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Global Human Rights: International Religious Freedom Policy

For decades, U.S. policymakers have sought to promote religious freedom abroad, reflective both of a general interest in promoting human rights through U.S. foreign policy, as well as the emphasis on religious freedom in U.S. domestic law and political culture. Protection of religious freedom is also affirmed in international law through the United Nations Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and other instruments. Congress has sought to ensure continued support for religious freedom as a focus of U.S. relations with other nations, most prominently through passage of the International Religious Freedom Act of 1998.

Legislative Background

The International Religious Freedom Act of 1998 (IRFA; P.L. 105-292; 22 U.S.C. 6401 et seq.) is the foundational legislation for U.S. international religious freedom (IRF) policy. Recognizing religious freedom as a “universal human right,” IRFA created various government mechanisms aimed at cementing IRF as a foreign policy priority of the United States. Most significantly, the law

- created an Office on International Religious Freedom within the State Department headed by an Ambassador at Large (AAL) for IRF;
- required that the Secretary of State issue an annual report on the status of religious freedom around the world;
- mandated that the President identify “countries of particular concern” (CPCs) and prescribed U.S. government actions in response to violations of religious freedom, subject to presidential waiver authority; and
- created the independent U.S. Commission on International Religious Freedom (USCIRF).

Congress has subsequently strengthened IRFA through amendment and the enactment of related provisions, notably through the Frank R. Wolf International Religious Freedom Act (Wolf IRFA; P.L. 114-281), which became law in December 2016.

The State Department’s Role

The State Department leads the federal government’s efforts to promote international religious freedom. The AAL for IRF heads the State Department’s Office on International Religious Freedom (IRF Office). Per IRFA, as amended, the AAL integrates IRF policies into U.S. foreign policy efforts and is to participate in any interagency processes in which the promotion of IRF “can advance United States national security interests.” The AAL and the IRF Office lead the drafting of the IRFA-mandated annual international religious freedom report (IRF report) and advise the Secretary of State on U.S. policy actions in response to religious freedom violations. The position is currently held by Rashad Hussain, whom the Senate confirmed in December 2021 following nomination by

President Biden. A related senior position is the congressionally mandated Special Envoy for Monitoring and Combating anti-Semitism (currently held by Deborah Lipstadt), which was upgraded to a presidentially appointed position with the rank of ambassador by P.L. 116-326, enacted in January 2021.

In the FY2023 State Department, Foreign Operations, and Related Programs Appropriations Act (SFOPS; Division K of P.L. 117-328) and accompanying explanatory statement, Congress directed not less than \$20 million for IRF foreign assistance programs under the responsibility of the AAL for IRF, among other IRF-related directives.

International Religious Freedom Report

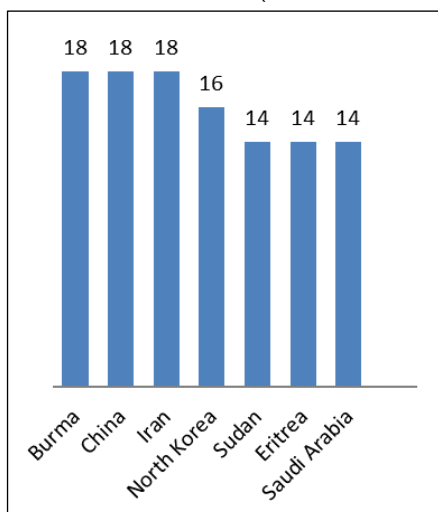
The IRF report, which is statutorily required by May 1 each year, covers developments in each foreign country during the prior calendar year and includes information on the status of religious freedom, violations of religious freedom, and relevant U.S. policies. The IRF report is the official U.S. government account of religious freedom conditions abroad, and is a primary information source for the executive branch’s “country of particular concern” designations. The report covering calendar year 2021 was submitted to Congress on June 2, 2022, and is available on the Department of State website.

Countries (and Entities) of Particular Concern

IRFA mandates that the President (subsequently delegated to the Secretary of State), using information from the IRF report and other sources, annually designate as “countries of particular concern” (CPCs) those countries the governments of which have engaged in or tolerated “particularly severe” religious freedom violations (see **Figure 1**). The law defines particularly severe violations of religious freedom as “systematic, ongoing, and egregious” violations, including violations such as torture; cruel, inhuman, or degrading treatment or punishment; prolonged detention without charges; forced disappearances; or other flagrant denial of the right to life, liberty, or the security of persons.

Wolf IRFA mandated an additional “special watch list” of countries with severe religious freedom violations but that do not reach the threshold of systematic, ongoing, and egregious. In recognition of religious freedom abuses carried out by the Islamic State and other non-state actors, Wolf IRFA also added a new requirement that the President designate entities of particular concern (EPCs) and, “when practicable,” take actions to address severe violations of religious freedom committed by EPCs.

Figure 1. Countries Most Often Designated as CPCs
By Number of Times on CPC List (out of 18 lists since 1999)



Source: Compiled by CRS based on State Department releases.

Note: All of these countries are currently on the CPC list except for Sudan, which was repeatedly designated a CPC until being removed in 2019.

Actions in Response to Religious Freedom Violations

IRFA provides an escalating list of U.S. government actions that may be exercised in response to religious freedom violations engaged in or tolerated by foreign governments (see 22 U.S.C. 6445). Actions may include diplomatic measures such as demarches, public condemnations, or the cancellation of meetings or exchanges. For CPCs, the executive branch is to implement one or more sanctions suggested by IRFA, such as foreign assistance restrictions and trade-related restrictions. The law provides the executive branch significant discretion in determining which, if any, actions to take against CPCs. Administrations can apply commensurate substitute action in lieu of IRFA's suggested measures, exempt a CPC from new sanctions by referring to preexisting, "broad-based" human rights-related sanctions imposed against that country, or waive sanctions by citing U.S. national interest. In practice, Administrations have generally either referred to sanctions already in place against CPCs or issued waivers instead of implementing new sanctions under IRFA. The most recent CPC designations and accompanying government actions were determined in November 2022 (see **Table 1**).

Table 1. CPCs and U.S. Actions (Nov. 2022)

Country	Action
Burma (Myanmar)	Referred to preexisting sanctions
China	Referred to preexisting sanctions
Cuba	Referred to preexisting sanctions
Eritrea	Referred to preexisting sanctions
Iran	Referred to preexisting sanctions
Nicaragua	Referred to preexisting sanctions
North Korea	Referred to preexisting sanctions
Pakistan	Issued national interest waiver
Russia	Referred to preexisting sanctions
Saudi Arabia	Issued national interest waiver
Tajikistan	Issued national interest waiver
Turkmenistan	Issued national interest waiver

Source: 87 *Federal Register* 80247.

No countries were removed from the CPC list in 2022 relative to the 2021 list, and two countries were added: Cuba and Nicaragua. The State Department also placed Algeria, the Central African Republic, Comoros, and Vietnam on the special watch list. EPC designations included al-Shabaab, Boko Haram, Hayat Tahrir al-Sham, the Houthis, ISIS-Sahel, ISIS-West Africa, Jamaat Nasr al-Islam wal Muslimin, the Taliban, and the Wagner Group, "based on its actions in the Central African Republic."

U.S. Commission on International Religious Freedom (USCIRF)

IRFA also established USCIRF, an independent federal commission tasked with monitoring IRF conditions, reviewing U.S. government policy, and making policy recommendations. The President and House and Senate leadership appoint USCIRF commissioners, and IRFA's provisions ensure its composition reflects recommendations of both the majority and minority party. Commissioners are appointed to two-year terms and are to be distinguished individuals in fields relevant to religious freedom. The AAL for IRF also serves as a nonvoting member. USCIRF in June 2022 elected Nury Turkel as the commission's chair for 2022-2023. USCIRF is currently authorized through September 2024.

Pursuant to IRFA, USCIRF produces its own annual report, which it has utilized to analyze the executive branch's implementation of IRFA during the preceding year, make general policy recommendations, and recommend CPC, special watch list, and EPC designations. USCIRF's recommendations for CPC and other designations are typically more expansive than the official State Department designations. In its report covering calendar year 2021 (released in April 2022), USCIRF recommended that five countries be added to the official CPC list in addition to those that were already on it: Afghanistan, India, Nigeria, Syria, and Vietnam. As indicated in **Table 1**, the State Department's subsequent November 2022 CPC list did not include these countries; in a December 2022 statement, USCIRF expressed disappointment with the department's decision not to include them, particularly Nigeria and India. Recent explanatory statements accompanying enacted SFOPS bills have directed the State Department to inform appropriate congressional committees regarding the rationale for decisions not to designate as CPCs those countries that USCIRF has recommended be designated as such, within 30 days of such decisions.

USCIRF receives an annual appropriation through SFOPS. Explanatory statements accompanying recent such bills have directed that USCIRF also monitor, report on, and advocate against laws and policies of foreign countries that permit or condone violations of the human rights of "minority groups and other vulnerable communities on the basis of religion."

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