

Testimony of Preeta D. Bansal

Before the Congressional Executive Commission on China

On "Protecting Human Rights and Religious Freedom

For a Stable and Prosperous China"

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Mr. Chairman, thank you for holding this important and timely hearing and for inviting the Commission to present testimony. With your permission, I would like to submit my full testimony for the record.

The Commission on International Religious Freedom has followed events in China closely for the past several years. As is widely documented by the Commission and numerous other sources, the Chinese government continues to be responsible for pervasive and serious human rights violations. These abuses transgress China's international obligations and often clearly contradict China's own constitution.

The government of China views religion, religious adherents, religious communities, and spiritual groups like the Falun Gong primarily as issues of security. The United States should not ignore this fact, and it should fashion policies and actions that integrate the right of thought, conscience, religion and belief with security and economic interests.

I will not be able to discuss in detail the current crackdown on the freedom of religion or belief in China. There are several other witnesses here today who will address this aspect of the current situation.

However, I would like to make some general comments about the importance of advancing human rights and in particular the right to freedom of thought, conscience and religion both as an important principle on its own and as critical to protecting U.S. security and economic interests in China. I will then suggest several areas where U.S. policy could have an impact on the long-term human rights situation in China.

The Importance of Fully Integrating Promotion of Freedom of Thought, Conscience, and Religion or Belief into the U.S.-China Policy Agenda

The United States Commission on International Religious Freedom, of which I am the Chair, views respect for the freedom of thought, conscience, religion, and belief as a critical indicator of stable countries, stable trading partners, stable allies, and stable regions.

The freedom of thought, conscience, and religion or belief is universal in its importance and applicability. It is the freedom to assert an individual conscience or identity without fear, and is a foundational right of the post-World War II system of international human rights.

It is no longer possible to treat human rights, and freedom of thought, conscience, religion, and belief in particular, as marginal "soft" issues of foreign policy. The events of the past five years have tragically reminded us that we ignore religion at our peril. Indeed, we cannot understand the global conflicts of the world without taking the role of religion seriously. The past 50 years of history alone show that most of the conflicts of the world—the Middle East, the Southern Sahara, the Balkans, the Caucasus, and South Asia—have occurred in places where the world's great religions intersect. These conflicts were not, and are not, explicitly religious wars. But religious matters in these conflicts because it shapes worldviews

and perceptions of people—makes them live compassionately, at best, or focuses anger, at worst.

Promoting religious freedom and related human rights abroad is therefore vital to U.S. foreign policy and to our strategic, as well as our humanitarian interests. Where governments protect religious freedom, and citizens value it, religious persecution and religiously-related violence often find little appeal, and other fundamental human rights, the rule of law and democracy are accorded greater value. When observed, freedom of religion or belief is one of the linchpins of stable and productive societies. When denied, generations of hatred and societal instability may be sown.

Although China is somewhat *sui generis* when it comes to the intersection of freedom of thought, conscience and religion with security and economic issues, I think it is fair to say that freedom of religion and belief are not side, marginal issues with respect to China – if for no other reason than that the government of China does not treat these freedoms as side or marginal concerns. Repression of individual rights of conscience occupies a central policy of this and past Chinese regimes.

In the past several years, there has been a deep imbalance in the U.S.-China relationship. Security and trade relationships are moving forward at an often-dramatic pace. In these areas, we are building partnerships based on mutual interests.

Yet, the U.S. does not have an effective Chinese government partner in the area of human rights. It is clear that from the Chinese perspective, U.S. concerns regarding human rights abuses should remain peripheral to improving ties on security and trade.

To acquiesce to this dichotomy would be shortsighted. It is crucial to U.S. and international interests that China respects individual liberties and international standards of human rights and understands that by doing so, it will become a more stable, secure, and prosperous country.

China has made some impressive strides in promoting economic freedom. In the past decade, the Chinese government has embraced some of the benefits of the free market with dramatic results. The Chinese people now have greater mobility, increased property rights, and access to information than they had in the past.

These are not small advances. We all hope they augur a future where China and its people can experience an open society and even greater prosperity.

However, China's rapid modernization makes it all the more apparent that continued prosperity can only occur when the government honors the political and social freedoms enshrined in its Constitution. And the endorsement China's leadership receives from business executives for its economic policies does not justify the withholding of world criticism for its repressive human rights policies.

It can no longer be argued that human rights violations are a temporary trade-off to achieve economic development. In fact, the opposite is true. Achieving the full measure of economic development depends on improving human rights protections. Restrictions on freedom of speech and freedom of association stifle the type of communication needed to manage risk, root out corruption, and address environmental, health, and labor safety issues. Nor can China compete fully in a globalized economy when it restricts Internet access or censors the domestic or foreign press.

China too often sees the free flow of ideas – and the ability to act on new ideas – as a threat to stability and prosperity and not as a way to promote stable economic and social development.

Respect for human rights is also important for regional stability and prosperity, both in China and

throughout the region. Such respect is a critical element in any peaceful resolution of the Taiwan issue and the successful management of Hong Kong under the PRC's sovereignty. The human rights gap is a potential source of instability—particularly in the way China treats its citizens in Tibet and Xinjiang and undermines Hong Kong's political freedoms. Any social or political meltdowns in any of these areas will certainly involve Western and other interests.

China's repressive policies on religion, in particular, contribute to tensions and conflict between the state and significant portions of China's population. They unnecessarily turn people of faith into enemies of the state. Given how quickly religion and individual conscience are growing in China in every sector, the Chinese government cannot continue to control or discriminate against its citizens based on their expressions of thought, conscience, religion, or belief.

Active attempts to control and restrict the religious practice and activities of Tibetan Buddhists, Uighar Muslims, unregistered Protestants and Catholics, various spiritual movements such as the Falun Gong, as well as some folk religions in rural China, have only caused more friction and social instability.

For example, religion is a key source of identity for Tibetans and Uighar Muslims. Ongoing campaigns to promote atheism and to control religious expression and practice in Xinjiang and Tibet are fostering a widening division and resentment between the Tibetan and Uighur minorities and the Han Chinese majority. This division is a source of instability and does not contribute to China's goal of fostering unity between China's nationalities. Such division makes marginalized minority peoples more likely to reject the policies of the Chinese government and to rebel against policies that they feel are repressive of their economic livelihood and social integrity.

The link between social instability and religious freedom can also be seen in the recent riots and crackdowns on Hui Muslims in Henan Province. The Hui Muslims were always thought to be peaceful and fully integrated into Chinese society, so the recent riots raise some interesting questions. Though it is unclear exactly what sparked the violence—it is clear that even long-standing social and economic tensions can lead to religiously related divisions in the current environment.

Nonetheless, the Chinese leadership still cannot accept greater individual freedom as a path to long-range stability.

In ways that are well documented, the Chinese government continues to regulate and restrict religious growth to prevent the rise of groups or individuals who could gain the loyalty of large numbers of the Chinese people. Religious belief and practice is tolerated in China, but only if it exists within the boundaries of government-sanctioned organizations, government-approved theology, and registered places of worship. Though even in approved venues—such as among China's Muslims there are still active efforts of control.

But these efforts at control have not worked and are often counterproductive. Religious belief and practice of individual conscience have grown dramatically—in fact exploded in many sectors of society. The Chinese government admits now that the spiritual aspirations of its citizens cannot be completely stamped out.

Much has changed in China the past fifteen years. But much has also remained the same. What has changed is often exciting and promising. What has remained the same is troubling and acts as a barrier to improved bilateral relations and as a drag on China's international prestige.

China aspires to a position of leadership in the community of nations. But the severe violations of freedom of religion or belief we currently are witnessing are incompatible with the international position

to which China aspires. If China is to become an open society and one trusted as a leader of the international community, it must respect the rights of thought, conscience and belief for all of its people. The U.S. should support China's transition and aspirations in a way that are both credible and consistent with international human rights standards.

As I mentioned at the outset, I will not spend my time detailing past and current crackdowns on spiritual practice in China. Several witnesses following me will describe in detail how the situation seems to have worsened on the ground in the past year.

For the short time remaining, I would like to highlight several policy recommendations.

Policy Recommendations

The best way to promote respect for religious freedom and related human rights in China – and therefore construct a durable Sino-American relationship – is to speak with one voice with respect to all U.S. interests in China.

Promotion of security, economic, and human rights interests cannot be compartmentalized, but rather should be integrated to more accurately reflect their interdependence – because progress in one area supports the others, whereas lack of success on human rights impedes the progress on others.

1) Better interagency coordination of human rights concerns into the broad scope of bilateral relations

Accordingly, effective, external pressure requires a strong, consistent critique of China's human rights practices based on international standards. U.S. officials at all levels from the President on down, should continually reiterate China's obligation to respect human rights and the importance of this issue to the entire fabric of the bilateral relationship.

President Bush, other cabinet heads, and senior officials have raised human rights and religious freedom issues with China's political leadership and with the Chinese people themselves in public addresses. These are important steps and should be continued.

However, given the often conflicting interests presented by competing cabinet agencies and delegations discussing economic, security, humanitarian, and human rights concerns in China, there is need to better coordinate efforts to ensure that all U.S. government agencies that deal with China are fully aware of, and speak consistently about, the direct relevance of human rights to their work so that they can advance human rights in ways that are appropriate to their particular responsibilities and those of the Chinese with whom they interact. We must, quite simply, as a government speak with one voice if our concerns in this area are to be properly conveyed and sufficiently understood. We need effective interagency coordination of our relationship with China in order to achieve that.

2) Strengthening Bilateral Human Rights Dialogues with China

Better coordination of U.S. human rights diplomacy could also be furthered by strengthening the U.S.-China bilateral human rights dialogues. This is an opportune time to talk about this subject, as there are presently U.S. representatives in Beijing negotiating the resumption of the bilateral dialogues.

However, in now resuming the bilateral human rights dialogues, there are several critical concerns that need to be addressed about the dialogues – both about their effectiveness and their quality. These concerns include:

- *The lack of benchmarks:* The dialogues have had no publicly stated goals so it has been difficult to evaluate a dialogue's effectiveness and content.

- *The lack of transparency:* Most of the discussions on agenda and topics for the dialogue are not disclosed. Accordingly, there is no way for outside experts and groups to evaluate what was said, what went wrong, or what was accomplished.
- *The lack of consultation with outside experts:* Relatedly, despite their deep expertise, NGOs and other experts are often not consulted when the U.S. government sets its dialogue agendas and plans its strategies.
- *The lack of continuity:* The identity of Chinese government officials who participate in the dialogues constantly change, thus making follow-through and meaningful longer-term discussion difficult.

These concerns have been circulating for several years, but have not dramatically affected the way that the U.S. government conducts its bilateral human rights dialogue. One way to ensure that the need for benchmarks, transparency, coordination and consultation are taken seriously is for Congress to mandate an annual report to assess the previous year's U.S.-China bilateral human rights dialogues.

The Congress should require that the State Department submit a report to the appropriate congressional committee detailing the issues discussed at the previous year's meetings and describing to what extent the Government of China has made progress during the previous year on a series of issues specified by the Congress.

Congress has already mandated such a report for the bilateral dialogue with Vietnam (Sec. 702 of PL 107-228). The Commission heard testimony recently from participants in the U.S.- Vietnam human rights dialogue that the Congressional mandate was beneficial in establishing benchmarks and measuring progress in the U.S.-Vietnam human rights dialogues.

In this way, Congressional involvement with the human rights dialogues would provide the political capital needed to focus the U.S.-China dialogue on the important goals of setting benchmarks, seeking transparency, and getting concrete results from the dialogue process.

3) Advance a resolution at the UN Commission on Human Rights and work for its passage at an appropriate and high official level.

We also believe that bilateral human rights dialogues should be linked to multilateral resolutions at the UN Commission on Human Rights (UNCHR).

It is essential that bilateral and multilateral diplomacy work together to focus attention on China to improve its human rights practices, rather than working at cross purposes or allowing the Chinese government to play one country off of the other. Yet, we fear that a proliferation of separate bilateral dialogues may have become a substitute for multilateral monitoring of China's human rights record.

The U.S. should continue to seek a resolution condemning China as one of its highest priorities for its participation at the UN Commission on Human Rights next spring. It is important to offer a resolution even if it looks like it will not pass. However, in the last several years, efforts to pass a resolution were often started too late in the process to gain sufficient support.

The U.S. must work year-round on a resolution in order to build an effective coalition and high-level government officials should be invested in seeking support for the resolution. In the past several years, the decision to offer a UNCHR resolution was made in the months immediately preceding the Commission's annual meeting. This is not enough time to build an effective coalition with those who might support it.

With China's ratification of the International Covenant on Social, Economic, and Cultural Rights (ICESCR) and its acceding to the International Covenant on Civil and Political Rights (ICCPR), the

nation has become increasingly involved in the international human rights system. By working year-round with international human rights bodies, the United States can help produce the type of multinational critiques that may command attention in China.

4) The State Department and other relevant agencies should coordinate with other nations on technical cooperation and capacity building programs in China.

Within the last decade, the United States and several other Western nations have established successful programs for technical assistance and cooperation in the areas of legal reform and economic and social capacity building. These programs are intended to assist China in complying with its international human rights commitments and provide human rights training for Chinese officials working at the national and local levels.

Fifteen different countries are pursuing some form of rule-of-law, human rights, or NGO capacity building projects. Millions of dollars and millions of hours of labour are spent on these projects, but there has been little or no coordination on methods, goals, outcomes, or viable partners.

The State Department, including USAID and other relevant agencies, should organize regular meetings of nations with technical cooperation programs with China—seeking to coordinate the various programs across disciplines and nations and to evaluate the success and failures and share best practices and new approaches from across the globe.

These programs are often actively sought by China. Technical support programs were not cancelled by China even though they disbanded discussion with the U.S. on human rights in April. The U.S. should take the lead to improve and better coordinate approaches that will advance religious freedom and related human rights in China and reach out to those within China seeking internal reform.

5) U.S. legal reform and rule of law programs need to be calibrated to advance religious freedom and related human rights.

At the present time, the State Department does not have a legal reform program in China that relates directly to the advancing the freedom of thought, conscience, and religion or belief.

There are numerous commercial rule-of-law programs. It is important to note that some legal reform programs have trained lawyers who now represent those attempting to fight for their rights in disputes involving property, pensions, environmental protections, and medical malpractice. Such cases provide a significant source of internal pressure upon the Chinese government to conform to international standards.

Thus, it seems this is an opportune time to fund legal reform programs that integrate the right to freedom of religion or belief—and related rights of expression, association, and a fair trial—with other rule-of-law initiatives.

The Commission recommends that rule-of-law programs with direct relevance to the protection of human rights and religious freedom should be funded. Such programs should be carried out through cooperation between governmental and private institutions, such as bar associations, law schools, judicial training centers, and other civil society groups.

The U.S. government should fund these programs if the efforts are to be taken seriously by the Chinese government. And, the programs must have U.S. government support in order to maintain the type of long-term sustainability necessary to make an impact on the Chinese legal system.

6) Review all U.S. foreign aid funding and public diplomacy programs for China to include the promotion and protection of religious freedom. The State Department should consult the Commission in advancing these goals as is required in IRFA.

There is a need to review all State Department and USAID foreign aid funding for China to determine whether religious freedom components are included in democracy, human rights, economic development, and rule-of-law programming under the new Joint Strategic Plan. Specifically, more information is needed on specific opportunities to promote and protect the freedom of religion and belief through U.S. foreign aid funding.

There is also a need to review all State Department public diplomacy programs for China. There is a growing recognition of the need to counter anti-Americanism worldwide, and that need exists in China as well. Public diplomacy and exchange programs need to be reviewed in an effort to promote more positive understanding of religious freedom and related human rights among a broad cross-section of Chinese society. The International Visitor's Program, and other publicly supported exchange programs, should actively seek exchanges between a diverse segment of Chinese government officials and academic experts and U.S. scholars, experts and representatives of religious communities regarding the relationship between religion and the state, the role of private charity in addressing social needs, the role of religion in society, and international standards relating to the right to freedom of thought, conscience and religion and belief.

The International Religious Freedom Act requires that the State Department consult with the Ambassador-at-Large for International Religious Freedom and the Commission on ways to integrate religious freedom into U.S. foreign aid programs and public diplomacy. The Commission stands ready to consult with the State Department at any time on these timely projects.

7) Establish an official presence in Xinjiang and Tibet.

Given that religious freedom and human rights concerns are central to the issues of contention in Tibet and Xinjiang, and given the growing economic development interests in these regions, the U.S. should seek to establish an official U.S. government presence, such as a consulate, in Lhasa, Tibet and Urumqi, Xinjiang.

8) Provide Incentives for Businesses to Promote Human Rights

The last five years have brought a proliferation of corporate responsibility codes of conduct and monitoring programs. These activities are certainly laudable. In the example of John Kamm we have found that U.S. businesspeople can be effective ambassadors in promoting fundamental human rights in China. But corporate conduct codes often vary widely and many do not contain non-discrimination clauses pertaining to religion and belief. In addition, there are few incentives for corporations to act on the codes' provisions in any meaningful way.

Some order has to be brought back to the process both to unite the U.S. business community around similar principles and get back to the objective of Congress – in several pieces of legislation including the International Religious Freedom Act of 1998 (IRFA) – to engage the business community to provide positive examples of human rights in China.

Given that conduct codes are voluntary, one area that needs more thought and development is how to offer incentives to businesses to establish innovative approaches to promote religious freedom and related human rights outside the United States. Maybe the first place to start is to consider extending breaks on loans, insurance, and loan guarantees from the Export/Import Bank or the Asian Development Bank. The Export/Import Bank in particular is required to consider human rights in extending services to U.S.

companies.

Given that China has recently ratified the International Covenant on Social, Economic, and Cultural Rights there is an opportunity to mesh China's international obligations with voluntary corporate action. What is needed is better coordination across industries and business sectors to determine best practices and viable incentives.

Mr. Chairman, given the bipartisan nature and reputation of this committee – including several past hearings on China's labor practices – I suggest that the CECC (or possibly the U.S.-China Economic and Security Review Commission) organize an international business roundtable whereby leaders could compare ideas and offer recommendations for action for promoting fundamental freedoms including thought, conscience, and religion.

While there has been much discussion on ways to protect labor practices, worker safety and environmental standards as part of corporate responsibility codes for China, there has been of yet little effort to integrate the protection of freedom of religion or belief into them. We hope that any international business roundtable gathered to discuss human rights and corporate codes would emphasize the promotion of this fundamental right. The Commission and its staff could assist in planning the roundtable and would make of our contacts available for such an effort.

Conclusion

Mr. Chairman, no one can comfortably admit to knowing exactly how best to strengthen human rights diplomacy with China. That is why, despite having two planned Commission visits cancelled because of unacceptable conditions on the Commission's itinerary being imposed literally at the last hour, we remain committed to travelling to China with an appropriate invitation from the Chinese government. We are seeking to examine conditions first-hand, if indeed that is possible, and to discuss policies and actions with those in the Chinese government who are responsible for issues of religion and human rights.

We hope that through honest and coordinated exchanges with the U.S. and other nations, China's leaders will recognize that while prosperity and security may lead to national well-being, good standing in the community of nations will only be secured by protecting universal human rights for every Chinese citizen.