



MEMORANDUM

International Religious Freedom Act of 1998

As amended by Public Law 106-55 and Public Law 107-228

Congress passed the International Religious Freedom Act on 10 October 1998, and an amendment the following year, to promote religious freedom as a U.S. foreign policy goal and to advocate on behalf of individuals viewed as persecuted in foreign countries on account of religion.¹ President Clinton signed the Act into law on October 27, 1998.

The International Religious Freedom Act establishes three cooperative entities to monitor religious persecution: (1) an Ambassador at Large for International Religious Freedom within the Department of State, (2) a bi-partisan Commission on International Religious Freedom, and (3) a Special Advisor on International Religious Freedom within the National Security Council. While the original bill imposed mandatory sanctions on countries supporting religious persecution, the amended act offers the president a waiver provision if he feels it would further the goal of the bill or promote the interests of U.S. national security to not impose measures on a designated country.

Office of International Religious Freedom

Under Title I of the International Religious Freedom Act (IRFA), the Office of International Religious Freedom, within the U.S. Department of State, was established to promote religious freedom as a core objective of U.S. foreign policy. The office is headed by an Ambassador at Large, appointed to this position by the President, by and with the advice and consent of the Senate. The current Ambassador at Large for International Religious Freedom, Ambassador John V. Hanford III, was appointed to this position in May 2002.

The Office of International Religious Freedom is responsible for monitoring religious persecution and discrimination worldwide, recommending and implementing policies in respective regions or countries and developing programs that promote religious freedom overseas. Specific activities include:

- Submission of an *Annual Report on International Religious Freedom*, issued each September. The report contains an introduction, executive summary and a chapter describing the status of religious freedom in each of 195 countries throughout the world. The report is mandated by, and presented to, the U.S. Congress.
- On the basis of these annual reports, the Secretary of State will designate any country that commits “systematic, ongoing and egregious violations of religious freedom” as a

¹ Public Law 105-292 (H.R. 2431) was approved on August 10, 1998 and Public law 106-55 (S. 1546) was approved on August 17, 1999.

Country of Particular Concern, or CPC. Nations so designated are subject to further actions, including economic sanctions, by the United States.²

- Meetings with foreign government officials at all levels, as well as religious and human rights groups in the United States and abroad, to address problems of religious freedom.
- Testimony, before the United States Congress, on issues of international religious freedom.
- Close cooperation with the independent United States Commission on International Religious Freedom
- Sponsorship of reconciliation programs in disputes that divide groups along lines of religious identity. The office seeks to support NGOs that are promoting reconciliation in such disputes.
- Create and manage an Internet site that provides basic religious freedom documents, including the annual report on international religious freedom.
- Outreach programs to American religious communities.
- Increase awareness of religious persecution.

Commission on International Religious Freedom

The International Religious Freedom Act of 1998 also created the Commission on International Religious Freedom (CIRF), a nine-member, bi-partisan group including nominees selected by the President, the President of the Senate and the Speaker of the House.³ The Ambassador at Large also sits on the Commission as a non-voting member. Joseph R. Crapa is the Executive Director of the Commission⁴, which is funded entirely by the federal government on an annual basis and staffed by government employees.

The commission is responsible for gauging the effect of countries' policies on religious groups and, if necessary, holding Congressional hearings to educate Congress and the public about religious persecution around the world. In May, the Commission submits an annual report to the President, the Secretary of State and Congress setting forth its findings and U.S. policy recommendations. The Commission may not implement sanctions on countries that violate religious freedom as it only has advisory and monitoring authority, including the authority to hold hearings.

While, the Department of State's report is a country-by-country analysis of religious freedom, the Commission's report covers fewer countries, but makes policy recommendations to the executive and legislative branches of government. The Commission report also critiques the work of the Department of State in promoting international religious freedom.

² Refer to the section below for a list of sanctions covered under the IRFA of 1998.

³ IRFA of 1998, Title II

⁴ Joseph R. Crapa has been Executive Director of the Commission on International Religious Freedom since November 2002.

Following is a current list of CIRF Commissioners⁵:

<u>Current Members (Two-Year Terms) / Affiliation</u>	<u>Term</u>	<u>Appointed by</u>
Preeta D. Bansal, Chair Visiting Fellow, Harvard University's John F. Kennedy School of Government (Institute of Politics); former Solicitor General of the State of New York.	5/15/03-5/14/04	Hon. Thomas Daschle (D) Senate Minority Leader
Felice D. Gaer, Vice Chair Director, Jacob Blaustein Institute for the Advancement of Human Rights; The American Jewish Committee	5/15/03-5/14/05	Hon. Nancy Pelosi (D) House Minority Leader
Nina Shea, Vice Chair Director of the Center for Religious Freedom Freedom House	5/15/03-5/14/05	Hon. Dennis Hastert (R) Speaker of the House
Patti Chang, Commissioner President and CEO of the Women's Foundation of California	5/15/03-5/14/04	Hon. Nancy Pelosi House Minority Leader
The Most Reverend Charles J. Chaput Commissioner Archbishop of Denver	5/15/03-5/14/04	George W. Bush President
Khaled Abou El Fadl, Commissioner Visiting Professor at Yale Law School & Professor of Law at UCLA	5/15/03-5/14/05	George W. Bush President
Richard D. Land, Commissioner President and CEO of the Ethics and Religious Liberty Commission of the Southern Baptist Convention	5/15/03-5/14/04	George W. Bush President
Bishop Ricardo Ramirez, Commissioner Bishop of the Diocese of Las Cruces, New Mexico	5/15/03-5/14/05	Hon. Thomas Daschle (D) Senate Minority Leader
Michael K. Young, Commissioner Dean, The George Washington University Law School	5/15/03-5/14/05	Hon. William Frist (R) Senate Majority Leader
John V. Hanford III, Ex-Officio, Non-voting Commissioner, Ambassador-at-Large for International Religious Freedom U.S. Department of State Joseph R. Crapa, Executive Director		

Special Advisor on International Religious Freedom

Title III of the IRFA assigns a special advisor to the president on international religious freedom within the National Security Council (NSC). Under the IRFA, the special advisor is designated to serve as a resource for executive branch officials, compiling and analyzing information on the facts and circumstances of violations of religious freedom and formulating possible U.S.

⁵ This list was downloaded from the U.S. CIRF website (<http://www.uscirf.gov/cirfPages/commissioners.php3>) on August 9, 2004.

reactions to religious persecution in light of U.S. national security interests. The special advisor serves as liaison between the Ambassador at Large for International Religious Freedom, the United States Commission on International Religious Freedom, Congress and, as advisable, religious nongovernmental organizations.

Sanctions Permitted Under IRFA 1998

The IRFA states that, based upon information described in the latest Country Reports on Human Rights Practices, the Annual Report on International Religious Freedom and its executive summary, the President shall take into account any findings or recommendations with respect to each foreign country and design a response to those countries. Title IV details the possible actions of the president, in consultation with the Secretary of State, the Ambassador at Large, the NSC special advisor and the Commission on International Religious Freedom, in response to states that violate the Act.

Section 402 sets standards for categorizing countries as “violators” and “particularly severe violators” of religious freedom, thereby subjecting them to a set of sanctions listed in the Act. Particularly severe violators must have committed acts such as torture, prolonged detention, disappearance or flagrant denial of life and liberty. Under Section 405, the President, subject to certain exceptions, must either enter into a binding agreement with the designated country to end religious persecution or chose from among the following list of 15 remedial actions:

1. A private demarche
2. An official public demarche
3. A public condemnation
4. A public condemnation within one or more multilateral fora
5. A delay or cancellation of one or more scientific exchanges
6. A delay or cancellation of one or more cultural exchanges
7. A denial of one or more working, official, or state visits
8. The delay or cancellation of one or more working, official, or state visits

The following seven remedial actions apply only to countries identified as “particularly severe violators” of religious freedom:

9. The withdrawal, limitation, or suspension of United States development assistance in accordance with section 116 of Foreign Assistance Act of 1961
10. Directing the EXIM Bank of the United States, the Overseas Private Investment Corporation, or the Trade and Development Agency not to approve the issuance of any (or specified number of) guarantees, insurance, extensions of credit, of participations in the extension of credit to the specific government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

11. The withdrawal, limitation, or suspension of the US security, assistance in accordance with section 502B of the Foreign Assistance Act of 1961.
12. Directing the US executive director 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.
13. Ordering the head of the appropriate US agencies not to issue any specific licenses and not to grant any other specific authority to export any goods or technology to the specific government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402, under (i) the Export Administration Act of 1979; (ii) the Arms Export Control Act; (iii) the Atomic Energy Act of 1954; or (iv) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of good or service.
14. Prohibiting any US financial institution from making loans or providing credits totaling more than \$10,000,000 in any 12-month period.
15. Prohibiting the US government from procuring or entering into any contract for the procurement of, any goods or services from foreign government.

Application of any of the first eight sanctions on this list, must be reported to the Congress. In each case of a particularly severe violation, the President must report his proposed course of action to Congress, which by joint resolution can then overrule the President's plan. This joint resolution is subject to a presidential veto, which is in turn subject to a congressional override as with standard legislation.

Another key provision of the Act, as detailed in its amendment, provides a presidential waiver under Section 407 of Title IV. This provision allows the president to waive punitive measures if it is in the interest of religious freedom or U.S. national security. The waiver authority allows the president to balance the objectives of the bill with other U.S. foreign policy interests when sanctions have the potential to jeopardize other U.S. interests or when the result of such application may thwart the intended purposes of this act. Section 410 precludes judicial review of any presidential determination under the Act, allowing the president unchecked autonomy when deciding how to respond to evidence of religious persecution abroad.

Countries of Particular Concern (CPC)

Countries of particular concern (CPCs) are countries, as determined by the U.S. Secretary of State, to be engaged in particularly severe violations of religious freedom. The CPC designation makes these countries subject to U.S. diplomatic and economic actions. In March 2003, the U.S. Secretary of State designated Burma, China, Iran, Iraq, North Korea, and Sudan as Countries of Particular Concern (CPC).

On its report in May 2004, the U.S. Commission on International Religious Freedom (USCIRF) recommended that the Secretary of State remove Iraq from this list and add six countries to the current list of "countries of particular concern" (CPCs). Their proposed CPC list is: Burma, The

Democratic People's Republic of Korea (North Korea), Eritrea, India, Iran, Pakistan, People's Republic of China, Saudi Arabia, Sudan, Turkmenistan and Vietnam.

In addition to its CPC recommendations, the Commission has established a Watch List of countries where religious freedom conditions do not rise to the level requiring statutory CPC designation but which require close monitoring because of the nature and extent of violations of freedom of thought, conscience, religion, or belief engaged in or tolerated by the governments. The current list now includes Egypt, Indonesia, Nigeria, and Uzbekistan, and USCIRF proposed Belarus, Cuba and Georgia would be added to that list.

APPENDIX: Application of CPC Status*

1. China

Since September 2000, the U.S. Secretary of State has designated China a country of particular concern under the International Religious Freedom Act for particularly severe violations of religious freedom.

The Department of State, the U.S. Embassy in Beijing, and the Consulate General in Chengdu, Guangzhou, Shanghai, and Shenyang focused on external pressure, incidents of abuse and support for positive trends within the country. The U.S. Embassy and Consulates collected information about abuses and maintained contacts with religious leaders within the country's religious communities, including bishops, priests, and ministers of the official Christian and Catholic churches, as well as Taoist, Muslim and Buddhist leaders. U.S. officials also met with leaders and members of the unofficial Christian churches. The Department of State's nongovernmental contacts include experts on religion in China, human rights organizations and religious groups in the United States.

In exchanges with the Government, including religious affairs officials, U.S. diplomatic personnel consistently urged both central and local authorities to respect citizens' rights to religious freedom. Whenever there were credible reports of religious harassment or discrimination in violation of international laws and standards, U.S. officials issued a protest and requested information in cases of alleged mistreatment in which the facts were incomplete or contradictory. In October 2002, President George W. Bush met with then President Jiang Zemin and called for greater religious tolerance.

In July 2001, the Government agreed to resume the official U.S.-China Human Rights Dialog, which had been suspended since 1999. A dialogue took place in October 2001 and again in December 2002, when the Assistant Secretary of State for Democracy, Human Rights, and Labor, accompanied by the Ambassador at Large for International Religious Freedom, attended the U.S.-China Human Rights Dialogue in Beijing. After the Dialogue, the U.S. delegation traveled to Urumqi, Xinjiang and met with Muslim clerics and government officials to call on Chinese authorities not to use the war on terrorism as an excuse to persecute Uighur Muslims.

In the past, government officials occasionally have refused to grant meetings to U.S. Embassy officials who intended to raise religious freedom or other human rights issues. However, after the 2002 Dialogue, China extended an invitation to the U.N. Special Rapporteur on Religious Intolerance to visit China. As of the end of the reporting period, this visit had yet to take place.

U.S. officials in Washington and Beijing have continued to protest individual incidents of abuse. On numerous occasions, both the Department of State and the Embassy in Beijing protested government actions to curb freedom of religion and freedom of conscience, including the arrests of Falun Gong followers, Tibetan Buddhists, Uighur Muslims in Xinjiang and Catholic and Christian clergy and believers.

* Source: The International Religious Freedom Report for 2003 is submitted to the Congress by the Department of State

The Department of State has sent a number of Chinese religious leaders and scholars to the United States on international visitor programs. The Embassy also brought experts on religion from the United States to the country to speak about the role of religion in American life and public policy.

Tibet

The U.S. Department of State, the U.S. Embassy in Beijing, and the U.S. Consulate General in Chengdu made efforts to encourage greater religious freedom in Tibetan areas. In regular exchanges with the Government, including religious affairs officials, U.S. diplomatic personnel consistently urged both central government and local authorities to respect religious freedom in Tibetan areas. Embassy and consulate officials protested and sought further information on cases whenever there were credible reports of religious persecution or discrimination.

Since January 2002, Chinese authorities have released seven ethnic Tibetan prisoners of conscience who were the subject of U.S. Government concern. U.S. diplomatic personnel stationed in the country regularly traveled to Tibetan areas to monitor conditions, including the status of religious freedom. Senior U.S. officials traveled to China several times during the period covered by this report to raise human rights concerns, including religious freedom in Tibet. U.S. officials maintain contacts with religious figures, and the U.S. Department of State's nongovernmental contacts include experts on religion in Tibetan areas and religious groups in the United States.

Religious freedom in Tibet was on the agenda for the U.S.-China bilateral human rights dialogue held in December 2002.

Hong Kong

The U.S. Government discusses religious freedom issues with the HKSAR Government in the context of its overall dialogue and policy of promoting human rights. Consulate General officers, at all levels, have made clear U.S. Government interests in the full protection and maintenance of freedom of religion, conscience, expression and association. Officers of the U.S. Consulate General meet regularly with religious leaders and community representatives to discuss this issue.

Macau

The U.S. Government discusses religious freedom issues with the Macau Government in the context of its overall dialogue. Officers from the Consulate General in Hong Kong meet regularly with Macau religious leaders.

2. Burma

In March 2003, the Secretary of State designated Burma as a "country of particular concern" under the International Religious Freedom Act for particularly severe violations of religious

freedom. The Secretary of State also designated Burma as a country of particular concern in 1999, 2000, and 2001.

The United States has since discontinued bilateral aid to the Burmese Government, suspended issuance of licenses to export arms to the country, suspended the generalized system of preferences, and Ex-Im Bank financial services supporting U.S. exports to Burma. The U.S. Government also suspended all Overseas Private Investment Corporation financial services, active promotion of trade, and issuance of visas to high government officials and their immediate family members.

The U.S. Government has opposed all assistance to the Burmese Government by international financial institutions and urged governments of other countries to take similar actions. New investment in the country by U.S. citizens has been illegal since 1997. In November 2000, the U.S. Government actively supported the decision of the International Labor Organization to implement sanctions against the regime based on the Government's continued, systematic use of forced labor for a wide range of civilian and military purposes.

During the period covered by this report, Embassy officials discussed religious freedom with government officials, private citizens, scholars, representatives of other governments, the international media and members of the international business community. As a key part of the Embassy's reporting and public diplomacy activities, Embassy staff met with leaders of Buddhist, Christian, and Islamic religious groups, including ethnic minority religious leaders; faculty members of theology schools; and other religious-affiliated organizations and NGOs. U.S. Embassy staff has met with local NGOs and religious leaders and act as a conduit for information exchange on this issue.

3. North Korea

Since 2001, the Secretary of State designated the DPRK as a "Country of Particular Concern" under the International Religious Freedom Act for particularly severe violations of religious freedom.

The United States does not have diplomatic relations with the DPRK and has no official presence there. During talks in Pyongyang in October 2002, Assistant Secretary for East Asian and Pacific Affairs highlighted U.S. concerns about the human rights record, including religious freedom, of the North Korean regime. Also during 2002, Assistant Secretary of State for Democracy, Human Rights and Labor raised awareness of the human rights conditions inside North Korea through speeches before U.S. audiences and testified before the Congressional Human Rights Caucus. The U.S. regularly raises these concerns about North Korea in multilateral fora and bilaterally with other governments. U.S. officials urge other countries to condition their bilateral relations with North Korea on concrete, verifiable, and sustained improvements.

The U.S. Government provided the National Endowment for Democracy with \$250,000 for sub-grants to two South Korean NGOs to support monitoring and reporting on human rights conditions in North Korea. Radio Free Asia also provides regular Korean-language broadcasting.

The U.S. Government worked to achieve passage of a resolution on the human rights situation in North Korea, as well as the DPRK's record on religious freedom, during the 59th session of the U.N. Commission on Human Rights (CHR). The resolution condemned the North Korean Government for its human rights abuses, including the use of torture and forced labor, as well as restrictions on the rights to freedom of expression and assembly. The resolution called on the Government to fulfill its obligations under human rights instruments to which it is a party, invite U.N. special representatives to visit North Korea, and ensure that humanitarian organizations have free access to the country.

4. Sudan

Since 1999, the Secretary of State has designated Sudan a country of particular concern under the International Religious Freedom Act for particularly severe violations of religious freedom. The U.S. Government has said that the problem of religious freedom in Sudan is one of the key impediments to developing a more positive relationship with the United States. The U.S. Embassy in Sudan has consistently raised the issue at all levels of the Government, including with the President and the Foreign Minister.

The U.S. Embassy and the Department of State raised religious freedom issues publicly in press statements and at international forums, including the U.N. Human Rights Commission. The Special Envoy for Peace in Sudan, John Danforth, an Episcopal priest and former United States Senator, met with religious leaders during his visits to the country and pressed for religious freedom. In October 2002, a representative from the Department of State's Office of International Religious Freedom met with Sudanese religious leaders in Khartoum and Nairobi to discuss the status of religious freedom in the country.

U.S. diplomatic efforts to bring peace in Sudan have continued to focus on promoting a dialogue on religious freedom. The U.S. Embassy enlisted the help of organizations such as the Sudan Council of Churches and the Sudan Inter-religious Council to this end, and has maintained and developed relationships with religious leaders from both Muslim and Christian traditions.

5. Iran

In March 2003, the Secretary of State designated Iran as a country of particular concern under the International Religious Freedom Act for particularly severe violations of religious freedom. The Secretary of State also designated Iran as a CPC in 1999, 2000, and 2001.

The United States has no diplomatic relations with Iran and thus cannot raise issues of religious freedom directly with the Government. However, the U.S. Government explains its position in public statements and reports, in its support for relevant U.N. and NGO efforts, and through diplomatic initiatives that press for an end to Iranian government abuses.

From 1982 to 2001, the U.S. Government and European Union co-sponsored an annual resolution regarding the human rights situation in Iran at the annual meeting of the United Nations Commission on Human Rights (UNCHR). The resolution was passed every year, with the exception of 2002, when the United States did not sit on the Commission. The U.S. supported

a similar resolution at the U.N. General Assembly until the fall of 2002, when no resolution was tabled. The U.S. Government supported the work of the U.N. Special Rapporteur (UNSR) on Human Rights for Iran and called on the Iranian Government to grant the UNSR admission and permission to conduct research during a set period of time, which expired upon defeat of the resolution at the Commission on Human Rights in 2002. There was also no UNCHR resolution on Iran in the spring of 2003.

The spokesperson for the U.S. Department of State has, on numerous occasions, addressed the situation of the Baha'i and Jewish communities in Iran. The U.S. Government has encouraged other governments to make similar statements and has urged those governments to raise the issue of religious freedom in their discussions with the Iranian Government.

6. Iraq

In 2003, the U.S. Secretary of State designated Iraq as a country of particular concern under the International Religious Freedom Act for the Government's severe violations of religious freedom. The country was previously designated a CPC in 1999, 2000 and 2001.

Prior to the fall of Saddam Hussein, the United States had no diplomatic relations with Iraq and thus was unable to raise directly with the Government the problems of severe restrictions on religious freedom and other human rights abuses. Since the establishment of the Coalition Provisional Authority in May 2003, the U.S. government has discussed religious freedom issues with prominent Iraqi leaders in the overall context of the drafting of a new constitution for Iraq.