforming the Repressive Legal Framework

The Chinese government should substantially change its laws, policies, and practices that govern religious and spiritual organizations and activities. It should establish an effective mechanism of accountability for violations of the right to freedom of religion and belief and the human rights of religious believers, and for related abuses.

8. The U.S. government should urge the Chinese government to respect and fully implement the freedom of individuals and organizations to engage in religious activities outside of state control and free from government interference, in accordance with international human rights standards. This freedom must not be limited to the five state-sanctioned religious groups, but should encompass all groups that are engaged in the manifestation of religion or belief. This freedom includes, *inter alia*, as affirmed in the international instruments to which the Chinese government is a party, the right:

8.a. to worship publicly;

8.b. to express and advocate religious beliefs;

8.c. to distribute religious literature;

8.d. (for parents) to ensure the religious and moral education of their children in conformity with their own convictions;

8.e. (for religious groups) to govern themselves according to their own rules, including:

8.e.1. to select and train their leaders;

8.e.2. to define and teach the beliefs and doctrines to which they adhere;

8.e.3. to solicit and receive voluntary financial and other contributions;

8.e.4. to establish and maintain associations for religious and spiritual purposes; and

8.e.5. to establish freely and maintain communications with individuals and communities – both inside and outside China – in matters of religion and belief.

The Chinese government has a policy to control religion and the activities of religious groups to ensure that religious believers and their activities do not interfere with the authority and policies of the Chinese Communist Party and Chinese socialism. In order to enforce this policy, the Chinese government maintains a framework of laws, regulations, and practices that organize the relationship between religious communities and the state and that set out the boundaries of “legal” and “illegal” religious activities in China. Important aspects of this framework are laws that allow for the banning of so-called “evil cults,” and those that require groups to register with the government in order to conduct religious activities. This system not only provides legal cover for the crackdown on religious and spiritual groups and their members described above, but also substantially constricts the ability of all religious communities in China – whether or not they are recognized or registered with the government – to manifest religion or belief. Other aspects, such as excluding religious believers from membership in the Communist Party (and the access to employment, education, health care, and other services that such membership brings), constitute discrimination on the basis of religion or belief.

These restrictions violate the right to freedom of religion and belief (as set forth in international human rights instruments such as the Universal Declaration of Human Rights) in that they prevent groups from undertaking basic activities such as worship, other expressions of religious belief, and education. They also prevent groups from organizing and operating according to their own religious principles, including the training and selection of leaders. The Chinese government has essentially decided that it should be the judge of the correctness of what are the theological decisions of religious groups. Restrictions also prevent parents from providing for the religious and moral education of their children in conformity with their convictions.

One prominent feature of Chinese control of religious and spiritual activities is the heavy restrictions placed on foreigners in China. A Religious Affairs Bureau Directive of August 2000 (updating State Council Regulation No. 144 from 1994) prohibits foreigners from “interfering” with religious activities in China. The Directive also includes prohibitions on establishing places of worship, conducting religious education, and being involved with the appointment of clergy or any other internal decision of a religious group.⁶ The application of these prohibitions contravene specific provisions in the 1981 UN Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief that guarantee the freedom of religious groups to receive financial and other contributions and otherwise to communicate or interact with coreligionists abroad.⁷

Under international human rights standards, a government can restrict the freedom to manifest religion or belief, but only in ways that are directly proportionate to the actual need to promote specific interests, such as the protection of public order, safety, health, and the rights and freedoms of others.⁸ Chinese restrictions on religious freedom go well beyond these permissible limitations. The U.S. government should urge the Chinese government to bring its laws and practices into conformity with international standards on the freedom of religion and belief, and in particular to eliminate facets of state control of and undue government interference with religious groups and the conduct of religious activities.

9. The U.S. government should urge the Chinese government to establish a mechanism for reviewing cases of persons detained under suspicion of, or charged with, offenses relating to state security, disturbing social order, “counterrevolutionary” or “splittist” activities, or organizing or participating in “illegal” gatherings or religious activities. This mechanism should also review cases of detained or imprisoned religious leaders (many of whom have been charged with specious criminal offenses).

10. The U.S. government should urge the Chinese government to drop charges against, and/or to release from imprisonment, detention, house arrest, or surveillance persons who are so restricted on account of their manifestation of religion or belief, as well as any others who, in contravention of international human rights standards, have been detained or sentenced unjustly.

An untold number of individuals in China have been detained, imprisoned, or otherwise limited in their movements or subjected to surveillance because they manifest their religion or belief. Many religious leaders and members of “illegal” religious groups in China have been subjected to multiple instances of detention and harassment, forcing them to be constantly in hiding to evade the Chinese authorities. As described above, these individuals include those who have been charged with, or detained under suspicion of, offenses that penalize the manifestation of religion or belief, as well as individuals that have been charged with criminal offenses for the purpose of harassing those individuals. In order to take meaningful steps to protect the right to freedom of religion and belief, the U.S. government should urge the Chinese government to review these individual cases, and individuals who have been either improperly charged or unjustly confined should be released or have such charges removed, as appropriate.

11. The U.S. government should urge the Chinese government to allow both faith-based and secular non-governmental organizations formally to establish and maintain institutions to provide humanitarian and social services in China.

The State Department’s 2001 *Annual Report on International Religious Freedom* states that both Christian and Buddhist groups have worked with local officials in China to operate schools, orphanages, and other social service programs. In these cases, both foreign and domestic groups have been permitted to operate as long as they agree not to engage in proselytism as part of the programs. Moreover, many of the groups associated with these institutions are not officially registered, leaving them (and the institutions) in a tenuous legal position. The U.S. government should emphasize to the Chinese government the positive contribution that religious and secular NGOs can make to Chinese society, and urge that such groups be permitted freely to establish and maintain institutions to provide humanitarian and social services. This freedom is explicitly mentioned in the 1981 UN Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief.⁹

III. Affirming the Universality of Religious Freedom and China's International Obligations

The Chinese government should fully respect the universality of the right to freedom of religion and belief along with other human rights. The Chinese government should also ratify the International Covenant on Civil and Political Rights (ICCPR). The U.S. government should undertake to strengthen scrutiny by international and U.S. bodies of China's human rights practices and the implementation of its international obligations.

12. The U.S. government should urge the Chinese government to:

12.a. reaffirm its commitment to the protection of the internationally recognized right to freedom of thought, conscience, religion, and belief;

12.b. ratify the International Covenant on Civil and Political Rights (ICCPR); and

12.c. abide by its international commitments and recognize as refugees North Koreans who have fled that country and who meet international criteria.

The Universal Declaration of Human Rights and the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief proclaim the right to freedom of thought, conscience, and religion, which includes the freedom "either individually or in community with others and in public or private, to manifest...religion or belief in worship, observance, practice or teaching." Since the 1980s, the Chinese government has ratified a number of international human rights treaties that contain binding obligations to protect freedom of religion and belief: the Convention on the Elimination of All Forms of Discrimination against Women (ratified in 1980); the International Convention on the Elimination of all Forms of Racial Discrimination (ratified in 1981); the Convention on the Rights of the Child (ratified in 1992); and the International Covenant on Economic, Social and Cultural Rights (ratified in 2001). Although China signed the ICCPR in 1998, it has yet to ratify it.

The Chinese government has on several occasions publicly stated its adherence to international human rights standards that guarantee freedom of thought, conscience, religion, and belief. Notably, in 1997, on the occasion of Chinese President Jiang Zemin's state visit to the United States, the two governments issued a joint statement recognizing "the positive role of the Universal Declaration of Human Rights and other international human rights instruments" and reiterating "their commitment to the promotion and protection of human rights and fundamental freedoms."

Systematic, egregious violations of the right to freedom of religion and belief by the Chinese government breach its commitment to protect human rights and abide by its international obligations to do so. The U.S. government should urge the Chinese government to reaffirm to the Chinese people and the international community its commitment to protect human rights as set forth in international instruments, including the right to freedom of religion and

belief. One important concrete step China can take is to ratify the ICCPR and uphold its commitments on the other human rights treaties.

Concerning refugees, China is a party to both the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol to that convention. Under these treaties, China has committed to not expel or return refugees to a country where their life or freedom would be threatened on account of their religion or other status. The 1967 Protocol commits China to cooperate with the UN High Commissioner for Refugees (UNHCR).

Between 30,000 and 300,000 North Koreans are now in China, having fled to escape the dire conditions in the Democratic People's Republic of Korea (DPRK), including the denial of religious freedom in that country, along with other human rights. Since 2000, many North Koreans in China have been forcibly repatriated.¹⁰ Moreover, the Chinese government does not grant refugee status to fleeing North Koreans who would meet international criteria for that status. Nor does it currently allow the UNHCR to operate in the border region to conduct interviews to assess refugee status or to provide services to refugees and arrange for orderly transit to other countries that would be willing to resettle such persons.

The U.S. government should urge the Chinese government, in accordance with its international commitments, to recognize as refugees those North Koreans who have fled the DPRK and who meet international criteria as refugees. In addition, the United States should urge the Chinese government not to permit forcible repatriation of North Korean refugees.

13. The U.S. government should take steps to ensure that the annual U.S.-China human rights dialogue involves high-level officials and, along with consideration of other human rights, serves as a forum to: (a) communicate U.S. concerns about the protection of freedom of religion and belief in China; (b) review the requirements of international human rights standards regarding the right to freedom of religion and belief; and (c) establish measurable goals and practical steps for improvement.

In October 2001, the U.S.-China annual bilateral human rights dialogue was resumed after a hiatus of over two years. While the resumption of the dialogue is a welcome step, its usefulness as a mechanism to promote respect for human rights will be measured by concrete results. The Commission met in Washington with the Chinese delegation to the dialogue, and the delegation's members appeared to view the dialogue as an end in itself, rather than as a means to specific steps to improve the protection of human rights. In this regard, the parties should establish measurable goals and set out practical steps that should be taken to reach those goals. Steps along the lines of those articulated in recommendations 1 and 8 above could be used as benchmarks for improvement in respect for the right to freedom of religion and belief. The U.S. government should also – as means to establish goals and benchmarks for improvement – negotiate a binding agreement within the context of the dialogue and as authorized under section 405(c) of IRFA.

In addition to concerns raised by the State Department in the formal sessions of the dialogue, religious freedom issues were discussed with the Chinese delegation to the bilateral dialogue during its meeting with the Commission in October. The Department should continue

to consider ways within the context of the dialogue – in addition to its formal sessions – that religious freedom can be addressed and improved. If the dialogue is successful in establishing measurable and practical steps, the Commission should continue to participate.

14. Until China significantly improves its protection of freedom of religion and belief, the U.S. government should propose and promote a resolution to censure China at the annual meeting of the UN Commission on Human Rights, and engage in sustained efforts to enlist the support of other governments at the highest levels to both vote for and advocate such a resolution.

In the last decade, the United States has played a leading role in sponsoring and lobbying for resolutions criticizing China's human rights practices at the annual sessions of the UN Commission on Human Rights (UNCHR). In 1995, the U.S. and other members of the UNCHR, for the first time, succeeded in defeating a Chinese procedural motion to take "no action" on a resolution, and thus brought to a vote on substantive issues a resolution censuring China, which was defeated by a single vote. As before, China has continued to lobby intensively and successfully against such resolutions. During the 2001 session, the United States again sponsored a resolution, but the Commission voted 23-17 (with 12 abstentions) in favor of China's "no action" motion on the resolution, thereby ensuring that the resolution would not be discussed or voted upon. Although the United States will not be a member during the 2002 UNCHR session, it should continue its leadership on this issue by proposing and promoting a resolution to censure China at the session, and it should engage in sustained efforts to enlist the support of other governments at the highest levels to both vote for and advocate such a resolution.

15. The U.S. government, at the highest levels, should urge foreign governments and appropriate international entities (such as the European Union) to join the United States in a common policy that vigorously promotes freedom of religion and belief in China along with other human rights. The components of such a policy should include human rights monitoring and a dialogue with the Chinese government that incorporates specific benchmarks.

Several foreign governments, along with the European Union (EU), have expressed concern about human rights in China, including religious freedom. For example, the EU has established a dialogue with the Chinese government on human rights. The United States should make promotion of human rights in China – through both bilateral and multilateral means – a feature of its discussions with interested foreign governments and the EU and encourage them to join in a common policy with the United States to promote vigorously the freedom of religion and belief, along with other human rights.

16. The U.S. government should endeavor to establish an official U.S. government presence, such as a consulate, in Lhasa, Tibet and Urumqi, Xinjiang, in order to monitor religious freedom and other human rights.

As noted above, the Chinese government has at times restricted access of U.S. diplomats to both Tibet and Xinjiang province. This lack of access has hindered the ability of U.S. diplomats to monitor and investigate reports of serious human rights abuses in those regions. When this report went to print, the House of Representatives and the Senate Foreign Relations Committee have passed provisions in the Foreign Relations Authorization Act for fiscal years 2002 and 2003 calling on the State Department to use its best efforts to establish an official presence in Lhasa, Tibet. The Commission believes that it is important for the U.S. government to establish an official presence in both Tibet and Xinjiang in order to engage in consistent monitoring of the conditions of religious freedom and other human rights in those parts of China.

17. The U.S. Congress should continue to engage in and expand its ongoing review of human rights practices in China jointly with the U.S. Commission on International Religious Freedom. The U.S. Congress should also extend an invitation to the Dalai Lama to address a Joint Meeting of Congress.

The U.S. Congress, through the offices of its Members as well as its formal and informal bodies (including the House International Relations Subcommittee on International Operations and Human Rights and the Congressional Human Rights Caucus), has taken the lead in spotlighting human rights abuses committed by the Chinese government. One important occasion for such scrutiny was the annual review of China's trade status, which was discontinued with the advent of Permanent Normal Trade Relations for that country. The Commission urges the Congress to continue to engage in and expand its ongoing review of human rights violations in China, and it welcomes the opportunity to work closely with the Congress to ensure a consistent monitoring of the conditions of religious freedom in China. The Commission also urges the Congress – as a reflection of its ongoing commitment to reviewing the status of human rights in China – to invite the Dalai Lama, as the leader of Tibetans around the world, to address a Joint Meeting of Congress.

IV. Fostering a Culture of Respect for Human Rights

In light of its international obligations to ensure and protect human rights, the Chinese government should take steps to initiate and foster a culture of respect for human rights in China. The Chinese government can be assisted and motivated in this effort through U.S. government action in the areas of foreign assistance, public diplomacy, securities disclosure requirements, business practices, as well as other avenues.

18. In its promotion of religious freedom, the U.S. government should resolutely oppose other human rights violations in China that are closely connected to violations of religious freedom. Such violations include, among others: torture; unlawful arrest or detention; arbitrary executions; absence of due process and discriminatory treatment under the criminal procedure code (including the lack of access to family members, human rights monitors, adequate medical care, and a lawyer); and violations of the rights of freedom of expression (including the freedom to seek, receive, and impart information), freedom of association, and peaceful assembly.

The U.S. government should urge the Chinese government to abide by its international obligations and ensure that the basic human rights of religious believers are not violated. In order to ensure protection of religious freedom in China, improvements must be made in the protection of many basic rights. As discussed above, violations of the right to freedom of religion and belief in China are closely related to violations of other rights. To ensure a comprehensive approach to promoting religious freedom, the U.S. government should resolutely oppose these other human rights violations. Such actions also emphasize the interrelatedness of religious freedom and other human rights.

19. The U.S. government should, through its foreign assistance, visitor exchanges, and other public diplomacy programs, expand its efforts to promote and protect human rights, including freedom of religion and belief, in China through supporting and, as appropriate, funding:

19.a. individuals and organizations in China that are advocating respect for China's international human rights obligations, including freedom of religion and belief;

19.b. exchanges between Chinese (including Tibetan and other ethnic minorities) and U.S. scholars, experts, representatives of religious communities and non-governmental organizations, and appropriate officials (both at the central and local levels) regarding the relationship between religion and the state, the role of religion in society, international standards relating to the right to freedom of religion and belief, and the importance and benefits of upholding human rights, including religious freedom; and

19.c. the efforts of those both inside and outside China to promote the rule of law, legal reform, and democracy in China.

Critics claim that the United States is already giving China a “free pass” on employing repressive human rights measures in exchange for its cooperation in the war against terrorism. The U.S. government must not encourage or acquiesce in such a trade-off. The State Department is currently planning the expansion of its foreign assistance programs for the promotion of democracy and the rule of law in China, including Tibet and Xinjiang. U.S.-assisted rule of law and legal reform programs are not currently focused on promoting human rights, but many believe that these programs are helping to create structures and promote practices within the Chinese legal system that will be consistent with, and perhaps in the future supportive of, the protection of human rights. The Chinese government has prevented these programs from including democracy or human rights components.

The U.S. government should continue and expand its efforts to promote legal reform and rule of law in China. At the same time, however, the United States should also be seeking ways to support, with funding if appropriate, those groups and individuals both inside and outside of China that are concerned with promoting democracy and protecting human rights. One goal of these programs should be to raise the awareness of such groups and individuals of the importance of the protection of the right to freedom of religion and belief as a necessary

component of the overall protection of human rights in China. The U.S. government should also be seeking expanded opportunities to bring to the United States Chinese citizens (including persons belonging to religious and ethnic minorities) concerned about human rights, as well as Chinese officials with responsibility for the protection of human rights.¹¹ Topics for such exchanges should include the role of religion in American society; the importance of the protection of religious freedom, along with other human rights, to the American people; and international standards relating to the right to freedom of religion and belief. Opportunities should also be sought for Americans to travel to China to speak about these issues and learn more about the views of the Chinese people on topics related to human rights, including religious freedom.

20. The U.S. government should seek expanded opportunities to speak frankly and directly to the Chinese people to express why the U.S. government, on behalf of the American people, is concerned with violations of internationally recognized human rights, including freedom of religion or belief.

The U.S. government should expand its public diplomacy efforts in China and seek every opportunity to explain directly to the Chinese people why it is U.S. policy to oppose violations of religious freedom and other human rights anywhere in the world – and not just in China. In explaining that policy, core American values – such as tolerance, openness, meritocracy, civil activism, and democracy – must routinely be highlighted. In this regard, the U.S. should continue to support Radio Free Asia (RFA) and Voice of America (VOA) broadcasts throughout China, including in Tibet and Xinjiang, and take steps to overcome the jamming of such broadcasts. The U.S. government should also seek other avenues of communication, such as encouraging use of the internet by the Chinese people and, as noted above in recommendation 3, uncensored appearances in the Chinese media by U.S. officials. A guiding principle with regard to U.S. public diplomacy efforts should be reciprocal access, i.e. that U.S.-supported broadcasting is accorded the extent and avenues of access in China as are available to the Chinese government in the United States. For example, the official Chinese Central Television company has an ongoing and expanding presence in the U.S. market. A similar presence in China should be granted to U.S. broadcasting companies, including RFA and VOA.

21. The U.S. government should prohibit U.S. companies doing business in China from engaging in practices that would constitute or facilitate violations of religious freedom or discrimination on the basis of religion or belief.

The Commission is concerned about reports that the Chinese government, in its efforts to crack down on “evil cults” and “illegal” religious organizations and activities, has pressured foreign companies operating in China (including at least one American company) to monitor and disclose the religious or spiritual activities or affiliations of their Chinese employees. The U.S. government should respond firmly and vigorously to protest such Chinese practices and to prohibit U.S. companies that are operating in China from engaging in practices that would constitute or facilitate violations of religious freedom. Such prohibitions might include requiring U.S. companies to refrain from inquiring into or disclosing to the Chinese government the religious or spiritual activities or affiliations of any of their employees.

22. The United States should require any U.S. or foreign issuer of securities that is doing business in China to disclose in any registration statement filed with the U.S. Securities and Exchange Commission (SEC) for any new offering of securities the following information:

22.a. the nature and extent of the business that it and its affiliates are conducting, including any plan for expansion or diversification and any business relationship with agencies or instrumentalities of the Chinese government, and specifying the identity of such agencies or instrumentalities;

22.b. whether it plans to use the proceeds of the sale of the securities in connection with its business in China and, if so, how; and

22.c. all significant risk factors associated with doing business in China, including, but not limited to: political, economic, and social conditions inside China, including the policies and practices of the Chinese government with respect to religious freedom; the extent to which the business of the issuer and its affiliates directly or indirectly supports or facilitates those policies and practices; and the potential for and likely impact of a campaign by U.S. persons based on human rights concerns to prevent the purchase or retention of securities of the issuer, including a divestment campaign or shareholder lawsuit.

The United States should require any issuer that is doing business in China to disclose the information specified in items (a) and (c) above in its filings with the SEC, including in its annual proxy statement or annual report, in the case of a U.S. issuer, or its U.S. markets annual report, in the case of a foreign issuer.

As the Commission noted in its May 2001 annual report, there is a significant, undesirable gap in U.S. law regarding China and other "countries of particular concern" (CPCs) under IRFA (i.e. egregious religious freedom violators). In some cases, companies that are doing business in China can sell securities on U.S. markets without having to disclose fully: (1) the details of their particular business activities in China, including plans for expansion or diversification; (2) the identity of all agencies of the Chinese government with which the companies are doing business; (3) the relationship of the business activities to violations of religious freedom and other human rights in China; or (4) the contribution that the proceeds raised in the U.S. debt and equity markets will make to these business activities and hence potentially to those violations.¹²

Across-the-board full disclosure of these details would prompt corporate managers to work to prevent their companies from supporting or facilitating these violations. It also would aid: (a) U.S. investors in deciding whether to purchase the securities; (b) shareholders in exercising their ownership rights (including proposing shareholder resolutions for annual meetings and proxy statements); and (c) U.S. policymakers in formulating sound policy with respect to China and U.S. capital markets. The Commission recommends that the United States

require such disclosure. The Commission has recommended that this level of disclosure be required for all companies doing business in CPCs, and therefore this requirement would also apply to those Chinese companies that are doing business in Sudan and issuing or listing securities in the United States. In May 2001, the SEC announced that it would seek disclosure of some of the information described above for companies doing business in countries subject to sanctions administered by the Treasury Department's Office of Foreign Asset Control. Because China is not subject to OFAC sanctions, the SEC initiative would not apply to companies solely because of their business activities in China.

23. The U.S. government should raise the profile of the conditions of Uighur Muslims by addressing religious freedom and human rights concerns in bilateral talks, by increasing the number of educational opportunities in the United States available to Uighurs, and by increasing radio broadcasts in the Uighur language.

The deteriorating conditions of the human rights, including religious freedom, of Uighur Muslims over the last year, especially since the attacks in the U.S. of September 11, makes it particularly important for the U.S. government to document these abuses and raise concerns about them with the Chinese government. Moreover, the Commission continues to recommend that the U.S. government increase the opportunities for Uighurs to participate in educational and cultural exchanges in the United States. As part of its efforts to reach Chinese audiences, U.S. sponsored radio broadcasts in the Uighur language should be increased.

¹ See explanatory text for recommendation 12 for those international human rights treaties that China has signed and/or ratified.

² U.S. Department of State, Daily Press Briefing, "Xinjiang Separatists/Al-Qaeda Connections," January 22, 2002 (<http://www.state.gov/t/pa/prs/dpb/2002/7385.htm>, accessed January 30, 2002).

³ President Bill Clinton, during his 1998 state visit to China, addressed the Chinese people directly and freely by live television, discussing democracy, human rights, and other issues in three separate venues.

⁴ This recommendation would not apply to government officials who are "responsible for or directly carried out" religious freedom violations. See Recommendation 7.

⁵ IRFA, § 402(b)(2) (22 U.S.C. 6442(b)(2)).

⁶ See Religious Affairs Bureau directive governing religious activities of foreigners in China, promulgated August 11, 2000.

⁷ See UN Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief, 1965, Art. 6(f) and (i).

⁸ See e.g. Universal Declaration of Human Rights, 1948, Art. 29; UN Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief, Art. 1(3).

⁹ UN Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief, Art. 6(b).

¹⁰ According to the State Department, China and North Korea have a treaty that requires the Chinese authorities to repatriate all North Koreans who enter China illegally. The Chinese government has enforced this treaty only sporadically, but has significantly increased forced repatriation of the North Koreans since 2000.

¹¹ This Recommendation would not apply to government officials who are “responsible for or directly carried out” religious freedom violations. See Recommendation 7.

¹² See *Report of the United States Commission on International Religious Freedom*, May 1, 2001, 155-167.