20th Anniversary of the US International Religious Freedom Act

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The **International Religious Freedom Act of 1998** was passed to promote [religious freedom](https://en.wikipedia.org/wiki/Freedom_of_religion) as a [foreign policy of the United States](https://en.wikipedia.org/wiki/Foreign_policy_of_the_United_States), to promote greater religious freedom in countries which engage in or tolerate violations of religious freedom, and to advocate on the behalf of individuals persecuted for their religious beliefs and activities in foreign countries. The Act was signed into law by [President](https://en.wikipedia.org/wiki/President_of_the_United_States) [Bill Clinton](https://en.wikipedia.org/wiki/Bill_Clinton) on October 27, 1998. Three cooperative entities have been maintained by this act to monitor religious persecution.

1. An [Ambassador-at-Large for International Religious Freedom](https://en.wikipedia.org/wiki/Ambassador-at-Large_for_International_Religious_Freedom) within the [Department of State](https://en.wikipedia.org/wiki/United_States_Department_of_State), who is the highest-ranking US diplomat on international religious freedom, and who is tasked with carrying out the provisions of IRFA: the Annual Report, negotiations with foreign governments to bring about greater religious freedom, and the determination of Countries of Particular Concern under IRFA, which entails further actions.
2. A [bipartisan](https://en.wikipedia.org/wiki/Bipartisanship) [United States Commission on International Religious Freedom](https://en.wikipedia.org/wiki/United_States_Commission_on_International_Religious_Freedom), designed to provide independent policy recommendations and fact-finding, and
3. A Special Adviser on International Religious Freedom within the [National Security Council](https://en.wikipedia.org/wiki/United_States_National_Security_Council).[[3]](https://en.wikipedia.org/wiki/International_Religious_Freedom_Act_of_1998#cite_note-IRFAtext-3)

IRFA was introduced on March 26, 1998 by Senator Don Nickles (R-OK), Senator Joseph Lieberman (D-CT) and others. On October 8, 1998, the Senate passed IRFA by a vote of **98-0**. IRFA was passed in full by the House on the consent calendar on October 10, 1998.

History

This Act was a response to the growing concern about [religious persecution](https://en.wikipedia.org/wiki/Religious_persecution) throughout the world. There had been instances of toleration on the part of the governments when the religious rights of their citizens and others had been violated. There are governments around the world which openly sponsor and tolerate restrictions on their citizens' right to practice, observe, study, or associate with other members of their [religious faith](https://en.wikipedia.org/wiki/Faith).

IRFA put in place a comprehensive structure headed by a high-ranking diplomat who could negotiate with other governments on behalf of the President. IRFA also established the Annual Report on International Religious Freedom, which requires US embassies all over the world to interact with their counterparts and NGO's in the process of reporting, as well as requiring the US to state what efforts it has undertaken to promote religious freedom. In addition to the Ambassador at Large for International Religious Freedom, and the Annual Report, the cornerstone of IRFA is the requirement that each year the President review and determine whether any country has met the threshold, based on international human rights law, of "Country of Particular Concern" or CPC, engaging in or tolerating "particularly severe violations of religious freedom." The CPC determinations lead to a consultation and negotiations process resulting in a range of actions and sanctions if the offenses are not addressed. Based on similar successful provisions in trade law, IRFA included a ground-breaking provision that the goal of these negotiations was to secure a "Binding Agreement" to cease the violations. In such a case, sanctions would be withheld. In a landmark first for human rights, after designating Vietnam a CPC, Ambassador John Hanford (appointed by George W. Bush as IRF Ambassador from 2002-2009) secured a Binding Agreement under IRFA with Vietnam. Reversing the violations that had led to CPC designation, Vietnam issued a decree ordering the cessation of its practice of forced renunciations of faith, released all known religious prisoners, and allowed hundreds of churches it had shut down to re-open. To date this is the only Binding Agreement secured under IRFA, but it demonstrates the IRFA policy goal of securing systemic change rather than mere punishment.

Scope and substance of the Act

As per the Act, the Congress and the President are obligated to take into account the various issues of religious freedom while developing the country's foreign policy. Under Title I of the Act, a permanent infrastructure within the State Department is created for dealing with religious issues. This is known as the Office of International Religious Freedom, headed by the Ambassador at Large for International Religious Freedom, who wields the authority to negotiate on behalf of the President with other governments, and oversees the Annual Report and the designation of Countries of Particular Concern (CPC). **Title I** also details the composition of the Annual Report on International Religious Freedom. **Title II** creates the Commission on International Religious Freedom and **Title III** a special advisor to the president on international religious freedom within the National Security Council. The crux of the Act lies in **Title IV**. Title IV details the requirement that the President annually review and determine whether any country has met the CPC threshold, based in international human rights law, of "engaging in or tolerating particularly severe violations of religious freedom". Any designation then leads to a series of negotiations and consultations resulting in a number of possible actions available to the president, in consultation of the secretary of state, the ambassador at large, the National Security Council special advisor, and the commission, design a response to those countries. In practice this authority of the President is delegated to the Secretary of State and the Ambassador.

Countries that are severe violators of religious freedom are categorized as CPC's and this subjects them to punitive actions. Under this section, the president must either enter into a binding agreement with the concerned country to end the religious persecution, or to choose from remedies outlined the Act. This section offers the president fifteen options to exercise against countries engaging in religious persecution, ranging from private negotiations to sanctions, or a "commensurate action" not listed in IRFA but which would serve the purpose of advancing religious freedom. These include

* a private or a public [demarche](https://en.wikipedia.org/wiki/Demarche);
* a private or public condemnation;
* the delay or cancellation of scientific or cultural exchanges;
* the denial, delay, or cancellation of working, official or [state visits](https://en.wikipedia.org/wiki/State_visit);
* the withdrawing, limitation, or suspension of some forms of U.S. aid;
* direction to public and private international institutions to deny assistance;
* and sanctions prohibiting the US government from entering into import or export agreements with the designated governments.

Under Title IV, the president may waive punitive measures against the concerned country if he or she determines that national security is at risk or if the proposed action would harm rather than benefit the individuals and communities the Act is designed to help. **Title V** of the act seeks to promote religious freedom abroad through the way of international media, exchanges and [foreign service](https://en.wikipedia.org/wiki/Diplomatic_service) awards for working to promote human rights. **Title VI** requires appropriate training for asylum officers (domestic), refugee officers (abroad) and judges. The final provision of the Act, **Title VII** contains miscellaneous provisions, including 701, which urges transnational corporations to adopt codes of conduct sensitive to the right to freedom of religion.

Justification and legal basis

IRFA was enacted by the US Congress on the basis of constitutional and [international law](https://en.wikipedia.org/wiki/International_law) principles. Several of the sponsors of the bill spoke of the United States as being born out of the need for religious freedom, and that this principle was codified in the [First Amendment to the United States Constitution](https://en.wikipedia.org/wiki/First_Amendment_to_the_United_States_Constitution). The First Amendment explicitly guarantees the fundamental right of religious freedom and liberty to practice any faith as according to one's choice. Their contention made, to this is that the United States has the duty to uphold this fundamental right. During a speech about the Act, on October 9, 1998, IRFA co-sponsor Senator [Joseph Lieberman](https://en.wikipedia.org/wiki/Joseph_Lieberman) (D-CT), gave the reason as to why the [founding fathers](https://en.wikipedia.org/wiki/Founding_Fathers) were drawn to America,

**because of a belief that no government has the right to tell the people how to worship and certainly not the right to discriminate against them or persecute them for the way they chose to express their faith in God.**

The principles of international law were made inherent in the act so as to clarify its commitment to promote international religious freedom. As per the Universal Declaration of Human Rights (UDHR) and the [International Covenant on Civil and Political Rights](https://en.wikipedia.org/wiki/International_Covenant_on_Civil_and_Political_Rights) (ICCPR), religious freedom is one of the most fundamental human rights outlined. This right explicitly includes the freedom to change religious faith or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance. All the members of the [United Nations](https://en.wikipedia.org/wiki/United_Nations) have adopted the Universal Declaration of Human Rights by the virtue of their [UN membership](https://en.wikipedia.org/wiki/United_Nations_member_states) and are pledged to uphold its provisions. The Article 18(1) of the International Covenant on Civil and Political Rights was ratified with reservations in April 1992, also includes a freedom of religion clause similar to that of the UDHR's. The principles in the above-mentioned international law documents, according to the Act, create a sense of responsibility in its governments to protect the freedom of religion, which the Act does by exercising the United States' ability to choose its limit in dealing with countries that violate religious freedom.

The justification for this Act lies on the guarantee of freedom of religion found in [the US Constitution](https://en.wikipedia.org/wiki/United_States_Constitution) and in principles of international law. Critics of this Act would probably contend that while the US Constitution does prohibit Federal and State governments from infringing on the religious liberties of people living within the US, it does not obligate or permit the US to use embargo or military intervention as means to uphold these rights abroad. The rejoinder would be that the US can prioritize those rights it holds most dear in its interaction with other states, and that IRFA is a means to help other nations secure freedoms to which they have already committed themselves but may not in fact uphold.