

**Appendices to the
Annual Report of the
United States Commission on International Religious Freedom
March 2012
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**APPENDIX 1:
BIOGRAPHIES OF USCIRF COMMISSIONERS**

Leonard Leo, Chair

Leonard A. Leo serves as the Executive Vice President of the Federalist Society for Law & Public Policy Studies, an organization of over 50,000 conservatives and libertarians dedicated to limited, constitutional government and interested in the current state of the legal order. He manages the projects, programs and publications of the Lawyers Division. He also helps manage the Federalist Society's government, media, and corporate relations, as well as special initiatives such as the organization's Supreme Court Project and International Law Project.

Mr. Leo has participated actively in a number of international forums. He served as a U.S. delegate to the UN Commission on Human Rights in 2005, has been an observer to the World Intellectual Property Organization, participated in two World Health Organization delegations in 2007, and is involved with the U.S. National Commission to the United Nations Educational, Scientific, and Cultural Organization.

Mr. Leo has published articles on religious liberty under the U.S. Constitution, presidential war powers, executive privilege, legislative responses to judicial activism, property rights, and several federal civil procedure issues. With James Taranto of the *Wall Street Journal*, he is the co-editor of *Presidential Leadership: Rating the Best and Worst in the White House* (Simon & Shuster, 2004).

Mr. Leo received his undergraduate degree with high honors from Cornell University in 1987 and his law degree from Cornell Law School with honors in 1989.

Mr. Leo is active in the affairs of the Catholic Church, serving as a member of the Sovereign Military Order of Malta and a member of the board of the National Catholic Prayer Breakfast.

Commissioner Leo was first appointed in 2007 and reappointed in August 2008 by President George W. Bush. Mr. Leo was reappointed in June 2010 by Senate Minority Leader Mitch McConnell (R-Ky.)

Don Argue, Vice Chair

Don Argue, Ed.D., was appointed Chancellor of Northwest University in Kirkland, Washington, on August 15, 2007, after serving as President of Northwest for nine years. During his tenure as President, Northwest experienced substantial growth, including an increase in the number of faculty and the addition of 14 new buildings, including the Center for Graduate and Professional Studies and the Health and Sciences Center. During his tenure, enrollment also grew by 52 percent.

Dr. Argue previously served as president of the National Association of Evangelicals (NAE). The NAE is comprised of approximately 42,500 congregations nationwide from 51 member denominations and individual congregations from an additional 26 denominations, as well as several hundred independent churches.

He also served as President of North Central University in Minneapolis, Minnesota, for 16 years. Under his leadership, the university received the *Christianity Today* “Decade of Growth Award” in recognition of being the fastest-growing college of its kind in the nation.

Dr. Argue earned a Bachelor’s degree at Central Bible College in Springfield, Missouri, a Master’s degree at Santa Clara University in Santa Clara, California, and a Doctorate in Education at the University of the Pacific in Stockton, California.

President Bill Clinton and Secretary of State Madeleine Albright invited Dr. Argue to serve on the President’s Advisory Committee on International Religious Freedom, for which he chaired the subcommittee dealing with international religious persecution.

President Clinton appointed Dr. Argue, Theodore Cardinal McCarrick (Washington, D.C.) and Rabbi Arthur Schneier (New York City) to the first official delegation of religious leaders from the United States to visit the People’s Republic of China to discuss religious freedom and religious persecution with high-ranking officials, including President Jiang Zemin.

Through the efforts of then-Senator Hillary Clinton, Commissioner Argue was appointed by Senate Majority Leader Harry Reid (D-NV) in 2007.

Dr. Elizabeth H. Prodromou, Vice Chair

Dr. Elizabeth H. Prodromou is Assistant Professor in the Department of International Relations at Boston University, where she directs the M.A. Program in International Relations and Religion. Prodromou holds a Ph.D. and an M.S. in Political Science from the Massachusetts Institute of Technology; she completed her M.A.L.D. from The Fletcher School of Law and Diplomacy, as well as a B.A. in International Relations and History from Tufts University.

She has published widely on issues of religion and security, and democracy, human rights, and religious freedom, in Europe and the United States. Her publications have appeared in scholarly and policy journals, such as *European Journal of Political Research*, *Social Compass*, *Journal of the American Academy of Religion*, *Journal of Democracy*, *Orbis*, *Survival*, and *Journal of Faith & International Affairs*, as well as in numerous edited volumes on human rights and religious freedom, as well as on politics and culture in Southeastern Europe. She also has appeared extensively in print and other media outlets in the U.S. and around the world.

She has published a book on Orthodoxy Christianity and contemporary world affairs (as co-editor and contributor), entitled *Thinking through Faith: Perspectives from Orthodox Christian Scholars*.

A regional expert on Southeastern Europe and the Eastern Mediterranean, Prodromou has been an invited policy consultant to many U.S. government agencies, as well with NATO, EU governments and non-governmental organizations in various EU member-states.

Since her appointment in October 2004 by Congresswoman Nancy Pelosi, Prodromou is now serving her fourth term as a Commissioner; she currently serves as Vice Chair for 2011-2012, and was previously elected Vice Chair by her fellow Commissioners for 2010-2011, 2009-2010, 2008-2009, and 2006-2007.

Dr. Azizah Y. al-Hibri

Dr. al-Hibri is Professor of Law at the University of Richmond, which she joined in 1992. At that time, she became the first Muslim woman law professor in the United States. Dr. al-Hibri is also chair of Karamah: Muslim Women Lawyers for Human Rights, which she founded in 1993. Between 1975-1983, Dr. al-Hibri was a Professor of Philosophy and founding editor of *Hypatia: a Journal Feminist Philosophy*. After graduation from the University of Pennsylvania School of Law, she became a visiting scholar at Harvard Divinity School before joining a major law firm on Wall Street.

Dr. al-Hibri has written extensively on women's issues, democracy, and human rights from an Islamic perspective. Her scholarly works have appeared in a variety of publications, including the *University of Pennsylvania Journal of Constitutional Law*, the *Harvard International Review*, and *Fordham International Law Journal*. She has also contributed chapters and articles to a number of collections on legal issues, women's rights, and Islam.

Dr. al-Hibri remains active in Karamah, which supports the rights of Muslim women worldwide through educational programs, jurisprudential scholarship, and a network of Muslim jurists and leaders. Karamah's original research and innovative programming provides Muslim women with the essential tools and knowledge to promote reform in their own communities.

In 2009, Dr. al-Hibri received the Journal of Law and Religion Lifetime Achievement Award. In 2007, Dr. al-Hibri received the Virginia First Freedom Award from the Council for America's First Freedom. She also was the recipient of the Dr. Betty Shabazz Recognition Award from Women in Islam in 2006, and the Distinguished Educator Award from the University of Richmond in 2004.

A Fulbright Scholar, and a Fellow at the National Humanities Center, Dr. al-Hibri was also a consultant to the Supreme Council for Family Affairs in Qatar on the development of Qatar's personal status code. At the request of the State Department, the United

Nations and other institutions, Dr. al-Hibri has shared her perspective at speaking engagements throughout Europe, the Middle East, and North Africa.

Dr. al-Hibri was appointed to the Commission in June 2011 by President Barack Obama.

Felice Gaer

Felice D. Gaer directs the Jacob Blaustein Institute for the Advancement of Human Rights of the American Jewish Committee. The Institute conducts research and advocacy to strengthen international human rights protections and institutions worldwide.

Ms. Gaer was and remains the first American to serve as an Independent Expert on the UN Committee against Torture, a body which monitors compliance of 150 countries with the Convention against Torture. Ms. Gaer has been a member of the Committee since she was nominated by the Clinton Administration in 1999, and has been elected to four terms on it, serving as Vice Chair (2004-2006 and 2009-2011), as General Rapporteur (2006-2008), and as year-round Rapporteur on Follow-up to Country Conclusions (2003 to present).

Ms. Gaer was 2010 Regents Professor at the University of California at Los Angeles (UCLA). In 2010, Gaer was awarded the National Religious Freedom award by the First Freedom Center in Richmond, Virginia. *Encyclopedia Judaica* describes Ms. Gaer as having “played the key role in assuring passage by consensus of the UN General Assembly’s first-ever condemnation of anti-Semitism” in 1998, and being an “architect of many initiatives linking women’s rights to human rights.”

Ms. Gaer writes and lectures widely on U.S. and UN human rights policy, addressing issues including protecting civilians under threat, advancing the human rights of women, eradicating religious persecution abroad, resolving ethnic conflicts, and preventing genocide. One of the first to call for the issue of rape in armed conflicts to be addressed by the international war crimes tribunal on former Yugoslavia, she was a key negotiator on the U.S. delegation to the 1995 Beijing World Conference on Women. Among her articles on freedom of religion and human rights are “Echoes of the Future? Religious Repression as a Challenge to U.S. Human Rights Policy” in the volume, *The Future of Human Rights: U.S. Policy for a New Era* (U. of Penn. Press, 2008), and “Religious Freedom,” in the *Encyclopedia of Human Rights* (Oxford Univ. Press, 2009).

In 2009, the Obama Administration asked Ms. Gaer to serve on its delegation to the UN in Geneva to assess the Durban Review Conference negotiations, and to be a delegate to the UN Commission on the Status of Women. Ms. Gaer was a public member of nine U.S. delegations to UN human rights negotiations, including the Commission on Human Rights and the Beijing World Conference on Women in the 1990s. More recently, she served on several U.S. delegations to the OSCE in her capacity as Chair and Vice Chair of USCIRF.

A member of the Council on Foreign Relations, Ms. Gaer serves on the advisory committee of Human Rights Watch/Europe and Central Asia. She is a member of the board of the Andrei Sakharov Foundation. In 2002 and 2003 she was cited in the annual Forward 50 list of Jewish Americans who are making a difference.

Ms. Gaer is a graduate of Wellesley College, from which she received the Alumni Achievement Award in 1995. She also received advanced degrees from Columbia University.

Ms. Gaer, who has served on the Commission since 2001, including three times as Chair, three times as Vice Chair, and one time on the Executive Committee, was reappointed to the Commission in 2010 by President Barack Obama. Previously, she was appointed by Speaker Nancy Pelosi (D-CA) and Democratic leader Richard Gephardt (D-MO).

Dr. Richard D. Land

Richard Land has served as president of the Southern Baptist Convention's Ethics & Religious Liberty Commission since 1988. During his tenure as representative for the largest Protestant denomination in the country, Dr. Land has represented Southern Baptist and other Evangelicals' interests in the halls of Congress, before U.S. Presidents, and in the major media.

As host of *For Faith & Family* and *Richard Land Live!*, two nationally syndicated radio programs, Dr. Land has spoken widely on the social, ethical, and public policy issues facing the United States. He is also executive editor of *FFV*, a national magazine dedicated to coverage of traditional religious values, Christian ethics, and cultural trends.

Dr. Land was featured in Time magazine in 2005 as one of "The Twenty-five Most Influential Evangelicals in America." The previous year, he was recognized by the National Journal as one of the 10 top church-state experts "politicians will call on when they get serious about addressing an important public policy issue."

Dr. Land's latest book, *The Divided States of America? What Liberals and Conservatives Get Wrong About Faith and Politics* is published by Thomas Nelson and was re-released in January 2011 with a new preface. Dr. Land has also recently authored *Imagine! A God-Blessed America* (2005) and *Real Homeland Security: The America God Will Bless* (2004). He earned his A.B. magna cum laude at Princeton University and his D.Phil. at Oxford University. Dr. Land also received his Masters of Theology (Th.M.) degree from New Orleans Baptist Theological Seminary and was given their outstanding alumnus award in 1997.

Then-Senate Majority Leader Bill Frist reappointed Dr. Land to the Commission in 2005. President Bush selected him for his two previous terms at the Commission (September 2001 to September 2004). Dr. Land was reappointed in 2007 and in 2010 by Senate Republican leader Mitch McConnell (R-KY).

Dr. Land served as Vice Chair of the Commission from 2007-2008.

Dr. William J. Shaw

Dr. William J. Shaw is the immediate past President of the National Baptist Convention, USA, Inc., the largest Black religious body in the United States, and Pastor of White Rock Baptist Church in Philadelphia, a position he has held since 1956. In addition to his work as Pastor of the White Rock Baptist Church, Dr. Shaw is a recognized leader in Pennsylvania and across the nation. He was previously appointed to serve on the Bush-Clinton Katrina Fund and currently sits on the Board of the Hospital of the University of Pennsylvania.

Dr. Shaw has served as President of The Baptist Ministers' Conference of Philadelphia and Vicinity, The Metropolitan Christian Council of Philadelphia, and the Union Theological Seminary National Alumni Association. From 1981 through 1994, Dr. Shaw served as Director of the Ministers' Division of the National Congress of Christian Education. He has been the recipient of numerous awards, including most recently, the Unitas Award, given by the Alumni Association of the Union Theological Seminary and the T. B. Maston Foundation Christian Ethics Award from the Southwestern Baptist Theological Seminary.

In 2010, he was appointed to a term on USCIRF by President Barack Obama.

Nina Shea

An international human-rights lawyer for 30 years, Nina Shea is a senior scholar at the Hudson Institute, where she directs the Center for Religious Freedom.

For the 10 years prior to joining Hudson, Ms. Shea worked at Freedom House, where she directed the Center for Religious Freedom, an office which she had helped found in 1986.

For over a decade, she has worked extensively for the advancement of individual religious freedom and other human rights in U.S. foreign policy as it confronts Islamist extremism, as well as authoritarian regimes. For seven years, until 2005, she helped organize and lead a coalition of churches and religious groups that worked to end a religious war against Christians, traditional African believers, and dissident Muslims in southern Sudan. In 2004 and 2005, she contributed to the drafting of the Iraqi Constitution's religious freedom provision. She has authored and/or edited three widely acclaimed reports, *Saudi Arabia's Curriculum of Intolerance* (2006) and *Updates* (2008 and 2011) and *Saudi Publications on Hate Ideology Invade American Mosques* (2005), each of which translated and analyzed Saudi governmental publications that teach hatred and violence against the religious "other."

Ms. Shea is the co-author of *Silenced: How Apostasy and Blasphemy Codes are Choking Freedoms Worldwide* (Oxford University Press, November 2011).

She regularly presents testimony before Congress, delivers public lectures, organizes briefings and conferences, and writes frequently on religious freedom issues in the *Wall Street Journal*, *National Review Online*, *Huffington Post* and other publications. Her 1997 book on anti-Christian persecution, *In the Lion's Den*, remains a standard in the field.

Ms. Shea has served as a Commissioner on USCIRF since its founding in 1999. She was first appointed to the Commission in 1999 by then-Speaker of the House Dennis Hastert (R-IL) and was reappointed in 2007 and in 2010 by Rep. John Boehner (R-OH). She was appointed as a U.S. delegate to the United Nations' Commission on Human Rights by both Republican and Democratic administrations. In January 2009, Ms. Shea was appointed as a commissioner on the U.S. National Commission to the United Nations Educational, Scientific, and Cultural Organization.

Ms. Shea is a member of the bar of the District of Columbia. She is a graduate of Smith College and American University's Washington College of Law.

Ted Van Der Meid

Mr. Van Der Meid, a native of Rochester, New York, spent over 23 years on Capitol Hill, including as Counsel to Speaker J. Dennis Hastert and Director of Floor Operations. He served as Chief Counsel and Chief of Staff to the House Committee on Standards of Official Conduct, and as Counsel to the Republican Leader, Robert H. Michel.

Mr. Van Der Meid is now Senior Officer at the Pew Charitable Trust in Washington, D.C.

He has been an adjunct professor for several universities in New York State.

Mr. Van Der Meid is a graduate of North Park University, Syracuse University College of Law, and the Kennedy School of Government at Harvard University.

Mr. Van Der Meid was appointed on the recommendation of then-House Minority leader Rep. John Boehner to his first term in 2010.

**APPENDIX 2:
THE INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998¹**

Selected Provisions

Section 3. DEFINITIONS (22 U.S.C. § 6402)

(11) PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The term “particularly severe violations of religious freedom” means systematic, ongoing, egregious violations of religious freedom, including violations such as—

- (A) torture or cruel, inhuman, or degrading treatment or punishment;
- (B) prolonged detention without charges;
- (C) causing the disappearance of persons by the abduction or clandestine detention of those persons; or
- (D) other flagrant denial of the right to life, liberty, or the security of persons.

(13) VIOLATIONS OF RELIGIOUS FREEDOM.—The term “violations of religious freedom” means violations of the internationally recognized right to freedom of religion and religious belief and practice, as set forth in the international instruments referred to in section 2(a)(2) and as described in section 2(a)(3), including violations such as—

- (A) arbitrary prohibitions on, restrictions of, or punishment for—
 - (i) assembling for peaceful religious activities such as worship, preaching, and prayer, including arbitrary registration requirements;
 - (ii) speaking freely about one’s religious beliefs;
 - (iii) changing one’s religious beliefs and affiliation;
 - (iv) possession and distribution of religious literature, including Bibles; or
 - (v) raising one’s children in the religious teachings and practices of one’s choice; or
- (B) any of the following acts if committed on account of an individual’s religious belief or practice: detention, interrogation, imposition of an onerous financial penalty, forced labor, forced mass resettlement, imprisonment, forced religious conversion, beating, torture, mutilation, rape, enslavement, murder, and execution.

Section 402. PRESIDENTIAL ACTIONS IN RESPONSE TO PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM (22 U.S.C. § 6442)

(b) DESIGNATIONS OF COUNTRIES OF PARTICULAR CONCERN FOR RELIGIOUS FREEDOM.—

(1) ANNUAL REVIEW.—

(A) IN GENERAL.— Not later than September 1 of each year, the President² shall review the status of religious freedom in each foreign country to determine whether the government of that country has engaged in or tolerated particularly severe violations of religious freedom in that country during the preceding 12 months or since the date of the last review of that country under

¹ P.L. 105-292, as amended, 22 U.S.C. § 6401, et seq. The full text of IRFA can be found on the Commission’s Web site, www.uscirf.gov.

² The authority to make decisions and take actions under IRFA has been delegated by the President to the Secretary of State.

this subparagraph, whichever period is longer. The President shall designate each country the government of which has engaged in or tolerated violations described in this subparagraph as a country of particular concern for religious freedom.

Section 405. DESCRIPTION OF PRESIDENTIAL ACTIONS (22 U.S.C. § 6445)

[With respect to each country named a “country of particular concern” (CPC), the President shall, according to section 402(c)(1)(a) and, in general, following an attempt to carry out consultations with the foreign government in question, carry out one or more of the actions described in paragraphs (9) through (15) of section 405(a), as determined by the President. The President may substitute a commensurate action. IRFA § 405(b).]

405(a)(9) The withdrawal, limitation, or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act of 1961;

405(a)(10) Directing the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the Trade and Development Agency not to approve the issuance of any (or a specified number of) guarantees, insurance, extensions of credit, or participations in the extension of credit with respect to the specific government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402;

405(a)(11) The withdrawal, limitation, or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act of 1961;

405(a)(12) Consistent with section 701 of the International Financial Institutions Act of 1977, directing the United States executive directors of international financial institutions to oppose and vote against loans primarily benefiting the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402;

405(a)(13) Ordering the heads of the appropriate United States agencies not to issue any (or a specified number of) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402, under—

(A) the Export Administration Act of 1979;

(B) the Arms Export Control Act;

(C) the Atomic Energy Act of 1954; or

(D) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services;

405(a)(14) Prohibiting any United States financial institution from making loans or providing credits totaling more than \$10,000,000 in any 12-month period to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402; and/or

405(a)(15) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from the foreign government, entities, or officials found or determined by the President to be responsible for violations under section 401 or 402.

[In lieu of carrying out action as described above, the President may conclude a binding agreement with the respective foreign government that obligates such government to cease, or take substantial steps to address and phase out, the act, policy, or practice constituting the violation of religious freedom. IRFA § 402(c)(2). Moreover, “[a]t the time the President determines a country to be a country of particular concern, if that country is already subject to multiple, broad-based sanctions imposed in significant part in response to human rights abuses, and such sanctions are ongoing, the President may determine that one or more of these sanctions also satisfies the requirements of this subsection.” IRFA § 402(c)(5).]

Section 407. PRESIDENTIAL WAIVER. (22 U.S.C. § 6447)

(a) In General.--Subject to subsection (b), the President may waive the application of any of the actions described in paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to a country, if the President determines and so reports to the appropriate congressional committees that--

- (1) the respective foreign government has ceased the violations giving rise to the Presidential action;
- (2) the exercise of such waiver authority would further the purposes of this Act; or
- (3) the important national interest of the United States requires the exercise of such waiver authority.

(b) Congressional Notification.--Not later than the date of the exercise of a waiver under subsection (a), the President shall notify the appropriate congressional committees of the waiver or the intention to exercise the waiver, together with a detailed justification thereof.

**APPENDIX 3:
INTERNATIONAL STANDARDS FOR CONSTITUTIONAL
RELIGIOUS FREEDOM PROTECTIONS**

Several countries in the world are or soon will be drafting new constitutions. It is vital that these constitutions protect universal human rights, including the right to freedom of religion or belief. Based on its experience analyzing constitutions against international standards,¹ the U.S. Commission on International Religious Freedom (USCIRF) offers the following guideposts for the full protection of religious freedom consistent with international human rights law:

Freedom of Religion or Belief is a Universal Right

The 193 member states of the United Nations have agreed, by signing the UN Charter, to “practice tolerance” and to “promot[e] and encourag[e] respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.” These rights and freedoms include the freedom of thought, conscience, and religion or belief, which is protected and affirmed in numerous international instruments, including the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights (ICCPR), and the 1981 Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

Article 18 of the Universal Declaration of Human Rights provides:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 18 of the ICCPR similarly provides:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

¹ USCIRF, “The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Predominately Muslim Countries,” March 2005; USCIRF, “Iraq’s Draft Permanent Constitution: Analysis and Recommendations,” September 2005; USCIRF, “Iraq’s Permanent Constitution: Analysis and Recommendations,” March 2006.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 26 of the ICCPR addresses religious and other forms of discrimination:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Freedom of Religion or Belief is a Broad Right for Every Individual

Respecting religious freedom consistent with international human rights law is not only a matter of protecting the freedom of religious communities, as groups, to engage in worship and other collective activities. It also encompasses the freedom of every individual to hold, or not to hold, any religion or belief, as well as the freedom to manifest such a religion or belief, subject only to narrow limitations allowed under international law.

Thus, religious freedom is not only for religious minorities. It affords members of a country's religious majority the freedom to debate interpretations of the dominant religion, as well as to dissent or otherwise refuse to follow the favored interpretation. In addition, religious freedom is not only for religious communities deemed "traditional." It also includes the rights of individuals or communities to hold new beliefs, polytheistic beliefs, non-theistic beliefs, or atheistic beliefs.²

Religious freedom also encompasses more than just a right to worship or to practice religious rites; its full enjoyment requires that other rights must also be respected. The full scope of the right to manifest religion or belief includes the rights of worship, observance, practice, expression, and teaching, broadly construed, including property rights regarding meeting places, the freedom to manage religious institutions, and the freedom to possess, publish, and distribute liturgical and educational materials.

Finally, religious freedom is not only for a country's citizens. International human rights standards require a state to extend rights and equal status to "all individuals within its territory and subject to its jurisdiction."³

Freedom of Religion or Belief Includes Freedom of Religious Choice and Expression

Religious freedom includes the freedom to keep or to change one's religion or belief without coercion.⁴ It also includes the freedom to manifest one's religion or belief through public

² See Hum. Rts. Comm., gen. cmt. 22, art. 18, para. 2 (forty-eighth session, 1993), UN Doc. CCPR/C/21/Rev.1/Add.4 (1994), [hereinafter HRC General Comment No. 22].

³ ICCPR, Article 2(1).

⁴ ICCPR, Article 18(2).

expression, including expression intended to persuade another individual to change his or her religious beliefs or affiliation voluntarily. Any limitations on these freedoms must be prescribed by a narrowly-construed law, based on a ground specified in ICCPR Article 18, non-discriminatory, not destructive of guaranteed rights, and not based solely on a single tradition.

Permissible Limitations on Freedom of Religion or Belief Are Narrow

Under international law, the broad right to freedom of religion or belief, including the management of religious institutions, may be subject to only such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others. Limitations are not allowed on grounds not specified in ICCPR Article 18, even grounds that may be permitted to restrict other rights protected in the Covenant. For example, national security is not a permissible limitation, and States cannot derogate from this right during a declared public emergency. Limitations also must be consistent with the ICCPR's provisions requiring equality before the law for all and prohibiting any measures that would destroy guaranteed rights.⁵ Finally, limitations on the freedom to manifest a religion or belief that rely on morality must be based on principles not deriving from a single tradition.⁶

Establishing an Official Religion Cannot Justify Rights Violations or Discrimination

Under international standards, a state may declare an official religion, provided that basic rights, including the individual right to freedom of thought, conscience, and religion or belief, are respected for all without discrimination. Thus, the existence of a state religion cannot be a basis for discriminating against or impairing any rights of adherents of other religions or non-believers or their communities. Providing benefits to official state religions not available to other faiths would constitute discrimination, as would excepting state religions from burdensome processes required for faith communities to establish legal personality. Under the ICCPR, the fact that “a religion is recognized as a state religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant.”⁷

⁵ ICCPR, Articles 2 and 5.

⁶ HRC General Comment No. 22, at para. 8.

⁷ HRC General Comment No. 22, at para 9.

**APPENDIX 4: EXCERPTS FROM
*CONNECTING THE DOTS: EDUCATION AND RELIGIOUS
DISCRIMINATION IN PAKISTAN - A STUDY OF PUBLIC SCHOOLS AND MADRASSAS***

Preface

Education is critical. This is especially true in Pakistan, an ethnically and religiously diverse nation of around 180 million people. Precisely because of this diversity, education plays a critical role in the fabric of Pakistani life, with the potential of bringing the society together or tearing it apart. Especially important are the roles that educators play: how and what they teach and the curricula they use deeply influences whether children appreciate and respect ethnic and religious diversity or view religious minorities negatively, as valueless and aliens in their own country. Once instilled early in life, negative attitudes often resist change and can factor into the disintegration of the social fabric of communities, discrimination, and even sectarian violence.

The U.S. Commission on International Religious Freedom (USCIRF), an independent and bipartisan U.S. government commission separate from the State Department, has actively monitored the troubling rise in violent religious extremism across Pakistan that targets religious minorities as well as members of the majority Muslim faith. USCIRF has concluded that promoting respect for freedom of religion or belief must be an integral part of U.S. strategy in South Asia. The conflict with violent religious extremists now taking place in Pakistan requires the United States to understand and factor into its policies an understanding of the roots of this extremism and actively bolster the position of those elements in society that respect democratic values, the rule of law, and international standards of human rights, including freedom of religion or belief. Education reform is a key part of this effort.

In our 2011 Annual Report, USCIRF found that textbooks used in Pakistani primary and secondary schools foster prejudice and intolerance of religious minorities, especially Hindus and Christians. Such intolerant references are not restricted to Islamic studies textbooks: they are found in both early elementary and more advanced social studies texts used by all public school students, including non-Muslims. Moreover, the textbooks contain stories, biographies, and poems with an Islamic religious character that students of minority faiths must study and be tested on.

In addition, a significant minority of Pakistan's thousands of religious schools, or madrassas, reportedly continue to provide ideological training and motivation to those who take part in religiously-inspired violence in Pakistan and abroad. A memorandum of understanding signed in October 2010 between the Ministry of Interior, which oversees the madrassa system, and the five main madrassa boards was an attempt to better regulate their curriculum and financing. However, further implementation has stalled and the curriculum remains unreformed. In its advisory role, USCIRF recommended in 2011 that the U.S. government urge the government of Pakistan and appropriate provincial authorities to, inter alia:

- set national textbook and curricula standards that actively promote tolerance toward all persons, and establish appropriate review and enforcement mechanisms to guarantee that such standards are being met in government (public) schools;
- move quickly to implement improved guidelines for textbooks used in public schools and to replace current public school textbooks with ones that exclude messages of intolerance, hatred, or violence against any group of persons based on religious or other differences; and
- ensure that a madrassa oversight board is empowered to develop, implement, and train teachers in human rights standards, and to provide oversight of madrassa curricula and teaching standards.

Because of the enormity of the challenge and the importance of these concerns, and to provide more detailed recommendations to American policymakers, USCIRF funded a study by the International Center for Religion and Diplomacy (ICRD) to examine the social studies, Islamic studies, and Urdu textbooks and pedagogical methods in Pakistan's public school system and its madrassa system, and to interview teachers and students about their views towards religious minorities. The goal of this study was to explore what linkages, if any, exist between the portrayal of religious minorities in Pakistan's public schools and madrassas, biases that exist toward these minorities, and acts of discrimination or extremism resulting from such biases.

To these ends, ICRD examined: the portrayal of religious minorities in these textbooks, with an emphasis on determining the degree to which negative stereotypes and/or biased portrayals of religious minorities exist, as well as positive examples of teaching about tolerance and respecting differences; the degree to which biases against religious minorities result from how these minorities are portrayed in these educational systems; and the degree to which systemic biases towards other religious groups are ingrained in the administration of public schools and madrassas. Based on these findings, ICRD recommended how best to counter the negative stereotyping to which students are exposed in their schooling and education.

ICRD, with the independent Pakistani think tank Sustainable Development Policy Institute, reviewed more than 100 textbooks from grades 1-10 from all of Pakistan's four provinces. In addition, students and teachers from public schools and madrassas were interviewed in Khyber Pakhtunkhwa (formerly known as the North-West Frontier Province), Balochistan, Sindh, and Punjab. Thirty-seven middle and high schools were visited, with 277 students and teachers interviewed individually or in group settings. Two hundred and twenty-six madrassa students and teachers were interviewed from 19 madrassas.

The results are eye opening and concerning.

Public school textbooks used by all children often were found to have a strong Islamic orientation, while Pakistan's religious minorities were either referenced derogatorily or omitted all together. Hindus, one of Pakistan's religious minorities, were described in especially negative terms, and references to Christians were often inaccurate and offensive. Madrassa textbooks generally portrayed non-Muslims in one of three ways: (1) kafirs (infidels) or mushrakeen (pagans), (2) dhimmis (non-Muslims living under Islamic rule), or (3) murtids (apostates, i.e.

people who have turned away from Islam). Non-Muslims were never described as citizens with the constitutionally protected rights which accompany citizenship. Tolerant references were found in both systems, often intermixed with neutral and intolerant references, leaving some room — albeit complicated — for improvement.

Interviews with public school and madrasa teachers demonstrated that they had limited awareness or understanding of religious minorities and their beliefs, and were divided on whether a religious minority was a citizen. Views expressed by teachers about Ahmadis, Christians, and Jews often were very negative. Interviews showed that these biased sentiments were transmitted and held by the students.

This is the first study of this scope, examining Pakistan's public school and madrasa textbooks, as well as the attitudes of students and teachers in all four provinces. As the reader will see, the findings of the study and the recommendations reinforce USCIRF's conclusion that education reform incorporating themes of religious tolerance is critical for the development of a tolerant Pakistani society that values religious freedom and religious diversity for all its citizens. This is in the interest of both the United States and all Pakistanis.

Findings - Public Schools

During the course of this study we found that there were significant issues with regard to:

1. The negative portrayal of minorities in the textbooks or omission of their contribution to Pakistan's formation, development, and defense;
2. The prevalence of bigotry in the attitudes of public school teachers and the transmission of negative perceptions and stereotypes in the education system;
3. The failure of textbooks published after the curricular reforms of 2006 to adhere to the mandated guidelines;
4. The prevalence of misinformed or pejorative attitudes in students, which often imitate the textbook content or teacher opinions;
5. Instances of discrimination or abuse of religious minorities within the public school system.

Public School Recommendations

The following recommendations are intended to overcome these challenges:

1. Promote the full implementation of the 2006 curricular reforms.

The 2006 reforms, while imperfect, represent a major step towards the elimination of biases against religious minorities in the textbooks. Efforts should be focused on ensuring that textbooks, teacher aids, and other learning materials reflective of the new guidelines are developed, approved, and distributed to public schools. While the more recent textbooks appear

to contain gradual improvements, they still fall well short of the curricular guidelines as presented on the Ministry of Education website. Implementation of the most pressing aspects should take priority, with a focus on including—or expanding guidelines to include—the following: (a) content relating to Islamic studies should be consolidated into the Islamiyat (Islamic Studies) course, and should be completely removed from integrated textbooks in earlier grades where religious minorities are currently required to study Islam; (b) revised History, Social Studies, and Pakistan Studies textbooks should be available to all school children, and a prohibition on the old pre-2006 textbooks books should be implemented; (c) the constitutional rights and contributions of religious minorities should be highlighted; and (d) gratuitously derogatory content, especially against Hindus, should be removed.

2. Create a reporting mechanism for cases of discrimination against religious minorities.

To offer religious minorities a safeguard against discrimination or abuse in schools, an official agency should be formed within the newly-formed National Harmony Ministry to provide a safe and confidential method of filing discrimination complaints. The agency must have the ability to take any steps that it deems necessary to discipline educational leadership, faculty, and administration members found to have violated the rights of religious minorities without any interference or influence. Public school educational leadership, faculty, and administration officials should be trained to adhere to anti-discrimination policies and informed of the penalties for disobedience. This agency should have the following minimum mandate: (a) oversee institutions that protect the rights of minorities and ensure a mandate for anti-bias education and awareness-raising across Pakistan; (b) audit of textbooks, teacher training programs, and educational practices regarding anti-minority biases in any publically-funded educational institution; (c) prosecution of any violator of minority rights guaranteed by the constitution; (d) protection of victims of minority bias and strict guidelines that provide safeguards to whistle blowers.

3. Make the course “Ethics for Non-Muslims” compulsory for all students.⁹⁵

The curriculum guidelines for “Ethics for Non-Muslims”—currently an alternative to Islamic Studies—appear to present a comprehensive description of the minority religions of Pakistan. If this course, or a component of this course, were included in the core curriculum, it would effectively dispel many of the inaccuracies and stereotypes found in the current depictions of religious minorities.

4. Develop teacher-training programs to focus on the constitutional rights of religious minorities, critical thinking, and the importance of promoting tolerance for diversity in classroom pedagogy.

Wide-scale teacher training programs should be developed and implemented to promote the professional development of public school teachers, especially as pertains to religious tolerance, critical thinking, and the constitutional rights of religious minorities. Teachers must be made aware of the aspects of the constitution that guarantee the rights of religious minorities and their responsibility as teachers to include these aspects in the lessons. Course material should be distributed to all teachers that include the following articles of the Constitution of 1973:

a. *Wherein adequate provision shall be made for the minorities freely to profess and practice their religions and develop their cultures.*

Pakistan Constitution (1973), Preamble

b. *(a) Every citizen shall have the right to profess, practice and propagate his religion; and (b) every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions.*

Pakistan Constitution (1973), art. 20(a-b)

c. *No person attending any educational institution shall be required to receive religious instruction, or take part in any religious ceremony, or attend religious worship, if such instruction, ceremony or worship relates to a religion other than his own.*

Pakistan Constitution (1973), art. 22(1)

d. *All citizens are equal before law and are entitled to equal protection of law.*

Pakistan Constitution (1973), art. 25(1)

e. *Nothing in this Part shall affect the personal laws of non-Muslim citizens or their status as citizens.*

Pakistan Constitution (1973), Part IX Islamic Provisions, art. 227(3)

5. Create channels of communication and cooperation between parents, teachers, and officials.

The parents of students have to be engaged in the public education system, and their concerns must be addressed. The violent results of religious intolerance have created an atmosphere of insecurity throughout Pakistan and a concerted effort is need to combat this in the education system. Progressive-minded stakeholders should be empowered.

6. Facilitate interfaith initiatives.

Interfaith dialogue initiatives and joint academic/extracurricular activities should be facilitated with faculty and students of others religions where possible.

7. Develop realistic timeframes for implementation.

Donor countries should be mindful of the unstable political climate of Pakistan and develop contingency plans for deteriorating relationships, intensified internal conflict, and shifting priorities. These circumstances are often difficult to predict and are clearly beyond the influence of donor countries. Projects should be designed to produce incremental progress, and should not rely on extended periods of stability. Pakistan has yet to experience a decade without a military coup or imposition of martial law.

8. Remove pejorative content from the Constitution of 1973.

The followed sections of the Constitution present a challenge in the creation of an unbiased environment for religious minorities both in the education system and society at large.

a. *A person shall not be qualified for election as President unless he is a Muslim...*

Pakistan Constitution (1973), art. 41(2)

b. After the election of the Speaker and the Deputy Speaker the National Assembly shall, to the exclusion of any other business, proceed to elect without debate one of its Muslim members to be the Prime Minister.

Pakistan Constitution (1973), art. 91(3)

c. ... “non-Muslim” means a person who is not a Muslim and includes a person belonging to the Christian, Hindu, Sikh, Budhist [sic] or Parsi community, a person of the Qadiani group or the Lahori group (who call themselves “Ahmadis” or by any other name), or a Bahai, and a person belonging to any of the scheduled castes.

Pakistan Constitution (1973), art. 260(3)(b)

Findings – Madrassas

Our study found that the challenges in madrassa education as they relate to religious minorities are much different than in public schools for a number of reasons:

1. There are no (or extremely few) religious minorities in the madrassa system, and most of the opinions offered about religious minorities are based on second-hand information;
2. The madrassa curricula and textbooks are not uniform in key areas; they are often centuries-old texts that refer to other religions in the context of the era in which they were written;
3. Madrassa education is religious by nature, and bias against religious minorities takes a different tone and form;
4. Madrassa education is isolated from a large part of the Pakistani society, and graduates do not have the same employment prospects, but they wield great influence as Islamic clergy.

Madrassa Recommendations

Even more so than public school reform, madrassa sector reform is a politically and religiously charged undertaking. From our previous involvement with madrassa leaders, ICRD has come to recognize a profound level of mutual distrust between the madrassa community and the government of Pakistan. The following policy recommendations are offered with these challenges in mind:

1. Official engagement between the madrassa boards and the government of Pakistan (GOP) should be encouraged.

The government of Pakistan (GOP) should build consensus within the various governmental ministries and interest groups on a policy of madrassa reform that will be acceptable to the madrassa leaders, which must then be clearly articulated to the public. The GOP should seek the endorsement of the madrassa boards for any proposed madrassa reform program. The existing

madrassa reform agreement which was signed by the ITMP National Madrassa Oversight Board and the GOP should be signed into law and implemented.

2. Teacher Training Program Development.

While public schools, in theory, are to adhere to government-mandated educational guidelines, no such system of uniform educational standards exists for the madrassas. A system of madrassa accreditation and teacher certification should be put in place to ensure that madrassas are meeting mutually agreed-upon educational standards. These standards should be developed in full cooperation with the madrassas to ensure their ownership in the process. Toward this end, ICRD is currently working with various Pakistani universities to develop a series of university training programs for madrassa leaders that will provide the basis for certification and set the stage for full implementation of the madrassa educational enhancements. Teacher training programs should place a great emphasis on the systematic pedagogical training of madrassa teachers, beyond curricular enhancements, as by itself, official inclusion of “contemporary” subjects in madrassa curriculums is insufficient to make a meaningful difference. Even more critical is to train teachers in key areas such as the following:

- a. Teaching methodology, with an emphasis on interactive and student-centered learning, development of critical thinking skills among the students, and ensuring that all subjects are taught in a way that promotes genuine learning and skill development;
- b. Ethical principles and how they can be imparted to students and applied in the classroom environment, including tolerance, diversity/pluralism, and inter-/intra-faith relations;
- c. Child development, psychology, and emotional intelligence, including the impact of fear and trauma on children and the influence of the teacher as a role model;
- d. Reflective practice and the ability to evaluate one’s own teaching style and the learning styles of one’s students and then to adapt one’s teaching accordingly.

3. Curricular reforms should be instituted, with particular focus on certain areas of need.

Madrassas should make their curriculums more accessible to those outside the madrassa system in order to dispel suspicion and promote greater understanding between the madrassas and other academic communities. Curricular reforms should emphasize areas such as the below.

Religious Tolerance in Practice

The madrassa boards should be encouraged to make revisions to the madrassa curriculum, and funding should be made available for their development and distribution. Reforms should highlight some key themes in order to place greater emphasis on the principles of religious tolerance and religious freedom. These could include areas such as: historical achievements of Islamic societies in promoting respect for and protecting the rights of others, and how these principles should be applied today; principles of nonviolence and historical nonviolence movements; historical conflicts and examples of successful conflict resolution initiatives; comparative studies of principles and practices of human rights; studies of world cultures;

international organizations and their roles in peace building and human rights; and the role of religion/religious institutions, civil society, and youth in peace building.

Religious Tolerance in Education

Courses on the comparative study of religions should be included or expanded, with an emphasis on promoting religious tolerance and interfaith understanding. Madrassa scholars who have previously studied this area have suggested incorporating the following into madrassa education: (a) an emphasis on the study of Hinduism, Buddhism, Jainism, Zoroastrianism, Judaism, and Christianity in addition to Islam (these scholars have compiled a list of specific topics of study for each religion and an accompanying list of suggested texts); (b) the study of other Islamic schools of thought other than that of the sect with which the madrassa is affiliated; and (c) interfaith/inter-sectarian dialogue initiatives and joint academic/extracurricular activities should be facilitated with faculty and students of others sects/religions where possible.

Modernizing Textbooks

Additional texts should be incorporated to complement (not replace) existing classical texts which are being used in madrassas, many of which are at least 500-700 years old or older, most importantly in the following areas: (a) texts which address the role of non-Muslim citizens in a modern Muslim society and how a Muslim should treat non-Muslims in the contemporary world should be included; (b) current texts are particularly needed in the areas of *ijtihad* (reinterpretation of Islamic traditions) and the sciences (such texts can show the evolution of ideas on Islamic jurisprudence); and (c) books explaining various schools of thought should be incorporated into Islamic studies courses, with refutation texts balanced by texts that promote a better understanding of other points of view.

The full report can be found: [http://www.uscirf.gov/images/Pakistan-ConnectingTheDots-Email\(3\).pdf](http://www.uscirf.gov/images/Pakistan-ConnectingTheDots-Email(3).pdf)

**APPENDIX 5: USCIRF POLICY FOCUS, CRISIS IN SUDAN
DECEMBER 14, 2011**

There are no reports about the killings in Sudan but we hear on the radio about the killings everywhere else in the world. We don't feel like the international community cares, we are not a priority. – SPLM-N election volunteer, Kadugli

They want to arrest us, they don't want their own people to live. – Teacher, Tallie

Under the control of Sudanese President Omar al-Bashir, the Sudanese Armed Forces (SAF) and Khartoum's paramilitary Popular Defense Forces (PDF) have targeted persons based on religion, ethnicity, and political affiliation in Southern Kordofan and Blue Nile states. The government also has bombed and denied humanitarian assistance to civilians, creating an urgent humanitarian crisis in the two states. Such actions in Southern Kordofan and Blue Nile states constitute a violation of international human rights and humanitarian law by the government of Sudan.

The U.S. Commission on International Religious Freedom (USCIRF) traveled to South Sudan and visited the Yida refugee camp in late October to investigate reports of violations of international human rights law, including freedom of religion or belief, and persons being targeted based on their religious identity. USCIRF staff members Tiffany Lynch and David Dettoni interviewed more than 80 refugees from Southern Kordofan and Blue Nile, including 30 individual interviews and three focus groups combining approximately 50 refugees. Ten of the individual interviews were with Christian and Muslim religious leaders from the Nuba Mountains. USCIRF staff also discussed the human rights violations in the two states with representatives from the U.S. government, United Nations, Sudan People's Liberation Movement-North (SPLM/N), international human rights nongovernmental organizations (NGOs), and Southern Kordofan and Blue Nile NGOs. Commission staff was told of abuses that the SAF and government-backed militia reportedly committed based on differing factors of religion, ethnicity, and political affiliation and the urgent humanitarian situation.

Background

Southern Kordofan and Blue Nile states border the Republic of South Sudan. Both states are religiously and ethnically mixed, and Khartoum has politically and economically marginalized the people living there. Experiencing similar grievances as Southern Sudanese, many of the Nuban people in Southern Kordofan and peoples in southern Blue Nile sided with the Sudan People's Liberation Movement/Army (SPLM/A) during Sudan's 20 year North-South civil war. In the 1990s, as the National Congress Party (NCP) declared hundreds of thousands of Nuba Muslims apostate for not supporting the government, Nubans were killed, denied food assistance, and forcefully relocated by the SAF and PDF.

The Comprehensive Peace Agreement (CPA), which ended the North-South civil war, did not address the core political, cultural, and economic tensions in the two states. While the CPA allowed a referendum on self-determination for South Sudan, the residents of Southern Kordofan and Blue Nile were to hold “popular consultations” in 2011. These consultations were vaguely defined as “a democratic right and mechanism to ascertain the views of the people on the comprehensive agreement reached.” Additionally, SPLA troops in the two states were to disarm or redeploy to South Sudan once the Joint Integrated Units, made up of SPLA and SAF troops, were formed.

In the six years between the CPA signing and South Sudan’s independence, none of the agreement’s political or military arrangements were implemented. Southern Kordofan and Blue Nile’s political, economic, and cultural marginalization also remained unaddressed. While consultations were held in Blue Nile in the beginning of 2011, they were not finalized. They were not even held in Southern Kordofan. Disagreements between the NCP and SPLM over the 2009 census results delayed the state elections, thereby preventing elected officials from overseeing the consultations. SPLA troops also were not redeployed. Rather, political tensions between the SPLM and the NCP increased in the two states along with tensions between the Nuba and local communities in Southern Kordofan.

Fighting in Southern Kordofan and Blue Nile

Khartoum initiated the fighting in Southern Kordofan on June 5, 2011, roughly one month after the delayed state elections were held.

The SPLM-N, citing vote rigging, withdrew from the election as the ballots were being tallied, declaring that it would not recognize the outcome of the vote nor participate in the government. The result was that the NCP candidate, Ahmed Haroun, was elected governor of Southern Kordofan. Haroun is indicted by the International Criminal Court for crimes against humanity in Darfur.

The fighting also began five days after the NCP deadline on all SPLA troops disarming or withdrawing to South Sudan. SPLM-N officials in the two states argued that SPLA troops in the territories were Southern Kordofan and Blue Nile citizens and thus belonged in Sudan.

During the first days of fighting in Southern Kordofan, the SAF and the PDF conducted targeted executions, disappearances, arrests, and indiscriminate killings of Nubans and perceived SPLM-N supporters. They also created a “blacklist” to help soldiers find and identify people to be arrested or executed during house-to-house searches. This list included leaders of the SPLM-N, Christian leaders, and educated Nubans including civil society leaders and teachers.

In its investigation of the fighting that took place in Southern Kordofan between June 1 and 30, 2011, the office of the UN High Commissioner for Human Rights stated that the killings and

enforced disappearances could be serious violations of human rights and international humanitarian law and could amount to crimes against humanity. Numerous Sudan human rights experts and monitors have warned that ethnic cleansing is taking place in the Nuba Mountains.

On June 28, the NCP and SPLM-N signed the Addis Ababa Framework Agreement on political and security arrangements in the two states. Three days later, President Bashir denounced the agreement and has since banned the SPLM-N in Sudan and refused to enter into bilateral or multilateral peace negotiations with the party.

On September 1, fighting began in Blue Nile. Blue Nile Governor and SPLM-N chairman Malik Aggar was illegally removed from his post and his house torched. More than 150 SPLM-N supporters in the state were arrested en mass.

Attack on Religious Communities in the Nuba Mountains

The SAF and PDF targeted religious leaders and worshippers, along with houses of worship at the start of the fighting in Kadugli, Southern Kordofan. The attacks on the Christian community led many pastors to flee to Khartoum, Juba, and elsewhere, including outside of Sudan. Pastors, Southern Kordofan Christian leaders, and Muslim refugees told USCIRF they fled their homes after seeing the SAF and PDF kill or arrest Christians, suspected SPLM-N or SPLA-N supporters, and/or neighbors or after being told by friends and family that SAF and the PDF were asking for them by name. Christian and Muslim refugees with whom USCIRF spoke said they believe that Christians were targeted because Sudanese government and ruling National Congress Party officials view Christians as a threat to Islam and view them as inevitable supporters of the SPLM-N.

All pastors with whom USCIRF spoke said they fled Southern Kordofan after learning that the SAF and PDF were undertaking house searches for Christians and SPLM-N supporters. Several said family and friends warned them that their names were on the “blacklist” and that soldiers had visited their houses.

I left Kadugli three days after the war broke out. I was in the Sudan Council of Churches building. From my vantagepoint, I saw two houses being fired at and looted. The first was the Coptic Church guesthouse where an SPLA soldier had run to hide. The militias killed the man. The second house was formerly used to house SPLA soldiers. It was set fire to and destroyed...I ran after three days when it was safe after realizing that SAF and militias were going house to house searching for church leaders, SPLA officers, and civil society leaders. I thought I would be next because I am a church leader and lead civic education activities for the Sudan Council of Churches...I left with seven other persons from the Sudan

Council of Churches and their families. – Sudan Council of Churches representative, Kadugli

On the 4th day of fighting, I was trapped in my house in Tilou, [Southern Kordofan]. I was surrounded by militia and SAF. I was asked where I worked and I lied. I said I was a civilian. I knew they were looking for church leaders. – Protestant pastor, Tilou

In interviews with refugees from Southern Kordofan in Juba and at a refugee camp in South Sudan, USCIRF was told of Christian leaders being killed and arrested.

On the Tuesday after the fighting started I was at school with my students. I saw a vehicle with SAF soldiers surround an ECS [Episcopal Church of Sudan] near the school. There were Christians inside the church praying. SAF soldiers started shooting inside the church at the people. SAF soldiers went into the church and pulled out a Christian, captured him, and shot him. As this was going on, I and my students were hiding behind the school, but could still see the SAF killing people with guns and knives. – Teacher, Kadugli

Another refugee witnessed the shooting of seminary student Phillip Kalo by Sudanese intelligence officers.

I was in Kadugli the first four days of the fighting. I fled the first time I thought it was safe to leave my house. My family and I tried to go to the UN [compound]. When we got there I saw the SAF and the militias arresting people. I saw Kalo be shot as the soldiers said he was an enemy of Islam. When I saw this I thought I would be in danger because I am an SPLM supporter. I ran and my family stayed behind. I saw someone in a car driving by the UN and I jumped in his car to get a ride with that person also fleeing. – Accountant, Kadugli

Two refugees witnessed the arrest of Catholic Pastor Abraham Lual in Kadugli.

I saw the SAF go into the Catholic Cathedral on June 6. I knew they were going to attack Pastor Lual. I am a church member and I went to the church to try to save his life. When I got there Pastor Lual was being pulled from the church. He tried to run away but the SAF got him. Other Christians were also running from the church. I ran away after that with the church's commissary. – Engineer, Kadugli

Christian pastors and Muslim refugees said that President Bashir's government views Christians as non-believers and does not want Christianity in Sudan. One imam spoke of the targeting of Christians in his town outside of Kadugli.

I am an imam. A soldier came to me as the imam of the mosque with the message that all Muslims should leave the city because they wanted to kill the Christians. The SAF person said all Christians and SPLM supports are kaiffirs. I said I am a Muslim. But I am also a Nuban and I refused to leave or separate Muslims from Christians. I was arrested by the SAF and imprisoned for five days. - Imam, outside Kadugli

Religious-based attacks were also perpetrated against the Muslim community in the Nuba Mountains. Imam Mohamed Idress, a SPLM-N supporter, was killed in Kadugli on his way home from evening prayers. In Umdurin, a bomb was dropped near a mosque during Friday prayers. Muslim Nubans explained that due to their ethnicity, “Khartoum does not consider us as real Muslims.”

Christians and Muslims alike were denied the right to sanctuary in houses of worship. In addition to the attacks on the Episcopal and Catholic Churches containing congregants seeking refuge from the fighting, USCIRF was told of similar attacks on mosques in Southern Kordofan.

I was in the Kadugli mosque at the time it was destroyed. People were running from the fighting, escaping to pray. The militia followed us to the mosque. No one was killed, but the militia entered the mosque and told everyone to leave or said they would be shot. People ran away scared. This was on June 6. - Muslim community leader, Kadugli

I worked in Kadugli as a teacher. I tried to stay at my school to be with my 44 students because of how dangerous the town was. We were fleeing Kadugli and ran into a mosque in Dalami, but militias started attacking the mosque. People were going to the mosque to pray, but the SAF were shooting into it and killing people. We hid behind the mosque for three hours. After the shooting, I went inside the mosque and hid there 'til dark. Then we hid in mountains and slept. - Teacher, Kadugli

In violation of international law of armed conflict, SAF forces attacked houses of worship through ground offensives and aerial bombardments. In Kadugli, four of the five churches were destroyed, including the Episcopal Church of Sudan, the Catholic Church, the Church of Christ, and the Presbyterian Church. Their offices and guesthouses, as well as the Sudan Council of Churches offices, were attacked. The only church left untouched was the Egyptian Coptic Church, which reportedly has close ties with Khartoum. Episcopal pastors and a representative from the Sudan Council of Churches in Kadugli described doors and windows torn down; documents and religious papers ripped apart, parts of churches burned; and supplies, vehicles,

and electronic equipment looted. Refugees also spoke of mosques being looted or turned into military installations after SAF soldiers took over a town.

Churches in Kadugli were destroyed. They were shot at and burned...All of [the] doors and the window of the ECS cathedral in Kadugli were broken. The Sudan Council of Churches building was looted. The Church of Christ and Catholic Cathedral was also looted. They took computers and motor bikes. – Episcopal Church of Sudan pastor, Kadugli

Khartoum's aerial bombardment campaign against civilians in the two states extends to the bombing of churches and mosques, even during religious services. Numerous refugees reported fleeing towns as the bombings started and returning a few days later to find churches and mosques, as well as other buildings, destroyed. Based on interviews with refugees, USCIRF documented that churches in Umdorin, Tess, Shatt, Taliq, Kauda, Dalami, and Mashisha, and mosques in Kauda, Dalami, and Mashisha, were destroyed by bombs dropped by the SAF air force in Southern Kordofan.

The ability of worshippers in Southern Kordofan and Blue Nile to practice their faith is severely hampered by the fighting in the two states. USCIRF was told that because a large number of pastors have fled, there are few religious leaders remaining to lead services for the Christian community in Southern Kordofan. To avoid the bombs, displaced Christians and Muslims in Southern Kordofan sporadically hold religious services under trees or in caves.

Services are being held earlier than normal and times are frequently changed to avoid the bombardments which can come at any time. People are praying under trees or in caves. All denominations are affected. It is advisable for people not to attend church service. – Nuba Relief, Rehabilitation, and Development Organization representative, Kadugli

Attacks on Nubans in Khartoum

Several refugees with whom USCIRF met also spoke about threats to Southern Kordofan pastors and the Nuba community in Khartoum. Several pastors also spoke of being targeted and harassed in Khartoum after fleeing Kadugli. Security officers went to the houses in which they were staying, looking for them. In addition to being monitored by security officers, pastors reported a radical Muslim group posted flyers on their houses calling them enemies of Islam and Sudan. The pastors then fled the capitol, many to South Sudan.

After Kadugli I went to Khartoum. The security officers followed-up with me there, looking for me, asking for me. They came to my house but I was not in. Where I was staying, an Islamic group spread flyers denouncing me as an enemy of the state. They also said that churches are supporting rebels and are opposed

to Islam... When I was in Khartoum I received calls and threats...— Episcopal Church of Sudan pastor, Kadugli

In Khartoum, I stayed with my cousin. A few days later people came to my cousin's house and posted a note on the door threatening me. I went to another house. Those who left the note went to my cousin's house looking for me in the middle of the night. It was after this that I went to Cairo. – Protestant pastor, Tilou

USCIRF also spoke with several Nubans who were in Khartoum at the time the fighting started. These refugees told similar stories of security officers going to their houses in search of them. Refugees reported that some of their relatives in Khartoum were arrested or were fired from their jobs. Two refugees said that a Pentecostal pastor whose congregation is predominately Nuban was arrested after leading a prayer for peace in the Nuba Mountains.

Humanitarian Crisis in SPLA-N Controlled Areas

The constant aerial bombardments and fighting in Southern Kordofan and Blue Nile states have created a humanitarian disaster. Local sources report that 230,000 persons have been internally displaced in Southern Kordofan: they are living in caves in the mountains and in need of food and medical assistance. More than 50,000 have fled to neighboring countries. Fields, farms, and crops have been destroyed and unexploded ordnance prevents farmers from harvesting crops. Medical facilities have been damaged and staff has fled. Adding to the crisis, President Bashir and Governor Haroun have denied humanitarian access, including food and medical assistance, to areas controlled by the SPLA-N. President Bashir and Haroun used similar tactics in the North-South civil war and in Darfur. Hundreds of thousands of people starved before the international community intervened. USCIRF learned that the humanitarian crisis will only worsen in the coming months with the beginning of the dry season during which ground fighting in the two states will increase. While the first refugees to South Sudan were people fleeing direct violence, newer arrivals are fleeing food insecurity and bombings.

The people, they are suffering from aerial bombardments. Many cannot cultivate. That will be a serious issue because they will be short of food and this might lead to famine. This is what civilians are going through. Many lack medicine and cannot receive treatment. - Sudanese Church of Christ pastor, Hebon County

In late October, when USCIRF visited Yida refugee camp in South Sudan, the camp held more than 17,000 people who had fled Southern Kordofan, with new arrivals averaging about 280-300 per day. The camp was set up and is administered by the refugees themselves. At the time of this publication, camp administrators reported that that number has increased to more than 22,000 persons, with more than 300 people arriving daily. More than 60 percent of the residents

are women and children, and a large percentage of the children are unaccompanied minors. The camp will soon reach capacity, and is expecting 40,000 refugees by the end of the year.

Yida is located 10 miles from the border with Southern Kordofan and from there refugees can see attack aircraft fly over Jao, the closest city in Southern Kordofan. International NGO interlocutors expressed concerns, given Yida's proximity to the border, that it could be bombed. This fear became reality on November 10, 2011, when the SAF dropped four bombs in and around the camp. One bomb landed in a schoolyard, but fortunately did not explode. More than 300 students were in class at that time.

Samaritan's Purse and CARE are providing assistance to the refugees, but the camp's isolated location makes it difficult to deliver aid. Bentiu, the city closest to the camp, is more than a four-hour drive away and the roads are easily flooded during the rainy season and dangerous due to landmines. Refugees and Samaritan's Purse cleared land for a small landing strip for planes to fly in food and other materials from the World Food Program. However, with the increasing numbers of refugees arriving each day, food and other items are in short supply. Access to water is a particular concern given the camp has only one borehole.

To address the danger and accessibility issues that have arisen given its current location, the Office of the UN High Commissioner for Refugees (UNHCR) has proposed moving the camp to Nyeel, an established site in South Sudan with infrastructure for medical clinics, schools, water, and other services. To date, however, the refugees have been unwilling to move. They expressed concern to USCIRF about the land at Nyeel because it floods during the rainy season and has been the subject of disputes between local ethnic groups. The Yida refugees also said that they wanted to be close to Southern Kordofan so that they could return more easily and quickly to their homes should the conflict end.

USCIRF also met in Juba with a number of refugees from Southern Kordofan and Blue Nile. Although their total numbers are unknown, at the time of USCIRF's October visit, about 1,500 people had registered with UNHCR and received a one-month food ration. Living arrangements vary among the refugees. Some are living in the homes of relatives, while the refugees with whom USCIRF met were living in UNHCR tents or in wooden shacks. They collected rainwater for drinking and cooking and international NGOs donated mosquito nets.

Conclusion

The actions documented in this report by the government of Sudan, through the Sudan Armed Forces and the paramilitary Popular Defense Forces, constitute violations of human rights law, including freedom of religion or belief. In the conflict in Southern Kordofan, the government specifically targeted persons because of their religious and ethnic identities. Christians, because they were non-Muslim, were seen as being enemies of the state and Islam. Christians were either

killed, or threatened with death, based solely on their religious identity. Specific Christian houses of worship were attacked by government forces. Nuban Muslims also had their religious freedom rights violated, because the government in Khartoum views their ethnicity to be a hindrance to them being “good” Muslims. As such, both Christians and Muslims were attacked in their own houses of worship as they prayed.

The government also continues to violate international humanitarian law in Southern Kordofan and Blue Nile. USCIRF was continually told that the SAF is specifically conducting aerial bombardments on areas where civilians congregate, including churches, mosques, and schools. USCIRF interviewed a number of refugees who fled the bombing campaign and reported seeing churches and mosques destroyed or damaged by the bombings in the Nuba Mountains. In further violation of international humanitarian law, President Bashir is denying international, unrestricted humanitarian access in the two states. As a consequence, USCIRF interviewed dozens of refugees who fled food shortages.

The attacks against Christians, ethnic Nubans, and the SPLM-N/SPLA-N in Southern Kordofan and Blue Nile is a core component of the larger battle for the future status in Sudan of religious and political freedoms. In December 2010, President Bashir announced that Sudan’s new constitution will be based on sharia and will exclude references to Sudan’s religious, ethnic, and cultural diversity. In 2011, more than 100 nonconforming Muslims have been arrested for apostasy, churches have been attacked, and Christians in Kharoum question their future in the country. As Khartoum wages war and denies crucial assistance to civilians in the two states, President Bashir and the NCP have engaged in a nationwide crackdown on civil society. Hundreds of SPLM-N supporters have been arrested and the party’s offices and equipment confiscated, peaceful protestors have been detained and tortured, and newspapers have been censored.

The human rights and religious freedom violations documented in this report will only continue in the two states and elsewhere in Sudan until the undemocratic and abusive governance of President Bashir and the NCP is addressed. Sudan must move toward democratization, protection of human rights, and resolution of political and economic marginalization.

RECOMMENDATIONS

To address the urgent humanitarian situation in Southern Kordofan and Blue Nile, the U.S. government should:

- Build international pressure on the government of Sudan to allow unrestricted humanitarian assistance to all areas in the two states

- Fund operations that would provide humanitarian assistance to persons in need in Southern Kordofan and Blue Nile, including but not limited to food and medical care;
- Encourage the Republic of South Sudan and Ethiopia to continue to allow displaced persons from Southern Kordofan and Blue Nile to access refugee status in their respective countries; and
- Fund United Nations and non-governmental organizations' operations that would provide food, shelter, medical care, education, and other assistance to refugees from Southern Kordofan and Blue Nile in the Republic of South Sudan and Ethiopia.

To address human rights abuses committed in Southern Kordofan and Blue Nile, the U.S. government should:

- Support an independent international inquiry into reported violations of international human rights and humanitarian law and bring perpetrators to account;
- Urge the government of Sudan to release immediately all individuals arbitrarily detained;
- Encourage UN special procedures including the following: the Independent Expert on the situation of human rights in Sudan, Working Group on Arbitrary Detention, Working Group on Enforced or Involuntary Disappearances, Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on freedom of religion or belief, Special Rapporteur on the human rights of internally displaced persons, and the Independent Expert on Minorities, to access Southern Kordofan and Blue Nile to conduct fact-finding and report on violations of international human rights and humanitarian law;
- Continue to work with the African Union High-Level Implementation Panel and African allies to encourage parties to the conflict in Southern Kordofan and Blue Nile to return to negotiations; and
- Impose financial and other sanctions on officials responsible for human rights abuses in Southern Kordofan and Blue Nile, and work with our allies to do the same.

To address the underlying political and security issues in Sudan impacting the conflicts in Southern Kordofan and Blue Nile, the U.S. government should:

- Support a national, inclusive, and diverse consultation and constitution drafting process that would address nationwide political and economic injustices; and

- Urge allies to refrain from providing economic assistance and debt relief to the government of Sudan until it allows unrestricted humanitarian assistance to persons in Southern Kordofan and Blue Nile, ends hostilities, and abides by its international commitments to universal human rights.

APPENDIX 6:
PROJECT EXCERPTS FROM THE 2010-2011 JOSEPH R. CRAPA FELLOWS

Ali Al-Ahmed (September 2010 – September 2011): Mr. Al-Ahmed’s research project focused on Saudi government textbooks. He analyzed the key themes found in these textbooks, focusing particularly on their religious content and other relevant areas. The support of the Fellowship over twelve months allowed him to complete a work product, in the form of a report, which included analysis and findings as well as recommendations for U.S. policy on how to encourage Saudi educational reform and benchmarks for such reforms. During his Fellowship, he advised the Commission and undertook additional research, including a public briefing on the Saudi Commission to Promote Virtue and Prevent Vice (CPVPV), the global exportation of extremism from Saudi Arabia, and what role regional unrest has had on political reform inside the Kingdom.

Excerpts from “Saudi School Books: Objective Education or Extremist Indoctrination?”

Preface

Most countries and societies around the world place top priority on the well-being and education of its young people to equip future generations with the best skills and knowledge possible to ensure social and economic progress. Education is not only about attaining skills necessary for successful commerce; it is also designed to build social cohesion among citizens, strengthen national identity and build bridges with the greater world.

The teachings and practices in Saudi Arabia’s education system came under increased scrutiny following the September 11th attacks in the United States. Sadly, this did not lead to the formulation of clear and sustained policies in the U.S. or in Saudi Arabia aimed at resolving the lingering issues afflicting education in the absolute monarchy in the kingdom, and most of the Middle East region.

The education system in Saudi Arabia is seized by this crisis at all levels, mostly due to the monarchy’s treatment of education as a political and ideological tool to maintain control over the populace. That the instruction in religion, history and literature in the Kingdom’s schools is rampant with ignorance, xenophobia, outright hate and incitements of violence is bad enough. Yet the fundamental problem of the education system is the government’s chokehold control over what its citizenry is allowed to learn, coupled with the absence of competing ideas and academic freedoms. As an authoritarian regime that employs religion to justify its survival and policies, the Saudi monarchy has shaped the country’s institutions of education to serve as an additional measure of security against popular demands for greater sharing of power and national wealth.

The Saudi monarchy has successfully used religion (coupled with massive amount of petrodollars) to ensure much of its success in the domestic and international arena. King Abdul-

Aziz Al-Saud, the founder of the Kingdom and father of the current Saudi monarch, is reported to have said: “Religion is a falcon. If you can catch it, you can hunt with it,” – the statement that crystallizes this long-practiced policy. The Saudi monarchy’s rise to power in the Arabian Peninsula can be attributed largely to its assumed posture of defending the faith of Islam against deviation and the onslaught of unbelievers and polytheists. In a nutshell, using Islam as a weapon has been a successful strategy for the ruling class, and one that has pervaded Saudi politics and society for nearly 80 years.

The United States has a national security stake in assisting Saudi government with educational reforms as part of its strategy to fight the kind of extremism responsible September 11 and beyond in Iraq, Afghanistan and other countries. The U.S. spent over a trillion dollars on fighting extremist movements with weapons and armies since 2001; however, it has failed to pay attention to the ideological foundation of terrorism and the root cause of social upheaval in the Middle East. Experts in the West have neglected the education crisis in Saudi Arabia and the Middle East as they evaluated the education systems in these countries in terms of literacy rates and not in terms of content and modalities used.

While literacy rates have been steadily climbing in the Middle East and the world in general, functional literacy has been steadily declining. This has led to so-called “literate ignorance,” the condition I define as having the ability to read, write, and speak fluently without sufficient analytical and critical thinking skills required to arrive at reasonable and objective conclusions. The main problem with educational systems in Saudi Arabia and much of the Middle East is that they produce millions of students who both lack the skills sought in the marketplace, and/or are largely incapable of independent thought and impartial conclusions. Students in the kingdom go from grade to grade without ever learning, for example, about deductive or inductive reasoning. The reason for this glaring gap is the state’s desire to avoid empowering the student to make independent conclusions based on observations and experience, and to maintain a tight grip on society by depriving the citizenry from these essential educational tools.

The ideologically driven Saudi monarchy uses its education system to perpetuate a society that obeys the king and his family through thick and thin based on a twisted interpretation of Islam conceived to satisfy the needs of the monarchy. One cannot help but think of ancient Greece where only free men were allowed to study certain subjects (hence the term, liberal arts), because of the belief that it would distinguish them from slaves.

The Saudi education system fails measurably at meeting liberal arts criteria at all educational levels. The Saudi system thus needs to be upgraded to the highest international standards and include the latest texts on all subjects of liberal arts.

Conclusion

Nine years without substantive reforms signals concerns over U.S. policy toward Saudi Arabia’s education curriculum. An overhaul of existing U.S. policy on this issue is urgently required in favor of a renewed approach based on a combination of carrots incentives and sanctions.

The renewal of high level discussions with Saudi officials is an obvious starting point. However, engagement must be supplemented with an array of punitive policy options. In order to hold Saudi officials accountable for their statements and enforce agreements, the U.S. must demonstrate a willingness to implement tougher measures against the Kingdom. Economic sanctions or the discontinuation of military equipment sales are powerful policy options. Additionally, targeting specific Saudi officials via diplomatic sanctions would be a policy carefully calibrated toward addressing specific issues. Given Saudi Arabia's high level of dependence on the United States and the enormous benefits accruing from the strategic alliance, sanctions would doubtlessly be effective.

Furthermore, a more direct approach is not without precedent in other countries. In 2007, the British government moved to remove the hateful material contained in Saudi textbooks used at the King Fahad Academy in London, threatening to forcibly close the school in the absence of reform. Faced with this ultimatum, the Saudi Embassy agreed to revise the school's educational material. A few months later, the British government was rewarded with a \$50 billion military contract, demonstrating that tougher measures need not damage relations.

Tougher measures against the Saudi regime would not damage the Saudi-American relationship, but rather would strengthen cooperation between the two governments and pave the way toward a more mutually beneficial relationship. Moreover, progress could lead to a general improvement in Arab attitudes toward the U.S., given the Saudi leadership role in the Islamic World and influential position in the Persian Gulf.

Frequent statements and empty promises made by Saudi officials are no longer tenable, as the U.S. can no longer afford to patiently wait for elusive reforms.

Recommendations

The threat posed to the U.S. national security by the Saudi curriculum of intolerance must be taken seriously. On September 11th, 2011, fifteen Saudi nationals committed a terrorist act of frightening proportions that led to the loss of nearly three thousand U.S. lives. If only one-tenth of one percent of five million Saudi schoolchildren adopt the violent, discriminatory ideas saturating their textbooks and convert them into a terrorist ideology, the world will have five thousand more terrorists looking for the next target.

The U.S. can no longer afford the endless wait for the substantive change of the educational sector in Saudi Arabia. Despite several public promises of reform by the Saudi officials, the ideology of hatred and intolerance continues to be taught in the kingdom's schools, poisoning the minds of Saudi children and multiplying the ranks of potential terrorists of the future. The export of Saudi curricula to other Muslim-majority countries makes the issue even more urgent.

These recommendations outline the best path forward to reform the Saudi education sector to bring it in line with the international standards of quality and tolerance. While some of them will be challenging to implement under the current U.S. and Saudi governments, they represent the author's best attempt to identify the problem areas and propose effective solutions to the

educational crisis in the kingdom. Many of these recommendations will require a significant amount of political will in both countries, and some may well become a threat to the Saudi monarchy's sustainability.

Despite these challenges, the U.S. must realize the enormity and the urgency of the need to modernize the Saudi education sector. As a site of two holy Muslim cities of Mecca and Medina, Saudi Arabia remains a key influencer of contemporary and religious scholarship throughout the Muslim world. Reforming the Kingdom's educational system will not only deal a severe blow to extremism in Saudi Arabia; it is certain to bring much-needed stability to the millions of school-aged Muslims at risk of indoctrination by the intolerant and hateful ideas in their schoolbooks. The U.S. has not taken advantage of previous opportunities to push the Gulf monarchies for reform of their educational and political sectors despite securing a military presence in these countries since 1932, and their dependency on U.S. security guarantees.

- The Saudi monarchy should abandon its policy of using education as political tool to ensure its survival and security. The educational institutions should be managed by western-trained technocrats, who represent all the religious, cultural and political groups in the country to ensure broad-based representation and national outreach; and focus on the goal of education alone.
- Saudi education should revise its current educational theories, policies and approaches, and embrace modern theories and policies of education such as humanism, that focuses on human freedom, dignity and potential. Adhering to modern and tested education methodologies, will bring drastic improvement to the Saudi education and improve the graduates skills and abilities.
- The Saudi government should end all forms of discrimination in education including lifting the ban on women from studying geology, physical education, and other currently banned subjects. In addition women must be empowered to fill the management positions in women education instead of men.
- Saudi Arabia should embark on a large-scale revision of its school curricula used in educational institutions inside and outside the kingdom starting with religious and history subjects. This effort should be led by a newly formed task force of professional educators, linguists, and curricula design specialists, preferably with Western university training. The task force membership should include experts representing all segments of Saudi religious, ideological, social and cultural communities to ensure national representation and a wider reach. Inclusion of well-known Arab and international experts on a full-time or observational basis would be a distinct advantage to this effort.
- The volume and number of religion-focused textbooks as well as the time allocated to their study in schools and universities should be significantly reduced. These books should be combined into one volume instead of four or five per school year to open space

for the study of other subjects such as hard sciences and social studies to encourage critical thinking.

- Experts leading the educational reform in the Kingdom should ensure that the texts reflect a full span of national and Muslim diversity as well as conform to the modern standards for curriculum design. The texts should incorporate the viewpoints of all religious, cultural and ideological segments of Saudi Arabia, including all Sunni and Shi'a communities, Bedouins and city-dwellers, seculars and conservatives, citizens of Arab and non-Arab origins as well as migrants present in the country. The ultimate goal should be the end of a single religious and regional group's monopoly control over educational content, and respect for contributions made by other groups.
- Saudi Arabia should demonstrate its commitment to the modernization of the educational sector by engaging the United Nations Educational, Scientific and Cultural Organization (UNESCO) as a pre-eminent international organization in the field of education to provide its expert guidance to educational reforms in the kingdom. UNESCO standards should be applied to measure quality and objectivity of school texts, particularly those focused on religious and historical subjects, at both school and university levels.
- Saudi Arabia should institute the process of public elections for all 45 educational boards in the country. This will end central control over education, reduce state interference and allow for parental and local input into educational content and goals. The presence of elected and accountable education boards with broad powers will drive competition between the regions and ignite the growth of the private textbook industry. Private textbook production should be allowed, in particular in religious, history and social sciences subjects. Elected educational boards will likely reduced focus on religious education and increased attention to sciences and social studies.
- School textbooks should include evidence-based instructions on the world's religions, ideologies and cultures based on UNESCO lesson standards. This will help increase objectivity, accuracy, and promote tolerance and understanding between Saudi Muslims and followers of other world religions.
- The United States should give importance to the goal of reforming Saudi education, by setting up an ad-hoc commission including the representatives of the U.S. Commission for International Religious Freedom, National Security Council, the State Department, the Department of Education, academic specialists and non-profit organizations working in the field of educational reform. This body will be tasked with oversight and formulation of the U.S. policy on modernizing education in Saudi Arabia and other countries in the region. The commission members should seek to have regular contact with their Saudi counterparts and conduct regular field visits to Saudi Arabia to ensure that the U.S. policy goals are achieved.

- The U.S. should coordinate with the EU countries, India and Russia to develop common policy objectives on the issue of Saudi textbooks and schools, as Saudi schools operate in Europe, Russia and India (and many other countries). A common policy will send the Saudi monarchy a strong message to engage in immediate and real reforms. UNESCO can be an additional policy arena where the U. S. and its allies can call for educational reforms in the kingdom.
- The U.S. should persuade France, Spain, Austria, and Germany to inspect Saudi schools and textbooks their countries and apply their domestic laws that criminalize racism, anti-Semitism, xenophobia, and other forms of hate currently present in these texts. Unlike American laws, European laws consider certain speech and literature a criminal offense punishable by imprisonments and severe fines. This would at least ensure that Saudi textbooks in these countries will be sanitized to remove lessons and passages of hate and violence.
- The U.S. should work to establish an American liberal arts oriented university in Saudi Arabia offering education in law, philosophy, literature, languages, psychology, education and other humanities. Liberal arts education is currently banned in Saudi Arabia and several other GCC countries, and Saudi Arabia is one of the few Arab/Muslim countries where an American university is not available.
- The U.S. should endow the establishment of American studies programs in Saudi universities to expand the knowledge base of Saudi college-level students about the U.S. and the Western civilization in general.
- The U.S. should impose travel and other sanctions against the Minister of Education and top ministry officials until the textbook reform in Saudi is completed and verified by an independent ad-hoc commission. Current U.S. laws allow sanctioning foreign officials on the grounds of security, human rights violations, anti-Semitism, and religious freedom. The senior leadership of the Ministry of Education, especially the minister Faisal Bin Abdullah, is directly responsible for the content of all textbooks as well as all educational policies and practices. This step might be the most effective lever the U.S. can use to eradicate extremism and hatred from the textbooks. Members of the ruling family have responded positively to personal pressure in the past so there is hope that this tactic will lead to positive results in a very short time in this case as well.
- The Kingdom's educational sector represents a massive economic opportunity for U.S. corporations who can provide technical assistance for building thousands of schools, revising textbooks, modernizing the educational sector and training teachers. The U.S. involvement in Saudi education declined since the 1970s, which may have been an additional factor in deteriorating quality of education. With the right approach to government contracting, profits for the companies engaged in this work can be in the order of billions of dollars. In fact, American companies may be able to gain greater financial rewards with development-oriented projects focused on education, housing,

healthcare and other services compared to the current mainstay of the U.S.-Saudi trade of selling weapons. For example, the kingdom has an immediate and currently unfilled need to build at least 20,000 schools that meet world safety and service standards - a project that would cost Saudi Arabia approximately \$80 billion. Today, most schools are housed in rented houses and apartments, which are not only unsuitable for students, but represent a health and safety hazard.

- The academic sector in Saudi Arabia will be greatly enriched by instituting freedom of academic inquiry and scholarship similar to what exists in the U.S. Therefore, the U.S. should encourage Saudi Arabia to lift all restrictions on academic freedoms, such as the current ban on teaching philosophy, drama, music, liberal arts, theatre, modern law, non-Salafi Muslim scholarship and Western studies. Sunni and Shi'a minorities across the country should also be allowed to establish private schools and universities that teach their religious traditions. The ban on hiring Shi'a and secular Saudi instructors and professors to teach religious subjects should be removed. The U.S., in cooperation with its Western allies, should strive to support academic and intellectual freedoms in Saudi Arabia and the Middle East in general.
- As an extension of the previous recommendation, the U.S. should provide Saudi Arabia with technical assistance to fill the gaps in academic offerings by introducing new subjects to university curricula including law, philosophy, drama, liberal arts, Western studies and others meeting effective UNESCO standards.

Geraldine Fagan (April 2011 – March 2012): Ms. Fagan’s research project focused the role of religious freedom in the Belarusian pro-democracy movement and Islam in Russia and the limits of religious freedom by examining the attitudes of Muslims in Russia toward freedom of religion or belief. The support of the Fellowship over eleven months allowed her to complete an academic journal article on Belarus, and she is working toward completing a second journal article on Russia, excerpts from a presentation related to her research are included below. Additionally, she presented her findings at two seminars in Washington, DC, one at the Woodrow Wilson Center in December 2011, and the other in February 2012 at Carnegie Endowment for International Peace. She also has provided advice to the Commission on these and other areas of expertise as appropriate.

Excerpts from “Truth Stumbles in the Street: Christian Democratic Activism in Belarus”

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Abstract

Few are aware that prominent figures in the Belarusian opposition movement are motivated by Christian conviction. In this article, the author traces how President Alexander Lukashenko’s restriction of religious freedom has prompted Catholics, Orthodox and Protestants to turn toward democratic activism; it also discusses their rediscovery of religious freedom as a long-standing core value of Belarusian identity. The author’s findings draw on interviews conducted in Minsk in the aftermath of the December 2010 presidential election, including those with Christian opposition activists who were subsequently jailed.

Introduction

Once a dictatorial regime has muzzled civil society’s more cantankerous elements - rival political parties and the independent media - a stage is reached at which faith groups, even if falteringly, join the vanguard in the struggle for freedom and justice. In 1980s Communist Poland, the Catholic Church offered a vital moral platform for mass dissent by the Solidarity movement. Prayer meetings at a Leipzig Lutheran church formed the nucleus of protest by hundreds of thousands of East Germans in the weeks before the Berlin Wall fell in 1989. Might faith-inspired opposition similarly prove a catalyst for political change in Belarus, dubbed “the last true dictatorship in the center of Europe” by United States Secretary of State Condoleezza Rice in 2005?ⁱ

The prospects do not look good. Belarusians have no Karol Wojtyla, behind whose charismatic papacy Polish Catholics could rally against Communist dictatorship. They do not even have a unifying national church. Although commonly regarded as Orthodox, Belarus straddles Europe’s fault line between Eastern and Western Christianity. Recent centuries have seen Latin then Eastern-rite Catholicism, then Orthodoxy, in the ascendant over what would finally become independent Belarusian territory in 1991. Yet none has sustained a majority faith tradition; all were trumped by the Soviet atheist order that replaced the institutional Orthodoxy of the Russian

Empire after World War I. Belarusians are today officially labeled 82 percent Orthodox and 12-13 percent Catholic,ⁱⁱ but most are indifferent to faith and nation. Those who are active Christians are just as likely to be Catholic or Protestant as Orthodox.

A faith-inspired “velvet revolution” in Belarus further appears unlikely because – while undoubtedly oppressive – President Alexander Lukashenko’s 18-year regime has not (yet) matched the grimly totalitarian conditions of 1980s Eastern Europe. These forced even the non-devout into Catholic and Protestant activity in Poland and East Germany: the modicum of freedom grudgingly afforded those Churches made them the only public spaces open to the mobilization of dissent.

Christian democratic activism thus does not currently pose a threat to Lukashenko’s authoritarian rule. Yet my survey of this hitherto overlooked phenomenon indicates that it forms a significant and rapidly evolving element within the opposition movement, even if it does not define it. Familiarity with the origins, protagonists, and aspirations of Christian democratic activism in Belarus is therefore essential for a rounded assessment of the nation’s democratic prospects.

Conclusion

Does the rise of Christian democratic activism in Belarus over the past decade mean that Belarusian Christians will effect democratic change, including long-sought religious freedom? Lukashenko’s reluctance (so far) to crush religious communities with the same indiscriminate force as other elements of civil society suggests that he for one recognizes the potential of a faith-based opposition and is anxious not to stir up religious resentment. His only viable option, pursued with relative success, has been to minimize that threat by targeted application of the 2002 religion law. This still renders the regime vulnerable in the long term, however. For as in 1980s Eastern Europe, the small but nevertheless greater degree of leniency over the rest of civil society afforded to churches has allowed them to function as incubators of democratic ideas. Lukashenko is thus now beginning to face a greater challenge: how to deal with a phenomenon that does not play by the rules of post-Soviet politics. Belarusian Christian pro-democracy activists are not driven by material interest or personal ambition (to which the 2003 and 2005 Rose and Orange Revolutions in Georgia and Ukraine, respectively, proved susceptible) and are therefore harder to manipulate. Their aspirations also resonate with moral and cultural values that Lukashenko is incapable of projecting authentically; these both galvanize the existing Christian democracy movement and convey legitimacy to potential sympathizers in a way that is impervious to administrative countermeasures.

Faith-based democratic activism is still far from being the defining opposition force in Belarus. By misreading religion’s true role in Belarusian culture, however, foreign analysts usually underestimate its potential for underscoring democratic change. While rightly noting Ukraine’s East-West division into pro-Moscow (Orthodox) and pro-West (Catholic) identities, even Polish sociologist of religion Irena Borowik overlooks Belarus’s legacy of religious pluralism. Claiming that Byzantine rather than Western influence shaped Belarusian culture and nationhood, she suggests that Belarusians are consequently “building their identity by orienting themselves towards Russia.”ⁱⁱⁱ Those whose purview is confined to secular affairs are yet more prone to

conflate Belarusian with Russian political culture - and to conclude that democratic aspirations are therefore impossibly weak in Belarus. Writing in May 2011, Matthew Rojansky, a Russia expert at the Carnegie Endowment for International Peace, suggested that if a popular uprising succeeded in toppling the Lukashenko regime, “then the real problems would set in, because there simply is not an effective substitute for authoritarianism in Belarus today (...) Belarusian society itself is not prepared to participate in, support and sustain effective democratic governance.”^{iv}

While the prospects are certainly not rosy, such extreme pessimism is not supported by the facts. Even in the flawed 2010 Belarusian presidential election, pro-democracy opposition candidates together polled some 11 per cent, approximately four times that of equivalent parties in the 2007 Russian parliamentary election. In recent years opposition demonstrations in Moscow - a city ten times the size of Minsk - have pulled crowds of a few hundred, a far cry from the tens of thousands who marched to Independence Square on December 19, 2010. The many tens of thousands who took to the streets in Moscow and across Russia on December 10, 2011, demanding fair elections are illustration that foreign analysts’ previous diagnosis of abject political apathy among Russians was also overly pessimistic.^v

Belarusians’ backing of formal Christian Democratic structures is admittedly low: between December 2010 and September 2011, Belarusian Christian Democratic Party presidential candidate Rymashewski’s rating remained at just 1-2 per cent. The ratings of the other presidential opposition candidates are similar, however, and sooner indicate general disillusionment with the organized political process under Lukashenko - whose own rating fell from 53 to 20.5 per cent over the same period.^{vi} Informal support for Christian democratic values is a greater potential source of active dissent: the tens of thousands who demonstrated or petitioned for religious freedom will likely join broader protest initiatives as moral indignation at the Lukashenka regime increases.

Only by overlooking the faith-based democratic aspirations presented here is it possible to view Belarus so readily as an indistinct appendage of Russia. Belarusians’ far higher degree of religiosity continues to indicate a clear difference: polled in 2006, around 25 percent of Belarusians said they attend church at least once a month.^{vii} The equivalent Russian figure is only 11 percent, and Russia has approximately half as many registered religious organizations per head of population as Belarus.^{viii} As with the wider Eastern Bloc, the later Soviet annexation of western Belarusian territory is of crucial importance here. In Soviet eastern Belarus, public religious life was all but annihilated in the wake of the 1917 October Revolution. In Polish-controlled western Belarus, by contrast, Catholics, Orthodox and Protestants each had approximately 500 functioning churches before 1939.^{ix} When the Soviet system collapsed some 50 years later, freely operating Christian communities, and the original Belarusian Christian Democracy movement, were thus well within living memory.

In 1993, Jan Zaprudnik recalled Belarusian philosopher Padokshyn’s argument that, while geostrategic and economic realities tie Belarus to Russia, dominant “Western” features in the popular mindset - including religious tolerance and the rule of law - provide a political rationale for the Western orientation of a Belarusian state.^x Nearly 20 years on, this mindset is still more

pronounced among those Belarusians who were children or teenagers as Zaprudnik was writing, and these generations drive today's Christian democracy movement. Within the past three years they have embraced new media, particularly social networking websites, as a rapid and effective strategizing tool. This has even occasioned direct reference to the opposition experience of 1980s Eastern Europe. During a Facebook discussion of the 2011 flash-mob demonstrations in which Belarusians stood in silence or clapped, one user praised a protest method which the Polish Communist authorities had found similarly difficult to prosecute: that of going out for a walk during propagandistic evening news broadcasts to demonstrate that televisions were not being watched.

As with the demise of Communist Poland, quickly evolving circumstances mean that it is not easy to gauge precisely how and when democracy will come to Belarus. Much remains Sovietized, and unlike 1980s Eastern Europe, free travel and communication serve as a pressure release valve for the regime even as they admit influence from outside. Rather than religion *per se*, factors such as the creativity and coherence of protest - and especially the nose-diving economy - will prove overriding in the advent of democratic change. Yet the pro-freedom campaigning of hundreds of thousands of Christians in Belarus, a phenomenon absent from neighboring Russia, can only assist in ushering in that change.

Excerpts from a presentation by Geraldine Fagan at the Carnegie Endowment for International Peace, "Why Muslims join the North Caucasus Insurgency," February 22, 2012

It should now be obvious to all that what began in the early 1990s as a secular, nationalist movement fighting for the republic of Chechnya's secession from the Russian Federation had by 2000 morphed into a broader Islamist insurgency emulating international jihadism. The first key factor to understanding that conflict's mutation is the shifting significance of Islam for the successive generations that fought in it.

In the First Chechen War of 1994-6, combatants on the Chechen side were typically middle-aged and of a Soviet, secular background; already hardened fighters before serious engagement with Islam. Chechen warlord Doku Umarov has admitted he "did not really know how to pray before the conflict with Russia." As late as 2005, a year before he was killed, Shamil Basayev confessed, "for me, it's first and foremost a struggle for freedom, sharia comes second."

The second wave of combatants joining the conflict from the late 1990s onwards was never allied with the Chechen nationalist cause. Being somewhat younger, they had typically taken advantage of opportunities to study theology in the Middle East following the collapse of the Soviet atheist regime. Islamist ideology, not war or national sovereignty, thus became their primary motivation. Prominent insurgent Said Buryatsky - so named because he hailed from the traditionally Buddhist republic of Buryatia in Siberia - wrote to a friend, "You know I don't like fighting, but I must adapt my desires to the demands of sharia." Anzor Astemirov, an ethnic Kabard who was supreme judge of the Caucasus Emirate's sharia court, dismissed all forms of nationalism - and indeed democracy - as paganism. These men were fluent in Arabic, having studied in Egypt, Kuwait and Saudi Arabia.

This generational shift points to the underlying cause of the Chechen conflict's mutation into a broader Islamist insurgency: the impact of Soviet anti-religious policy upon Islam in the North Caucasus, and that policy's rapid demise. Before 1917, Dagestan had over 2,000 mosques; by the 1980s, only a few dozen. Even fewer mosques were permitted in Chechnya-Ingushetia, Kabardino-Balkaria and Karachay-Cherkessia, and none in Adygeya. Moreover, Islam had taken root in much of the North Caucasus only towards the late 18th century, and had still to supplant competing codes of highland etiquette prior to Soviet rule. The subsequent Soviet repression of educated imams and isolation from the wider Islamic world meant that, by *perestroika*, much Islamic practice in the region had departed significantly from internationally accepted norms. There were even cases when village elders recited from Arabic journals – not understanding their content – in place of prayers. Alcohol consumption by those self-identifying as Muslims remains common.

On returning from study in the Middle East, those who later formed the second, virulently Islamist generation of insurgents attempted to challenge entrenched local customs such as drinking alcohol, elaborate weddings and funeral wakes, as well as the Soviet-era Muslim leaders who normally tolerated such practices. This sparked conflict: seeking to protect their authority, Muslim elders responded by branding critical younger Muslims foreign-influenced extremists, or “Wahhabis”, since they did not follow supposedly “traditional” forms of Islam. Already in league with local government, the established Muslim boards protected themselves against opposition from younger Muslims by securing narrow legal monopolies. Across the North Caucasus, it is impossible for Muslim communities to exist legally outside their structures, which also control appointments of imams. In Dagestan, the Muslim board is unrepresentative even of local Sufism, being supported by only a minority of the republic's Sufi sheikhs. It ensures an unofficial ban on certain literature, including Islamic authors freely available elsewhere in Russia, and Russian-language translations of the Koran.

While many of the younger generation of North Caucasus Muslims returned from Islamic education abroad with Salafi leanings, they long tried to popularize these views peacefully. For the best part of a decade in Kabardino-Balkaria, associates Anzor Astemirov and Musa Mukozhev built up a Jamaat network of Muslim communities to rival the established Muslim board. Jamaat representatives preached Islam throughout the republic, operated an unofficial institute of Islamic studies and even attended academic conferences in Moscow.

The wider political situation in the North Caucasus meant that a collision of such initiatives with the Sovietized political and religious establishment was inevitable, however. A former supporter of Astemirov and Mukozhev's Jamaat explained to me:

If the state produces alcohol, if officials practice bribery, fornication, everything forbidden by Allah, and people who live according to Islam say you can't do that, they see danger. There was an advance tendency not to permit Islam because how they live is the complete opposite of Islam.

Poverty is often cited as another factor pushing young Muslims to join the North Caucasus insurgency. Yet there are numerous reports of college-educated professionals taking up arms, even sons and nephews of senior figures in the political and security establishments. The broader motivation for violent action is sooner indignation at the acute disparity between the lifestyle of ordinary citizens and the wealth flaunted by closed political elites across the region. Their opulence relies upon endemic corruption: local residents complain that key posts are occupied by non-professionals with good family or other connections, that they have to pay bribes not only to traffic police in order to avoid prosecution for fabricated violations, but to utilize every stage of public education and health care. At the same time, public infrastructure – schools, hospitals and roads – is in tatters. With no alternative paths to self-realization, imposition of an Islamic social order appears an obvious solution to some. Chechen separatist president Aslan Maskhadov noted the popularity of this view as early as 1997:

A simple paradigm of Islamic values, accessible to ordinary Muslims, has formed in the consciousness of a portion of the North Caucasus population, a certain matrix containing notions of a just, prosperous society in which they can attain personal well-being and general social stability.

When such aspirations began to threaten local elites, their response was to crack down upon all forms of Islamic dissent. The example of Kabardino-Balkaria is particularly stark. Local law enforcement agencies began to draw up lists of alleged extremists or “Wahhabis”. Identification as such typically relied upon characteristics determined by the Sovietized local Muslim establishment, such as wearing an untrimmed beard, attending mosque frequently and being critical of so-called “traditional” Islam. Treatment of such people was brutal: between 1998 and 2005, Kabardino-Balkaria’s counterextremism police broke up prayer in mosques, beat up worshippers, forced them to drink vodka, and shaved crosses in their heads. Young Muslims routinely reported torture in police detention, including being sodomized with truncheons and subjected to electric shocks. In 2005 even a local representative of Putin’s United Russia party was detained. He recalled:

Unlike the others, I wasn’t beaten, I was taken around offices and cellars and shown what they do to other detainees: people are tortured like in the Gestapo, no lawyers, no interrogations, they just beat them to the point of death, until they confess and point to others.

For some years, the reaction of those targeted was to seek legal redress by complaining to all levels of the interior ministry and public prosecutor’s office, but this proved futile. In 2004, one young Muslim, Rasul Tsakoyev, died from injuries he attributed to two days’ detention by special police. Hundreds responded by staging a protest in Nalchik, the capital of Kabardino-Balkaria. Musa Mukozhev met with the republic’s leadership to demand that repression cease, but was reportedly told that his Jamaat must “stop meddling in politics and join the official Muslim board.” Most observers agree that the brutality of the state authorities coupled with popular disillusionment in the judicial process pushed some members of the Jamaat towards violence. It culminated in an armed uprising by several hundred against state agencies in Nalchik in October 2005, when over a hundred people were killed.

Flimsy profiling of suspected extremists and compilation of so-called “Wahhabi” lists occurs across the North Caucasus. To the east, the situation has in recent years deteriorated to the point where suspects are detained even if they have no obvious commitment to Islam; they are typically never heard of again. The Russian human rights foundation Memorial estimates 3,000 such disappearances in Chechnya. In one case successfully prosecuted in 2007, three Chechen policemen wishing to fast-track their careers by boosting their rate of terminating insurgents advertised prestigious police jobs. During interviews, applicants were dressed in camouflage clothing, told to run and then shot dead.

In southern Dagestan in 2010, I interviewed a market trader adhering to Salafism – which he understood simply as “the normal kind of Islam that there is in the normal civilized world.” He described preemptive strikes by the law enforcement agencies similar to those in Chechnya:

If you’re Salafi then you’re extremist, a potential terrorist. They say it’s just a question of time, that if not today then tomorrow you’ll take up arms and kill, so we’re killing you in advance. One policeman told me, “Why wait until you go into the forest and kill me from there?”

Fear of preemptive action by the law enforcement agencies is now encouraging teenage Muslims to “go into the forest” - or join the insurgency – in advance, as Dagestan’s recently created Commission for the Adaptation of Former Militants has been hearing.

The militant core of the North Caucasus insurgency is certainly inspired by hardline Islamist ideology emanating from outside the region. Having become the Caucasus Emirate’s key ideologist, Anzor Astemirov argued that support for its armed jihad is obligatory, citing fatwas by Saudi and Syria-based sheikhs. Yet it should not be assumed – as North Caucasus government officials often do – that all who studied in the Middle East returned with violent views. One imam I interviewed recently in the republic of Adygeya studied for years in a Saudi-run university in the United Arab Emirates, and also Syria. Asked about Chechnya, however, he replied:

I think it was a huge mistake that our Muslims allowed themselves to get involved in that conflict, because those military actions are used by some for their own purposes. Their first aim is to weaken Islam, to show that this is the essence of Islamic ideology – war, blood, explosions, violence. People everywhere are afraid and don’t perceive Islam normally now.

Those labelled extremists due to their worship practices may also reject violence on theological grounds: some Salafis in Dagestan argue that the territory of the North Caucasus does not form part of *Dar al-Harb*, where infidels must be fought, but *Dar al-Sulh*, where Muslims and infidels are to agree upon peaceful coexistence.

Nor should it be assumed from insurgent rhetoric that Islamist ideology is the principle factor driving Muslims “into the forest.” Residents of Dagestan do not believe so: polled on possible factors by a local newspaper in 2010, nearly 60 per cent cited corruption and the consequent impossibility of earning a living, 25 per cent arbitrary punishments by the law enforcement agencies, and only 10 per cent factors linked to Islamist conviction.

In fact, if there is a bright spot, it is that hardline Islamist ideology has very limited popular appeal in the North Caucasus. The Kabardino-Balkaria Jamaat was plausibly estimated to have 3,000 members, renowned for iron internal discipline and obedience to their leaders. Yet only a couple of hundred took part in the October 2005 Nalchik uprising, as those leaders later complained bitterly on insurgent websites. Local sociologists polling religious attitudes in Dagestan in recent years have found that over 80 per cent reject the idea that sharia should replace the laws of the secular state. They include devout Muslims. As another imam in Adygeya explained to me:

In a village there might be 1000 people, of those 5 pray. If they come to power tomorrow they'll say all women have to wear headscarves, all men have to have beards and vodka is banned. What will they do? Those 995 will start an uprising and overthrow them. And so the Caliphate is utopia. The problem is not in the government, the problem is in the people.

Ziya Meral (November 2010 – November 2011): For his research project, Mr. Meral developed a policy model for states that see recurrent patterns of ethno-religious violence, particularly between Muslim and Christian ethnic groups, with case studies on Egypt and Nigeria. The support of the Fellowship over twelve months allowed him to prepare a report with analysis and findings as well as policy recommendations for the United States. During the Fellowship period, he presented at roundtables/events in Washington, DC related to the issue of impunity and sectarian violence in Nigeria and Egypt, among other topics. He also provided advice to the Commission on these and other additional areas of expertise as appropriate.

Excerpts from “Decoding and Responding to Ethno-Religious Violence: The Cases of Nigeria and Egypt”

Executive Summary and Recommendations

This report seeks to provide policy makers with a clear understanding of how and why ethno-religious violence occurs and what the U.S. government can do to help countries that see re-occurring patterns of violence. Through a comparative analysis of Nigeria and Egypt, where such violence occurs, the report highlights contextual and general factors that cause violence and provides key insights into how ethno-religious violence should be managed.

The findings of this report highlight that:

- Long-term grievances and perceptions of mistreatment, discrimination and exclusion lead to alienation and break down of social cohesion and trust. These serve as the fertile ground for conflicts to escalate into violence.
- Impunity and weak state performance removes socio-psychological and physical barriers that hinder animosity from turning into action and make violence an easy-risk option for settlement of grievances or pursuing personal and communal gains.
- Failure to uphold rule of law and treatment of all citizens as equals before law undermines peace, stability and flourishing as well as cause deep grievances and trigger individual and communal violence.
- Poor state-performance and failure to uphold the rule of undermines and nullifies grass root initiatives on reconciliation and trust-building between conflicting communities.
- Lack of confidence in objectivity and effectiveness of local security forces create a sense of taking fate to one’s own hands and “settle” justice through vigilante campaigns.
- Religious actors play a major role both in the escalation and in prevention of violence, thus they cannot be ignored in or excluded from any calculation of culpability as well as conflict management process.

- Religious ideology and hegemony that limits and persecutes other religious communities create long-term conflict and immense violence.
- There is a small window of opportunity in detecting early stages of violence and stopping it from escalating. Once that threshold is passed, violence reaches uncontrollable levels and often ends because either it reaches its target and full scope or physical factors such as tiredness, injuries or weather conditions slow it down.
- Lack of an official and objective and accurate account of what happened fuels ongoing cycles of propaganda, misinformation and resentment and thus makes it easy for retaliatory attacks.
- Cohesion and self-enforcement by local communities stop violence from escalation.
- Sudden political shifts, whether local or national level, triggers violent expressions of long suppressed tensions.
- The way international NGOs and media report or engage with the incidents either force governments to perform correctly or unwittingly contribute to deterritorialization of local conflicts and their emancipation into cosmic battles between religions.
- International extremist and militant groups, who have no stake or actual risks in a local conflict, are important factors in the development of crisis.

In light of the findings of this report, a series of crucial and practical roles the United States can play to help countries that see reoccurring patterns of ethno-religious violence emerge:

- **Accountability**

In the cases of Nigeria and Egypt, it is clear that the main reason why ethno-religious violence continues and deteriorates is poor state performance. The core of that are either dangerous calculations that see political benefit from the conflict or a genuine lack of concern over the issue. Given that these two countries, and many other countries that see reoccurring patterns of religious violence, enjoy a relatively close relationship with the US with significant US diplomatic and aid investment, the most powerful and effective thing US can do is to keep them accountable and pressure for policy change. Political actors must clearly be communicated that not only it is in their personal nor national interest to see their country destabilizing but also that such incidents scare foreign investment and relations as well as drawing immense international attention and public opinion on country's human rights record.

Pressure from US aiming policy change will be a key factor in building domestic political will and resolve to improve responses given to ethno-religious conflict, which in return will serve as a key part of prevention of future incidents.

- Structural Reform

The US is already in various bilateral talks and agreements with Nigeria and Egypt and other countries. These offer direct channels to start new initiatives to not only keep the target country accountable in its handling of ethno-religious violence but also play a significant role in enabling the country to develop its capacity to handle the issue.

From the findings of this report, it is clear that judicial and security structures play the most important part in stopping violent incidents and preventing future occurrences. Lack of adequate response from them nullifies all grassroots and social initiatives. NGOs and domestic public often have no access or stake holder position in reforming such crucial sectors. Therefore, US investment in upgrading, training and equipping judiciary and security forces would be tremendously important for the future of that country. Such an investment is tangible and its success and scope is easily measurable. It will also be limited and a unique contribution that cannot be done by many other actors.

- Expertise Sharing

The US should develop an international network of academics, credible civil society actors and experienced diplomats on issues relating to the management of ethno-religious violence and structural reform and deploy them rapidly to conflict zones with involvement of local governments. International formation and non-US background of experts would minimize potential public reactions or negative utilization by domestic opposition groups.

- Capacity Building

There is a great need to train communities and even established NGOs on reporting incidents, gathering adequate data and undertaking credible advocacy projects. Often, their good intentions do not translate into constructive steps towards the solution. Sometimes, lack of training and guidance on how to communicate grievances and think strategically results in statements and responses that only fuel further animosity or negative response from other communities and the state. The US should invest in projects where American and European NGOs work together with domestic partners and provide continual training, accountability and expertise.

Conclusion: Addressing Ethno-Religious Violence

It is clear that there can be no ‘silver bullet’ solution to address ethno-religious violence and prevent conflicts for good. Grievances, mistrust and ideologies that fuel violence have deep roots, thus even if the Egyptian and Nigerian states performs adequately, the underlying tensions will remain unless long term social change is enabled within and by the local communities themselves.

There is a strong case to make that conflict itself is not bad and in the long run it serves the development of democracy. It is when conflict becomes violent, rather than political, and leads to gross human rights abuses and loss of lives and serious material damage; it destabilizes the country and inflicts human suffering.

Violent conflict cause serious economic damage, harm local markets and small scale business, hamper economic structures and government services and scare away foreign direct investment. It also fuels xenophobia and ideological comradeship thus creating a strong negative domestic political pressure on foreign policy and engagement with other countries.

As this report argues, ethno-religious conflict also has the potential of fueling religiously motivated clashes, attacks and terrorism globally, no matter how far the actual context from the targeted countries are. Thus, ethno-religious violence is simply not an issue of sporadic incidents of loss of individual lives, if unchecked, has the potential to cause substantial damage locally and internationally. Therefore it must be addressed.

Any adequate response to ongoing cycles of ethno-religious violence must include an understanding and considerations of the there are three major parts of addressing a conflict; *early response*, *crisis management* and *post-conflict settlement*.

Early response refers to efforts to forecast future incidents and intervene at the infant stages of the conflict. This is often the most overlooked yet at the same time the most crucial and achievable phase of handling ethno-religious violence. It is a lot cheaper and safer to monitor and stop a conflict on its onset than when it escalates and ends. It also prevents the likely hood of creation of new grievances and further retaliatory attacks.

Most ongoing cases of ethno-religious violence do not come out of the blue, except attacks committed by religious radical groups who are outsiders to the community. Political changes at macro and micro level, such as elections, incidents in other parts of country, frequency of incitement to violence and reaction preached by religious and political actors, intensifying social tensions and reports of groups arming and mobilizing are *early indicators* of potential outbreak of violence.

In addition to awareness of indicators, a survey of history of violence will be able to reveal *conflict zones* that are precarious for quick kindling of conflicts. The conflict zones shares similar qualities; a history of violence in a particular geographic context, internalizing sense of impunity and low risk of personal loss from conflict, deep ethnic and religious resentment, intense political fight between ethno-religious groups over resources and political hegemony, weak security forces and local authorities.

While examples of early indicators mentioned above might not amount to violent conflict in non-conflict zones, if they show in growing frequency in conflict zones, they must be taken seriously. Due to collapse of socio-psychological barriers to violence in previous incidences, in conflict zones even a small ‘spark’ can trigger a disproportionate level of violence.

Thus, it is possible to forecast potential cases of violent ethno-religious conflict. This early warning provides a limited window of opportunity for non-state and state actors to intervene. Early intervention has to have two aspects; increased security presence to communicate increased risk for individuals willing to pursue violent confrontation and social engagement by respected religious and political actors to defuse the tension and address root causes and defuse emotions.

Crisis management refers to efforts by state actors to contain and stop violence. By the time violence outbreaks, especially in conflict zones, it will escalate and spread and possibly trigger revenge attacks on ethno-religious minorities in non-conflict zones. While non-state actors can play small local roles in stopping youth mobs to enter their neighborhoods and prevent some youth from joining into fights and looting, the main response belongs to the security forces.

Given that police forces in most countries that sees ethno-religious violence are weak and ill equipped to handle wide scale violence, often security enforcement will be undertaken by military forces. This is good and bad news at the same time. The good news is that due to their organizational, manpower and resource strengthens, armed forces, if deployed correctly, can contain and stop violence. The bad news is that since due to their strengths, their responses are harsher and prone to commit arbitrary and disproportionate responses and human rights abuses. Therefore, the use of armed forces has to be balanced and coordinated alongside civilian authorities and local security forces.

Post-conflict settlement refers to immediate and long term political and social responses to particular incidents to ensure that they do not occur again. At the immediate level rule of law and justice has to be uphold. Material damage has to be addressed. Failure to do these or ignoring the importance of sense of justice, criminal punishment and reparations will only fuel further violence, often by victims of previous incidence who feel resentful and wronged.

This has to be followed by comprehensive social, religious and political projects to address ongoing mistrust and animosity between communities. Most ethno-religious communities that are in conflict with each other do not have deep and meaningful engagement with other communities even though they live in close proximity. Thus, grass roots projects to encourage inter-communal relations are important. However, it is no guarantee that meeting the ‘other’ will be enough to re-humanize the ‘enemy’. Sometimes, without proper social and religious and emotional build up, an encounter with the ‘other’ might provide proof of stereotypes or confirm one’s negative attitudes.

In order to ensure minimization of prejudice and marginalization of voices who will always prefer dominance and exclusion of the ‘other’ rather than co-existence and compromise, grass root projects that promote tolerance and restoration that builds on local religious and cultural traditions must be promoted. For them to succeed, they must emerge from within communities and involve significant religious and public figures to increase their impacts.

However, all of these social initiatives will be redeemed useless unless the state itself undertakes structural reform on its judicial and security responses to incidents, upholds rule of law and

justice and demonstrates a strong political will to punish those who seek violence, treats all of its citizens in a consistent, equal and objective manner, promotes national cohesion and reacts to utilization of ethno-religious grievances by local political actors. In fact, both in Egypt and Nigeria we see myriad examples of initiatives undertaken by grass-roots groups, national and international NGOs and foreign governments. Yet, poor performance by Egyptian and Nigerian state have deemed them completely useless and resulted in wasting of serious amounts of foreign aid and human capital.

NOTES

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^{vii} IISEPS survey, op.cit.

^{viii} D. E. Furman and K. Kaariainen, *Religioznost’ v Rossii v 90-e gody XX – nachale XXI veka*, (Moscow: OGNI TD, 2006), 54.

^{ix} Author’s interview with Anton Bokun, Minsk, July 20, 2006.

^x Jan Zaprudnik, “Development of Belarusian National Identity and its influence on Belarus’s Foreign Policy Orientation,” in Roman Szporluk, ed., *National Identity and Ethnicity in Russia and the New States of Eurasia*, (New York: M.E. Sharpe, 1994), 133.

APPENDIX 7: EXPANDED PRISONER LIST, PAKISTAN

Prisoners in Pakistan arrested/sentenced for alleged activities considered blasphemous or religiously insulting Based on NGO reporting ¹					
	Name(s)	Date of Accusation, Arrest or Sentence	Section of Criminal Code	Location	Sentence
1.	Abdul Sattar	6/22/11	*	Punjab	Death and fine
2.	Rafiq	2/2/11	*	Jalalpur Peerwala	Death and fine
3.	Wajihul Hassan	9/29/10	*	*	Death / Appeal Pending
4.	Malik Muhammad Ashraf	2/17/10	295-C, 298-A	Central Jail (Adiala) Rawalpindi	Death sentence pending
5.	Malik Ashraf	3/9/10	*	Pind Dadan Khan (Punjab)	Death
6.	Abdul Sattar	2/5/10	295-A, B, C	District Jail Jhelum	Death sentence and fine pending
7.	Ms. Aasia Noreen (Bibi)	6/19/09	295-C	District Jail Sheikhpura	Death, Rs. 100,000 fine, appeal pending
8.	Muhammad Shafeeq Latif	6/18/08	*	Sialkot, Punjab	Death
9.	Younis Masih	5/7/07	295-C	Kot Lakhpot jail	Death - Pending, Jailed since 2005, convicted in 2007.
10.	Liaqat	3/21/06	295-C	District Jail Faisalabad	Death sentence pending
11.	Muhammad Shafiq	3/17/06	295-B&C	District Jail Sahiwal	Death, 6 months jail, fine - appeal pending
12.	Abdul Hameed	3/3/06	295-A,B&C	District Jail Sahiwal	Death & 35 years, fine.
13.	Anwar Kenneth	6/15/01	295-C	New Central Jail Multan (Multan Jail)	Death and Rs. 500K fine,
14.	Wajihul Hassan aka Murshid Masih	3/3/99	295-A, C, 298 & 298-A	District Jail Sheikhpura	Death, appeal pending
15.	Muhammad Mushtaq alias	8/1/11	295-B	New Central	Life - appeal pending

¹ Sources: CLASS, NCJP, and other open sources

	Masta			Jail Multan	
Prisoners in Pakistan arrested/sentenced for alleged activities considered blasphemous or religiously insulting Based on NGO reporting ¹					
	Name(s)	Date of Accusation, Arrest or Sentence	Section of Criminal Code	Location	Sentence
16.	Muhammad Yousaf	8/1/11	295-B	New Central Jail Multan	Life
17.	Imran Ghafoor	7/1/11	295-A- B	District Jail Faisalabad	Life
18.	Muhammad Ishaq	1/5/11	*	Uch Sharif, Mohallah Qadirabad	Life
19.	Muhammad Safdar	10/1/10	295-B	New Central Jail Multan	Life - appeal pending
20.	Muhammad Shafi	4/8/10	*	New Central Jail Multan	Life, Rs. 230,000 fine, appealed
21.	Muhammad Aslam (son)	4/8/10	*	New Central Jail Multan	Life, Rs. 230,000 fine, appeal pending
22.	Imran Masih	1/1/10	*	District Jail Faisalabad	Life
23.	Ms. Ruqiya Bibi	12/8/08	295-B	District Jail Sahiwal	Life - appeal pending
24.	Abdul Kareem	6/21/07	295-B	District Jail Sahiwal	Life - appeal pending
25.	Inayat Rasool	6/23/06	295-B	District Jail Sahiwal	Life - appeal pending
26.	Asif	6/18/06	295-B	District Jail Sahiwal	Life - appeal pending
27.	Arif Mahdi	4/18/06	295-B	New Central Jail Multan	Life - appeal pending
28.	Imran	7/1/05	295-B	District Jail Faisalabad	Life imprisonment
29.	Shamas UD Din	7/1/05	295-A&C	District Jail Sahiwal	Life and 150,000 Rs fine, appeal pending
30.	Maqsood Ahmad	6/28/05	295-C	District Jail Sahiwal	Life, fine, appeal pending
31.	Muhammad Shahzad	3/24/03	295-B	District Jail Sahiwal	Life, appeal pending
32.	Muhammad Yousaf	3/24/03	295-B	District Jail Sahiwal	Life, appeal pending

¹ Sources: CLASS, NCJP, and other open sources

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Prisoners in Pakistan arrested/sentenced for alleged activities considered blasphemous or religiously insulting Based on NGO reporting¹					
	Name(s)	Date of Accusation, Arrest or Sentence	Section of Criminal Code	Location	Sentence
33.	Rehmat Ali	*	295-A- B	District Jail Faisalabad	Life imprisonment
34.	Mehram Wahocho	10/18/11	*	*	3 years and fine
35.	Mr. Muhammad Aamir Afzal	2/23/11	295-B	Central Jail (Adiala) Rawalpindi	7 Years, appeal pending
36.	Imran Masih	7/1/09	295-A,B	Faisalabad	10 years and Rs. 100,000/ = fine
37.	Hector Aleem	1/22/09	295-C	Islamabad	7 years and fine
38.	Junaid Ahmad	10/6/11	*	Chakwal	Arrested / Sentence Pending
39.	Muhammad Asghar Ali	8/1/11	295-C	Central Jail (Adiala) Rawalpindi	Jailed / Sentence Pending
40.	Muhammad Hanif	8/1/11	295-B	District Jail Gujrat	Jailed / Sentence Pending
41.	Riaz	8/1/11	"295, 295-B"	District Jail Multan	Jailed / Sentence Pending
42.	Syed Muhammad Ashraf Shah	8/1/11	295-B	District Jail Gujrat	Jailed / Sentence Pending
43.	Qaisar Mehmood	7/30/11	295-B	District Jail Sialkot	Jailed / Sentence Pending
44.	Sufi Muhammad Ishaq Shah	7/28/11	295-A,C	Central Jail (Adiala) Rawalpindi	Jailed / Sentence Pending
45.	Usman Rasheed	7/28/11	295-C	Central Jail (Adiala) Rawalpindi	Jailed / Sentence Pending
46.	Muhammad Arshad	7/26/11	295-B	District Jail Faisalabad	Jailed / Sentence Pending
47.	Muhammad Saleem	7/26/11	295-B	District Jail Faisalabad	Jailed / Sentence Pending
48.	Zahid Mukhtar	7/26/11	295-B	District Jail Faisalabad	Jailed / Sentence Pending

¹ Sources: CLASS, NCJP, and other open sources

Prisoners in Pakistan arrested/sentenced for alleged activities considered blasphemous or religiously insulting Based on NGO reporting ¹					
	Name(s)	Date of Accusation, Arrest or Sentence	Section of Criminal Code	Location	Sentence
49.	Manzoor Ahmad	7/25/11	295-B, 436	District Jail Lahore	Jailed / Sentence Pending
50.	Muhammad Nadeem Abbas	7/25/11	295-B	District Jail Kasur	Jailed / Sentence Pending
51.	Tariq Mehmood	7/25/11	295-B	District Jail Lahore	Jailed / Sentence Pending
52.	Mulazam Sultan	7/1/11	295-B	District Jail Lahore	Jailed / Sentence Pending
53.	Rehmat Masih	6/19/11	295-C	District Jail Faisalabad	Jailed / Sentence Pending
54.	Dildar Masih	6/10/11	298	New Central Jail Multan	Jailed / Sentence Pending
55.	Haji Muhammad Sher Khan	4/30/11	295-B	District Jail Faisalabad	Jailed / Sentence Pending
56.	Ghulam Qasim	4/29/11	298-A	Central Jail (Adiala) Rawalpindi	Jailed / Sentence Pending
57.	Irfan Rafique	3/30/11	295-C	District Jail Lahore	Jailed / Sentence Pending
58.	Ghulam Mustafa	3/30/11	*	District Jail Multan	Jailed / Sentence Pending
59.	Muhammad Fiaz	3/29/11	295-B	District Jail Sheikhpura	Jailed / Sentence Pending
60.	Muhammad Ashiq	3/16/11	295-B	District Jail Faisalabad	Jailed / Sentence Pending
61.	Fiaz Hussain	3/3/11	295-C	District Jail Sialkot	Jailed / Sentence Pending
62.	Ms. Agnes Bashir (Bibi)	2/6/11	295-A	District Jail Faisalabad	Jailed / Sentence Pending
63.	Sami Ullah	1/29/11		Mujtaba Town, Malir	Jailed- possible death sentence pending
64.	Haq Nawaz	1/28/11	295-B	District Jail Faisalabad	Jailed / Sentence Pending
65.	Ghulam Abbas	1/8/11	295-A	District Jail Sheikhpura	Jailed / Sentence Pending

¹ Sources: CLASS, NCJP, and other open sources

Prisoners in Pakistan arrested/sentenced for alleged activities considered blasphemous or religiously insulting Based on NGO reporting ¹					
	Name(s)	Date of Accusation, Arrest or Sentence	Section of Criminal Code	Location	Sentence
66.	Shahzad Rahi	10/10/10	295-B	District Jail Sheikhpura	Jailed / Sentence Pending
67.	Abdul Jabbar	10/2/10	295-B	District Jail Lahore	Jailed for 5 years/ Sentence Pending
68.	Dr. Ammar Zulfiqar	4/25/10	295-C & 420	District Jail Sheikhpura	Jailed / Sentence Pending
69.	Abid	2/14/10	295-B	District Jail Multan	Jailed / Sentence Pending
70.	Talib Masih	7/30/09	295-B	Toba Tek Singh	Jailed / Sentence Pending
71.	Liaqat Ali	1/13/09	295-B	District Jail Sheikhpura	Jailed / Sentence Pending
72.	Athar Hussain	7/17/08	295-A	New Central Jail Multan	Jailed / Sentence Pending
73.	Muhammad Asim	7/3/05	295-B	District Jail Lahore	Jailed for 5 years/ Sentence Pending
74.	Muhammad Yaqoob	7/2/05	295-B	District Jail Sahiwal	Jailed, sentence pending
75.	Muhammad Amin	2008	295-B	District Jail Lahore	Jailed/ Sentence Pending / Case reportedly not proceeding
76.	Muhammad Ayub	2008	295-B	District Jail Lahore	Jailed for 3 years/ Sentence Pending - proceedings before Additional Sessions Judge, Faisalabad
77.	Zulfiqar Ali	2008	295-C	District Jail Lahore	Jailed / Sentence Pending
78.	Zulfiqar Butt	2006	295-B	District Jail Lahore	Jailed for 5 years/ Pending
79.	Sarfraz Khan	*	295-B	District Jail Lahore	Jailed / Sentence Pending

¹ Sources: CLASS, NCJP, and other open sources

APPENDIX 8: EXPANDED PRISONER LIST, UZBEKISTAN

Prisoners in Uzbekistan arrested/sentenced due to their Muslim religious activities or affiliations Based on NGO reporting from January 2011-February 2012¹					
	Name(s)	Date of Accusation, Arrest or Sentence	Trial Location	Section of Criminal Code	Sentence
1.	Saizharbek Satvaldiev	Sentenced: January 26, 2012	Andijon	223, 228, 242, 224-2;	7 ½ years
2.	Mamirzhan Yusupov	Sentenced: January 26, 2012	Andijon	223, 228, 242, 224-2	8 years
3.	Akhmadzhon Bekpulatov	Sentenced: January 26, 2012	Andijon	223, 228, 242, 224-2	5 years
4.	Sobir Sadirzhanov	Sentenced: December 27, 2011	Tashkent oblast	224-2, 216	6 years
5.	Saken Ungarbaev	Sentenced: December 27, 2011	Tashkent oblast	224-2, 2216	6 years
6.	Ali Madaminov	Sentenced: December 27, 2011	Tashkent oblast	224-2, 2216	6 years
7.	Abdyrakhmon Nazarov	Sentenced: December 27, 2011	Tashkent Oblast	224-2, 2216	6 years
8.	Nabi Sadirzhanov	Sentenced: December 27, 2011	Tashkent oblast	224-2, 2216	3-years suspended
9.	Gani Sadirzhanov	Sentenced: December 27, 2011	Tashkent oblast	224-2, 2216	3-years suspended
10.	Akmal Sadirzhanov	Sentenced: December 27, 2011	Tashkent Oblast	224-2, 2216	3-years suspended
11.	Botir Balikboev	Sentenced: December 27, 2011	Tashkent Oblast	224-2, 2216	3-years suspended

¹ Source: Surat Ikramov, Chairman, Initiative Group of Independent Human Rights Defenders of Uzbekistan

Prisoners in Uzbekistan arrested/sentenced due to their Muslim religious activities or affiliations Based on NGO reporting from January 2011-February 2012¹					
	Name(s)	Date of Accusation, Arrest or Sentence	Trial Location	Section of Criminal Code	Sentence
12.	Nodarzhon Teshaboev	Sentenced: December 27, 2011	Tashkent Oblast	224-2, 2216	3-years suspended
13.	Abdulaziz Mirzaboboev	Sentenced: December 27, 2011	Tashkent Oblast	224-2, 2216	3-years suspended
14.	Kamoliddin Turabaev	Sentenced: December 27, 2011	Tashkent Oblast	224-2, 2216	3-years suspended
15.	Ali Madaminov	Arrested: September 13, 2011	Yangiyulsky region	244-2	*
16.	Khabibulla Erkabaev	Trial Started: November 4, 2011	Tashkent oblast	159, 223, 244-2	12 years
17.	Saidmurod Yusupov	Trial Started: November 4, 2011	Tashkent oblast	244-2	6 years
18.	Aliboy Saparniyazov	Trial Started: November 4, 2011	Tashkent oblast	244-2	6 years
19.	Khozhiakbar Dzhalidabaev	Trial Started: November 4, 2011	Tashkent oblast	244-2	6 years
20.	Mukhtor Khalilov	Trial Started: November 4, 2011	Tashkent oblast	244-2	6 years
21.	Akrom Mirsaidov	Trial Started: November 4, 2011	Tashkent oblast	244-2	6 years
22.	Farkhod Makhamatov	Trial Started: November 4, 2011	Tashkent oblast	244-2	6 years

¹ Source: Surat Ikramov, Chairman, Initiative Group of Independent Human Rights Defenders of Uzbekistan

Prisoners in Uzbekistan arrested/sentenced due to their Muslim religious activities or affiliations Based on NGO reporting from January 2011-February 2012¹					
	Name(s)	Date of Accusation, Arrest or Sentence	Trial Location	Section of Criminal Code	Sentence
23.	Abdurakhim Erkabaev	Trial Started: November 4, 2011	Tashkent oblast	244-2	6 years
24.	Doniyor Turabekov	Trial Started: November 4, 2011	Tashkent oblast	244-2	6 years
25.	Isroilzhon Khalilov	Trial Started: November 4, 2011	Tashkent oblast	244-2	6 years
26.	Makhmud Makhamatullaev	Trial Started: November 4, 2011	Tashkent oblast	244-2	6 years
27.	Shavkat Murtazaev	Trial Started: November 4, 2011	Tashkent oblast	244-2	6 years
28.	Azizbek Melibaev	Trial Started: November 4, 2011	Tashkent oblast	244-2	6 years
29.	Isroil Kuchkarov	Trial Started: November 4, 2011	Tashkent oblast	244-2	6 years
30.	Omonulla Giyasov	Trial Started: November 4, 2011	Tashkent region	244-2	6 years
31.	O.M. Ishmanov	Sentence Started: January 4, 2011	Tashkent oblast	244-2	8 years
32.	K.T. Asilov	Sentence Started: January 4, 2011	Tashkent oblast	244-2	7 years
33.	B.M. Pulatov	Sentence Started: January 4, 2011	Tashkent oblast	244-2	7 years

¹ Source: Surat Ikramov, Chairman, Initiative Group of Independent Human Rights Defenders of Uzbekistan

Prisoners in Uzbekistan arrested/sentenced due to their Muslim religious activities or affiliations Based on NGO reporting from January 2011-February 2012¹					
	Name(s)	Date of Accusation, Arrest or Sentence	Trial Location	Section of Criminal Code	Sentence
34.	B.B. Rasulmatov	Sentence Started: January 4, 2011	Tashkent oblast	244-2	6 years
35.	A.A. Khalilov	Sentence Started: January 4, 2011	Tashkent oblast	244-2	6 years
36.	F.U. Takhirov	Sentence Started: January 4, 2011	Tashkent oblast	244-2	7 years
37.	Kh. A. Faizullaev	Sentence Started: January 4, 2011	Tashkent oblast	244-2	6 years
38.	F.P. Rakhimov	Sentence Started: January 4, 2011	Tashkent oblast	244-2	6 years
39.	O.Z. Yuldashev	Sentence Started: January 4, 2011	Tashkent oblast	244-2	6 years
40.	D.Zh. Saidov	Sentence Started: January 4, 2011	Tashkent oblast	244-2	7 years
41.	A.O. Kukanbaev	Sentence Started: January 4, 2011	Tashkent oblast	244-2	6 years
42.	K.M. Abdugofurov	Sentence Started: January 4, 2011	Tashkent oblast	244-2	7 years

¹ Source: Surat Ikramov, Chairman, Initiative Group of Independent Human Rights Defenders of Uzbekistan

Prisoners in Uzbekistan arrested/sentenced due to their Muslim religious activities or affiliations Based on NGO reporting from January 2011-February 2012¹					
	Name(s)	Date of Accusation, Arrest or Sentence	Trial Location	Section of Criminal Code	Sentence
43.	Sh.Sh. Mirfaiziev	Sentence Started: January 4, 2011	Tashkent oblast	244-2	5 years
44.	Saidafzal Dzhakhongirov	Arrested: September 20, 2011	Tashkent Oblast	Religious Extremism	*
45.	Abdulmuzafar Dzhakhongirov	Arrested: September 20, 2011	Tashkent oblast	Religious Extremism	*
46.	Botir Irmurzaev	Sentenced: May 19, 2011	Tashkent	244-2	12 years
47.	Nodir Tulyaganov	Sentenced: May 19, 2011	Tashkent	244-2	12 years
48.	Khozhiakbar Inagamov	Sentenced: May 19, 2011	Tashkent	244-2	12 years
49.	Sarvar Sultonov	Sentenced: May 19, 2011	Tashkent	244-2	12 years
50.	Farkhod Irmurzaev	Sentenced: May 19, 2011	Tashkent	244-2	12 years
51.	Kudrat Kamilov	Sentenced: May 19, 2011	Tashkent	216	3 years
52.	Khusher Yusupov	Sentenced: May 19, 2011	Tashkent	216	3 years
53.	Bilolzhon Yusupov	Sentenced: May 19, 2011	Tashkent	216	3 years

¹ Source: Surat Ikramov, Chairman, Initiative Group of Independent Human Rights Defenders of Uzbekistan

Prisoners in Uzbekistan arrested/sentenced due to their Muslim religious activities or affiliations Based on NGO reporting from January 2011-February 2012 ¹					
	Name(s)	Date of Accusation, Arrest or Sentence	Trial Location	Section of Criminal Code	Sentence
54.	Daniyar Kuchkarov	Sentenced: May 19, 2011	Tashkent	216	3 years
55.	Mukhammadzhon Yakubov	Sentenced: May 19, 2011	Tashkent	216	3 years
56.	Akbarkhuzha Askarov	Sentenced: May 19, 2011	Tashkent	216	3 years
57.	Abduraim Umarov	Sentenced: May 19, 2011	Tashkent	216	3 years
58.	Adkham Siddikov	Arrested: September 13, 2011	Zangiatskiy region, Tashkent oblast	*	*
59.	Akhrol Saidvaliev	Arrested: September 13, 2011	Zangiatskiy region, Tashkent oblast	*	*
60.	Kholmurod Shokirov	Arrested: July/early August, 2011	Bukinsky region, Tashkent oblast	*	*
61.	Zaynobiddin Mamatov	Arrested: July 2011	Bukinsky region, Tashkent oblast	*	*
62.	Otabek Akhmadzhonov	Arrested: July 2011	Tashkent	"Religious reasons"	*
63.	Bakhodir Kosimov	Arrested: July 2011	Tashkent	"Religious reasons"	*
64.	Bakhodir Kurolov	Arrested: February 4, 2011	Khaklabad, Narinsky region	159, 244-2	*
65.	Ulugbek Umarov	Arrested: February 6, 2011	Khaklabad, Narinsky region	159, 244-2	*

¹ Source: Surat Ikramov, Chairman, Initiative Group of Independent Human Rights Defenders of Uzbekistan



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REPORT FOR THE US COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

December 2011

Global Legal Research Center
LL File No. 2011-006026

LEGAL PROVISIONS ON FIGHTING EXTREMISM

This report concerns anti-extremism laws in China, Pakistan, and the Russian Federation.

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LAW LIBRARY OF CONGRESS**CHINA****LEGAL PROVISIONS ON FIGHTING EXTREMISM***Executive Summary*

China has not passed a comprehensive counterterrorism law. Counterterrorism provisions at the national level are mainly found in the Criminal Law and State Security Law. These provisions do not address extremism, however.

At the domestic level extremism is more a vague and politicized notion appearing in government statements than a precisely defined legal term. In these statements, extremism is linked with terrorism and separatism, which are rhetorically expressed as the “Three Forces” of “ethnic separatist forces, violent terrorist forces, and religious extremist forces.” Extremism is addressed in very limited domestic legislation, and a precise definition has not been found. The Regulation on Religious Affairs prohibits the publication of content propagating religious extremism. Content propagating religious extremism is also strictly banned by orders of the state radio, film, and television authority. At the local level, efforts at fighting against the Three Forces have been particularly found in the local regulations of the Xinjiang Uyghur Autonomous Region.

The Shanghai Convention on Combating Terrorism, Separatism and Extremism and similar bilateral agreements that China has entered into with members of the Shanghai Cooperation Organization (SCO) and others define “extremism” as “an act aimed at seizing or keeping power through the use of violence or changing violently the constitutional regime of a State, as well as a violent encroachment upon public security, including organization, for the above purposes, of illegal armed formations and participation in them, criminally prosecuted in conformity with the national laws of the Parties.”

I. China’s Counterterrorism Legislation

China has not clearly defined the term “extremism” in its domestic law, nor has China passed a comprehensive counterterrorism law. At the national level, the legal framework for counterterrorism is mainly comprised of relevant provisions in the Criminal Law and the State Security Law.

A. Counterterrorism Provisions in the Criminal Law

In response to the attacks of September 11, 2001, in the United States, the Standing Committee of the National People's Congress of China (NPC) adopted Amendment III to the Criminal Law of the People's Republic of China on December 29, 2001. The passage of Amendment III was intended "to punish the crimes of terrorism, to safeguard the security of the State and of people's lives and property, and maintain public order."¹ This amendment modified several articles of the Criminal Law addressing terrorist crimes and other crimes believed to endanger public security by increasing punishments and adding new provisions. Most of the articles modified by Amendment III are under a chapter titled "Crimes of Endangering Public Security." These articles—in particular article 120, which addresses the crimes of organizing, leading, and participating in terrorist organizations—have become the primary counterterrorism provisions under Chinese law. The newly revised article 120 provides as follows:

Whoever forms or leads a terrorist organization shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment; persons who actively participate in a terrorist organization shall be sentenced to fixed-term imprisonment of not less than 3 years but not more than 10 years; other participants shall be sentenced to fixed-term imprisonment of not more than 3 years, criminal detention, public surveillance or deprivation of political rights.²

Pursuant to Amendment III, a new sub-article 120a on funding terrorist organizations and individuals has been added to article 120, which provides as follows:

Whoever provides funds to any terrorist organization or individual who engages in terrorism shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights, and shall also be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years, and he shall also be fined or his property shall be confiscated.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the provisions of the preceding paragraph.³

The Criminal Law, however, does not provide definitions of "terrorist organization," "terrorism," or "terrorist."

¹ *Zhonghua Renmin Gongheguo Xingfa Xiuzheng An San Shiyi* [Interpretation of Amendment III to the Criminal Law], NPC Standing Committee (Oct. 20, 2004), http://www.npc.gov.cn/npc/flsyywd/xingfa/2004-10/20/content_337787.htm.

² Amendment III to the Criminal Law of the People's Republic of China (Order of the President No. 64), English text available at the Congressional and Executive Commission on China website, <http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingl=30264#id30264> (last visited Sept. 29, 2011).

³ *Id.*

B. Counterterrorism Provision under the State Security Law

The State Security Law, another source of China's counterterrorism law, includes a definition of acts endangering state security. Although the definition does not refer to "terrorism" the implementation rules for the Law deem acts of terrorism to be acts that endanger state security.

Article 4 of the State Security Law defines those acts endangering state security as follows:

"Act endangering State security" as referred to in this Law means any of the following acts endangering the State security of the People's Republic of China committed by institutions, organizations or individuals outside the territory of the People's Republic of China, or, by other persons under the instigation or financial support of the aforementioned institutions, organizations or individuals, or, by organizations or individuals within the territory in collusion with institutions, organizations or individuals outside the territory:

- (1) plotting to subvert the government, dismember the State or overthrow the socialist system;
- (2) joining an espionage organization or accepting a mission assigned by an espionage organization or by its agent;
- (3) stealing, secretly gathering, buying, or unlawfully providing State secrets;
- (4) instigating, luring or bribing a State functionary to turn traitor; or
- (5) committing any other act of sabotage endangering State security.⁴

Although the State Security Law does not expressly list acts of terrorism under acts endangering state security, the Implementation Rules of the State Security Law interpret the above article 4 and specifically subject terrorist activities to this law. According to the Implementation Rules, "organizing, plotting or committing terrorist acts endangering the State security" falls into "any other act of sabotage endangering State security" as referred to in section 5 of article 4 of the State Security Law.⁵ Like the Criminal Law, the State Security Law and its implementation rules do not provide a definition of "terrorism" or "terrorist."

II. Domestic References to Extremism

Despite the fact that the concept of extremism, as well terrorism and separatism, are defined by multilateral and bilateral treaties that China has entered into (discussed in Part III of this report), definitions of these concepts have not been found in domestic legislation. As indicated by a whitepaper issued by the nongovernmental organization Human Rights in China (HRIC) discussing the impact of the Shanghai Cooperation Organization (SCO) on counterterrorism and human rights (hereinafter HRIC Whitepaper), a clear and precise definition

⁴ Guojia Anquan Fa [State Security Law] (adopted by the NPC Standing Committee on Feb. 22, 1993, effective on the same day), art. 10, 1993 LAWS OF CHINA 43, 47. English translation available at <http://www.cecc.gov/pages/newLaws/stateSecurityENG.php> (last visited Sept. 30, 2011).

⁵ Guojia Anquan Fa Shishi Xize [Implementation Rules of State Security Law] (State Council Order [1994] No. 157, June 4, 1994), FALŪ FAGUI QUANSHU [LAWS AND REGULATIONS OF CHINA] 3-179.

of extremism, as well terrorism and separatism as referred to in the Shanghai Convention, does not exist domestically in China.⁶

A. Government Statements

Domestically, extremism is more a vague and politicized notion appearing in government statements than a precisely defined legal term. In these statements, extremism is always linked with terrorism and separatism, which are rhetorically expressed as the “Three Forces” of “ethnic separatist forces, violent terrorist forces, and religious extremist forces.”⁷ As indicated by the term “religious extremist forces,” extremism is often found to be connected with religion.⁸ The government statements say that the three forces are the same thing by nature, and have been colluding with each other from the very beginning to sabotage social stability.⁹ The HRIC Whitepaper refers to the “Three Forces” as “Three Evils,” and the approach of linking terrorism, separatism, and extremism as coequal targets as the “Three Evils Doctrine.”¹⁰

Furthermore, the government appears to specifically apply the Three Forces to the violence endangering state security of the “East Turkestan force” in the Xinjiang Uyghur Autonomous Region (XUAR) and the “Free Tibet force” in the Tibet Autonomous Region (TAR) (also translated as Xizang Autonomous Region).¹¹ This is consistent with the finding of the HRIC Whitepaper, which asserts that China has applied the Three Evils approach in particular to the ethnic Uyghur population concentrated in XUAR.¹²

The HRIC Whitepaper found that official Chinese government references to the Three Evils terminology appeared in a national development plan as early as March 15, 2001, prior to the establishment of the SCO in June of that year.¹³ The Whitepaper states,

Chapter 23 of the document, on “Rule by Law, Building a Socialist Country Governed According to Law,” sets out the following priorities: “seriously study the new situations and new issues threatening social stability, correctly handle the inner conflicts among people during the new period, ensure social stability,” and “crack down on ethnic

⁶ HRIC, COUNTER-TERRORISM AND HUMAN RIGHTS: THE IMPACT OF THE SHANGHAI COOPERATION ORGANIZATION 68 (Mar. 2011) [hereinafter HRIC Whitepaper], <http://iso.hrichina.org/sites/default/files/oldsite/PDFs/Reports/SCO/2011-HRIC-SCO-Whitepaper-Full.pdf>.

⁷ See, e.g., *He Wei Sangu Shili?* [What Are the Three Forces?], XINHUA (July 13, 2009), http://news.xinhuanet.com/politics/2009-07/13/content_11698031.htm.

⁸ *Id.*

⁹ *Id.*

¹⁰ HRIC Whitepaper, *supra* note 6, at 64.

¹¹ See, e.g., *Zhongguo Fei Chuantong Anquan de Liuda Tiaozhan Zhi Liu: Minzu Fenlie Zhuyi* [The Sixth Challenge of the Six Untraditional State Security Challenges: Ethnic Separatism], XINHUA (Aug. 10, 2004), http://news.xinhuanet.com/newscenter/2004-08/10/content_1751936.htm.

¹² HRIC Whitepaper, *supra* note 6, at 64.

¹³ *Id.* at 67.

splitting activities, *religious extremist* forces, violent terrorist activities, cults and illegal activities conducted in the name of religion.”¹⁴

B. National Legislation

As discussed above, extremism is often connected with religion in government statements. This is also true in the limited legislation containing this concept. The only national legislation found expressly regulating “extremism” is the Regulation on Religious Affairs.¹⁵ When setting out the content that is prohibited from being published in religious publications, the Regulation includes “content which propagates *religious extremism*.”¹⁶ The Regulation, again, fails to provide a definition of “religious extremism.”

Content propagating religious extremism is also strictly banned by orders of the state radio, film, and television authority. The Regulation on Broadcasting and Television Administration prohibits radio and television stations from showing programs containing harmful content, including those “endangering the unity, sovereignty, and territorial integrity of the country,” “endangering state security,” and “instigating separation or disrupting ethnic solidarity.”¹⁷ Based on this provision, the State Administration of Radio Film and Television (SARFT) has expressly banned programs advocating religious extremism: pursuant to a SARFT order issued in 2010, television stations are prohibited from showing TV plays “opposing the state’s religious policies, by advocating *religious extremism*, cult, and superstition; and by discriminating against or insulting religious beliefs.”¹⁸ Again, a definition of “religious extremism” is not provided by the SARFT order.

C. Local Legislation

At the local level, efforts at fighting against the Three Forces have particularly been found in the local regulations of the XUAR. As stated by the HRIC Whitepaper, these regulations specific to XUAR have become a key part of China’s domestic counterterrorism legal framework.¹⁹

On December 29, 2009, the Standing Committee of the XUAR People’s Congress amended the XUAR Regulation on the Comprehensive Management of Social Order. The

¹⁴ *Id.* (emphasis added).

¹⁵ Zongjiao Shiwu Tiaoli [Regulation on Religious Affairs] (promulgated by the State Council on Nov. 30, 2004, effective Mar. 1, 2005), LAWS AND REGULATIONS OF CHINA, 3-289 (2009).

¹⁶ *Id.* art. 7(4) (emphasis added).

¹⁷ Guangbo Dianshi Guanli Tiaoli [Regulation on Broadcasting and Television Administration] (promulgated by the State Council on Aug. 11, 1997, effective Sept. 1, 1997), art. 32, LAWS AND REGULATIONS OF CHINA, 3-369 (2009).

¹⁸ Dianshiju Neirong Guanli Guiding [Provisions on the Administration of Contents of TV Plays] (issued by the SARFT, effective July 1, 2010), <http://www.sarft.gov.cn/articles/2010/05/19/20100519184943720740.html> (in Chinese; emphasis added).

¹⁹ HRIC Whitepaper, *supra* note 6, at 72.

amendments took effect on February 1, 2010.²⁰ The newly amended Regulation identifies acting against crimes endangering state security committed by “ethnic separatist forces, violent terrorist forces, and religious extremist forces” as one of the primary goals of managing social order in XUAR.²¹ According to the HRIC Whitepaper, this amendment was specifically designed to crack down on the three forces of terrorism, separatism, and extremism in the XUAR following July 5, 2009, riots.²²

Similar provisions for managing social order can also be found in the local legislation of Tibet, but with an emphasis on fighting separatism. In the TAR Regulation on the Comprehensive Management of Social Order, acting against and preventing the crimes of separatism are among the primary goals of social order management in the autonomous region. Although the TAR Regulation includes provisions strengthening the management of religious activities and places, identifying such management as a primary task, the words “religious extremism” or “terrorism” do not explicitly appear in the text.²³

In addition, the XUAR promulgated a Regulation on Ethnic Unity Education on December 29, 2009, which includes “opposing ethnic separatist forces, violent terrorist forces, and religious extremist forces” as part of the primary content of ethnic unity education in the XUAR.²⁴

III. Extremism in Treaties Signed by China

“Extremism” has been defined by the Shanghai Convention on Combating Terrorism, Separatism and Extremism (Shanghai Convention), as well as in the bilateral agreements that China has entered into with other states in combating terrorism, separatism, and extremism. As asserted by the HRIC Whitepaper, the SCO approach to counterterrorism is actually modeled on the “Three Evils Doctrine” advanced by the Chinese government.²⁵ The HRIC Whitepaper quotes the preamble of the Shanghai Convention, saying that the Three Evils are the focus of the Shanghai Convention, which “recognizes that these phenomena seriously threaten territorial integrity and security of the Parties as well as their political, economic and social stability.”²⁶

²⁰ Xinjiang Weiwuer Zizhiqu Shehui Zhi'an Zonghe Zhili Tiaoli [XUAR Regulation on the Comprehensive Management of Social Order] (promulgated Jan. 21, 1994, last amended Dec. 29, 2009, effective Feb. 1, 2010), <http://www.xinjiang.gov.cn/10100/10160/10001/10000/2009/66254.htm>.

²¹ *Id.* art. 5(1).

²² HRIC Whitepaper, *supra* note 6, at 72.

²³ Xizang Zizhiqu Shehui Zhi'an Zonghe Zhili Tiaoli [TAR Regulation on the Comprehensive Management of Social Order] (promulgated by the Standing Committee of the TAR People's Congress, last amended and effective June 6, 2007), *available at* the online Chinese law database, Chinalawinfo (Chinalawinfo Ref ID: 16935650).

²⁴ Xinjiang Weiwuer Zizhi Qu Minzu Tuanjie Jiaoyu Tiaoli [Regulation on Ethnic Unity Education] (Dec. 29, 2009), *available at* the Congressional-Executive Commission on China website, <http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingl=135701>.

²⁵ HRIC Whitepaper, *supra* note 6, at 64.

²⁶ *Id.* at 41.

A. Extremism in the Shanghai Convention

Extremism, as well as separatism and terrorism, is defined under the Shanghai Convention. According to the Convention,

“[e]xtremism” is an act aimed at seizing or keeping power through the use of violence or changing violently the constitutional regime of a State, as well as a violent encroachment upon public security, including organization, for the above purposes, of illegal armed formations and participation in them, criminally prosecuted in conformity with the national laws of the Parties.²⁷

The Shanghai Convention defines “terrorism” and “separatism” as follows:

“[T]errorism” means:

- a. any act recognized as an offence in one of the treaties listed in the Annex to this Convention (hereinafter referred to as “the Annex”) and as defined in this Treaty;
- b. other act intended to cause death or serious bodily injury to a civilian, or any other person not taking an active part in the hostilities in a situation of armed conflict or to cause major damage to any material facility, as well as to organize, plan, aid and abet such act, when the purpose of such act, by its nature or context, is to intimidate a population, violate public security or to compel public authorities or an international organization to do or to abstain from doing any act, and prosecuted in accordance with the national laws of the Parties;²⁸

“[S]eparatism” means any act intended to violate territorial integrity of a State including by annexation of any part of its territory or to disintegrate a State, committed in a violent manner, as well as planning and preparing, and abetting such act, and subject to criminal prosecuting in accordance with the national laws of the Parties[.]²⁹

Parties to the Shanghai Convention have pledged to cooperate in the areas of prevention, identification, and suppression of terrorist acts, as well separatist and extremist acts.³⁰ In their mutual relations, the parties consider these acts as extraditable offenses.³¹

B. Bilateral Agreements on Combating Terrorism, Separatism, and Extremism

China has entered into the following bilateral agreements on combating terrorism, separatism, and extremism with members of the SCO, but not limited to these members. These agreements have all adopted the approach of the Shanghai Convention to counterterrorism, to explicitly cover the three elements of the “Three Evils Doctrine”:

²⁷ Shanghai Convention, June 15, 2001, art. 1(3), http://www.ecrats.com/en/normative_documents/2005 (last visited Sept. 29, 2011).

²⁸ *Id.* art. 1(1).

²⁹ *Id.* art. 1(2).

³⁰ *Id.* art. 2.

³¹ *Id.*

- Agreement between the People’s Republic of China and Kyrgyzstan on Cooperation in Combating Terrorism, Separatism, and Extremism (signed Dec. 11, 2002, effective Oct. 1, 2004)³²
- Agreement between the People’s Republic of China and Kazakhstan on Cooperation in Combating Terrorism, Separatism, and Extremism (signed Dec. 23, 2002, effective July 3, 2003)³³
- Agreement between the People’s Republic of China and Tajikistan on Cooperation in Combating Terrorism, Separatism, and Extremism (signed Sept. 2, 2003, effective Feb. 7, 2006)³⁴
- Agreement between the People’s Republic of China and Uzbekistan on Cooperation in Combating Terrorism, Separatism, and Extremism (signed Sept. 4, 2003, effective Oct. 21, 2004)³⁵
- Agreement between the People’s Republic of China and Pakistan on Cooperation in Combating Terrorism, Separatism, and Extremism (signed Apr. 5, 2005, effective Dec. 12, 2006)³⁶
- Agreement between the People’s Republic of China and Turkmenistan on Cooperation in Combating Terrorism, Separatism, and Extremism (signed Oct. 31, 2006, effective Feb. 6, 2007)³⁷

Furthermore, an official Chinese news agency has reported that such a bilateral agreement was also signed by Russia and China in September 2010.³⁸

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³² DEPARTMENT OF TREATY OF LAW, MINISTRY OF FOREIGN AFFAIRS OF THE PEOPLE’S REPUBLIC OF CHINA, A COLLECTION OF TREATIES ON EXTRADITION AND AGREEMENTS ON COOPERATION IN COMBATING TERRORISM, SECESSIONISM AND EXTREMISM 874 (2009) (in Chinese).

³³ *Id.* at 898.

³⁴ *Id.* at 911.

³⁵ *Id.* at 931.

³⁶ *Id.* at 948.

³⁷ *Id.* at 966.

³⁸ *Mutual Support for Each Other’s Core Interests Important Part of China-Russia Ties: Joint Statement*, XINHUA (Sept. 28, 2010), http://news.xinhuanet.com/english2010/china/2010-09/28/c_13534063.htm.

2011–006026

LAW LIBRARY OF CONGRESS**PAKISTAN****LEGAL PROVISIONS ON FIGHTING EXTREMISM***Executive Summary*

Pakistan has principally adopted an antiterrorism legal framework in order to address extremist activity in the country. Though Pakistan does not have a specific crime of “extremism” within its laws, it does have a series of other connected criminal offenses, primarily crimes against the state or incitement crimes, that form a close proximity to the crime of extremism defined under international conventions and statutes of other countries. Such provisions can be found in Pakistan’s principal antiterrorism legislation, the Anti-terrorism Act, 1997, and Pakistan’s Penal Code.

Besides legal regulations, Pakistan has also attempted to institute programs promoting “anti-radicalization” and sectarian harmony in the country. With respect to international cooperation, Pakistan currently has observer status at the Shanghai Cooperation Organization (SCO) but is pushing for full membership.

I. Forms of ‘Extremist’ Challenges Faced by Pakistan

Pakistan faces a number of extremist challenges from both ethnic and religious groups in the country. According to Muhammad Amir Rana, Director of the Pakistan Institute of Peace Studies (PIPS), “[e]xtremism is defined in Pakistan in a number of ways, mainly in political, religious and social contexts. A lack of consensus even on definitions make [sic] it difficult to arrive at a comprehensive understanding of the phenomenon, further complicating efforts aimed at countering extremism.”¹ According to PIPS researchers Abdul Basit and Mujtaba Rathore, however, “religious extremism is the common prevalent factor in all the visible trends and patterns of radicalization in Pakistan.”²

Pakistan faces enormous challenges from extremist groups, particularly sectarian violence and terrorism perpetrated by radical Islamic groups. Some of the current challenges Pakistan faces in respect to extremism can be traced to the “Islamization” policies of Pakistan’s military leader General Zia-ul-Haq. According to a 2009 International Crisis Group report,

¹ Muhammad Ameer Rana, Abstract, *Litterateurs’ Response to Extremism in Pakistan*, 3 PIPS RES. J. CONFLICT & PEACE STUD. 112 (Apr.–June 2010), <http://san-pips.com/index.php?action=journal&id=6>.

² Abdul Basit & Mujtaba Muhammad Rathore, *Trends And Patterns of Radicalization in Pakistan*, 3 PIPS RES. J. CONFLICT & PEACE STUD. 16 (Apr.–June 2010)

Radical jihadi groups benefited from state patronage, for the first time, during General Zia-ul-Haq's military regime in the 1980s. They were backed for the twin purpose of fighting in the U.S.-supported anti-Soviet jihad in Afghanistan and promoting Sunni orthodoxy at home. That patronage continued even during the democratic interlude in the 1990s, as the military used its jihadi allies in India-administered Kashmir and in support of the Taliban in Afghanistan. As radical Sunni groups proliferated and grew stronger, sectarian violence became the primary source of terrorism in Pakistan.³

Pakistan has also recently been involved in military operations against tribal militancy in the northern regions of the country and separatist movements in the province of Baluchistan. Baluch ethno-nationalists and separatists have been waging a low-level insurgency for many years.⁴ Moreover, Pakistan's most populous city, Karachi, has recently witnessed some of the worst ethnic and sectarian violence in years, largely between the Urdu-speaking Mohajir community and ethnic Pashtuns.⁵ Therefore, it can be argued that extremist violence in the country is also motivated by ethnic and provincial divisions. As emphasized by Selig S. Harrison, Director of the Asia Program at the Center for International Policy,

[a] single-minded focus [on terrorism] ignores a broader and more fundamental issue that cuts across the struggle between Islamist and secular forces: whether the multi-ethnic Pakistan federation, torn by growing tensions between a dominant Punjabi majority and increasingly disaffected Baluch, Sindhi and Pashtun ethnic minorities, can survive in its present form without basic political and economic reforms.⁶

II. System of National Laws Aimed at Fighting Extremism

Pakistan has principally adopted an "antiterrorism" legal framework in order to address extremist activity and sectarian violence in the country. In the context of increasing sectarian and political violence in Pakistan, the then Nawaz Sharif government promulgated the Anti-terrorism Act, 1997, establishing Pakistan's principal antiterrorism regime.⁷

III. Crime of Extremism

Pakistan does not have a specific crime of "extremism" within its laws. However, it does have a series of other criminal offenses that form a close proximity to the crime of extremism as defined under international conventions and the statutes of other countries such as Russia.

³ INTERNATIONAL CRISIS GROUP, PAKISTAN: THE MILITANT JIHADI CHALLENGE 4 (Asia Report No. 164, Mar. 13, 2009), [http://www.crisisgroup.org/~media/Files/asia/south-asia/pakistan/164_pakistan_the_militant_jihadi_challenge.pdf](http://www.crisisgroup.org/~/media/Files/asia/south-asia/pakistan/164_pakistan_the_militant_jihadi_challenge.pdf).

⁴ *Bomb Blast at Hotel Kills 11 in Southwest Pakistan*, REUTERS AFRICA (Aug. 14, 2011), <http://af.reuters.com/article/worldNews/idAFTRE77D0ZD20110814>.

⁵ *Karachi Targeted Killings, Highest in 15 Years*, THE EXPRESS TRIBUNE (Oct. 29, 2010), <http://tribune.com.pk/story/69491/karachi-target-killings-highest-in-15-years/>.

⁶ SELIG S. HARRISON, PAKISTAN: THE STATE OF THE UNION (Center for Int'l Policy, Apr. 2009) http://www.ciponline.org/images/uploads/publications/pakistan_the_state_of_the_union.pdf.

⁷ Anti-Terrorism Act, No. 27 of 1997, available at <http://www.ppra.org.pk/doc/anti-t-act.pdf>.

According to the Shanghai Convention on Combating Terrorism, Separatism and Extremism, “extremism” is defined as

any deed aimed at a violent seizure of power or violent holding of power, and at violent change of the constitutional order of the state, as well as a violent encroachment on public security, including the organization, for the above purposes, of illegal armed formations or participation in them.⁸

Under Russia’s Criminal Code, any organized effort aimed at the “forcible change of the foundations of the constitutional system and the violation of the integrity of the Russian Federation,” “the subversion of the security of the Russian Federation,” “the seizure or acquisition of preemptory powers,” or “the creation of illegal military formations” fall under the category of “extremist activity.”⁹

Similarly, according to Pakistan’s Penal Code, under the title of “Offences Against the State,” it is a punishable offense to “wage war” against the state, and to conspire to do so.¹⁰ Moreover, the statute also criminalizes conspiracies to “deprive Pakistan of the sovereignty of her territories or of any part thereof,” or to “overawe, by means of criminal force or the show of criminal force, the Federal Government or any Provincial Government.”¹¹

IV. Extremism and Connected Crimes

Under the extremism laws of Russia, inciting or fomenting “racial, national or religious strife” is also categorized as “extremist activity.” Similarly, under section 153-A of Pakistan’s Penal Code, “promoting enmity between different groups” is a punishable criminal offense. The section stipulates that “no subject is entitled to write or say or do anything whereby the feelings of one class of subjects should be inflamed against another class of subjects.”¹² According to the statute,

Whoever,

- a) by words, either spoken or written, or by signs, or by visible representations or otherwise, promotes or incites, or attempts to promote or incite, on grounds of religion, race, place of birth, residence[,] language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities; or
- b) commits, or incites any other person to commit, any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups

⁸ Shanghai Convention on Combating Terrorism, Separatism and Extremism art. 1(3) (June 15, 2001), available at <http://www.unhcr.org/refworld/publisher,ASIA,,,49f5d9f92,0.html>.

⁹ UGOLOVNIYI KODEKS ROSSIYSKOI FEDERATSII [UK RF] [Criminal Code] art. 1, ROS. GAZ., June 13, 18, 19, 20, 25, 1996.

¹⁰ PAK. PENAL CODE, 1860, §§ 121, 121-A, available at http://www.fia.gov.pk/default_files/ppc.pdf.

¹¹ *Id.* §121-A.

¹² SHAUKAT MAHMOOD & NADEEM SHAUKAT, THE PAKISTAN PENAL CODE: EXHAUSTIVE COMMENTARY INCORPORATING CASE-LAW OF PAKISTAN, BANGLADESH, BURMA, INDIA, U.K., ETC. 507 (Legal Research Centre, 2008).

or castes or communities or any group of persons identifiable as such on any ground whatsoever and which disturbs or is likely to disturb public tranquillity; or
 c) organizes, or incites any other person to organize, and exercise, movement, drill or other similar activity intending that the participants in any such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in any such activity will use or be trained to use criminal force or violence or participates, or incites any other person to participate, in any such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in any such activity will use or be trained, to use criminal force or violence, against any religious, racial, language or regional group or caste of community or any group of persons identifiable as such on any ground whatsoever and any such activity for any reason whatsoever cause or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community[,] shall be punished with imprisonment for a term which may extend to five years and with [a] fine.¹³

The above section only applies where the hatred or enmity is created between different classes of people in Pakistan, not individuals within the same class. Essentially, it is a statutory provision “for the purpose of preserving order and amity between various classes of subjects.”¹⁴

Incitement crimes are also addressed under Pakistan’s principal antiterrorism legislation. However, to bring certain offenses within the ambit of the Anti-terrorism Act 1997, “it is essential to examine that the offence should have [a] nexus with the object of the Act,”¹⁵ namely, creating terror, panic, or a sense of insecurity among the general public.¹⁶ According to section 6 of the Anti-terrorism Act, an “act” of terrorism is committed, *inter alia*, by a person who “[i]ncites hatred and contempt on [a] religious, sectarian or ethnic basis to stir up violence or cause internal disturbance,”¹⁷ as long as

[the] use or threat is designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect or create a sense of fear or insecurity in society; or

The use or threat is made for the purpose of advancing a religious, sectarian or ethnic cause.¹⁸

Under Section 8 of the Anti-terrorism Act 1997, a separate crime is also defined that “prohibits acts intended to stir-up sectarian hatred.” According to the Act,

¹³ PAK. PENAL CODE, 1860, § 153-A.

¹⁴ MAHMOOD & SHAUKAT, *supra* note 12, at 507.

¹⁵ ISHFAQ ALLI, ANTI-TERRORISM ACT, 1997: WITH ALL AMENDMENTS & UP-TO-DATE CASE LAWS 1 (Al-Noor Law Book House, 2008).

¹⁶ *Id.* at 2.

¹⁷ Anti-Terrorism Act, 1997, § 6(2)(f).

¹⁸ *Id.* § 6(1)(b)-(c).

[a] person
who:–

- (a) uses threatening, abusive or insulting words or behavior; or
- (b) displays, publishes or distributes any written material which is threatening, abusive or insulting: or words or behavior; or
- (c) distributes or shows or plays a recording or visual images or sounds which are threatening, abusive or insulting: or
- (d) has in his possession written material or a recording or visual images or sounds which are threatening, abusive or insulting with a view to their being displayed or published by himself or another,

Shall be guilty of an offence if:–

- i. he intends thereby to stir up sectarian hatred; or
- ii. having regard to all the circumstances, sectarian hatred is likely to be stirred up thereby.¹⁹

The 1997 Act also criminalizes “printing, publishing, or disseminating any material” that “incites religious, sectarian or ethnic hatred.”²⁰

Section 11-X of the 1997 Act also prohibits the instigation of “civil commotion.” According to the Act, “A person commits an offence if he makes any call for action or shut-down, imposed through the use of threats or force resulting in damage or destruction of property or injury to person, to intimidate citizens and prevent them from carrying out their lawful trade or business activity.”²¹

V. International Cooperation

Pakistan currently has observer status at the Shanghai Cooperation Organization (SCO). In October 2009, Prime Minister Sayyed Yusuf Raza Gilani urged the SCO member states to “grant Pakistan full membership.”²² On June 2011, President Zardari further pressed member states to grant Pakistan membership to the SCO. He also committed to Pakistan “enhancing its cooperation with the SCO” to address the problem of extremism and terrorism in the region.²³

VI. Government Responses, Legislative Initiatives, and Preventive Measures

The Government of Pakistan, under the auspices of the late Federal Minister for Minorities Affairs Shahbaz Bhatti, established local-level committees to promote religious tolerance and sectarian harmony. In July 2010, the late Federal Minister also announced the

¹⁹ *Id.* § 8.

²⁰ *Id.* § 11-W.

²¹ *Id.* § 11-X.

²² *SCO States Must Share Vision on Regional Peace: PM*, DAILY TIMES (Oct. 15, 2010), http://www.dailytimes.com.pk/default.asp?page=2009\10\15\story_15-10-2009_pg7_1.

²³ *Pakistan to Work with SCO States for Regional Peace*, DAILY TIMES (June 16, 2011), http://www.dailytimes.com.pk/default.asp?page=2011\06\16\story_16-6-2011_pg7_1.

formation of “a National Interfaith Council aimed at promoting brotherhood, harmony and co-existence among various sects and faiths.”²⁴

In August 2011, the Defence Committee of the Government Cabinet announced the possibilities of a “de-radicalization programme” aimed at combating rising extremism in the country. According to the Committee, “[i]t was decided in the committee that special attention shall be given to a de-radicalisation programme to motivate youth to engage and isolate them from militancy and terrorism and bring them back to peaceful living.”²⁵ Moreover, Pakistan’s Prime Minister, who presided over the meeting, stated,

[w]e need to clearly identify the threat posed by terrorism, including the underlying factors such as ideological, motivational, funding, weapon supply, training and organizational support for terrorist groups and those aiding and abetting the terrorists.²⁶

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²⁴ *Bhatti Announces Setting Up of National Interfaith Council*, ASSOCIATED PRESS OF PAKISTAN (July 12, 2010), http://ftpapp.app.com.pk/en/_/index.php?option=com_content&task=view&id=109004&Itemid=98.

²⁵ Baqir Sajjad Syed, ‘De-Radicalisation’ Plan Under Study, DAWN.COM (Aug. 18, 2011), <http://www.dawn.com/2011/08/18/de-radicalisation-plan-under-study.html>.

²⁶ *Id.*

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RUSSIAN FEDERATION
LEGAL PROVISIONS ON FIGHTING EXTREMISM

Executive Summary

The line between a hate crime and protected speech is not definitively established in the Russian Federation. Federal law prosecutes violent and nonviolent forms of extremism as they are defined by the Criminal Code, Code of Administrative Violations, and framework Law on Countering Extremist Activity. The presence of a prejudicial motive appears to be a key factor in determining the extremist nature of an act, and if such a motivation is proven it is considered an aggravating circumstance. Both individuals and organizations can be found responsible for extremism. Prosecution of extremist crimes is usually based on conclusions of experts who decide on the presence of an extremist component in the actions charged. Information on materials deemed to be extremist is collected and published by the Ministry of Justice. These materials are prohibited from being publicly accessible. Involvement in extremist activities is a reason for the state to impose restrictions on one's political or professional activities, or to liquidate an organization whose leaders have been accused of extremism. Reportedly, these provisions are often used by the government to silence the opposition, and the authorities have been criticized for focusing on minor crimes. In the summer of 2011, the Russian government identified the prevention of extremism as its major task, and an interagency commission on the subject has been established.

This report analyzes Russian anti-extremist legislation and reviews the procedural aspects of its application.

I. Constitutional Principles of Anti-Extremist Legislation

The Russian Constitution guarantees basic human rights, including freedom of speech, expression, and association. At the same time, it prohibits public associations that are aimed at forcibly changing the fundamental principles of the constitutional system and violating the integrity of the Russian Federation; undermining its security; setting up armed units; and instigating social, racial, national, and religious strife.¹ Also, propaganda promoting social, racial, national, or religious enmity or the instigation of such enmity, as well as propaganda

¹ Konstitutsiia Rossiiskoi Federatsii [Konst. RF] [Constitution of the Russian Federation], adopted by Referendum on Dec. 12, 1991, art. 13, para. 5.

promoting social, racial, national, religious or linguistic supremacy,² are prohibited. The term “extremism” is not used in the Constitution, however.

These restrictions appear to be in accordance with a constitutional provision (art. 55, para. 3) that allows the restriction of individuals’ rights and freedoms by federal legislation to the extent necessary for the protection of fundamental principles of the constitutional system, morality, health, the rights and lawful interests of other people, and ensuring the defense of the country and the security of the state.³ These restrictions appear to follow international standards elaborated by the European Court of Human Rights and other international and national authorities, which generally uphold restrictions on free expression on the grounds of national security where it can be shown that they are absolutely necessary in a democratic society, i.e., where the expression is intended to incite violence and there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence.⁴

Although the federal government has exclusive jurisdiction in regulating the rights and freedoms of individuals and citizens, several constituent components of the Russian Federation have enacted legislation aimed at regulating freedom of conscience and religion.⁵ While criminal law is within the exclusive jurisdiction of the federal government, these legal acts impose administrative responsibility for activities deemed to be in violation of the public order. For example, anti-extremist legislation was enacted in the Kabardino-Balkar Republic of the Northern Caucasus. This provincial law restricts proselytism and prohibits, among others things, religious organizations if the doctrine threatens public security and the lawful interests of citizens, or advocates the superiority of one religious doctrine over another.⁶

II. Overview of Russian Anti-Extremist Legislation

The anti-extremist legislation of Russia consists of the Federal Law on Countering Extremist Activity⁷ (Extremism Law), specific provisions of the Russian Federation Criminal Code,⁸ the Code of Administrative Violations of the Russian Federation (Administrative Code),⁹

² *Id.* art. 29, para. 2.

³ Aleksandr Sigarev, *Konstitutsionno-Pravovye Aspekty Protivodeistviia Ekstremizmu* [Constitutional Aspects of Counteraction to Extremism], ROSSIISKAIA IUSTITSIIA No. 3, 2011, at 62 (in Russian).

⁴ Article 19’s Statement on Proposed Amendments to the Russian Extremism Law at 1 (July 2006), <http://www.article19.org/data/files/pdfs/press/russia-extremism-law.pdf>.

⁵ Anatolii Pchelintsev, *Zakonodatel’naia Praktika I Problemy Razgranicheniia Predmetov Vedeniia Rossiiskoi Federatsii I ee Sub’ektov v Sfere Svobody Sovesti I Veroinspovedaniia* [Legislative Practice and Problems of Delimitation of Jurisdiction of the Russian Federation and its Subjects in the Area of Freedom of Conscience and Religion], ROSSIISKAIA IUSTITSIIA No. 1, 2011, at 63 (in Russian).

⁶ Vladimir Kashenov, *Osobennosti Kvalifikatsii Prestuplenii Ekstremistskoi Napravlenosti* [Particulars of Qualification of Extremist Crimes], KOMMENTARIИ SUDEBNOI PRAKTIKI No. 13, 2007, at 94 (in Russian).

⁷ *Federal’nyi Zakon RF o Protivodeistvii Ekstremistskoi Deiatel’nosti* [Federal Law of the Russian Federation on Countering Extremist Activity], ROSSIISKAIA GAZETA [ROS. GAZ.], July 25, 2002.

⁸ *Ugolovnyi Kodeks Rossiiskoi Federatsii* [UK RF] [Criminal Code], Ros. Gaz., June 13, 18, 19, 20, 25, 1996.

and relevant norms included in more than twenty other laws regulating public associations, religious activities, public gatherings, mass media publications, the investigative work of law enforcement authorities, and other matters.¹⁰

The determining factor in qualifying an activity as extremist is the suspect's motivation.¹¹ Crimes motivated by prejudice or, as stated in Russian law, "ideological, political, racial, national or religious enmity, as well as hatred or enmity towards a social group," are classified as extremist crimes under the Criminal Code.¹² An additional list of activities deemed to be extremist is stipulated by the Extremism Law. This list does not coincide with the list of extremist crimes defined by the Criminal Code.¹³ Extremist activities as they are listed in the Extremism Law are subject to prosecution regardless of their consequences and the level of public danger. This allows for the application of restrictive measures to relatively insignificant offenses.¹⁴

Terrorism is distinguished from extremism in that it generally involves violent acts and pursues specific goals of exercising influence on governmental decision making by violating public security or frightening the population. Russian scholars believe that the distinctive feature of terrorism is the purpose of the crime whereas extremist crimes are distinguished by the offender's motivation.¹⁵ The continuing and diverse nature of extremist activities is also contrasted with the transitory nature of terrorist acts.¹⁶ However, it appears that the Extremism Law treats terrorism as one of several extremist activities regardless of whether it was motivated by ideological, political, racial, national, or religious hatred.¹⁷

According to official statements, the necessity to fight terrorism was the main reason for developing anti-extremist legislation. However, Russian legal observers state that it cannot meet this purpose and that the expansion of acts that can be considered extremist crimes, and the doubling of the number of materials recognized as extremist and included in the list of banned publications in 2011, led to a situation where "anything from a criminal fiction to a

⁹ Kodeks Rossiiskoi Federatsii ob Administrativnykh Pravonarusheniakh [KOAP RF] [Code of Administrative Violations], Ros. Gaz., Dec. 31, 2001.

¹⁰ Aleksandr Sigarev, *supra* note 3, at 62.

¹¹ Rashid Sabitov et al., *Pravovye Mery Protivodeistviia Ekstremistksoi Prestupnosti: Monografiia* [Legal Measures Counteracting Extremist Crime: Monograph] 8 (Chelyabinsk, 2009) (in Russian).

¹² UK RF art. 282.1.

¹³ Olga Korshunova, *Prestupleniia Ekstremistskogo Kharaktera, Teoriia i Praktika Protivodeistviia* [Crimes of Extremist Nature, Theory and Practice of Counteraction] 153 (Sankt-Peterburg, 2006) (in Russian).

¹⁴ SOVA Center for Information and Analysis (SOVA Center), *The Structure of Russian Anti-Extremist Legislation 1* (Nov. 2010), available at http://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/201/201011/20101129_3_10sova_en.pdf.

¹⁵ RASHID SABITOV ET AL., *supra* note 11, at 43.

¹⁶ Vladimir Kashepov, *supra* note 6, at 187.

¹⁷ RASHID SABITOV ET AL., *supra* note 11, at 10.

postmodernist painting can be viewed as extremist.”¹⁸ Because of the nature of the legislation and problems with its enforcement, “public trust in anti-extremist legislation and the government’s ability to fight extremism through the existing legal arsenal was lost completely.”¹⁹

III. Analysis of Federal Law on Countering Extremist Activity

A. Definition of ‘Extremism’

The Federal Law on Countering Extremist Activity (Extremism Law) is a framework document that gives a definition of extremism, sets forth the fundamentals of the national policy in that area, and emphasizes the importance of preventive measures.²⁰

Sanctions for extremist activity can be applied against organizations, mass media outlets, and individuals.²¹ It appears that organizations and mass media are the main targets of the Extremism Law.²² Organizations or media institutions may be punished under the Extremism Law for extremism *per se*. Individuals are punishable only in cases where their actions fall within the definition of an offense of extremism provided by the Criminal Code or the Code of Administrative Violations.²³

The Extremism Law contains no clear definition of extremism. Instead there is an “extremely heterogeneous”²⁴ list of violent and nonviolent activities considered to be extremist, which includes

forcible change of the foundations of the constitutional system and violation of integrity of the Russian Federation;

public justification of terrorism and other terrorist activity;

incitement of social, racial, ethnic or religious hatred;

propaganda of exclusiveness, superiority or inferiority of an individual based on his/her social, racial, ethnic, religious or linguistic identity, or his/her attitude to religion;

violation of rights, liberties and legitimate interests of an individual because of his/her social, racial, ethnic, religious or linguistic identity or attitude to religion;

¹⁸ 282-*e* *Preduprezhdenie* [Warning No. 282], GAZETA.RU (Oct. 27, 2011), www.gazeta.ru/comments/2011/10/27_e_3814530.shtml (in Russian).

¹⁹ *Id.* (translation by the authors).

²⁰ Vladimir Kashepov, *supra* note 6, at 61.

²¹ MOSCOW HELSINKI GROUP, NATIONALISM, XENOPHOBIA AND INTOLERANCE IN CONTEMPORARY RUSSIA 126 (2002), <http://www.mhg.ru/english/1F65E50>.

²² SOVA Center, *supra* note 14, at 1.

²³ *Id.* at 1.

²⁴ *Id.*

preventing citizens from exercising their electoral rights and the right to participate in a referendum, or violating the secrecy of the vote, combined with violence or threats to use violence;

preventing legitimate activities of government authorities, local self-government, election commissions, public and religious associations or other organizations, combined with violence or threats to use violence;

committing crimes involving the aggravating factors listed in article 63(1) of the Criminal Code (e.g., repeated crimes, crimes committed by an organized group, or crimes with severe consequences);

propaganda and public demonstration of Nazi attributes or symbols, or attributes and symbols similar to them;

mass distribution of materials known to be extremist, their production and possession for the purposes of distribution;

dissemination of knowingly false accusations against federal or regional officials in their official capacity, alleging that they have committed illegal or criminal acts;

organization and preparation of extremist acts, and calls to commit them; and

financing the above mentioned acts or providing any other material support to an extremist organization, including assistance in printing their materials, offering educational or technical facilities, or providing communications or information services.²⁵

This list has been criticized for duplicating provisions of the Criminal Code²⁶ and for failing to indicate objectives distinguishing extremist activities from other offenses.²⁷ The definition of extremism became even broader after 2006 amendments, which extended the definition of extremism and allowed for the prosecution of those who criticize federal and local governments and officials, official policies, laws, ideas, religious and political organizations, etc.²⁸ The lack of certainty was noted by the Russian Ombudsman, who stated in his 2008 report that no one publicly criticizing the state, its policy, and public officials, even with a good understanding of the current legislation, can predict whether his words contain signs of

²⁵ *Id.*, app., at 6, 7.

²⁶ Olga Mukhina, *Politiko-Ppravovye Tekhnologii Bbor'by sEkstremizmom v Rossii (Opyt Primeneniia Federal'nogo Zzakona RF ot 25 iulia 2002 goda "OPprotivodeistvii Eekstremistskoi Deiatel'nosti")* [Political and Legal Technologies to Combat Extremism in Russia (Experience of Applying Federal Law of the Russian Federation of 25 July 2002 on Counteracting Extremist Activity)], 2(7) ROSSIISKIAIA AKADEMIIA IURIDICHESKIKH NAUK, NAUCHNYE TRUDY 484 (2007) (in Russian).

²⁷ Igor Petin, *Sistemnyi Podkhod k Obespecheniiu Effektivnosti Preduprejdeniia Ekstremizma* [Systematic Approach to Ensuring Effectiveness of Extremism Prevention], ROSSIISKII SLEDOVATEL' No. 18, 2009, at 23 (in Russian).

²⁸ Aleksandr Sigarev, *supra* note 3, at 62.

extremism.²⁹ Even Russia's Foreign Ministry allegedly admitted that the definition of extremism in Russia is "too broad."³⁰ Human rights organizations have reportedly suggested that some clarifications preventing such a broad application of the Extremism Law should be added because explanatory guidelines issued by the Russian Federation Supreme Court in 2011 do not prevent abuses in the application of this Law.³¹ As an example of such clarifications, scholars cite article 16 of the Russian Federal Law on Public Associations, which states that the inclusion of provisions on the protection of ideals of social justice in the constituent and policy documents of public associations may not be regarded as inciting social enmity.³²

B. Enforcement of the Extremism Law

The main sanction provided by the Extremism Law is the liquidation of a public association, organization, or mass media outlet, which may be preceded by one or more warnings issued by the Federal Registration Service against a nongovernment organization or the Federal Supervision Agency for Information Technologies and Communications (*Roskomnadzor*) against media institutions. Local prosecutor's offices can issue warnings to both public and media organizations.³³ In 2010, the Federal Security Service was granted the power to issue warnings to individuals regarding the unacceptability of actions that may be seen as leading to the commission of crimes prosecuted under article 280 of the Criminal Code.³⁴ The procedural status of such warnings is not clear because they are not mentioned in the Criminal Procedural Code of the Russian Federation.

If the acts cited in the warning are not corrected or if something similar to what prompted the initial warning happens again, a prosecutor or registering authority may file a liquidation suit with the court in the place where the organization is registered. Liquidation charges can be brought against an organization even without warning if the organization's activities resulted or could have resulted in some unspecified damage.³⁵ In the latter case, the prosecutor or a local department of the Ministry of Justice may decide to suspend the operations of the organization while the liquidation suit is pending.³⁶ A decision to suspend the operation of a media outlet can

²⁹ Doklad Upolnomochennogo po Pravam Cheloveka v Rossiiskoi Federatsii za 2008 god [Report of the Commissioner for Human Rights in the Russian Federation in 2008] (Feb. 17, 2009), available at <http://www.rg.ru/2009/04/17/doklad-lukin-dok.html> (in Russian), cited in Aleksandr Sigarev, *supra* note 3, at 63.

³⁰ SOVA Center, Predstavitel' Tsentra "SOVA" vystupil na slushaniakh v Evroparlamente [The Representative of the SOVA Center Spoke at the Hearing in the European Parliament] (Dec. 1, 2010), <http://www.sova-center.ru/misuse/publications/2010/12/d20411/> (in Russian).

³¹ GAZETA.RU, *supra* note 18.

³² Federal'nyi Zakon RF ob Obsh'estvennykh Ob'edineniyakh [Federal Law of the Russian Federation on Public Associations], ROS. GAZ., May 25, 1995.

³³ SOVA Center, *supra* note 14, at 3.

³⁴ Maria Rozalskaya, *Inappropriate Enforcement of Anti-extremist Legislation in Russia in 2010*, SOVA CENTER (Apr. 11, 2011), <http://www.sova-center.ru/en/misuse/reports-analyses/2011/04/d21360/>.

³⁵ MOSCOW HELSINKI GROUP, *supra* note 21, at 127.

³⁶ *Id.*

be made by the court only upon request from a prosecutor or registering authorities.³⁷ A nonregistered organization may simply be banned for extremist activities. Participation in an extremist organization that has been liquidated or banned constitutes a separate crime.³⁸

On July 15, 2010, the Supreme Court ruled that media outlets cannot be held responsible for xenophobic statements if they publish satirical, humorous, and unrealistic materials on “extremist” topics, and for audience comments during live broadcasts or on Internet forums. The Supreme Court also instructed the lower courts to consider the entire content and the context of the publication.³⁹ However, after the Supreme Court’s decision a lower court upheld a warning issued against a newspaper for a cartoon depicting a swastika.⁴⁰ This decision was based on a previously issued Supreme Court ruling that the publication of propaganda depicting swastikas and Nazi symbols constitutes a sufficient ground for banning the organization using such symbols.⁴¹

C. Lists of Banned Materials and Organizations

The Extremism Law imposes on the Ministry of Justice an obligation to complete, update, and publish a list of extremist materials. Maintaining such a list allows enforcement agencies to take administrative measures to restrict the distribution of extremist materials included in the list under article 20.29 of the Code of Administrative Violations, which prohibits the production and distribution of extremist materials. This provision is reportedly used against producers and distributors of materials included in the list in cases where instituting criminal proceedings under articles 280 and 282 of the Criminal Code would be inappropriate or complicated⁴² due to the fact that prosecutors are required to prove intent to incite hatred and enmity in order to institute criminal charges.⁴³

Currently the Federal List of Extremist Materials includes 1,046 items.⁴⁴ It is not clear whether inclusion of a title in the list means that only the material with certain output data—for

³⁷ Federal’nyi Zakon RF o Sredstvakh Massovoi Informatsii [Federal Law of the Russian Federation on Mass Media], ROS. GAZ., Feb. 8, 1992.

³⁸ SOVA Center, *supra* note 14, at 4.

³⁹ Maria Rozalskaya, *supra* note 34.

⁴⁰ *Id.*

⁴¹ Opreделение Verkhovnogo Suda RF 18-G07-1 ot 6 fevralia 2007 g., p.3. [Part 3 of the Russian Federation Supreme Court Ruling 18-G07-1 of Feb. 6, 2007], BIULETEN’ VERKHOVNOGO SUDA RF [BVS] [Bulletin of the Supreme Court of the Russian Federation] 2007, No. 12 (in Russian).

⁴² SOVA Center, *Xenophobia, Freedom of Conscience and Anti-Extremism in Russia in 2009: A Collection of Annual Reports by the SOVA Center for Information and Analysis 82* (Moscow, Apr. 2010), <http://www.sova-center.ru/files/books/pe10-text.pdf>.

⁴³ Postanovlenie Plenuma Verkhovnogo Suda RF No. 11 O Sudebnoi Praktike po Ugolovnym Delam o Prestupleniakh Ekstremistskoi Napravlenosti” [Ruling No. 11 of 28 June 2011 of the Supreme Court of the Russian Federation “On judicial practice in criminal cases involving crimes of an extremist nature”], SOVA CENTER (June 29, 2011), <http://www.sova-center.ru/misuse/docs/2011/06/d21988/> (in Russian).

⁴⁴ Federal’nyi Spisok Ekstremistskikh Materialov [Federal List of Extremist Materials], *available at* <http://www.minjust.ru/ru/activity/nko/fedspisok/> (in Russian) (last visited Nov. 14, 2011).

example, a particular edition of a book—is banned or whether the ban applies to all forms of the publication, including its textual and audiovisual variations.⁴⁵

Also, the list includes several dozen files that cannot be identified⁴⁶ because they are locally distributed leaflets dedicated to current events, websites that no longer exist, or private posts on web forums.⁴⁷ If a forum statement is considered extremist by *Roskomnadzor*, a formal letter is emailed and faxed to the editor, and an official warning is issued unless the commentary is removed within twenty-four hours.⁴⁸

Materials added to the list in 2010 can be categorized in the following order: racist, xenophobic and anti-Semitic materials (42%); materials of Jehovah's Witnesses (18%); materials of North Caucasus separatists and other radical Islamists (10%); materials of the Church of Scientology (10%); and materials of different Muslim groups, generally not related to officially recognized Islamic organizations (7%).⁴⁹ In addition, twenty-eight organizations appear on the list as banned or liquidated for extremist activities.⁵⁰

According to the SOVA Center for Information and Analysis, while at least three earlier bans were removed in 2009, there is no established mechanism for delisting.⁵¹ Reportedly, information placed on the list does not meet bibliographical standards and researchers have no access to banned materials. Also, it is not clear if the ban officially begins when the decision of the court enters into force or when the material is listed.⁵²

D. Non-Criminal Liability of Individuals Prosecuted for Extremism

In addition to criminal or administrative punishment for extremist activities, which may take the form of a limitation of freedom, imprisonment, correctional labor, or a fine, the rights of people prosecuted for extremist activities may also be restricted in other ways. An individual

⁴⁵ Vera Alperovich & Galina Kozhevnikova, *Autumn 2010: The Ultra-right in Search of a New Strategy*, SOVA CENTER (Jan. 14, 2011), <http://www.sova-center.ru/en/misuse/reports-analyses/2011/01/d20707/>.

⁴⁶ Aleksandr Verkhovskii & Galina Kozhevnikova, *Prizrak Manejnoi Plosh'adi: Radikal'nyi Natsionalizm v Rossii i Protivodeistvie Emu v 2010 godu* [Phantom of Manege Square: Radical Nationalism and the Counteraction to It in 2010], SOVA CENTER (Mar. 11, 2011), <http://www.sova-center.ru/racism-xenophobia/publications/2011/03/d21140/> (in Russian).

⁴⁷ SOVA CENTER, *supra* note 42, at 42.

⁴⁸ Maria Rozalskaya, *supra* note 34.

⁴⁹ Aleksandr Verkhovskii & Galina Kozhevnikova, *supra* note 46.

⁵⁰ *Perechen'Oobschesvennykh I Religioznykh Ob'edenenii, Inykh Nekommercheskikh Organizatsii, v Otnoshenii Kotorykh Sudom Priniato Vstupivshee v Zakonnuiu Silu Reshenie o Likvidatsii ili Zaprete Deiatel'nosti po Osnovaniyam, Predusmotrennym Federal'nym Zakonom "O Protivodeistvii Ekstremistskoi Deiatel'nosti"* [List of Public Organizations and Other Nonprofit Organizations with Regard to which the Court has Adopted a Decision Entered into Force to Liquidate or Ban the Activities on the Grounds Provided by the Federal Law on Counteraction to Extremist Activity], MINISTERSTVO JUSTITSII [MINISTRY OF JUSTICE], http://www.minjust.ru/nko/perechen_zapret (in Russian) (last visited Nov. 14, 2011).

⁵¹ SOVA CENTER, *supra* note 42, at 42.

⁵² *Id.* at 43.

convicted for extremist activity is not allowed to be a member of a nongovernmental organization,⁵³ or to be employed by law enforcement agencies and educational institutions.⁵⁴

Organizations can be held responsible for the extremist activities of their leaders. If leaders of an organization are found to be engaged in extremist activities, the organization must officially disassociate itself from their actions.⁵⁵ Otherwise, the organization is subject to the repressive measures specified in the Extremism Law, whereas the leaders are prosecuted under the Criminal Code.⁵⁶ Organizations and individuals involved in extremist activities are included in the blacklist published by the federal agency for financial monitoring and are subject to having their accounts and transactions frozen.⁵⁷

If a political candidate conducts extremist activities during the election campaign, he may be banned by a court decision from participating in elections. Such a ban may result from prior statements made during a period equal to his potential term in office if such statements included calls for extremist activity, justification of such activity, or incitement of hatred.⁵⁸

Foreign citizens responsible for extremist conduct can be denied entry into Russia, as was the case for a German couple leading a local branch of Jehovah's Witnesses.⁵⁹

IV. Prosecution of Extremist Crimes and Misdemeanors Under the Criminal and Administrative Codes

A. Criminal Code Provisions

Article 282 of the Russian Criminal Code defines extremist crimes as those motivated by ideological, political, racial, national, or religious enmity, as well as hatred or enmity towards a social group. Extremist motivation can be a required or alternative element of a crime, and may warrant a more severe punishment, similar to crimes committed with aggravating circumstances.⁶⁰

Extremist motivation is a required element of the following crimes: inciting hatred or enmity, or demeaning human dignity (art. 282); organizing an extremist community (art. 282.1-

⁵³ SOVA Center, *supra* note 14, at 5.

⁵⁴ *Ekstremizmu ne Pozdorovitsia [It Will Be Bad for Extremism]*, ROS. GAZ., July 2002, http://www.rg.ru/oficial/doc/federal_zak/114_comm.shtml (in Russian).

⁵⁵ SOVA Center, *supra* note 14, at 3.

⁵⁶ ROS. GAZ., *supra* note 54.

⁵⁷ Sergei Smirnov & Anna Cherkasova, *DPNI i NBP v Spiske s Terrosistami [MAII and NBP on the Terrorist List]*, GAZETA.RU (July 6, 2011), http://www.gazeta.ru/politics/2011/07/06_a_3687413.shtml (in Russian).

⁵⁸ SOVA Center, *supra* note 14, at 5.

⁵⁹ Vladimir Kashpev et al., *Pravovoe protivodeistvie ekstremizmu [Legal Counteraction to Extremism]* 41 (Moscow, 2008) (in Russian).

⁶⁰ Rashid Sabitov et al., *supra* note 11, at 101; Viacheslav Lebedev, *Commentaries to the Criminal Code* 710 (Moscow: Iurait, 2010).

bis); organizing the activity of an extremist community (art. 282.2-bis); and genocide (art. 357). Extremism-related crimes are punishable with varied fines, corrective labor, different forms of deprivation of freedom, and imprisonment for up to five year for the most serious extremist acts.

An “extremist community” within the meaning of article 282.1-bis is a settled group of people associated in advance to prepare and commit one or more crimes of an extremist nature, characterized by the presence of a leader, stability of composition, and the coherence of the actions of its members aimed at achieving a common criminal purpose.⁶¹

Article 282.2-bis treats as a criminal offense the leadership of or participation in an extremist organization, i.e., one that has been liquidated or banned by a court.⁶² This article was used to impose sentences on members of the National Bolshevik Party and Hizb ut-Tahrir solely for attending events organized by these organizations.⁶³

Extremism is an alternative motivation and an aggravated circumstance for the following crimes: violation of the equality of human and civil rights and freedoms (art. 136), hooliganism (art. 213), and public appeals for the performance of an extremist activity (art. 280).⁶⁴ Other scholars add to this list terrorism (art. 205), hostage-taking (art. 206), destruction or damage to historic or cultural monuments (art. 243), outrages upon bodies of the deceased and their burial places (art. 244), threatening the life of a statesman or a public figure (art. 247), forcible seizure of power or forcible retention of power (art. 248), armed rebellion (art. 249), and mercenary activities (art. 359).⁶⁵ Because extremist motivation is specifically listed among aggravating circumstances for a number of crimes, it must be taken into account for purposes of sentencing (art. 63). The advocacy organization Human Rights First has reported, however, that enhanced penalties under article 63 are not regularly sought or applied.⁶⁶ In addition to the general rule stated in article 63, a number of the Code’s provisions specifically provide for more severe punishment when prejudice is shown in particular crimes, e.g., murder (art. 105), deliberate infliction of injuries or bodily harm (arts. 111, 112), torture (art. 117), and desecration of cemeteries (art. 244).

According to the SOVA Center, virtually all relevant provision of the Criminal Code are used in prosecuting perpetrators of violent crimes,⁶⁷ although there has been a general perception that charges of hooliganism are routinely pressed by prosecution authorities even when more serious crimes are committed.⁶⁸ According to the reports of Russian human rights defenders,

⁶¹ SOVA Center, *supra* note 42.

⁶² MOSCOW HELSINKI GROUP, *supra* note 21, at 128.

⁶³ SOVA CENTER, *supra* note 42, at 89.

⁶⁴ RASHID SABITOV ET AL., *supra* note 11, at 101.

⁶⁵ Vladimir Kashepov et al., *supra* note 59, at 30.

⁶⁶ PAUL LEGENDRE, MINORITIES UNDER SIEGE: HATE CRIMES AND INTOLERANCE IN THE RUSSIAN FEDERATION 4 (Human Rights First, June 26, 2006), <http://www.humanrightsfirst.org/wp-content/uploads/pdf/06623-discrim-Minorities-Under-Siege-Russia-web.pdf>.

⁶⁷ SOVA CENTER, *supra* note 42, at 6.

⁶⁸ MOSCOW HELSINKI GROUP, *supra* note 21, at 5.

this is often due to the inability of law enforcement authorities to properly examine and evaluate the motivation behind a crime.⁶⁹ Reportedly, in order to hide their obvious reasons for committing a hate crime, ultra-right Russian organizations distribute “instructions” to their members, in which they recommend committing robberies as a means of disguising the real hate motivation of a crime.⁷⁰

The SOVA Center has noted that the authorities rarely impose sentences involving prison time for nonviolent racist propaganda.⁷¹ Other sanctions, in addition to suspended sentences, are typically imposed for minor acts, such as painting graffiti, distribution of flyers, or writing posts on web forums and blogs.⁷² Suspended sentences are also used in situations where cases are initiated against government opponents or followers of public or religious organizations not supported by the authorities. On November 3, 2011, a provincial court sentenced a local Jehovah’s Witness activist to one hundred hours of community service after the local administration insisted on punishing him even though the court had initially acquitted him.⁷³ It appears that the number of suspended sentences without additional sanctions has constantly increased and constituted 43% of all sentences pronounced in 2010.⁷⁴ According to available statistics, in 2010 there was only one hate crimes case in which a perpetrator received prison time; the case involved one of the most infamous anti-Semitic journalists, who was sentenced to a three-year term served at a colony-settlement with a ban on editorial and journalistic activities.⁷⁵

Authorities have been criticized for focusing too much on minor crimes and acts (e.g., prosecuting web trolls and graffiti artists),⁷⁶ and for prosecuting libraries and schools that were unable to follow updates to the Federal List of Extremist Materials and were found to be holding the banned books.⁷⁷

B. Administrative Code Provisions

The following administrative offenses are or can be motivated by extremism: abusing freedom of mass information (art. 13.15), displaying fascist attributes and symbols (art. 20.3), organizing the activity of a social or religious organization against which a decision on suspension of activities was entered (art. 20.28), and producing and distributing extremist materials (art. 20.29).

⁶⁹ OLGA KORSHUNOVA, *supra* note 13, at 169.

⁷⁰ SOVA CENTER, *supra* note 43, at 38.

⁷¹ *Id.* at 6, 36.

⁷² *Id.* at 37.

⁷³ Sophia Kishkovsky, *Russian Terror Law Has Unlikely Targets*, THE NEW YORK TIMES (Nov. 4, 2011), http://www.nytimes.com/2011/11/04/world/europe/russian-terror-law-has-unlikely-targets.html?_r=2&page_wanted=print.

⁷⁴ Aleksandr Verkhovskii & Galina Kozhevnikova, *supra* note 46.

⁷⁵ *Id.*

⁷⁶ SOVA CENTER, *supra* note 43, at 6.

⁷⁷ Vera Alperovich & Galina Kozhevnikova, *supra* note 45.

Article 20.3 of the Administrative Code is usually applied to impose penalties for selling Nazi paraphernalia and objects marked with swastikas, and for Nazi tattoos. In one such case, the court, in addition to imposing a fine on the defendant who had a Nazi tattoo, ordered him to have the tattoo removed.⁷⁸

Article 20.29 is often interpreted broadly and is used to punish the distribution of works by the leaders of Nazi Germany as well as quoting those materials.⁷⁹ In 2010, a criminal prosecution was initiated in the city of Perm for placing stickers with Adolf Hitler's quote, "[w]e will defeat Russia, when Ukrainians and Belarusians will believe that they are not Russian," in city buses.⁸⁰

V. Procedural Aspects of Investigation

Experts play a central role in the investigation of hate crimes in Russia because the conclusion as to whether specific material or a statement made by a suspect appears to be extremist is based on an expert's opinion. The expert's participation is considered by all parties as an integral part of any extremist case,⁸¹ except for cases involving items already included in the list of extremist materials.⁸² The types of expert opinions sought by law enforcement bodies are sociopsychological and psycholinguistic (51%), relevant to political science (19%), philosophical (14%), linguistic (7%), sociological (4.5%), and ethnolinguistic (4.5%).⁸³ The law does not establish qualification requirements for experts, and they are usually chosen from among specialists of local scientific and educational institutions.⁸⁴ This practice will likely be restricted by a recent ruling of the Supreme Court, which prohibits experts from issuing opinions on legal issues, such as whether a text contains appeals to extremist activities and whether it aims to incite hatred or enmity.⁸⁵

⁷⁸ SOVA CENTER, *supra* note 43, at 38.

⁷⁹ Vera Alperovich & Galina Kozhevnikova, *supra* note 45.

⁸⁰ Ilia Izotov, *V Permi Vozbuzhdeno Delo po Faktu Raskleiki Tsitat Gitlera v Tramvaiakh* [Criminal Proceedings Have Been Initiated in Perm on the Fact of Posting Hitler Quotations in the Tram], ROS. GAZ. (Oct. 8, 2010, 12:55 PM), <http://www.rg.ru/2010/10/08/reg-permkray/stikeri-anons.html> (in Russian).

⁸¹ SOVA CENTER, *supra* note 43, at 79.

⁸² Olga Dmitrenko, *Sud Samary Priznal Sait Dvizheniia "9 Maia" Ekstremistskim* [Samara Court Declared Extremist the Website of "May 9" Movement], ROS. GAZ. (Oct. 13, 2010), <http://www.rg.ru/2010/10/13/reg-svolga/site-anons.html> (in Russian).

⁸³ VIKTORIA BURKOVSKAYA, KRIMINAL'NYI RELIGIOZNYI EKSTREMIZM V SOVREMENNOI ROSSII [CRIMINAL RELIGIOUS EXTREMISM IN MODERN RUSSIA] 145 (Moscow, 2005) (in Russian), *cited in* Andrei Pavlinov, *Kakie Nuzhny Ekspertizy dlia Protivodeistviia Sovremennomu Ekstremizmu v Rossii* [What Expert Examinations Are Needed to Counteract Modern Extremism in Russia], ROSSIISKII SLEDOVATEL' No. 2, 2008, at 6 (in Russian).

⁸⁴ Aleksandr Sigarev, *supra* note 3, at 62.

⁸⁵ Kommentarii "SOVY" na Postanovlenie Plenuma Verkhovnogo Suda ob Ekstremizme [Commentary of "SOVA" on the Ruling of the Supreme Court on Extremism], SOVA CENTER (July 2011), <http://www.sova-center.ru/misuse/publications/2011/07/d22010/> (in Russian).

Presently, a person accused of committing a hate crime may choose to be tried by a jury or have his case heard by a professional judge or a panel of judges. Although the Ministry of Justice has recommended the removal of extremist crimes from the purview of jury trials to avoid nationalistic bias among jurors, it appears that guilty verdicts are issued evenly in bench and jury trials.⁸⁶ It appears that after a guilty verdict is delivered by the jury, judges issue minimal or suspended sentences.⁸⁷

The investigation of extremist crimes is often delayed, and there are reports that prosecutors illegally refuse to initiate proceedings. The law enforcement officials explain this fact by pointing to the difficulty and length of investigations; the small number of independent experts knowledgeable in the fields of social psychology and psycholinguistics; the length of expert examinations, especially when materials are voluminous; and the lack of established investigative and judicial practices for this category of cases.⁸⁸ The majority of hate crime cases reported to the authorities by individuals or nongovernmental organizations, particularly those involving drawings of swastika images and extremist slogans, are suspended due to a failure to identify the responsible individuals.⁸⁹

VI. Constitutional Issues Regarding the Prosecution of Extremism

Given the broad definition of “extremism,” actions that do not fall within any category of crime or even administrative offense can be qualified as extremist under the law and be subject to repressive measures.⁹⁰ The application of article 280 of the Criminal Code is especially vague. This provision is often used for prosecuting varied offenses when the government is demonstrating its interest in fighting extremism.⁹¹ For example, criminal proceedings under article 280 were initiated against a seventy-one-year-old retiree who had expressed a willingness to carry out a death sentence against the governor of the region at a local protest against price increases.⁹²

The definition of a “social group” is subject to especially broad interpretation for the purpose of applying article 282, which outlaws the incitement of hatred towards a “social group,”⁹³ because all groups, according to observers, are “social.”⁹⁴ The introduction of this broad term can be explained by the legislator’s concern that traditional groups based on race,

⁸⁶ Maria Rozalskaya, *supra* note 34.

⁸⁷ *Id.*

⁸⁸ Vladimir Kashepov et al., *supra* note 59, at 162.

⁸⁹ *Id.* at 164.

⁹⁰ MOSCOW HELSINKI GROUP, *supra* note 21, at 126.

⁹¹ *Id.* at 128.

⁹² Vladimir Kashepov et al., *supra* note 59, at 73.

⁹³ UK RF art. 282.

⁹⁴ Mikhail Osadchii, *Sotsial’nyi Ekstremizm kak Ob’ekt Sudebno-Lingvisticheskoi Eskpertzizy* [Social Extremism as a Subject of Forensic Linguistic Examination], UGOLOVNIY PROTSESS No. 2, 2008, at 57 (in Russian).

nationality, and religion are too narrow and inadequate to protect other socially significant, numerous, and organized groups.⁹⁵

Criticism of the distinctive features of a social group, if such criticism contributes to a negative image of that group as opposed to criticism of a particular individual or an idea, is viewed by linguistic experts as extremism.⁹⁶ In practice, anti-extremist legislation was applied to defend those who were not particularly vulnerable. Special protection was given to such social groups as “law enforcement personnel,” “the military,” “investigation service officials,” “police officers,” “state employees,” “owners of Russian-made motor vehicles,”⁹⁷ “representatives of the government of the Tatarstan Republic,”⁹⁸ and “informal groups of young people.”⁹⁹ For example, a Russian blogger was sentenced for making critical comments about police in his blog.¹⁰⁰ At the same time, a Russian court did not recognize homosexuals as a separate and definite social group within the meaning of article 282.¹⁰¹ Responding to concerns that treating government officials as a social group could lead to a complete ban on all criticism of the government in contradiction to the Constitution,¹⁰² the Supreme Court, in a landmark ruling of June 28, 2011, held that public officials and professional politicians are not a social group as their interests should not be different from those of the state, and the level of acceptable criticism should be higher as applicable to them than as to private persons.¹⁰³ However, the Supreme Court did not clarify which social groups are covered by anti-extremist legislation.¹⁰⁴

According to the same Supreme Court ruling, article 282 on incitement of hatred is applicable to statements justifying genocide, mass repression, deportations, and other illegal acts, including violence, against representatives of any ethnic, racial, religious, or other group.¹⁰⁵

⁹⁵ *Id.* at 57, 64.

⁹⁶ *Id.* at 60.

⁹⁷ SOVA CENTER, *supra* note 43, at 92.

⁹⁸ *Id.* at 91.

⁹⁹ Natalia Kuz'mina, *Ustanovlenie Motivov Pri Kvalifikatsii Prestuplenii Esktremistskoi Napravlenosti: Problemy Praktiki Pravoprimereniia* [Determination of Motives in Qualifying Crimes of Extremist Nature: Problems of Law Enforcement Practice], ROSSIISKII SLEDOVATEL' No. 24, 2010, at 19 (in Russian).

¹⁰⁰ Blogger, *Osuzhdennyi v RF za Prizyv "Szhigat' Mentov"*, Poluchil Politicheskoe Ubezish'e v Estonii [The Blogger Convicted in the Russian Federation for Appeals to “Burn Cops” Was Granted Political Asylum in Estonia], NEWSRU.COM (July 13, 2011), http://www.newsru.com/world/13jul2011/savva_print.html (in Russian).

¹⁰¹ SOVA CENTER, *supra* note 43, at 93.

¹⁰² *Id.* at 92.

¹⁰³ *Postanovlenie Plenuma Verkhovnogo Suda RF No. 11 o sudebnoi praktike po ugovolnym delam o prestupleniakh esktremistskoi napravlenosti ot 28 iunia 2011 g.* [Russian Federation Supreme Court Ruling No. 11 of June 28, 2011, on Judicial Practice in Criminal Cases Involving Crimes of Extremist Nature], BVS 2011, No. 8 (in Russian); *see also* SOVA CENTER, *supra* note 43; Peter Roudik, *Russian Federation: Government Takes Measures Against Extremism*, GLOBAL LEGAL MONITOR (Aug. 16, 2011), http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205402777_text.

¹⁰⁴ *Misuse of Anti-Extremism Legislation in June 2011*, SOVA CENTER (July 4, 2011), <http://www.sova-center.ru/en/misuse/news-releases/2011/07/d22022/>.

¹⁰⁵ SOVA Center, *supra* note 85.

Extremist rhetoric can be prosecuted only if used publicly, whereas statements made at private gatherings are not covered by article 282.¹⁰⁶ Criticism of political, ideological, and religious organizations and beliefs, and ethnic or religious customs, cannot by itself be treated as incitement of hatred or enmity.¹⁰⁷

Despite the fact that freedom of speech, religion, and expression are declared by the Constitution, Russian jurisprudence does not have a developed concept of protected speech. It is a common practice to use article 282 of the Criminal Code against authors who criticize the Russian Orthodox Church or Russian national and religious policy,¹⁰⁸ or those who argue against the suggestion that modern Tatarstan and other territories “peacefully joined the Russian state.”¹⁰⁹ There have been instances of anti-extremist criminal prosecution of individuals who proposed referendums on separating several regions and annexing them to Finland, or who suggested constitutional amendments aimed at bringing public officials to justice.¹¹⁰

Articles 282 (inciting hate) and 282.1-bis (establishing an extremist community), together with administrative penalties for distributing extremist materials, are often applied against Jehovah’s Witnesses, the main religious group prosecuted on anti-extremist grounds.¹¹¹ Materials of the Church of Scientology have been banned because, according to experts, they contain appeals to extremist activity, as well as “humiliating characteristics, negative evaluation, and attitudes against persons on the basis of their social status.”¹¹² Many undesirable religious groups have been prosecuted for propagating superiority based on religious identity, even though such propaganda appears to be common to many religious preachers.¹¹³

VII. Government Activities Aimed at Preventing Extremism

The Extremism Law notes the importance of preventive measures in articles 2 and 5 but does not describe such measures.¹¹⁴

An interagency governmental commission on counteracting extremist activities, comprising the heads of sixteen government agencies, was created by order of the President on

¹⁰⁶ Peter Roudik, *supra* note 103.

¹⁰⁷ SOVA Center, *supra* note 85.

¹⁰⁸ SOVA CENTER, *supra* note 43, at 86.

¹⁰⁹ *Id.* at 87.

¹¹⁰ Vera Alperovich & Galina Kozhevnikova, *supra* note 45.

¹¹¹ *Id.*

¹¹² Miriam Elder, *Russian Court Bans Scientology Books*, GLOBALPOST (June 30, 2011, 1:33 PM), <http://www.globalpost.com/dispatches/globalpost-blogs/bric-yard/russian-court-bans-scientology-books>, cited in Galina Bryntseva, “Prorok” ekstremistskogo roda. Rossiiskii sud zapretit raboty osnovatelja saientologii Rona Khabbarda [“Prophet” of Extremist Nature. Russian Court Banned the Works of the Founder of Scientology Ron Hubbard], ROS. GAZ. (July 4, 2011), <http://www.rg.ru/2011/07/04/habbard.html> (in Russian).

¹¹³ Vladimir Kashenov et al., *supra* note 59, at 39.

¹¹⁴ Aleksandr Sigarev, *supra* note 3, at 62.

July 29, 2011.¹¹⁵ The commission is charged with proposing anti-extremist policies, developing relevant concepts and strategies, evaluating current activities, reviewing measures undertaken and legislation adopted, and preparing annual reports for the President.¹¹⁶ A scientific advisory council for the study of religious materials aimed at detecting signs of extremism has been operating under the Ministry of Justice since September 2009. The council issues advisory opinions on materials submitted by judicial and law enforcement bodies and private parties.¹¹⁷

VIII. International Cooperation in Fighting Extremism

Russia has signed a number of international documents providing for cooperation in fighting extremism and terrorism particularly within the framework of regional organizations, such as the Shanghai Cooperation Organization (SCO), Commonwealth of Independent States, Eurasian Economic Community, and Collective Security Treaty Organization.¹¹⁸ An example is the Concept of Cooperation Between SCO Member States in Combating Terrorism, Separatism, and Extremism, which provides for concerted preventive activities; operational search and investigative actions; exchanging search and forensic information; the creation of specialized databases and communication systems; joint academic research; and cooperation in other areas.¹¹⁹

It should be noted that the Russian definition of extremism stated in the Extremism Law covers violent and nonviolent activities and appears to be broader than the definition of extremism given in article 1 of the Shanghai Convention on the Fight Against Terrorism, Separatism and Extremism of June 15, 2001, which emphasizes the violent nature of extremism.¹²⁰

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¹¹⁵ Ukaz Prezidenta RF o Mezhdedomstvennoi Komissii po Protivodeistviu Ekstremizmu v Rossiiskoi Federatsii [Decree of the President of the Russian Federation on Interdepartmental Commission to Counteract Extremism], SOBRANIE ZAKONODATEL'STVA RF [Collection of Legislation of the RF] 2011, No. 988 Item 4705.

¹¹⁶ *Id.* No further reports on activities of this Commission were available.

¹¹⁷ Pri Miniuste Sozdan Sovet po Izucheniiu Religioznykh Materialov na Predmet Vyivleniia v nikh Priznakov Ekstremizma [A Council for Examination of Religious Materials for Purposes of Detecting Signs of Extremism Has Been Created Under the Ministry of Justice], SOVA CENTER (Sept. 23, 2009), <http://www.sova-center.ru/religion/news/authorities/legal-regulation/2009/09/d16916/> (in Russian).

¹¹⁸ Vladimir Kashepov et al., *supra* note 59, at 224.

¹¹⁹ Concept of Cooperation Between SCO Member States in Combating Terrorism, Separatism, and Extremism Adopted by Resolution No. 1 of 5 June 2005 of the Council of Heads of SCO Member States, *available at* <http://www.hrchina.org/content/5225>.

¹²⁰ RASHID SABITOV ET AL., *supra* note 11, at 8.