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Global Human Rights: International Religious Freedom Policy

For decades, U.S. policymakers have sought to promote religious freedom abroad, reflecting both a prioritization of human rights in U.S. foreign policy generally as well as an 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. foreign policy, 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) 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 punitive 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 via amendment, notably through the Frank R. Wolf International Religious Freedom Act (Wolf IRFA; P.L. 114-281), which became law in December 2016. The major provisions of the law

- assigned a greater role within interagency policy processes for the AAL for IRF, and mandated that the position report directly to the Secretary of State;
- mandated designation of a “special watch list” of countries with severe violations of religious freedom but that did not meet CPC criteria; and
- mandated designation of non-state entities of particular concern (EPCs).

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 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.

The joint explanatory statement accompanying the FY2022 State Department, Foreign Operations, and Related Programs Appropriations Act (SFOPS; Division K of P.L. 117-103) directs that the Secretary of State brief the Committees on Appropriations on efforts and opportunities to expand IRF programs within 90 days of enactment.

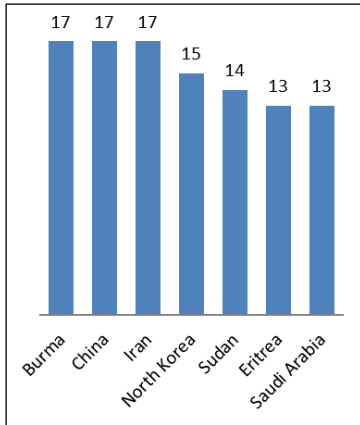
International Religious Freedom Report

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 2020 was submitted to Congress on May 12, 2021, 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 as those that are systematic, ongoing, and egregious. The 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 17 lists since 1999)



Source: Compiled by CRS based on U.S. State Department releases.

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. 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, trade restrictions, or loan prohibitions. The law provides the executive branch significant discretion in determining which, if any, punitive actions to take. Administrations can apply commensurate substitute action in lieu of IRFA's suggested measures against CPCs, exempt a CPC from new sanctions by referring to already existing human rights-related sanctions 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 2021 (see **Table 1**).

Table 1. CPCs and U.S. Actions (Nov. 2021)

Country	Action
Burma (Myanmar)	Referred to preexisting sanctions
China	Referred to preexisting sanctions
Eritrea	Referred to preexisting sanctions
Iran	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: 86 *Federal Register* 67780.

Russia was listed as a CPC for the first time, after having been listed as a special watch list country in recent prior years, while Nigeria was removed from the CPC list. In addition, the State Department placed Algeria, Comoros, Cuba, and Nicaragua on the special watch list. EPC designations included al-Shabaab, Boko Haram, Hayat Tahrir al-Sham, the Houthis, the Islamic State, Islamic

State-Greater Sahara, Islamic State-West Africa, Jamaat Nasr al-Islam wal Muslimin, and the Taliban.

Executive Order (E.O.) 13926

E.O. 13926 of June 2, 2020, declared religious freedom to be a "moral and national security imperative" and directed the executive branch to prioritize promoting religious freedom in U.S. foreign policy. The E.O. directed U.S. Chiefs of Mission to develop action plans to promote IRF in CPCs, special watch list countries, countries with EPCs, and any other countries that have engaged in or tolerated violations of religious freedom, and directed the budgeting of at least \$50 million annually in foreign assistance for promoting IRF "to the extent feasible" and subject to the availability of appropriations, among other directives.

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 2021 elected Nadine Maenza as the commission's chair for 2021-2022. USCIRF is currently authorized through September 2022.

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 2020 (released in April 2021), USCIRF recommended that four countries be added to the official CPC list in addition to those that were already on it: India, Russia, Syria, and Vietnam. As indicated in **Table 1**, the State Department subsequently added Russia to the CPC list but removed Nigeria, which USCIRF had recommended be redesignated. Recent joint 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.

FY2022 SFOPS included a directive that USCIRF also monitor and report on laws and policies of foreign governments "that permit or condone discrimination against, or violations of human rights of, minority groups and other vulnerable communities on the basis of religion."

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