

**ADDENDUM TO THE**  
**REPORT OF THE**  
**UNITED STATES COMMISSION**  
**ON**  
**INTERNATIONAL RELIGIOUS FREEDOM**

**MAY 14, 2001**

**LETTER OF TRANSMITTAL**

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UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

*Washington, DC, May 14, 2001*

The PRESIDENT

*The White House*

DEAR MR. PRESIDENT: On behalf of the ten-member United States Commission on International Religious Freedom, I am transmitting to you an addendum to the annual May 1 Report, prepared in compliance with section 205 of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55.

Sincerely,

ELLIOTT ABRAMS

Chairman

Enclosure

**LETTER OF TRANSMITTAL**

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UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

*Washington, DC, May 14, 2001*

Hon. COLIN POWELL

*Secretary of State*

*Department of State*

DEAR MR. SECRETARY: On behalf of the ten-member United States Commission on International Religious Freedom, I am transmitting to you an addendum to the annual May 1 Report, prepared in compliance with section 205 of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55.

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UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

*Washington, DC, May 14, 2001*

Hon. DENNIS HASTERT  
*Speaker of the House*  
*U.S. House of Representatives*

DEAR MR. SPEAKER: On behalf of the ten-member United States Commission on International Religious Freedom, I am transmitting to you an addendum to the annual May 1 Report, prepared in compliance with section 205 of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55.

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ELLIOTT ABRAMS  
Chairman

Enclosure

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UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

*Washington, DC, May 14, 2001*

Hon. STROM THURMOND  
*President Pro Tempore*  
*U.S. Senate*

DEAR MR. THURMOND: On behalf of the ten-member United States Commission on International Religious Freedom, I am transmitting to you an addendum to the annual May 1 Report, prepared in compliance with section 205 of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55.

Sincerely,

ELLIOTT ABRAMS  
Chairman

Enclosure

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## I. EGYPT

The U.S. Commission on International Religious Freedom has followed with interest developments in Egypt over the last two years. During that time, Commissioners and Commission staff have corresponded with various organizations and have solicited their assistance in gathering information about religious freedom in Egypt. The Commission wrote twice to President Clinton and recently to President Bush urging them to raise religious freedom concerns with Egyptian President Hosni Mubarak. The Commission and its staff have also held a number of meetings with Egyptian expatriates, human rights advocates, and intellectuals, in addition to briefings with other experts. In late March of this year, a Commission delegation traveled to Egypt to assess the conditions of religious freedom there.<sup>1</sup> The delegation met with Egyptian government officials, representatives of religious communities and other non-governmental organizations, journalists, and U.S. diplomats. The Commission would like to thank the government of Egypt and the U.S. embassy in Cairo for their cooperation and assistance in connection with this trip.

There have been some recent positive developments in the promotion of religious freedom. The government has in recent years granted permission for construction of new churches and repair of older ones notably more frequently than was previously the case. New history textbooks for public school children of all grades include for the first time discussion of the Coptic Christian period of Egyptian history.

However, the Commission finds that serious problems of discrimination against a number of religious groups remain widespread in Egypt.

With respect to the Christian community, restrictions on church building and repair continue to exist and religiously-based discrimination, particularly in government employment, the military, and security services, remains a pervasive problem. Government permission must still be sought to build or repair a church. Christians are rarely promoted to high levels in the government or military and are frequently discriminated against by private employers in hiring and promotion. Their taxes help pay the salaries of all Muslim imams but no Christian clergy.

The Commission has closely followed the Al-Kosheh case in which all but four of the 96 suspects arrested in connection with the January 2000 killings of 21 Coptic Christians in the village of Al-Kosheh were exonerated. None of the four convicted, all Muslim, was convicted of murder. Pope Shenouda, local church leaders, and the Coptic community at large have all rejected the verdicts. Attorneys for the Al-Kosheh victims and their families have formally appealed the verdict, as has Pope Shenouda on behalf of the Church. In addition, the Public Prosecutor's (Attorney General) office has announced its objection to the verdicts and has appealed the court's decision as well. Some Egyptian human rights defenders have also been subjected to government repression, including arrest, in part because of their reporting on Al-Kosheh or on religious freedom problems in general.

While television is beginning to be more inclusive of non-Muslim themes, the government-controlled press continues to engage in virulent hate speech against certain groups such as Jews and Baha'is.

The Baha'i faith has been banned in Egypt since 1960 when their community properties, including cemeteries and libraries, were first confiscated. Since then Baha'is have been subjected to harassment, including, from time to time, interrogations and arrests. Recently, 19 Baha'is were arrested on account of their religion and eight are currently in prison and have not yet been charged. During its trip, a Commission delegation met with four of the imprisoned Baha'is, who stated that they are accused of "invoking strife," "harming unity," and "assaulting heavenly religions." They added that informants "motivated by hatred" accused them of "immoral acts."

The government maintains tight control over all Muslim religious institutions in Egypt through the Ministry of Awqaf (Religious Endowments). This includes control over Al-Azhar University, the oldest and most influential center of Sunni Islam in the world, whose Grand Shaykh is appointed by the President. The Egyptian government controls virtually all mosques and religious endowments and, according to the State Department, Egyptian authorities have announced plans to bring all remaining independent mosques under its control by 2002. All imams (prayer leaders) are hired, monitored, and can be fired at will solely by the government.

Muslims deemed to be "fundamentalists" – those who believe in or seek to establish an Islamic state in Egypt based on their interpretation of Islamic law (i.e. Islamists) – have been singled out by the government as "extremists." Egyptian Islamists have challenged the government since the 1940s and constitute the most important opposition movement in the country. Because of the nature of the dispute between Islamists and the Egyptian government (which has included violence by some Islamists) the state has often resorted to repression against all Islamists without distinguishing between the violent minority and mainstream Islamists who have engaged in organizational, political, and charitable activities. Religious activities (such as wearing headscarves, growing beards, and attending religious study groups) are at times considered by the government to be indicators of both the potential for violence and, more generally, a political threat to the existing order. Islamists are subject to harassment, mass arrests, prolonged detention (often without charge), and torture. Islamists, regardless of the charges against them, are tried in military or state security courts rather than civilian courts, eliminating their ability to appeal and allowing the government to extend their sentences and/or detention indefinitely without due process. Islamist schoolteachers and other public servants may be removed from their positions solely on the basis of their religious beliefs or activities. Although any state has the duty to protect its people from violence and terrorism, religious practice and/or association by Egyptian Islamists should not be considered synonymous with violence or terrorism.

Human rights observers, including those at the State Department, note that police brutality and torture of detainees are common in Egypt, including with respect to those targeted or detained on account of their religion. According to the State Department's latest human rights report, "Torture victims usually are taken to [a state security] office, where they are handcuffed, blindfolded, and questioned about their associations, religious beliefs, and political views." Furthermore, the report states: "Police abuse of detainees is a widespread practice that occurs regardless of a detainee's religious beliefs."<sup>2</sup> In addition, police failures such as the inability or unwillingness to intervene to decrease violence between groups and the demonstration of favoritism toward one group or another contribute significantly to sectarian strife, particularly in southern Egypt.

In light of the Commission's ongoing research and its recent fact-finding trip to Egypt, as well as the State Department's annual reports on religious freedom and human rights, the Commission recommends that the U.S. government (1) monitor closely the conditions of religious freedom in Egypt, including the issues noted above; (2) raise these issues prominently in our bilateral relations with the Egyptian government, including at the highest levels; and (3) urge the Egyptian government to accelerate progress on addressing these issues and promoting the religious freedom of all Egyptians.

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### **Concurring Opinion with Reservations of Commissioner Nina Shea**

I regret that the Commission's report on Egypt gave only the most cursory treatment to the events of the last two years in the Coptic Christian village of Al-Kosheh, culminating in early 2000 with the murder of 21 Copts by a Muslim mob and the government's subsequent failure to deliver justice through a fair trial and conviction. The report does not address police complicity in the crimes, a state cover-up of the investigation, or the blatant religious bias of the court in the murder trial. The report makes no mention of the mass arrest, police abuse, and torture of more than 1,000 Copts in the same village in 1998, which helped set the stage for the violence in 2000. I believe that the Commission's recommendations should have specifically targeted these issues.

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<sup>1</sup> The delegation consisted of Commission Chairman Elliott Abrams, Vice-Chairman Firuz Kazemzadeh, and Commissioner Dr. Laila Al-Marayati.

<sup>2</sup> U.S. Department of State, *Country Reports on Human Rights Practices – 2000*, "Egypt," February 2001.



## II. SAUDI ARABIA

### A. Introduction

The U.S. Commission on International Religious Freedom remains concerned over the extremely poor conditions of religious freedom in Saudi Arabia. The State Department reported in its *Country Reports on Human Rights Practices 2000* that the Saudi government's human rights record "remained generally poor in a number of areas." As the Department has bluntly summarized the situation in Saudi Arabia in its annual reports on international religious freedom: "Freedom of religion does not exist." In July 2000, the Commission publicly recommended in a letter to then-Secretary of State Madeleine K. Albright that Saudi Arabia should be designated as a "country of particular concern" under the International Religious Freedom Act (IRFA).

In late March, five Commissioners traveled to the Kingdom of Saudi Arabia to try to assess first hand the conditions of religious freedom there.<sup>1</sup> Commissioners interviewed various high-level Saudi officials and held informal discussions with U.S. embassy personnel and a number of foreign residents. The Commission would like to thank the government of Saudi Arabia and the U.S. embassy there for their cooperation and assistance in connection with this trip. The Commission notes that several Saudi government officials expressed a desire to continue dialogue with the U.S. government on religious freedom issues, and several seemed interested in exploring some of the recommendations listed below.

There are large communities of non-Muslims and Muslims from a variety of different doctrinal schools of Islam resident in the Kingdom. Nevertheless, with few exceptions, the Saudi government strictly prohibits any public expression of religion other than its interpretation and presentation of the Hanbali school of Sunni Islam.<sup>2</sup> Moreover, the government tightly controls the religious activity it permits – for example, through controls on the building of mosques, the appointment of imams, the regulation of sermons and public celebrations, and the content of religious education in public schools – and suppresses religious views of both Saudi and non-Saudi Muslims that do not conform to official positions. For example, Shiite (including Ismaili) clerics and religious scholars reportedly have been detained and imprisoned on account of their religious views, which differ from those of the government.

Although the government has publicly taken the position that it permits non-Muslims to worship in private, the guidelines as to what constitutes "private" worship are vague. Persons worshipping privately have been arrested, imprisoned, deported, and harassed by the authorities (including by the *mutawaa*, or religious police), and forced to go to great lengths to conceal private religious activity from those authorities. This situation very much affects personnel at the U.S. embassy, who described in emotional terms the difficulties they experience in practicing their faiths while stationed in Saudi Arabia. Even as this is true for diplomatic personnel from Western countries, the difficulties are compounded for foreign guest workers who have no diplomatic standing and little or no access to diplomatic facilities. Moreover, the government does not allow clergy to enter the country in order to perform private religious services for foreigners legally residing in the Kingdom. As discussed below, these difficulties are not fully reflected in the State Department's human rights reports.

According to Saudi government officials, a number of the restrictions on religious

practice in that country are, in their view, grounded in religious doctrine. This position raises sensitive issues, in that restrictions on the freedom of religion (in this case quite severe restrictions) are justified by a foreign government in terms of adherence to its interpretation of religious norms. Nevertheless, the Commission believes that religious beliefs standing alone cannot prevail as a justification for these government violations of internationally protected human rights.<sup>3</sup>

## **B. Commission Recommendations**

The Commission approaches with some caution the religious freedom situation in Saudi Arabia and how best for the U.S. government to promote it. The Commission delegation was unable to meet with as wide a range of interlocutors as it had hoped during its visit to the country. The religious situation is complex, and human rights reporting is limited by government restrictions on access by human rights monitors. Nevertheless, the U.S. and Saudi governments should be able to discuss human rights issues frankly. Strategic partners in particular should understand that the U.S. government, as well as the people of the United States, take human rights and religious freedom seriously and that these constitute an important element in relations between the United States and any foreign country. Moreover, given the extent of official repression of religious activity for many in Saudi Arabia, the Commission notes that the State Department should intervene to promote religious freedom with careful consideration of the possible repercussions on those whose religious freedom is restricted. In light of this background, the Commission makes the following recommendations:

### **1. The U.S. government should designate Saudi Arabia as a “country of particular concern” under IRFA.**

As noted above, the Commission publicly recommended last year that Saudi Arabia should be designated as a “country of particular concern” (CPC) under IRFA. Based on public sources of information and reporting by the State Department up to that time, the Commission concluded that the government of Saudi Arabia had engaged in systematic, ongoing, egregious violations of religious freedom, thus meeting the statutory threshold for CPC designation.<sup>4</sup>

The findings from the Commission’s recent trip to the Kingdom support this conclusion, as have the State Department’s reports on Saudi Arabia in the *Annual Report on International Religious Freedom 2000* and *Country Reports on Human Rights Practices 2000*. Saudi Arabia should be designated as a CPC, and the President should take appropriate action under IRFA.

### **2. While the right to practice one’s religion publicly and freely is a protected right under international law and promoting that right should be viewed as our long-term goal, the U.S. government should consistently press the Saudi government to expand and safeguard the freedom to worship privately of non-Muslims and of those Muslims who do not follow the government’s interpretation and presentation of Islam. This freedom should be secured without discrimination for all residents of Saudi Arabia, and should include permission for clergy to enter the country and perform private religious services for Saudi residents. As a first step in protecting religious freedom, private religious practice should not be treated as a crime. In addition, the**

***mutawaa* should be adequately trained to respect the right of private worship, and should be held accountable if they violate it.**

The right to freedom of religion will not exist in Saudi Arabia until everyone in the country is guaranteed the freedom to manifest his or her religion or belief “either alone or in community with others and in public or private.”<sup>5</sup> A first step for the Saudi government to promote religious freedom is to clarify, expand, and safeguard the freedom to worship in private, and the U.S. government should consistently press the Saudi government to do so.

The Saudi government has publicly taken the position in recent years that citizens and residents of Saudi Arabia – both Muslim and non-Muslim – have the right to practice their religion in private. In a statement at the 56<sup>th</sup> session of the UN Commission on Human Rights in 2000, a representative of the Saudi delegation stated that “non-Muslims enjoy full freedom to engage in their religious observances in private.” Saudi officials with whom Commissioners met on their trip affirmed that private worship by non-Muslims is permitted, provided it is done in private homes (as opposed to in places specifically designated for worship) unobtrusively and without advertisement.

However, it is apparent that despite these assurances, non-Muslims and some Muslims face great difficulties in practicing their religion in private. Private worshippers have been harassed by the *mutawaa* and forced to conduct their activities in secrecy for fear of detection and punishment by the authorities. Moreover, the guidelines as to what is permitted as private worship and what is not are vague, and restrictions appear to differ based on one’s nationality and other factors. The Saudi government should be urged to secure the full freedom of all Saudi residents to practice religion in private. In addition, the *mutawaa* should be adequately trained to respect the right of private worship, and should be held accountable if they violate it.

The ability to engage in private worship is made particularly difficult for the practitioners of some faiths in Saudi Arabia because the government does not allow clergy to enter the country for the express purpose of performing religious services, even in private. For example, it is reported to be nearly impossible for the large number of Roman Catholics there to practice their faith (even in private) because of this restriction. The Saudi government should be urged to allow clergy to enter the country in furtherance of its own policy to protect the freedom of private worship.

**3. The U.S. government should urge the Saudi government to engage in dialogue with the international leaders of those religious communities represented in Saudi Arabia. Working with others in the international diplomatic community, the U.S. government should identify mechanisms to facilitate such dialogue.**

The Kingdom has invited and admitted 7 million foreign workers from various countries in the Middle East as well as India, Pakistan, Sri Lanka, Philippines, Malaysia, Indonesia, and the United States. According to the State Department, among this foreign resident community are Muslims of different denominations, Christians, Hindus, Buddhists, and Jews.

The Saudi government’s extremely repressive policies regarding religious practice and

worship reveal a lack of understanding of the requirements and practices of the various religions of Saudi residents. Millions of foreign workers cannot, and may not under international law, be expected to leave their communal religious practice at the Saudi border until they return to their homeland. Saudi officials claim that foreign workers, all of whom must agree to abide by the laws of the Kingdom, have thereby agreed to severe limitations on their religious practice. Under international law, however, the right to freedom of religion is universal and cannot be abandoned. As long as the Saudi government exerts such complete control over the religious life of its residents, the U.S. government should urge that it engage in genuine dialogue and exchanges with the international leaders of those religious communities represented in the country. Further, the U.S. government should work with others in the international diplomatic community and in multilateral settings to identify mechanisms to facilitate such dialogue.

**4. The U.S. government should encourage the Saudi government to promote religious tolerance and respect toward all religions in their education system.**

The Saudi government has affirmed that religious tolerance is “a fundamental requirement for the achievement of more effective protection of human rights,” and that Saudi Arabians attach great importance to the principle of tolerance.<sup>6</sup> In regard to the education of children, the government has reported to the UN that “education in Saudi Arabia emphasizes the principles of . . . personal freedom, justice, equality and fraternity.”<sup>7</sup>

In meetings with Commissioners during the trip, Saudi officials justified government restrictions on public manifestation of religion in part by claiming that the Saudi people would not tolerate, and may violently oppose, public religious expression by non-Muslims. If indeed this is an accurate perception of societal attitudes, the Commission believes the remedy lies not in perpetuating these views by suppressing public religious practice, but in promoting understanding and religious tolerance. The U.S. government should encourage the Saudi government to promote understanding, tolerance, and friendship among all religious communities throughout their educational system, in line with its own stated policies and relevant international instruments.<sup>8</sup>

**5. Reports by the State Department on conditions of religious liberty in Saudi Arabia should reflect more accurately the extreme difficulties for religious believers, including Muslims who do not follow the Saudi government’s interpretation and presentation of Islam, to practice their faith even in private.**

The Commission is concerned that the State Department’s human rights reports do not reflect the truly appalling condition of religious freedom in that country. During the Commission’s trip, members of house churches described how their gatherings were overshadowed by a constant fear of harassment by the *mutawaa*, arrest, detention, and termination of their employment (resulting in deportation). Persons who wish to practice their religion, even in private, report that they have to go to great lengths to keep their activities secret, often forcing them to frequently change venues and take other clandestine measures that they feel are necessary in order to avoid harassment by the authorities.

Interlocutors also noted that U.S. embassy staff are somewhat insulated from life “on the

ground” for Saudi citizens as well as Muslim and non-Muslim expatriates who work in Saudi Arabia. U.S. embassy personnel in Riyadh live “in a bubble” in the diplomatic compounds, and have relatively little contact with foreign workers or average Saudis. Indeed, the Commission delegation was not able to meet Saudi citizens who were not government officials, with the exception of a few in meetings in the Eastern Province. The State Department should work to overcome these shortcomings in the preparation of its human rights reports.

**6. The U.S. government should urge the Saudi government to grant access to human rights reporters from international and non-governmental organizations (including extending an invitation to the UN Special Rapporteur on Religious Intolerance) and journalists to visit the country and to examine and report on the conditions of religious freedom there.**

In 2000, Saudi Arabia was chosen to be a member of the UN Commission on Human Rights (UNCHR) for the first time. At the 2000 UNCHR session, a representative of the Saudi delegation stated that the government was taking steps (as yet unrealized) to promote human rights in the Kingdom, including the establishment of both governmental and non-governmental bodies to look into human rights issues. Despite its intention to play a role in the international community on human rights issues, the Saudi government has not permitted human rights monitoring in its own country. The pervasive control that the Saudi government reportedly exerts over the freedoms of expression and association has prevented both the formation of human rights organizations and individuals from reporting on human rights conditions. International and non-governmental organizations have not been given access to the country. Diplomatic personnel in Saudi Arabia (from the United States and from other countries whose citizens comprise the foreign workforce) are not free to fully monitor human rights conditions. Concomitant to its desire to participate in international human rights mechanisms, the Saudi government should make provisions for international access. One step in the direction of greater access would be to invite the UN Special Rapporteur on Religious Intolerance to visit the country and examine and report on the conditions of religious freedom there, and the U.S. government should urge the Saudis to do so.<sup>9</sup>

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**Individual Concurring View of Commissioner Theodore Cardinal McCarrick**

The report of the Commission on Saudi Arabia is indeed factual and accurate and its recommendations are certainly in line with the Commission’s responsibility. However, I would like to go on record as having more optimism and hope for the possibility of future discussions with the government of Saudi Arabia on these matters. I sensed an openness on the part of many officials to continue to enter into dialogue on several of the more important points which are made in this report. That would make a difference to me in the pursuit of some of our recommendations.

**Individual Concurring View of Commissioner David Saperstein**

I agree with the assessment and recommendations of the report. I want to expand on two issues not fully addressed. The first is the explanation of Saudi officials that their Hanbali school

of Islam religiously mandates that they deny other religions the right to function openly on the Arabian Peninsula - a right that is clearly protected in international law. The claim that one party's religious doctrine provides a justification for oppression of another party's religious freedom was addressed respectfully and appropriately in this report but it remains an issue that this Commission must continue to study and on which it should develop a fuller position.

Despite my serious concerns about the inability of religious minorities to function freely, I share Cardinal McCarrick's view and am encouraged by the expressed willingness to engage in dialogue on these issues and, within the limits that the Saudi officials feel are imposed by religious mandates, to expand opportunities for private religious expression and observance. While the Saudi government's treatment of religious exercise fails to meet international human rights standards, this willingness to engage on this issue ought to be acknowledged, encouraged, and factored into our government's policies and discussions with the Saudi government.

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<sup>1</sup> The delegation consisted of Commission Chairman Elliott Abrams, Vice-Chairman Firuz Kazemzadeh, and Commissioners Dr. Laila Al-Marayati, Theodore Cardinal McCarrick, and Rabbi David Saperstein.

<sup>2</sup> The government's interpretation and presentation of Islam follows that of the Wahhabi doctrine, which is considered a puritanical and ultraconservative interpretation of Islam (within the Hanbalite school of jurisprudence) expounded by the 18th century Islamic scholar Muhammad ibn Abd al-Wahhab and his followers. The Commission has received reports that in a few areas of the Eastern Province, where Shiite Muslims predominate, the government does tolerate incidents of public Shiite religious expression.

<sup>3</sup> See Human Rights Committee, General Comment No. 22 (48) (art. 18), U.N. Doc. CCPR/C/21/Rev.1/Add.4 (1993), ¶ 8; Arcot Krishnaswami, Study of Discrimination in the Matter of Religious Rights and Practices, U.N. Doc. E/CN.4/Sub. 2/200/Rev.1, U.N. Sales No. 60.XIV.2 (1960); The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (1984).

<sup>4</sup> Commissioner John Bolton dissented, and Commissioner Laila Al-Marayati abstained, from the Commission's decision to recommend that Saudi Arabia be designated a CPC.

<sup>5</sup> Universal Declaration of Human Rights, Art. 18; UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, Art. 1.

<sup>6</sup> See Statement by H.H. Prince Turki Mohammed Saud al-Kabeer, Undersecretary for Political Affairs and Director-General for International Organizations Department at the 56<sup>th</sup> Session of Commission on Human Rights, Geneva, April 6, 2000 ([http://www.saudiembassy.net/press\\_release/hr-2000-Geneva.html](http://www.saudiembassy.net/press_release/hr-2000-Geneva.html)).

<sup>7</sup> See Committee on the Rights of the Child, Consideration of Reports Submitted by State Parties Under Article 44 of the Convention: Initial Report of Saudi Arabia due in 1998, CRC/C/61/Add.2, October 15, 1998, ¶ 21.

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<sup>8</sup> See, e.g. Universal Declaration of Human Rights, Art. 26(2).

<sup>9</sup> The Saudi government has cooperated with the UN Special Rapporteur on Religious Intolerance in the past and has extended an invitation to visit the country to the UN Special Rapporteur on the Independence of Lawyers and Judges.



### **III. INDIVIDUAL DISSENTING VIEW OF COMMISSIONER DR. LAILA AL-MARAYATI REGARDING ISRAEL AND THE OCCUPIED TERRITORIES**

#### **A. Background**

In March 2001, several members of the Commission on International Religious Freedom (CIRF) traveled to Saudi Arabia, Egypt, and Israel and the Occupied Territories (OT) to explore issues related to religious freedom in those countries. The Commission was able to reach consensus on statements summarizing the situation in Egypt and Saudi Arabia. The Commission decided that no statement should be issued regarding Israel and the Occupied Territories.

I am opposed to the decision to refrain from commenting on the situation in Israel/OT. The complexity of the situation as well as differences of opinion should not prevent the Commission from issuing a statement. Indeed, human rights in general and religious freedom in particular occur all over the world under complex social, cultural, political and economic circumstances. This has not impeded our ability to discuss these issues in many countries.

Therefore, based on the issues raised during the trip, discussions held during pre-trip briefings, and the State Department's *Country Reports on Human Rights Practices-2000*, I am issuing the following statement which addresses several areas, including some that were raised by the Commission in a statement released last year.

Concerns regarding religious freedom in Israel, the Occupied Territories, including areas controlled by the Palestinian Authority, present themselves against a backdrop of political upheaval in which religion and religious identity play important roles. The intertwining of politics and religion is evident in many aspects of this conflict. Infringements on religious freedom occur under a variety of circumstances that affect the full enjoyment of other human rights as well.

At the time of the visit of the CIRF to Jerusalem, several suicide bombing attacks had occurred in Israel in addition to heavy artillery attacks by the Israeli Defense Forces against several civilian targets in the West Bank and Gaza Strip. As a result, the delegation was not able to travel to the Occupied Territories; also, the escalation in fighting and the travel blockade imposed against Palestinians in the Occupied Territories meant that several individuals were unable to meet with the delegation. Nevertheless, numerous useful discussions were held in Jerusalem with Israeli government officials, Israeli Jewish leaders, members of Palestinian and Israeli human rights groups, faith-based non-governmental organizations, and leaders from Palestinian Christian and Muslim communities.

The concerns regarding religious freedom can be divided into two basic categories: 1) the status of citizens living Israel proper (including Palestinian citizens), and 2) the conditions faced by Palestinians in the Occupied Territories (West Bank, Gaza Strip, East Jerusalem).

## **B. Israel Proper**

In Israel, there is a blurring of the distinction between nationality and religion. The definition of who is a Jew and thereby eligible for numerous special rights and services provided by the state is determined by the Orthodox Jewish establishment to the exclusion of non-Orthodox Jews and non-Jews.

### ***1. De jure and de facto discrimination among Jews***

Although Orthodox Jews comprise no more than 25% of Israeli citizenry, legislation and de facto political power grants the Orthodox rabbinate authority over most religious affairs in Israel: marriage, divorce, conversion, burial, circumcision, hospital chaplaincy, as well as funding of religious organizations and buildings, including community religious councils (which distribute government funding to Jewish religious institutions). Jewish marriage is recognized by the state only if it is performed by an Orthodox rabbi or else occurred outside Israel; official recognition of the marriage is a prerequisite for receiving state benefits like mortgage subsidies for newlyweds. The chief Orthodox rabbi prescribes the course of study for converting to Judaism; officially recognized conversion determines one's eligibility under the Law of Return as well as how one's religion is listed on one's national identity card. Non-Orthodox congregations (which includes non-Jewish groups as well) receive between 2 to 4 percent of the expenditures by the Israeli Ministry of Religious Affairs for the building and maintenance of houses of worship, educational programs and materials, books and Torah restoration. Only the salaries of Orthodox clergy are paid for by the state.

### ***2. Rights of Non-Jews***

Muslim and Christian citizens of the state face considerable official discrimination in many areas of life including distribution of social services, employment, land ownership and habitation rights, education and government funding for religious institutions. Only a small percentage of government positions (and virtually no top-level positions) are held by members of the non-Jewish minorities living in Israel, which comprise 20% of the total population. Efforts to designate old mosques, churches and cemeteries in Israel as "holy sites" which would then qualify for government funding for restoration are largely denied by the authorities. Requests for permission to restore such sites by private individuals or institutions are also commonly refused. As mentioned above, only 2-4% of the funding for religious institutions from Israel's Ministry of Religious Affairs goes to non-Orthodox Jewish and non-Jewish communities.

An example of a major government policy that discriminates against non-Jews and has far-reaching implications is the Law of Return, which grants automatic citizenship (with certain rights afforded therein) to any Jew who immigrates to Israel, while simultaneously denying Palestinian Muslims and Christians expelled from their homes in 1947-48 the right to return simply because they are not Jewish. Such a policy, coupled with discriminatory laws and practices governing land allocation that prohibits selling state-owned land to non-Jews, reflect the inherent contradiction between Israel's claim to be both a Jewish state and a democracy.

### **3. *Proselytism***

A 1977 law forbids the offering of material inducements to change one's religion. But the law has apparently never been enforced. A more recent bill that would proscribe the distribution of evangelistic literature currently has little chance of enactment. Messianic believers, Jehovah's Witnesses, and some Evangelical groups are the victims of harassment and sometimes assault, but the latter report that police officials have recently begun prosecuting their assailants. Muslims who convert to Christianity (and vice versa) may face severe harassment and/or ostracism by their families and/or communities.

### **4. *New mosque in Nazareth***

The mosque (being built at the request of a faction of Nazareth Muslims) slated for construction adjacent to the Basilica of The Annunciation in Nazareth has become an intensely controversial issue in Israel. A significant number of Christians and Muslims with whom the Commission delegation met described the dispute as being exacerbated by Israeli government actions in which religion is being exploited as a source of division between Muslims and Christians. Local, national and international leaders from a broad variety of religious and political perspectives have criticized the planned construction of the mosque, holding that the Israeli government's approval was politically motivated. Others have criticized the decision of the Israeli government to allow for this mosque to be built in this particular location and have urged Nazareth Muslims to build the mosque elsewhere.

## **C. *Occupied Territories***

### **1. *Discrimination against non-Jewish residents in the Occupied Territories, including East Jerusalem***

The Muslim and Christian populations of occupied East Jerusalem face unique circumstances. The overwhelming majority have opted not to acquire Israeli citizenship; they have refused, as such, to confer legitimacy upon Israel's illegal occupation and annexation of East Jerusalem. Instead, they are issued special ID cards as Jerusalemites that indicate that they have permission to reside in that city. Non-Jewish residents of East Jerusalem are regularly denied permits for building homes on property they already own, subjected to frequent house demolitions, and the permanent revocation of their right to live in the city of Jerusalem (through confiscation of Jerusalem ID cards). International human rights advocates (including Israeli ones), agree that these policies are designed to diminish the non-Jewish population of East Jerusalem.<sup>1</sup> At the same time, Jewish residents of Jerusalem are able to acquire property at will, especially in the rapidly expanding settlements that encircle East Jerusalem and are inhabited exclusively by Jews. In the Old City, where there had been an understanding that each area (Christian, Muslim, Armenian and Jewish) would remain homogeneous, Israeli Jews have been allowed to take up residence in non-Jewish quarters while Christians and Muslims are prevented from residing in the Jewish quarter.

In the Occupied Territories (particularly Area C) Jewish settlers receive preferential treatment and are subject to civilian law in all matters while Muslims and Christians live under Israeli military rule. Tremendous disparity is evident in terms of the distribution of resources, allocation of social services, protection afforded by security personnel, and law enforcement, which rarely holds accountable Jewish perpetrators of crimes against non-Jews. In addition, the ongoing siege throughout occupied West Bank and Gaza Strip is imposed exclusively on Palestinians while Israeli Jews move freely in and out of these territories. As part of what they see as a religious mandate, many settlers in the Occupied Territories believe that the land has been bestowed on them by God and thus they are obliged to settle on land confiscated from Palestinians, despite the fact that doing so violates international law and numerous UN resolutions.

The situation in occupied Hebron, a city holy to both Muslims and Jews, demonstrates a range of the problems discussed here. Since October 2000, the Palestinian Muslim residents have been under severe curfews (allowing only a few hours a week to go out) as a result of demands from the few hundred Jewish settlers who live in the heart of the city. Hebron's Jewish settlers, armed and protected by the Israeli military, frequently rampage through the city, attacking Palestinian civilians and vandalizing their shops and homes. These settlers are among the most radical and aggressive in the Occupied Territories, often using leaflets and loudspeakers to engage in anti-Arab and anti-Muslim incitement. The Abrahamic Mosque/Tomb of the Patriarchs is a site of great importance for Muslims and Jews. Since the mosque is located in the Israeli-controlled section of Hebron, many Muslims have difficulty reaching it for religious purposes (including prior to the current Intifada), while Hebron's Jews have free and unfettered access.

## ***2. Denial of Access for Religious Activities***

No single policy or factor currently has a greater impact on religious freedom for Palestinians of the Occupied Territories than the restrictions imposed by the Israeli government on their freedom of movement. According to the State Department *Country Reports on Human Rights Practices-2000*, "Since 1993 Israel has applied 'closures,' or enhanced restrictions on the movement of persons and products, often for lengthy periods, in response to terrorist attacks or other changes in the security environment." The system's requirement that Palestinian residents of the Occupied Territories (both within and outside of Palestinian Authority controlled areas) obtain a permit in order to travel to Israel and/or Jerusalem directly impedes religious worship, education and ministry, particularly in Jerusalem. An additional "internal" closure, preventing Palestinians from moving between towns in the West Bank and Gaza Strip, has been imposed since October 2000.

Religious freedom problems arise on account of closure of Jerusalem, internal restrictions in the West Bank and Gaza, curfews in some locations in the Occupied Territories and restrictions at Friday services at the Haram al-Sharif (Temple Mount). When these restrictions are in place:

1. Palestinians who are not residents of Jerusalem are prevented from

worshipping at holy sites in the city;

2. Christian clergy find it difficult and sometimes impossible to reach their parishioners in the West Bank and Gaza and carry out church services and parishioners cannot reach their churches in Jerusalem;
3. Religious schools are closing because students and teachers are unable to reach the schools, and many parents cannot reach their jobs and thus can no longer afford tuition;
4. Those who do obtain permits to enter Jerusalem are subject to frustrating, humiliating and sometimes arbitrary questioning, delays and refusal of entry. There is no process for appeal if a request for entry is denied. In addition, several religious leaders and others with whom the Commission delegation met reported incidents of harassment on the basis of religion that occur at checkpoints;
5. Since October 2000, Muslim men under the age of 45, regardless of whether or not they are citizens of Israel, have been prevented from worshipping at the Haram al-Sharif on Fridays.

The Israeli government has cited security concerns as the justification for the restriction of movement of Palestinians. Critics challenge the government's assessment of the situation and the severity of its response. For example, during the 1999 Christmas/Ramadan periods, the number of Palestinians visiting Jerusalem for Friday services at the Haram al-Sharif was at least 200,000. In 2000, the number dropped to around 26,000. Most human rights observers, including Israeli groups, agree that such a policy amounts to collective punishment that impedes access for thousands of Palestinians, the vast majority of whom have not engaged in acts of violence. Statistically speaking, the policy of closure has not reduced the number of terrorist attacks inside Israel (in fact, according to the Israeli human rights group B'Tselem, the number of Israeli civilians killed inside Israel rose dramatically after 1993, the year closure was imposed).

Under international human rights law, the freedom to manifest religion is subject to limitation in furtherance of the protection of public safety and order. But "limitations may be applied only for those purposes for which they were prescribed and must be directly proportionate to the specific need on which they are predicated."<sup>2</sup> These restraints on a state's power to limit religious freedom apply even in times of public emergency.<sup>3</sup> However, during such an emergency a state may take measures that derogate from its obligation to protect the right to liberty of movement which, in effect, may interfere with the ability to practice religion (including visiting places of worship or attending religious schools).<sup>4</sup>

Muslim and Christian religious authorities, both inside and outside of the country, have called on Israel to lift its siege of Palestinian towns and allow Muslim and Christian Palestinians access to their holy sites. In their common Easter message, Jerusalem's

Christian leaders declared, “We pray for an end to the unjustifiable deaths that plague our societies. We pray for an immediate end of all collective punishments, especially for the lifting of the closures of Palestinian towns and villages.” Vatican officials have also called on Israel to stop denying Muslim and Christian Palestinians access to their holy places in Jerusalem, Bethlehem and elsewhere.

### ***3. Relations between Muslims and Christians in the Occupied Territories***

As mentioned above, the Commission delegation was unable to travel to the West Bank and Gaza during the trip. In Jerusalem, the Palestinian Christian and Muslim interlocutors did not express serious concerns regarding Muslim-Christian relations in the Occupied Territories. The situation in Nazareth (in Israel) has been addressed above. The disproportionate emigration of Palestinian Christians from the Occupied Territories is largely due to the fact that they have more educational and professional contacts in the West, which afford them greater opportunities and incentives to leave than their Muslim counterparts. As mentioned above, Muslims who convert to Christianity (and vice versa) experience harassment and ostracism by their families and/or communities, although the number of individuals who report such problems is very small.

According to the State Department *Country Reports on Human Rights Practices-2000* regarding the Occupied Territories: “There was no pattern of Palestinian Authority discrimination and harassment against Christians.”

## **D. Additional Concerns**

### ***1. Destruction and Desecration of Religious Sites***

Since October 2000, there has been an escalation in the violent targeting of religious sites and houses of worship. In Israel, civilians have attacked mosques and synagogues (such as a synagogue in Safar’am and mosques in Tiberias and Acre.) In the Occupied Territories, Joseph’s Tomb and the remains of ancient synagogues in Jericho were attacked by Palestinian protesters. Israeli settlers have vandalized mosques and churches in the Occupied Territories, such as a mosque in Huwara and a church in Beit Hanina. In general, neither the Israeli nor Palestinian authorities intervened to protect the holy sites from desecration.<sup>5</sup> Few, if any arrests have been made of those responsible for the assaults and destruction.

In addition, Israeli security forces including the military (i.e., Israeli Defense Forces (IDF)) have engaged in violence against holy sites, particularly in the Occupied Territories. In December 2000, Israeli forces (along with a group of settlers) set fire to the Prophet Yaqin mosque near Hebron and opened fire at the Abrar mosque in Salfit. In Rafah, the Al-Nur mosque has been the target of numerous missile attacks by the IDF, especially in recent weeks. According to international law, the proximity of the mosques to areas of fighting used by Palestinian gunmen is not an allowable excuse for such assaults. In the Geneva Conventions of 12 August 1949, Article 53 states: “...it is prohibited to commit any acts of hostility directed against the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples.”

Finally, it was Ariel Sharon's provocative visit to the Haram al-Sharif on September 28, 2000, with an accompaniment of more than 1,500 armed guards, that sparked massive demonstrations the following day. In response, live ammunition was used by Israeli security forces against unarmed civilians (7 of whom were killed and hundreds wounded) in the Haram al-Sharif, which is a severe violation of the sanctity of that holy site.<sup>6</sup>

## ***2. Religious Rhetoric Justifying Violence***

Religious and political leaders among Israelis and Palestinians have used religiously derogatory language that has intensified since the current Intifada. An imam who is a member of the PA-appointed Fatwa Council decreed a religious mandate to use violence against Jews. The head of the Shas, a major religious political party in Israel, prayed for God to kill Arabs during his Passover sermon. Among the general population, both Israeli and Palestinian, hate speech is increasing and is becoming a major problem.

## **E. Recommendations**

Based on the above outline of issues, I am making the following recommendations with respect to U.S. government policy regarding Israel and the Occupied Territories:

- 1. The U.S. government should urge the Israeli government to eliminate discriminatory legislation and practices against Palestinian citizens of Israel, ensure equitable funding for their religious institutions and ensure that their religious institutions and sites are entitled to the same protections as Jewish religious institutions and sites.**
- 2. The U.S. government should urge the Israeli government to eliminate discrimination against non-Orthodox Jews and their institutions.**
- 3. The U.S. government should encourage the Israeli government to continue its efforts to protect the safety and rights of all those who wish to share their religious belief as part of their religious life.**
- 4. The U.S. government should urge the Israeli government to revisit the decision made to allow for a mosque to be built in the immediate proximity of the Basilica of the Annunciation in Nazareth. The Israeli government should also be advised to withdraw from the discussion wherever possible so the matter can be resolved by local officials. The U.S. government should urge all responsible parties involved to work together to relocate the mosque to a place that fully meets the needs of the Muslim population while protecting the integrity of this significant religious site.**
- 5. The U.S. government should urge the Israeli government to abide**

**by internationally recognized guarantees aimed at protecting the rights of civilians living under occupation, including the Geneva Conventions and all relevant UN Resolutions, in the Occupied West Bank, Gaza Strip and East Jerusalem.**

**6. The U.S. government should urge the greatest degree of access to religious sites, according to the guidelines of international law. The U.S. government should urge the Israeli government to immediately desist from collective punishment in the form of general and internal closures, which result in serious human rights abuses including infringements on religious freedom and have not been shown to be an effective means of ensuring security for large portions of the civilian population. Instead, this policy punishes thousands of Palestinians who have not committed any crimes.**

**7. The U.S. government should denounce forcefully the targeting of holy places of any religion. The U.S. government should also call for restoration of Jewish, Christian and Muslim sites that have been damaged; prosecution of all (including members of security forces) who perpetrate the desecration of religious sites; condemnation of such actions from governmental and religious leaders; and for all the parties involved to protect the integrity and safety of religious sites. In addition, the U.S. government should condemn official attacks on religious sites and call upon the Israeli government to refrain from such attacks during its military campaign and from using lethal force when dealing with unarmed demonstrators. The United States should also prohibit the sale and/or transfer of U.S. weapons used in such attacks, as required by U.S. law.**

**8. The U.S. government should condemn those who call for violence in the name of religion and take the lead in calling upon government and religious leaders everywhere to repudiate all attempts to turn the already grave situation in the Middle East into a conflict among religions.**

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<sup>1</sup> On a positive note, the decision of the Minister of the Interior to remove the “center of life” requirement for non-Jews living in Jerusalem has reduced the number of ID card confiscations during the past year.

<sup>2</sup> Human Rights Committee, General Comment No. 22 (48) (art. 18), U.N. Doc. CCPR/C/21/Rev.1/Add.4 (1993), ¶ 8.

<sup>3</sup> International Covenant on Civil and Political Rights, Article 4 [The obligation to protect the right to freedom of religion cannot be derogated from (i.e., diminished) even in times of “public emergency which threatens the life of the nation.”].

<sup>4</sup> Such measures must be strictly required by the situation and must not discriminate solely on the basis of religion. See *ibid.*

<sup>5</sup> The PA, however, fully restored Joseph's Tomb days after it was attacked.

<sup>6</sup> For a detailed account of the series of events following Sharon's visit to the Haram, see B'Tselem report "Events on the Temple Mount."