

December 9-11, 2007: "The U.S. International Religious Freedom Act: an Instrument to Promote International Respect for Freedom of Religion or Belief"

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U.S.
International Religious Freedom Act: an Instrument to Promote International
Respect for Freedom of Religion or Belief

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U.S. Commission on International Religious
Freedom

Introduction.

I have the pleasure of representing the U.S.
Commission on International Religious Freedom and will discuss American foreign
policy on promotion of the freedom of religion or belief, and the role of the
Commission in that process.

U.S. Policy Promotes International Standards of the
Right to Freedom of Religion

American interest in promoting
religious freedom in other countries is not an attempt to enforce its values. Nor is it an attempt to dictate that others
should adopt our system of church-state relations. The U.S. seeks to hold governments
accountable for commitments to various international
human rights standards which reflect universal values. Moreover, the
international community has adopted legal agreements on tolerance.

U.S. Policy to Promote International Religious
Freedom

In 1998, by an almost unanimous vote,
the United States Congress passed "the International Religious Freedom Act of
1998," or "IRFA." In passing the law,
Congress found that religious freedom:

undergirds the very origin and existence of the United States. Many of our Nation's founders fled religious persecution abroad, cherishing in their hearts and minds the ideals of religious freedom.

Indeed, the first right in our Constitution's Bill of Rights is that of freedom of religion or belief.

The IRFA law also found that freedom of religion or belief is "under renewed and, in many cases, increasing assault in many countries around the world" and that "more than one-half of the world's population" lives in countries where the right to religious freedom is restricted due to government action or government inaction. Therefore, a key purpose of IRFA is to help stem the tide of global intolerance.

A second purpose behind IRFA is to integrate promotion of respect for freedom of religion or belief into U.S. policy to promote all human rights. To help achieve these goals, IRFA sets forth various policies, including:

- (1) To condemn violations of religious freedom and to promote . . . the fundamental right to freedom of religion.

- (2) To work with foreign governments that affirm and protect religious freedom, in order to develop multilateral documents and initiatives to combat violations of religious freedom and promote the right to religious freedom abroad, and

- (3) Standing for liberty and standing with the persecuted, to use and implement appropriate tools in the United States foreign policy apparatus, [...].

To help achieve these policies, IRFA sets out four mechanisms.

First, the law established the Office of International Religious Freedom in the U.S. State Department, headed by the Ambassador at Large for International Religious Freedom.

Second, the law mandated the State Department to prepare an annual report on freedom of religion or belief in every country, as well as U.S. policies to promote it.

The U.S. Commission on International Religious Freedom

Third, the law created the U.S. Commission on International Religious Freedom. The Commission is an independent, bipartisan, U.S. government entity that is not part of the State Department, the Executive Branch or Congress. The Commissioners are nine private citizens who are appointed by the President and by both parties in Congress.

The Commission's primary responsibilities are to review violations of freedom of religion or belief and to recommend U.S. policies.

The Commission issues an Annual Report in May, as well as reports and U.S. policy recommendations on various countries, such as Afghanistan, China, Indonesia, North Korea, Sudan, Turkmenistan, Uzbekistan, India, Nigeria, Pakistan, Russia, Vietnam, and Belarus.

The Commission also calls attention to issues relevant to freedom of religion or belief through press releases, articles and interviews. It holds public hearings and briefings, most recently on Burma and on Iraqi refugees. The Commission has also testified before Congress, taken part in various international conferences and consulted with representatives of religious communities, non-governmental organizations, policy experts, and U.S. officials. Commissioners and staff have visited numerous countries, including China, Russia, Egypt, Saudi Arabia and, most recently, Vietnam and Turkmenistan, to gain first-hand information on freedom of religion or belief.

The Commission has established a Watch List of countries which require close monitoring due to the nature and extent of violations of freedom of thought, conscience, religion or belief engaged in, or tolerated by, their governments. Currently, Afghanistan, Bangladesh, Belarus, Cuba, Egypt, Indonesia, Iraq and Nigeria are on this Watch List.

The Countries of Particular Concern (CPC) Process

Fourth, the IRFA law required that the President name those countries that are the worst violators of freedom of religion or belief. Each country where the government has engaged in, or tolerated, "particularly severe [systematic, ongoing and egregious] violations of religious freedom" should be designated as a "country of particular concern" (CPC). In defining freedom of religion or belief, the IRFA law refers to the "internationally recognized right to freedom of religion and religious belief and practice" as defined in international legal instruments.

The CPC designation can:

- Send a clear signal that U.S. interests include human rights concerns;

- Start a dialog with a government where specific measures for progress are agreed upon so as to avoid economic sanctions;

- Allow the Secretary of State gradually to employ the threat of negative actions to address major abuses of religious freedom;

Allow the Secretary of State not to use any specific actions if progress is being made to address serious violations of freedom of religion.

The Commission stresses that CPC designation and meaningful policies in response to such designations should be a key part of U.S. human rights policy. CPC designation highlights the most severe violations and the systematic repression of the exercise of a person's right to freedom of religion or belief. The designation also guides important decisions in U.S. bilateral relations with those countries, particularly foreign aid, including security assistance, as well as U.S. official positions in international financial institutions.

The IRFA law stipulates that the U.S. should take active steps against those countries held to be particularly severe violators of freedom. CPC designation carries an obligation to take one or more specified actions, unless the Secretary of State, as the President's designee, determines that pre-existing sanctions are adequate or waives the requirement.

Under IRFA, the Commission is mandated to recommend to the State Department countries for CPC designation. The Secretary of State, acting as the Presidential designee, named eight countries as CPCs in November 2006: Burma, China, Eritrea, Iran, North Korea, Saudi Arabia, Sudan and Uzbekistan. The Commission, in May 2007 recommended three countries, Pakistan, Turkmenistan and Vietnam, in addition to the other countries given CPC designation. The State Department has not yet named CPCs in 2007.

The Commission's Critique of CPC Process Implementation

The State Department has not made public any actions it has taken on CPCs, although the IRFA law requires it. The Commission is also concerned that the State Department has not given to Congress the required evaluation of the effectiveness of actions taken against CPCs.

The Commission believes that this inadequate fulfillment of the requirements in the IRFA law represents a failure in U.S. foreign policy. While reliance on pre-existing sanctions may technically be correct under the statute, it is not acceptable as policy.

The State Department, in the Commission's view, should use the full range of policy tools available to take additional action under IRFA on CPCs. Reliance on pre-existing sanctions provides little incentive for CPC governments to reduce, or end, severe violations of religious freedom.