

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

APRIL 1, 1998.—Ordered to be printed

Mr. GILMAN, from the Committee on International Relations,  
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 2431]

[Including cost estimate of the Congressional Budget Office]

The Committee on International Relations, to whom was referred the bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Freedom From Religious Persecution Act of 1998”.

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—The Congress makes the following findings:

(1) Governments have a primary responsibility to promote, encourage, and protect respect for the fundamental and internationally recognized right to freedom of religion.

(2)(A) Since its inception, the United States Government has rested upon certain founding principles. One of those principles is that all people have the inalienable right to worship freely, which demands that religion be protected from unnecessary government intervention. The Founding Fathers of the United States incorporated that principle in the Declaration of Independence, which states that mankind has the inalienable right to “life, liberty, and the pursuit of happiness”, and in the United States Constitution, the first amendment to which states that “Congress shall make no law respecting an establishment of

religion, or prohibiting the free exercise thereof". Therefore, in accordance with this belief in the inalienable right of freedom of religion for all people, as expressed by the Declaration of Independence, and the belief that religion should be protected from government interference, as expressed by the United States Constitution, the Congress opposes international religious persecution and believes that the policies of the United States Government and its relations with foreign governments should be consistent with the commitment to this principle.

(B) Numerous international agreements and covenants also identify mankind's inherent right to freedom of religion. These include the following:

(i) Article 18 of the Universal Declaration of Human Rights states that "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion 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".

(ii) Article 18 of the Covenant on Civil and Political Rights declares that "Everyone shall have the right to freedom of thought, conscience, and religion . . ." and further delineates the privileges under this right.

(iii) The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief, adopted by the United Nations General Assembly on November 25, 1981, declares that "religion or belief, for anyone who professes either, is one of the fundamental elements in his conception of life . . ." and that "freedom of religion and belief should also contribute to the attainment of the goals of world peace, social justice and friendship among peoples and to the elimination of ideologies or practices of colonialism and racial discrimination".

(iv) The Concluding Document of the Third Follow-Up Meeting of the Organization for Security and Cooperation in Europe commits states to "ensure in their laws and regulations and in their application the full and effective exercise of the freedom of thought, conscience, religion or belief".

(3) Persecution of religious believers, particularly Roman Catholic and evangelical Protestant Christians, in Communist countries persists and in some cases is increasing.

(4) In many countries and regions thereof, governments dominated by extremist movements persecute non-Muslims and religious converts from Islam using means such as "blasphemy" and "apostasy" laws, and such movements seek to corrupt a historically tolerant Islamic faith and culture through the persecution of Baha'is, Christians, and other religious minorities.

(5) The extremist Government of Sudan is waging a self-described religious war against Christians, other non-Muslims, and moderate Muslims by using torture, starvation, enslavement, and murder.

(6) In Tibet, where Tibetan Buddhism is inextricably linked to the Tibetan identity, the Government of the People's Republic of China has intensified its control over the Tibetan people by interfering in the selection of the Panchen Lama, propagandizing against the religious authority of the Dalai Lama, restricting religious study and traditional religious practices, and increasing the persecution of monks and nuns.

(7) In Xinjiang Autonomous Region of China, formerly the independent republic of East Turkistan, where the Muslim religion is inextricably linked to the dominant Uyghur culture, the Government of the People's Republic of China has intensified its control over the Uyghur people by systematically repressing religious authority, restricting religious study and traditional practices, destroying mosques, and increasing the persecution of religious clergy and practitioners.

(8) In countries around the world, Christians, Jews, Muslims, Hindus, and other religious believers continue to be persecuted on account of their religious beliefs, practices, and affiliations.

(9) The 104th Congress recognized the facts set forth in this section and stated clearly the sense of the Senate and the House of Representatives regarding these matters in approving—

(A) House Resolution 515, expressing the sense of the House of Representatives with respect to the persecution of Christians worldwide;

(B) S. Con. Res. 71, expressing the sense of the Senate with respect to the persecution of Christians worldwide;

(C) H. Con. Res. 102, concerning the emancipation of the Iranian Baha'i community; and

(D) section 1303 of H.R. 1561, the Foreign Relations Authorization Act, Fiscal Years 1996 and 1997.

(10) The Department of State, in a report to Congress filed pursuant to House Report 104–863, accompanying the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208) set forth strong evidence that widespread and ongoing religious persecution is occurring in a number of countries around the world.

(b) PURPOSE.—It is the purpose of this Act to reduce and eliminate the widespread and ongoing religious persecution taking place throughout the world today.

### SEC. 3. DEFINITIONS.

As used in this Act:

(1) DIRECTOR.—The term “Director” means the Director of the Office of Religious Persecution Monitoring established under section 5.

(2) LEGISLATIVE DAY.—The term “legislative day” means a day on which both Houses of Congress are in session.

(3) PERSECUTED COMMUNITY.—The term “persecuted community” means any religious group or denomination whose members have been found to be subject to category 1 or category 2 persecution in the latest annual report submitted under section 6(a) or in any interim report submitted thereafter under section 6(c) before the next annual report.

(4) PERSECUTION FACILITATING PRODUCTS.—The term “persecution facilitating products” means those crime control, detection, torture, and electroshock instruments and equipment (as determined under section 6(n) of the Export Administration Act of 1979) that are directly and substantially used or intended for use in carrying out acts of persecution described in paragraphs (5) and (6).

(5) CATEGORY 1 PERSECUTION.—The term “category 1 persecution” means widespread and ongoing persecution of persons on account of their religious beliefs or practices, or membership in or affiliation with a religion or religious group or denomination, whether officially recognized or otherwise, when such persecution—

(A) includes abduction, enslavement, killing, imprisonment, forced mass relocation, rape, crucifixion or other forms of torture, or the systematic imposition of fines or penalties which have the purpose and effect of destroying the economic existence of persons on whom they are imposed; and

(B) is conducted with the involvement or support of government officials or agents, or pursuant to official government policy.

(6) CATEGORY 2 PERSECUTION.—The term “category 2 persecution” means widespread and ongoing persecution of persons on account of their religious beliefs or practices, or membership in or affiliation with a religion or religious group or denomination, whether officially recognized or otherwise, when such persecution—

(A) includes abduction, enslavement, killing, imprisonment, forced mass relocation, rape, crucifixion or other forms of torture, or the systematic imposition of fines or penalties which have the purpose and effect of destroying the economic existence of persons on whom they are imposed; and

(B) is not conducted with the involvement or support of government officials or agents, or pursuant to official government policy, but which the government fails to undertake serious and sustained efforts to eliminate, being able to do so.

(7) RESPONSIBLE ENTITIES.—The term “responsible entities” means the specific government units, as narrowly defined as practicable, which directly carry out the acts of persecution described in paragraphs (5) and (6).

(8) SANCTIONED COUNTRY.—The term “sanctioned country” means a country on which sanctions have been imposed under section 7.

(9) UNITED STATES ASSISTANCE.—The term “United States assistance” means—

(A) any assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of that Act, relating to the Overseas Private Investment Corporation), other than—

(i) assistance under chapter 8 of part I of that Act;

(ii) any other narcotics-related assistance under part I of that Act or under chapter 4 or 5 of part II of that Act, but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of that Act;

(iii) disaster relief assistance, including any assistance under chapter 9 of part I of that Act;

(iv) antiterrorism assistance under chapter 8 of part II of that Act;

(v) assistance which involves the provision of food (including monetization of food) or medicine;  
 (vi) assistance for refugees; and  
 (vii) humanitarian and other development assistance in support of programs of nongovernmental organizations under chapters 1 and 10 of that Act;

(B) sales, or financing on any terms, under the Arms Export Control Act, other than sales or financing provided for narcotics-related purposes following notification in accordance with the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961; and

(C) financing under the Export-Import Bank Act of 1945.

(10) UNITED STATES PERSON.—The term “United States person” means—

(A) any United States citizen or alien lawfully admitted for permanent residence into the United States; and

(B) any corporation, partnership, or other entity organized under the laws of the United States or of any State, the District of Columbia, or any territory or possession of the United States.

#### SEC. 4. APPLICATION AND SCOPE.

The responsibility of the Secretary of State under section 5(g) to determine whether category 1 or category 2 persecution exists, and to identify persons and communities that are subject to such persecution, extends to—

(1) all foreign countries in which alleged violations of religious freedom have been set forth in the latest annual report of the Department of State on human rights under sections 116(d) and 502(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)); and

(2) such other foreign countries in which, either as a result of referral by an independent human rights group or nongovernmental organization in accordance with section 5(e)(2) or otherwise, the Director has reason to believe category 1 or category 2 persecution may exist.

#### SEC. 5. OFFICE OF RELIGIOUS PERSECUTION MONITORING.

(a) ESTABLISHMENT.—There shall be established in the Department of State the Office of Religious Persecution Monitoring (hereafter in this Act referred to as the “Office”).

(b) APPOINTMENT.—The head of the Office shall be a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall receive compensation at the rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) REMOVAL.—The Director shall serve at the pleasure of the President.

(d) BARRED FROM OTHER FEDERAL POSITIONS.—No person shall serve as Director while serving in any other position in the Federal Government.

(e) RESPONSIBILITIES OF DIRECTOR.—The Director shall do the following:

(1) Consider information regarding the facts and circumstances of violations of religious freedom presented in the annual reports of the Department of State on human rights under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)).

(2) Make findings of fact on violations of religious freedom based on information—

(A) considered under paragraph (1); or

(B) presented by independent human rights groups, nongovernmental organizations, or other interested parties, at any stage of the process provided in this Act.

When appropriate, the Director may hold public hearings subject to notice at which such groups, organizations, or other interested parties can present testimony and evidence of acts of persecution occurring in countries being examined by the Office.

(3) On the basis of information and findings of fact described in paragraphs (1) and (2), make recommendations to the Secretary of State for consideration by the Secretary in making determinations of countries in which there is category 1 or category 2 persecution under subsection (g), identify the responsible entities within such countries, and prepare and submit the annual report described in section 6.

(4) Maintain the lists of persecution facilitating products, and the responsible entities within countries determined to be engaged in persecution described in paragraph (3), revising the lists in accordance with section 6(c) as additional information becomes available. These lists shall be published in the Federal Register.

(5) In consultation with the Secretary of State, make policy recommendations to the President regarding the policies of the United States Government toward governments which are determined to be engaged in religious persecution.

(6) Report directly to the President and the Secretary of State, and coordinate with the appropriate officials of the Department of State, the Department of Justice, the Department of Commerce, and the Department of the Treasury, to ensure that the provisions of this Act are fully and effectively implemented.

(f) ADMINISTRATIVE MATTERS.—

(1) PERSONNEL.—The Director may appoint such personnel as may be necessary to carry out the functions of the Office.

(2) SERVICES OF OTHER AGENCIES.—The Director may use the personnel, services, and facilities of any other department or agency, on a reimbursable basis, in carrying out the functions of the Office.

(g) RESPONSIBILITIES OF THE SECRETARY OF STATE.—The Secretary of State, in time for inclusion in the annual report described in subsections (a) and (b) of section 6, shall determine with respect to each country described in section 4 whether there is category 1 or category 2 persecution, and shall include in each such determination the communities against which such persecution is directed. Any determination in any interim report described in subsection (c) of section 6 that there is category 1 or category 2 persecution in a country shall be made by the Secretary of State.

**SEC. 6. REPORTS TO CONGRESS.**

(a) ANNUAL REPORTS.—Not later than April 30 of each year, the Director shall submit to the Committees on Foreign Relations, the Judiciary, Appropriations, and Banking, Housing, and Urban Affairs of the Senate and to the Committees on International Relations, the Judiciary, Appropriations, and Banking and Financial Services of the House of Representatives a report described in subsection (b).

(b) CONTENTS OF ANNUAL REPORT.—The annual report of the Director shall include the following:

(1) DETERMINATION OF RELIGIOUS PERSECUTION.—A copy of the determinations of the Secretary of State pursuant to subsection (g) of section 5.

(2) IDENTIFICATION OF PERSECUTION FACILITATING PRODUCTS.—With respect to each country in which the Secretary of State has determined that there is either category 1 or category 2 persecution, the Director, in consultation with the Secretary of Commerce, shall identify and list the items on the list established under section 6(n) of the Export Administration Act of 1979 that are directly and substantially used or intended for use in carrying out acts of religious persecution in such country.

(3) IDENTIFICATION OF RESPONSIBLE ENTITIES.—With respect to each country in which the Secretary of State has determined that there is category 1 persecution, the Director shall identify and list the responsible entities within that country that are engaged in such persecution. Such entities shall be defined as narrowly as possible.

(4) OTHER REPORTS.—The Director shall include the reports submitted to the Director by the Attorney General under section 9 and by the Secretary of State under section 10.

(c) INTERIM REPORTS.—The Director may submit interim reports to the Congress containing such matters as the Director considers necessary, including revisions to the lists issued under paragraphs (2) and (3) of subsection (b). The Director shall submit an interim report in the case of a determination by the Secretary of State under section 5(g), other than in an annual report of the Director, that category 1 or category 2 persecution exists, or in the case of a determination by the Secretary of State under section 11(a) that neither category 1 or category 2 persecution exists.

(d) PERSECUTION IN REGIONS OF A COUNTRY.—In determining whether category 1 or category 2 persecution exists in a country, the Secretary of State shall include such persecution that is limited to one or more regions within the country, and shall indicate such regions in the reports described in this section.

**SEC. 7. SANCTIONS.**

(a) PROHIBITION ON EXPORTS RELATING TO RELIGIOUS PERSECUTION.—

(1) ACTIONS BY RESPONSIBLE DEPARTMENTS AND AGENCIES.—With respect to any country in which—

(A) the Secretary of State finds the occurrence of category 1 persecution, the Director shall so notify the relevant United States departments and agencies, and such departments and agencies shall—

(i) prohibit all exports to the responsible entities identified in the lists issued under subsections (b)(3) and (c) of section 6; and

- (ii) prohibit the export to such country of the persecution facilitating products identified in the lists issued under subsections (b)(2) and (c) of section 6; or
- (B) the Secretary of State finds the occurrence of category 2 persecution, the Director shall so notify the relevant United States departments and agencies, and such departments and agencies shall prohibit the export to such country of the persecution facilitating products identified in the lists issued under subsections (b)(2) and (c) of section 6.
- (2) PROHIBITIONS ON U.S. PERSONS.—(A) With respect to any country in which the Secretary of State finds the occurrence of category 1 persecution, no United States person may—
- (i) export any item to the responsible entities identified in the lists issued under subsections (b)(3) and (c) of section 6; and
- (ii) export to that country any persecution facilitating products identified in the lists issued under subsections (b)(2) and (c) of section 6.
- (B) With respect to any country in which the Secretary of State finds the occurrence of category 2 persecution, no United States person may export to that country any persecution facilitating products identified in the lists issued under subsections (b)(2) and (c) of section 6.
- (3) PENALTIES.—Any person who knowingly violates the provisions of paragraph (2) shall be subject to the penalties set forth in subsections (a) and (b)(1) of section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16 (a) and (b)(1)) for violations under that Act.
- (4) EFFECTIVE DATE OF PROHIBITIONS.—The prohibitions on exports under paragraphs (1) and (2) shall take effect with respect to a country 90 days after the date on which—
- (A) the country is identified in a report of the Director under section 6 as a country in which category 1 or category 2 persecution exists,
- (B) responsible entities are identified in that country in a list issued under subsection (b)(3) or (c) of section 6, or
- (C) persecution facilitating products are identified in a list issued under subsection (b)(2) or (c) of section 6,
- as the case may be.
- (b) UNITED STATES ASSISTANCE.—
- (1) CATEGORY 1 PERSECUTION.—No United States assistance may be provided to the government of any country which the Secretary of State determines is engaged in category 1 persecution, effective 90 days after the date on which the Director submits the report in which the determination is included.
- (2) CATEGORY 2 PERSECUTION.—No United States assistance may be provided to the government of any country in which the Secretary of State determines that there is category 2 persecution, effective 1 year after the date on which the Director submits the report in which the determination is included, if the Secretary of State, in the next annual report of the Director under section 6, determines that the country is engaged in category 1 persecution or that category 2 persecution exists in that country.
- (c) MULTILATERAL ASSISTANCE.—
- (1) CATEGORY 1 PERSECUTION.—With respect to any country which the Secretary of State determines is engaged in category 1 persecution, the President shall instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and use his or her best efforts to deny, any loan or other utilization of the funds of their respective institutions to that country (other than for humanitarian assistance, or for development assistance which directly addresses basic human needs, is not administered by the government of the sanctioned country, and confers no benefit on the government of that country), effective 90 days after the Director submits the report in which the determination is included.
- (2) CATEGORY 2 PERSECUTION.—With respect to any country in which the Secretary of State determines there is category 2 persecution, the President shall instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and use his or her best efforts to deny, any loan or other utilization of the funds of their respective institutions to that country (other than for humanitarian assistance, or for development assistance which directly addresses basic human needs, is not administered by the government of the sanctioned country, and confers no benefit on the government of that country), effective 1 year after the date on which the Director submits the report in which the determination is included, if the Secretary of State, in the next annual report of the Director under section 6,

determines that the country is engaged in category 1 persecution or that category 2 persecution exists in that country.

(3) **REPORTS TO CONGRESS.**—If a country described in paragraph (1) or (2) is granted a loan or other utilization of funds notwithstanding the objection of the United States under this subsection, the Secretary of the Treasury shall report to the Congress on the efforts made to deny loans or other utilization of funds to that country, and shall include in the report specific and explicit recommendations designed to ensure that such loans or other utilization of funds are denied to that country in the future.

(4) **DEFINITION.**—As used in this subsection, the term “multilateral development bank” means any of the multilateral development banks as defined in section 1701(c)(4) of the International Financial Institutions Act (22 U.S.C. 262r(c)(4)).

(d) **DENIAL OF VISAS.**—No consular officer shall issue a visa to, and the Attorney General shall exclude from the United States, any alien who the Director determines carried out or directed the carrying out of any act of category 1 or category 2 persecution.

(e) **RELATIONSHIP TO OTHER PROVISIONS.**—The effective dates of the sanctions provided in this section are subject to sections 8 and 11.

(f) **DULY AUTHORIZED INTELLIGENCE ACTIVITIES.**—The prohibitions and restrictions of this section shall not apply to the conduct of duly authorized intelligence activities of the United States Government.

(g) **EFFECT ON EXISTING CONTRACTS.**—The imposition of sanctions under this section shall not affect any contract that is entered into by the Overseas Private Investment Corporation before the sanctions are imposed, is in force on the date on which the sanctions are imposed, and is enforceable in a court of law on such date.

(h) **EFFECT OF WAIVERS.**—Any sanction under this section shall not take effect during the period after the President has notified the Congress of a waiver of that sanction under section 8 and before the waiver has taken effect under that section.

#### **SEC. 8. WAIVER OF SANCTIONS.**

(a) **WAIVER AUTHORITY.**—Subject to subsection (b), the President may waive the imposition of any sanction against a country under section 7 for periods of not more than 12 months each, if the President, for each waiver—

(1) determines—

(A) that the national security interests of the United States justify such a waiver; or

(B) that such a waiver will substantially promote the purposes of this Act as set forth in section 2; and

(2) provides to the Committees on Foreign Relations, Finance, the Judiciary, and Appropriations of the Senate and to the Committees on International Relations, the Judiciary, and Appropriations of the House of Representatives a written notification of the President’s intention to waive any such sanction.

The notification shall contain an explanation of the reasons why the President considers the waiver to be necessary, the type and amount of goods, services, or assistance to be provided pursuant to the waiver, and the period of time during which such a waiver will be effective. When the President considers it appropriate, the explanation under the preceding sentence, or any part of the explanation, may be submitted in classified form.

(b) **ADDITIONAL INFORMATION.**—In the case of a waiver under subsection (a)(1)(B), the notification shall contain a detailed statement of the facts particular to the country subject to the waiver which justifies the President’s determination, and of the alternative measures the President intends to implement in order to achieve the objectives of this Act.

(c) **TAKING EFFECT OF WAIVER.**—

(1) **IN GENERAL.**—Subject to paragraph (2), a waiver under subsection (a) shall take effect 45 days after its submission to the Congress, or on the day after the 15th legislative day after such submission, whichever is later.

(2) **IN EMERGENCY CONDITIONS.**—The President may waive the imposition of sanctions against a country under subsection (b) or (c) of section 7 to take effect immediately if the President, in the written notification of intention to waive the sanctions, certifies that emergency conditions exist that make an immediate waiver necessary.

(d) **SENSE OF CONGRESS.**—It is the sense of Congress that in order to achieve the objectives of this Act, the waiver authority provided in this section should be used only in extraordinary circumstances.

**SEC. 9. MODIFICATION OF IMMIGRATION POLICY.**

(a) **CREDIBLE FEAR OF PERSECUTION DEFINED.**—Section 235(b)(1)(B)(v) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)(v)) (as amended by section 302 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; Public Law 104–208; 110 Stat. 3009–582) is amended by adding at the end the following:

“Any alien who can credibly claim membership in a persecuted community found to be subject to category 1 or category 2 religious persecution in the most recent annual report sent by the Director of the Office of Religious Persecution Monitoring to the Congress under section 6 of the Freedom From Religious Persecution Act of 1997 shall be considered to have a credible fear of persecution within the meaning of the preceding sentence.”

(b) **TRAINING FOR CERTAIN IMMIGRATION OFFICERS.**—Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) (as amended by section 302 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; Public Law 104–208; 110 Stat. 3009–579) is amended by adding at the end the following:

“(d) **TRAINING ON RELIGIOUS PERSECUTION.**—The Attorney General shall establish and operate a program to provide to immigration officers performing functions under subsection (b), or section 207 or 208, training on religious persecution, including training on—

- “(1) the fundamental components of the right to freedom of religion;
- “(2) the variation in beliefs of religious groups; and
- “(3) the governmental and nongovernmental methods used in violation of the right to freedom of religion.”

(c) **ASYLUM.**—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) (as amended by section 604 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; Public Law 104–208; 110 Stat. 3009–690) is amended by adding at the end the following:

“(e) **SPECIAL RULES FOR RELIGIOUS PERSECUTION CLAIMS.**—

“(1) **PROCEDURES UPON DENIAL.**—

“(A) **IN GENERAL.**—In any case in which the Service denies or refers to an immigration judge an asylum application filed by an alien described in the second sentence of section 235(b)(1)(B)(v), or any case in which an immigration judge denies such an application on the ground that the alien is not a refugee within the meaning of section 101(a)(42)(A), the Service shall provide the alien with the following:

“(i) A written statement containing the reasons for the denial, which shall be supported by references to—

“(I) the most recent annual report sent by the Director of the Office of Religious Persecution Monitoring to the Congress under section 6 of the Freedom From Religious Persecution Act of 1997; and

“(II) either—

“(aa) the most recent country report on human rights practices issued by the Secretary of State; or

“(bb) any other report issued by the Secretary of State concerning conditions in the country of which the alien is a national (or, in the case of an alien having no nationality, the country of the alien’s last habitual residence).

“(ii) A copy of any assessment sheet prepared by an asylum officer for a supervisory asylum officer with respect to the application.

“(iii) A list of any publicly available materials relied upon by an asylum officer as a basis for denying the application.

“(iv) A copy of any materials relied upon by an asylum officer as a basis for denying the application that are not available to the public, except Federal agency records that are exempt from disclosure under section 552(b) of title 5, United States Code.

“(B) **CREDIBILITY IN ISSUE.**—In any case described in subparagraph (A) in which the denial is based, in whole or in part, on credibility grounds, the Service shall also provide the alien with the following:

“(i) The statements by the applicant, or other evidence, that were found not to be credible.

“(ii) A statement certifying that the applicant was provided an opportunity to respond to the Service’s position on the credibility issue.

“(iii) A brief summary of such response, if any was made.

“(iv) An explanation of how the negative determination on the credibility issue relates to the applicant’s religious persecution claim.

“(2) **EFFECT IN SUBSEQUENT PROCEEDINGS.**—

“(A) USE AT OPTION OF APPLICANT.—Any material provided to an alien under paragraph (1) shall be considered part of the official record pertaining to the alien’s asylum application solely at the option of the alien.

“(B) NO EFFECT ON REVIEW.—The provision of any material under paragraph (1) to an alien shall not be construed to alter any standard of review otherwise applicable in any administrative or judicial adjudication concerning the alien’s asylum application.

“(3) DUTY TO SUBMIT REPORT ON RELIGIOUS PERSECUTION.—In any judicial or administrative proceeding in which the Service opposes granting asylum to an alien described in the second sentence of section 235(b)(1)(B)(v), the Service shall submit to the court or administrative adjudicator a copy of the most recent annual report submitted to the Congress by the Director of the Office of Religious Persecution Monitoring under section 6 of the Freedom From Religious Persecution Act of 1997, and any interim reports issued by such Director after such annual report.”

(d) ANNUAL REPORT.—Not later than January 1 of each year, the Attorney General shall submit to the Director an annual report that includes the following:

(1) With respect to the year that is the subject of the report, the number of applicants for asylum or refugee status whose applications were based, in whole or in part, on religious persecution.

(2) In the case of such applications, the number that were proposed to be denied, and the number that were finally denied.

(3) In the case of such applications, the number that were granted.

(4) A description of developments with respect to the adjudication of applications for asylum or refugee status filed by an alien who claims to be a member of a persecuted community that the Director found to be subject to category 1 or category 2 religious persecution in the most recent annual report submitted to the Congress under section 6.

(5) With respect to the year that is the subject of the report, a description of training on religious persecution provided under section 235(d) of the Immigration and Nationality Act (as added by subsection (b)) to immigration officers performing functions under section 235(b) of such Act, or adjudicating applications under section 207 or 208 of such Act, including a list of speakers and materials used in such training and the number of officers who received such training.

(e) ADMISSION PRIORITY.—For purposes of section 207(a)(3) of the Immigration and Nationality Act, an individual who is a member of a persecuted community that the Director found to be subject to category 1 or category 2 religious persecution in the most recent annual report submitted to the Congress under section 6, and is determined by the Attorney General to be a refugee within the meaning of section 101(a)(42)(A) of the Immigration and Nationality Act, shall be considered a refugee of special humanitarian concern to the United States. In carrying out such section, such an individual shall be given priority status at least as high as that given to any member of any other specific group of refugees of special concern to the United States.

(f) NO EFFECT ON OTHERS’ RIGHTS.—Nothing in this section, or any amendment made by this section, shall be construed to deny any applicant for asylum or refugee status (including any applicant who is not a member of a persecuted community but whose claim is based on religious persecution) any right, privilege, protection, or eligibility otherwise provided by law.

(g) NO DISPLACEMENT OF OTHER REFUGEES.—Refugees admitted to the United States as a result of the procedures set forth in this section shall not displace other refugees in need of resettlement who would otherwise have been admitted in accordance with existing law and procedures.

(h) PERIOD FOR PUBLIC COMMENT AND REVIEW.—Section 207(d) of the Immigration and Nationality Act is amended by adding at the end the following:

“(4)(A) Notwithstanding any other provision of law, prior to each annual determination regarding refugee admissions under this subsection, there shall be a period of public review and comment, particularly by appropriate nongovernmental organizations, churches, and other religious communities and organizations, and the general public.

“(B) Nothing in this paragraph may be construed to apply subchapter II of chapter 5 of title 5, United States Code, to the period of review and comment referred to in subparagraph (A).”

#### SEC. 10. STATE DEPARTMENT HUMAN RIGHTS REPORTS.

(a) ANNUAL HUMAN RIGHTS REPORT.—In preparing the annual reports of the State Department on human rights under sections 116(d) and 502B(b) of the For-

eign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)), the Secretary of State shall, in the section on religious freedom—

(1) consider the facts and circumstances of the violation of the right to freedom of religion presented by independent human rights groups and nongovernmental organizations;

(2) report on the extent of the violations of the right to freedom of religion, specifically including whether the violations arise from governmental or nongovernmental sources, and whether the violations are encouraged by the government or whether the government fails to exercise satisfactory efforts to control such violations;

(3) report on whether freedom of religion violations occur on a nationwide, regional, or local level; and

(4) identify whether the violations are focused on an entire religion or on certain denominations or sects.

(b) TRAINING.—The Secretary of State shall—

(1) institute programs to provide training for chiefs of mission as well as Department of State officials having reporting responsibilities regarding the freedom of religion, which shall include training on—

(A) the fundamental components of the right to freedom of religion, the variation in beliefs of religious groups, and the governmental and nongovernmental methods used in the violation of the right to freedom of religion; and

(B) the identification of independent human rights groups and nongovernmental organizations with expertise in the matters described in subparagraph (A); and

(2) submit to the Director, not later than January 1 of each year, a report describing all training provided to Department of State officials with respect to religious persecution during the preceding 1-year period, including a list of instructors and materials used in such training and the number and rank of individuals who received such training.

#### SEC. 11. TERMINATION OF SANCTIONS.

(a) TERMINATION.—The sanctions described in section 7 shall cease to apply with respect to a sanctioned country 45 days, or the day after the 15th legislative day, whichever is later, after the Director, in an annual report described in section 6(b), does not include a determination by the Secretary of State that the sanctioned country is among those in which category 1 or category 2 persecution continues to exist, or in an interim report under section 6(c), includes a determination by the Secretary of State that neither category 1 nor category 2 persecution exists in such country.

(b) WITHDRAWAL OF FINDING.—Any determination of the Secretary of State under section 5(g) may be withdrawn before taking effect if the Secretary makes a written determination, on the basis of a preponderance of the evidence, that the country substantially eliminated any category 1 or category 2 persecution that existed in that country. The Director shall submit to the Congress each determination under this subsection.

#### SEC. 12. SANCTIONS AGAINST SUDAN.

(a) EXTENSION OF SANCTIONS UNDER EXISTING LAW.—Any sanction imposed on Sudan because of a determination that the government of that country has provided support for acts of international terrorism, including—

(1) export controls imposed pursuant to the Export Administration Act of 1979;

(2) prohibitions on transfers of munitions under section 40 of the Arms Export Control Act;

(3) the prohibition on assistance under section 620A of the Foreign Assistance Act of 1961;

(4) section 2327(b) of title 10, United States Code;

(5) section 6 of the Bretton Woods Agreements Act Amendments, 1978 (22 U.S.C. 286e–11);

(6) section 527 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (as contained in Public Law 105–118); and

(7) section 901(j) of the Internal Revenue Code of 1986;

shall continue in effect after the enactment of this Act until the Secretary of State determines that Sudan has substantially eliminated religious persecution in that country, or the determination that the government of that country has provided support for acts of international terrorism is no longer in effect, whichever occurs later.

(b) ADDITIONAL SANCTIONS ON SUDAN.—Effective 90 days after the date of the enactment of this Act, the following sanctions (to the extent not covered under subsection (a)) shall apply with respect to Sudan:

- (1) PROHIBITION ON FINANCIAL TRANSACTIONS WITH GOVERNMENT OF SUDAN.—
- (A) OFFENSE.—Any United States person who knowingly engages in any financial transaction, including any loan or other extension of credit, directly or indirectly, with the Government of Sudan shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 10 years, or both.
- (B) DEFINITIONS.—As used in this paragraph:
- (i) FINANCIAL TRANSACTION.—The term “financial transaction” has the meaning given that term in section 1956(c)(4) of title 18, United States Code.
- (ii) UNITED STATES PERSON.—The term “United States person” means—
- (I) any United States citizen or national;
- (II) any alien lawfully admitted into the United States for permanent residence;
- (III) any juridical person organized under the laws of the United States; and
- (IV) any person in the United States.
- (2) PROHIBITION ON IMPORTS FROM SUDAN.—No article which is grown, produced, manufactured by, marketed, or otherwise exported by the Government of Sudan, may be imported into the United States.
- (3) PROHIBITIONS ON UNITED STATES EXPORTS TO SUDAN.—
- (A) PROHIBITION ON COMPUTER EXPORTS.—No computers, computer software, or goods or technology intended to manufacture or service computers may be exported to or for use of the Government of Sudan.
- (B) REGULATIONS OF THE SECRETARY OF COMMERCE.—The Secretary of Commerce may prescribe such regulations as may be necessary to carry out subparagraph (A).
- (C) PENALTIES.—Any person who violates this paragraph shall be subject to the penalties provided in section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410) for violations under that Act.
- (4) PROHIBITION ON NEW INVESTMENT IN SUDAN.—
- (A) PROHIBITION.—No United States person may, directly or through another person, make any new investment in Sudan that is not prohibited by paragraph (1).
- (B) REGULATIONS.—The Secretary of Commerce may prescribe such regulations as may be necessary to carry out subparagraph (A).
- (C) PENALTIES.—Any person who violates this paragraph shall be subject to the penalties provided in section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410) for violations under that Act.
- (5) AVIATION RIGHTS.—
- (A) AIR TRANSPORTATION RIGHTS.—The Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned or controlled, directly or indirectly, by the Government of Sudan or operating pursuant to a contract with the Government of Sudan from engaging in air transportation with respect to the United States, except that such aircraft shall be allowed to land in the event of an emergency for which the safety of an aircraft’s crew or passengers is threatened.
- (B) TAKEOFFS AND LANDINGS.—The Secretary of Transportation shall prohibit the takeoff and landing in Sudan of any aircraft by an air carrier owned, directly or indirectly, or controlled by a United States person, except that such aircraft shall be allowed to land in the event of an emergency for which the safety of an aircraft’s crew or passengers is threatened, or for humanitarian purposes.
- (C) TERMINATION OF AIR SERVICE AGREEMENTS.—To carry out subparagraphs (A) and (B), the Secretary of State shall terminate any agreement between the Government of Sudan and the Government of the United States relating to air services between their respective territories.
- (D) DEFINITIONS.—For purposes of this paragraph, the terms “aircraft”, “air transportation”, and “foreign air carrier” have the meanings given those terms in section 40102 of title 49, United States Code.
- (6) PROHIBITION ON PROMOTION OF UNITED STATES TOURISM.—None of the funds appropriated or otherwise made available by any provision of law may be available to promote United States tourism in Sudan.
- (7) GOVERNMENT OF SUDAN BANK ACCOUNTS.—
- (A) PROHIBITION.—A United States depository institution may not accept, receive, or hold a deposit account from the Government of Sudan, except

for such accounts which may be authorized by the President for diplomatic or consular purposes.

(B) ANNUAL REPORTS.—The Secretary of the Treasury shall submit annual reports to the Congress on the nature and extent of assets held in the United States by the Government of Sudan.

(C) DEFINITION.—For purposes of this paragraph, the term “depository institution” has the meaning given that term in section 19(b)(1) of the Act of December 23, 1913 (12 U.S.C. 461(b)(1)).

(8) PROHIBITION ON UNITED STATES GOVERNMENT PROCUREMENT FROM SUDAN.—

(A) PROHIBITION.—No department, agency, or any other entity of the United States Government may enter into a contract for the procurement of goods or services from parastatal organizations of Sudan, except for items necessary for diplomatic or consular purposes.

(B) DEFINITION.—As used in this paragraph, the term “parastatal organization of Sudan” means a corporation, partnership, or entity owned, controlled, or subsidized by the Government of Sudan.

(9) PROHIBITION ON UNITED STATES APPROPRIATIONS FOR USE AS INVESTMENTS IN OR TRADE SUBSIDIES FOR SUDAN.—None of the funds appropriated or otherwise made available by any provision of law may be available for any new investment in, or any subsidy for trade with, Sudan, including funding for trade missions in Sudan and for participation in exhibitions and trade fairs in Sudan.

(10) PROHIBITION ON COOPERATION WITH ARMED FORCES OF SUDAN.—No agency or entity of the United States may engage in any form of cooperation, direct or indirect, with the armed forces of Sudan, except for activities which are reasonably necessary to facilitate the collection of necessary intelligence. Each such activity shall be considered as significant anticipated intelligence activity for purposes of section 501 of the National Security Act of 1947 (50 U.S.C. 413).

(11) PROHIBITION ON COOPERATION WITH INTELLIGENCE SERVICES OF SUDAN.—

(A) SANCTION.—No agency or entity of the United States involved in intelligence activities may engage in any form of cooperation, direct or indirect, with the Government of Sudan, except for activities which are reasonably designed to facilitate the collection of necessary intelligence.

(B) POLICY.—It is the policy of the United States that no agency or entity of the United States involved in intelligence activities may provide any intelligence information to the Government of Sudan which pertains to any internal group within Sudan. Any change in such policy or any provision of intelligence information contrary to this policy shall be considered a significant anticipated intelligence activity for purposes of section 501 of the National Security Act of 1947 (50 U.S.C. 413).

The sanctions described in this subsection shall apply until the Secretary of State determines that Sudan has substantially eliminated religious persecution in that country.

(c) MULTILATERAL EFFORTS TO END RELIGIOUS PERSECUTION IN SUDAN.—

(1) EFFORTS TO OBTAIN MULTILATERAL MEASURES AGAINST SUDAN.—It is the policy of the United States to seek an international agreement with the other industrialized democracies to bring about an end to religious persecution by the Government of Sudan. The net economic effect of such international agreement should be measurably greater than the net economic effect of the other measures imposed by this section.

(2) COMMENCEMENT OF NEGOTIATIONS TO INITIATE MULTILATERAL SANCTIONS AGAINST SUDAN.—It is the sense of the Congress that the President or, at his direction, the Secretary of State should convene an international conference of the industrialized democracies in order to reach an international agreement to bring about an end to religious persecution in Sudan. The international conference should begin promptly and should be concluded not later than 180 days after the date of the enactment of this Act.

(3) PRESIDENTIAL REPORT.—Not less than 210 days after the date of the enactment of this Act, the President shall submit to the Congress a report containing—

(A) a description of efforts by the United States to negotiate multilateral measures to bring about an end to religious persecution in Sudan; and

(B) a detailed description of economic and other measures adopted by the other industrialized countries to bring about an end to religious persecution in Sudan, including an assessment of the stringency with which such measures are enforced by those countries.

(4) CONFORMITY OF UNITED STATES MEASURES TO INTERNATIONAL AGREEMENT.—If the President successfully concludes an international agreement de-

scribed in paragraph (2), the President may, after such agreement enters into force with respect to the United States, adjust, modify, or otherwise amend the measures imposed under any provision of this section to conform with such agreement.

(5) PROCEDURES FOR AGREEMENT TO ENTER INTO FORCE.—Each agreement submitted to the Congress under this subsection shall enter into force with respect to the United States if—

(A) the President, not less than 30 days before the day on which the President enters into such agreement, notifies the House of Representatives and the Senate of the President's intention to enter into such an agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) after entering into the agreement, the President transmits to the House of Representatives and to the Senate a document containing a copy of the final text of such agreement, together with—

(i) a description of any administrative action proposed to implement such agreement and an explanation as to how the proposed administrative action would change or affect existing law; and

(ii) a statement of the President's reasons regarding—

(I) how the agreement serves the interest of United States foreign policy; and

(II) why the proposed administrative action is required or appropriate to carry out the agreement; and

(C) a joint resolution approving such agreement has been enacted, in accordance with section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473 (98 Stat. 1936)), within 30 days of transmittal of such document to the Congress.

For purposes of applying such section 8066(c), any reference in such section to "joint resolution", "resolution", or "resolution described in paragraph (1)" shall be deemed to refer to a joint resolution described in subparagraph (C) of this paragraph.

(6) UNITED NATIONS SECURITY COUNCIL IMPOSITION OF SAME MEASURES AGAINST SUDAN.—It is the sense of the Congress that the President should instruct the Permanent Representative of the United States to the United Nations to propose that the United Nations Security Council, pursuant to Article 41 of the United Nations Charter, impose measures against Sudan of the same type as are imposed by this section.

(d) ADDITIONAL MEASURES AND REPORTS; RECOMMENDATIONS OF THE PRESIDENT.—

(1) UNITED STATES POLICY TO END RELIGIOUS PERSECUTION.—It shall be the policy of the United States to impose additional measures against the Government of Sudan if its policy of religious persecution has not ended on or before December 25, 1998.

(2) REPORT TO CONGRESS.—The Director shall prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on or before February 1, 1999, and every 12 months thereafter, a report containing a determination by the Secretary of State of whether the policy of religious persecution by the Government of Sudan has ended.

(3) RECOMMENDATION FOR IMPOSITION OF ADDITIONAL MEASURES.—If the Secretary of State determines that the policy of religious persecution by the Government of Sudan has not ended, the President shall prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on or before March 1, 1999, and every 12 months thereafter, a report setting forth such recommendations for such additional measures and actions against the Government of Sudan as will end that government's policy of religious persecution.

(e) DEFINITIONS.—As used in this section:

(1) GOVERNMENT OF SUDAN.—The term "Government of Sudan" includes any agency or instrumentality of the Government of Sudan.

(2) NEW INVESTMENT IN SUDAN.—The term "new investment in Sudan"—

(A) means—

(i) a commitment or contribution of funds or other assets, or

(ii) a loan or other extension of credit,

that is made on or after the effective date of this subsection; and

(B) does not include—

(i) the reinvestment of profits generated by a controlled Sudanese entity into that same controlled Sudanese entity, or the investment of such profits in a Sudanese entity;

(ii) contributions of money or other assets where such contributions are necessary to enable a controlled Sudanese entity to operate in an economically sound manner, without expanding its operations; or

(iii) the ownership or control of a share or interest in a Sudanese entity or a controlled Sudanese entity or a debt or equity security issued by the Government of Sudan or a Sudanese entity before the date of the enactment of this Act, or the transfer or acquisition of such a share or interest, or debt or equity security, if any such transfer or acquisition does not result in a payment, contribution of funds or assets, or credit to a Sudanese entity, a controlled Sudanese entity, or the Government of Sudan.

(3) CONTROLLED SUDANESE ENTITY.—The term “controlled Sudanese entity” means—

(A) a corporation, partnership, or other business association or entity organized in Sudan and owned or controlled, directly or indirectly, by a United States person; or

(B) a branch, office, agency, or sole proprietorship in Sudan of a United States person.

(4) SUDANESE ENTITY.—The term “Sudanese entity” means—

(A) a corporation, partnership, or other business association or entity organized in Sudan; or

(B) a branch, office, agency, or sole proprietorship in Sudan of a person that resides or is organized outside Sudan.

(5) SUDAN.—The term “Sudan” means any area controlled by the Government of Sudan or by any entity allied with the Government of Sudan, and does not include any area in which effective control is exercised by an entity engaged in active resistance to the Government of Sudan.

(f) WAIVER AUTHORITY.—The President may waive the imposition of any sanction against Sudan under paragraph (3) or (9) of subsection (b) of this section for periods of not more than 12 months each, if the President, for each waiver—

(1) determines that the national security interests of the United States justify such a waiver; and

(2) provides to the Committees on Foreign Relations, Finance, the Judiciary, and Appropriations of the Senate and to the Committees on International Relations, Ways and Means, the Judiciary, and Appropriations of the House of Representatives a written notification of the President’s intention to waive any such sanction.

The notification shall contain an explanation of the reasons why the President considers the waiver to be necessary, the type and amount of goods, services, or assistance to be provided pursuant to the waiver, and the period of time during which such a waiver will be effective. When the President considers it appropriate, the explanation under the preceding sentence, or any part of the explanation, may be submitted in classified form.

(g) DULY AUTHORIZED INTELLIGENCE ACTIVITIES.—The prohibitions and restrictions contained in paragraphs (1), (2), (3), (4), and (8) of subsection (b) shall not apply to the conduct of duly authorized intelligence activities of the United States Government.

#### SEC. 13. EXCEPTION FOR IMPORTATION OF CERTAIN AGRICULTURAL PRODUCTS.

Notwithstanding any other provision of law, none of the provisions of this Act shall restrict the importation of gum Arabic from Sudan during a calendar year if, during the preceding calendar year, a supply of that commodity in unprocessed form of equal quality to that cultivated in Sudan and not attributable to Sudan is not available in sufficient supply to meet the needs of United States consumers, processors, and manufacturers.

#### SEC. 14. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsections (b) and (c), this Act and the amendments made by this Act shall take effect 120 days after the date of the enactment of this Act.

(b) APPOINTMENT OF DIRECTOR.—The Director shall be appointed not later than 60 days after the date of the enactment of this Act.

(c) REGULATIONS.—Each Federal department or agency responsible for carrying out any of the sanctions under section 7 shall issue all necessary regulations to carry out such sanctions within 120 days after the date of the enactment of this Act.

## BACKGROUND AND PURPOSE

H.R. 2431, the Freedom From Religious Persecution Act, is intended to reduce and eliminate the widespread and ongoing religious persecution taking place throughout the world today. It seeks to achieve this objective by increasing the priority attached in U.S. foreign policy to the problem of religious persecution; by threatening to impose sanctions on foreign governments that carry out or condone serious religious persecution; and by seeking to increase the protections available to victims of religious persecution.

Because of the exceptionally serious religious persecution being carried out by the government of Sudan, H.R. 2431 requires the imposition of specified sanctions on that country. With respect to other countries where religious persecution is a problem, H.R. 2431 establishes a process for identifying those countries in which there is widespread and ongoing religious persecution of a serious nature. Countries so identified are required to be sanctioned, subject to the President's authority to waive the imposition of sanctions.

The Committee believes that the threat of sanctions will encourage countries where persecution is a problem to bring their performance into conformity with international human rights standards.

Following two days of Committee hearings on the legislation in September of 1997, it became apparent that a number of Committee Members had reservations about the bill as originally introduced. In an effort to address these reservations, the Committee worked for over six months to revise the legislation in ways that would accommodate Member concerns without weakening the fundamental purpose and structure of the bill. The large margin of approval within the Committee for H.R. 2431 demonstrates that these efforts were largely successful.

## COMMITTEE ACTION

H.R. 2431, The Freedom From Religious Persecution Act of 1998, was introduced by Rep. Wolf on September 8, 1997, and referred to the Committee on International Relations, and in addition, to the Committees on Ways and Means, the Judiciary, Banking, and Rules, for a period to be subsequently determined by the Speaker. The Subcommittee on Immigration and Claims (of the Judiciary Committee) held a hearing on March 24, 1998.

During the 104th Congress, the Subcommittee on International Operations and Human Rights of the Committee on International Relations held two hearings on matters related to religious persecution. On February 15, 1996, the Subcommittee held a hearing on Persecution of Christians Worldwide. Witnesses included: Nina Shea, Director, The Puebla Program on Religious Freedom, Freedom House; Joseph M.C. Kung, President, The Cardinal Kung Foundation; Rev. Tran Qui Thien, Catholic Priest; Tom White, USA Director, The Voice of the Martyrs, Inc.; David F. Forte, Professor of Law, Cleveland State University—Marshall College of Law; Rev. Canon Patrick P. Augustine, Associate Rector, Church of the Holy Comforter; Pedro C. Moreno, International Coordinator, The Rutherford Institute; Abe Ghaffari, President, Iranian Christians International; Dr. Richard Land, President, Christian Life Commission

of the Southern Baptist Convention; Dr. Morton Winston, Chair, Board of Directors, Amnesty International USA; Rev. Dr. Albert Pennybacker, Associate General Secretary, National Council of Churches of the Churches of Christ in the USA; and Martin J. Dannenfelser, Jr., Assistant to the President for Government Relations, Family Research Council.

On February 27, 1996, the Subcommittee on International Operations and Human Rights held a hearing on Worldwide Persecution of Jews. Witnesses included: Dr. Peter Stavrakis, Deputy Director, The Kennan Institute for Advanced Russian Studies; Paul A. Goble, Senior Fellow, The Potomac Foundation; Alla Gerber, formerly a member of the Duma; Sergei Sirotkin, Deputy Chairman of the Commission on Human Rights Under the President of the Russian Federation; Dr. Gilbert N. Kahn, Professor of Political Science, Kean College of New Jersey; Dr. Leonid Stonov, Director of the Union of Councils' International Human Rights Bureaus in the Former Soviet Union; Raisa Kagan (pseudonym), Victim of Anti-Semitism in Uzbekistan; Tatyana Polanskaya (pseudonym), recently emigrated from the Former Soviet Union; and Shahin Abkazian (pseudonym), Iranian refugee—testimony read by Norman D. Tiles, President, Hebrew Immigrant Aid Society.

On September 9, 1997, the Full Committee on International Relations held a hearing on H.R. 2431. Witnesses for the hearing included: Hon. Frank Wolf, Member of Congress; Hon. Ted Strickland, Member of Congress; Hon. Arlen Specter, United States Senate; and Hon. John Shattuck, Assistant Secretary of State, Bureau of Democracy, Human Rights and Labor.

On September 10, 1997, the Full Committee continued hearings on H.R. 2431. Witnesses included: Atilio Okot John and Tsultrim Dolma, victims of religious persecution; Dr. Richard D. Land, President, Ethics and Religious Liberty Commission, Southern Baptist Convention; Rev. Richard John Neuhaus, Director, Institute on Religion and Public Life; Dr. Donald Argue, President, National Association of Evangelicals; Rev. Drew Christianson, S.J., Director, Office of International Justice and Peace, United States Catholic Conference; William J. Bennett, Co-Director, Empower America; Donald Hodel, President, Christian Coalition; Lodi G. Gyari, President International Campaign for Tibet; Jerry Goodman, Executive Director, National Committee for Labor Israel; Stephen Rickard, Director, Washington Office, Amnesty International USA, Law and Liberty Trust; and Lauren Homer, President, Law and Liberty Trust.

On September 18, 1997, the Subcommittee on International Operations and Human Rights held a markup on H.R. 2431.

#### AMENDMENTS

A substitute amendment was offered by Mr. Smith. Mr. Smith asked unanimous consent to make a clarification in the substitute amendment regarding the definition of humanitarian assistance to include certain development assistance. There was no objection to the unanimous consent request, and the substitute amendment, as amended, passed by a voice vote.

A motion to report the bill, as amended, passed by voice vote.

The Full Committee marked up the bill in open session, pursuant to notice, on March 25, 1998. During the debate, two Administra-

tion officials, Amb. Stuart Eizenstat, Under Secretary of State for Economic, Business and Agriculture, and Barbara Larkin, Assistant Secretary of State for Legislative Affairs, responded to questions from Members.

The Full Committee considered the bill as original text for the purpose of amendment. The Full Committee considered an amendment in the nature of a substitute offered by Mr. Gilman. Mr. Brady offered a substitute to the Gilman amendment in the nature of a substitute. Mr. Gilman withdrew his amendment, and the Brady amendment fell. Mr. Gilman then offered a revised amendment in the nature of a substitute. The following amendments were offered to the revised Gilman amendment in the nature of a substitute:

(1) Brady amendment in the nature of a substitute (same amendment as was previously offered by Mr. Brady). Mr. Brady then withdrew the amendment.

(2) Smith amendment that removed certain references to specific countries and provided for the Secretary of State to make certain determinations under the Act rather than the Director of the Office of Religious Persecution Monitoring. The amendment was agreed to by voice vote.

(3) Menendez amendment which, under certain circumstances, exempts gum Arabic from the Act's prohibition on imports from Sudan. The amendment was agreed to by a roll call vote of 20-11 (see below).

(4) Manzullo amendment which exempted the Overseas Private Investment Corporation, the Trade and Development Agency, and the Export-Import Bank from the Act's foreign assistance cut-off sanction. Mr. Manzullo withdrew the amendment after objections were heard that the amendment was not under the jurisdiction of the Committee on International Relations.

(5) Bereuter amendment that revised provisions regarding visa denial and refugee and asylum matters. The Chair ruled in favor of a point of order that the amendment went beyond the jurisdiction of the Committee on International Relations.

(6) Campbell amendment to delete the section relating to sanctions against Sudan. The Chair ruled in favor of a point of order that the amendment went beyond the jurisdiction of the Committee on International Relations.

The Full Committee adopted the Gilman amendment in the nature of a substitute, as amended by the Smith and Menendez amendments. After concluding consideration of the bill, with a quorum being present, the Committee considered the Smith motion to order the bill favorably reported to the House, and agreed to the motion by a vote of 31 yeas to 5 nays, with one Member abstaining.

The Chairman, by Unanimous Consent, was granted permission to make motions under Rule XX relative to this bill or a counterpart bill from the Senate. The Chief of Staff, by unanimous consent, was given permission to make technical, conforming and grammatical changes.

## ROLLCALL VOTES

Clause (2)(1)(2)(B) of rule XI of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. The votes on the Menendez amendment to the Gilman substitute amendment to H.R. 2431, and the vote on the motion to favorably report the bill, are set out below.

DESCRIPTION OF AMENDMENT, MOTION, ORDER, OR OTHER  
PROPOSITION (VOTES DURING MARKUP OF H.R. 2431—MARCH 25, 1998)

Vote No. 1.—Menendez amendment making an exception to restrictions on the importation of certain agricultural products by allowing the importation of gum Arabic from Sudan.

Voting yes: Ballenger, Manzullo, Chabot, McHugh, Hamilton, Gejdenson, Berman, Ackerman, Faleomavaega, Martinez, Andrews, Menendez, Brown, Danner, Hilliard, Sherman, Wexler, Clement, Luther, and Davis.

Voting no: Gilman, Bereuter, Smith, Rohrabacher, Sanford, Salmon, Campbell, Graham, Blunt, Brady, and Lantos.

Ayes, 20. Noes, 11.

Vote No. 2.—On motion to favorably report H.R. 2431, as amended.

Voting yes: Gilman, Goodling, Hyde, Smith, Burton, Gallegly, Ros-Lehtinen, Ballenger, Rohrabacher, Manzullo, Kim, Chabot, Sanford, Fox, Graham, Blunt, Brady, Gejdenson, Lantos, Berman, Ackerman, Faleomavaega, Andrews, Menendez, Brown, McKinney, Sherman, Wexler, Clement, Luther, and Davis.

Voting no: Salmon, Campbell, Hamilton, Hastings, and Hilliard.

Abstaining: Bereuter.

Ayes, 31. Noes, 5. Abstaining, 1.

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

The Committee adopts the cost estimate of the Congressional Budget Office, set out below, as its submission of any required information on new budget authority, new spending authority, new credit authority, or an increase or decrease in the national debt required by clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives.

## FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## CONSTITUTIONAL AUTHORITY STATEMENT

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee cites the following specific powers granted to the Congress in the Constitution as authority for enactment of H.R. 2431 as reported by the Committee: Article I, section 8, clause 3 (relating to the regulation of commerce with foreign nations and among the several states); and Article I, section 8, clause 18 (relating to making all laws necessary and proper for carrying into execution powers vested by the Constitution in the government of the United States).

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth with respect to H.R. 2431 as reported by the Committee the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, April 1, 1998.*

Hon. BENJAMIN A. GILMAN,  
*Chairman, Committee on International Relations,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2431, the Freedom From Religious Persecution Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Joseph C. Whitehill.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

*H.R. 2431—Freedom From Religious Persecution Act of 1998*

Summary: H.R. 2431 would create an Office of Religious Persecution to monitor and to report on violations of religious freedom

throughout the world. The bill would impose restriction on trade or aid, deny visas, and levy sanctions on countries that are found to support or tolerate religious persecution. In particular, the bill would impose additional sanctions on Sudan. Finally, the bill would make certain changes to policies governing the admission of refugees and those seeking asylum into the United States.

CBO estimates that enacting the bill would increase discretionary spending, assuming the appropriation of the necessary funds. Based on information from the Department of State, CBO estimates that the Office of Religious Persecution would cost about \$600,000 a year.

H.R. 2341 would affect direct spending, and thus pay-as-you-go procedures would apply. The bill would impose additional costs on the Immigration and Naturalization Service (INS) by requiring it to increase documentation for certain cases in which it denies applications for asylum. CBO has not yet completed its estimate of such costs, but we believe that they could total a few million dollars a year. We expect that these costs would be paid from the Immigration Examination Fee Account and, therefore, that they would be direct spending. In addition, the changes in policies governing asylees and refugees could affect direct spending in certain benefit programs, but CBO does not expect that such costs would be significant.

H.R. 2431 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA), and would not have a significant impact on the budgets of state, local, or tribal governments. The bill would impose new private-sector mandates, as defined by UMRA, but CBO cannot determine whether the total costs of mandates resulting from sanctions against countries that engage in religious persecution would exceed the statutory threshold set by UMRA (\$100 million in 1996, adjusted annually for inflation) in any one year.

*Basis of Estimate:* The estimate assumes enactment of H.R. 2431 and subsequent appropriation of the estimated authorizations by September 30, 1998. The costs of this legislation fall within budget function 150 (international affairs) and budget function 750 (administration of justice).

*Spending Subject to Appropriations.* The bill would require the creation of an Office of Religious Persecution within the Department of State. Based on information provided by the department, CBO estimates that operating the office would require about five personnel, including the director, and would cost \$600,000 per year.

CBO estimates that the restrictions on foreign assistance required by the bill would not have a significant budgetary impact. The United States provides little assistance to the governments of countries suspected of supporting or tolerating religious persecution. In addition, the bill provides for many exemptions and waivers.

*Direct Spending.* H.R. 2431 would require the INS to increase documentation for certain cases in which it denies applications for asylum. Enacting the bill would increase spending by the INS, but CBO cannot assign a specific annual cost at this time. Based on preliminary information from the General Accounting Office and

the INS, we estimate that the resultant costs would probably be a few million dollars a year. We anticipate that the additional outlays would come from an account funded by users fees charged by the agency and would be classified as direct spending.

H.R. 2431 would also make certain changes to policies governing the admission of refugees and asylees into the United States. These changes could potentially affect direct spending for certain benefit programs (notably Supplemental Security Income, Food Stamps, and Medicaid) because many such individuals collect benefits under those programs, but CBO does not expect that those costs would be significant.

Under current law, applicant who can demonstrate a well-founded fear of persecution on account of religion (or race, nationality, membership in a particular social group, or political opinion) already qualify for asylee or refugee status. The Department of State, which monitors the human rights situation around the world, has developed profiles of the varieties of religious persecution prevalent in various countries, and those profiles are used by the Department of Justice in adjudicating claims of asylum. Applicants for refugee or asylee status from countries such as Sudan and Iraq already have a very high probability of being granted admission into the United States. H.R. 2431 would continue to require that applicants establish a well-founded fear of persecution, and would not grant automatic admission to anyone who merely asserts such claim on the basis of religion.

The bill would, however, exempt certain people who claim religious persecution from the expedited removal procedures that now apply to other aliens who arrive without proper documents, and would make it more arduous for the government to document its denial of such claims during subsequent adjudications. It would also provide for a period of public review and comment on the proposed ceiling for the next year's refugee admissions, a ceiling that is now set by the President after consultation with key Congressional committees. Those procedural changes raise the possibility that the bill would lead the government to admit more refugees or grant more claims for asylum. But after consulting with the Department of Justice and the Department of State, CBO concludes that the number of additional people granted refugee or asylee status is likely to be quite small.

Pay-as-you-go considerations: Because the bill would result in additional direct spending by the INS, pay-as-you-go procedures would apply. CBO has not yet completed its estimate of these costs, but we expect that they would amount to a few million dollars a year.

Estimated impact on State, local, and tribal governments: H.R. 2431 contains no intergovernmental mandates as defined in UMRA, and would not have a significant impact on the budgets of state, local, or tribal governments.

Estimated impact on the private sector: H.R. 2431 would impose new private-sector mandates, as defined by UMRA, on U.S. exporters who sell to countries identified as engaging in religious persecution. In addition, the bill would extend mandates that currently prohibit nearly all economic relations with the country of Sudan. Because the precise prohibitions against exports relating to reli-

gious persecution would be determined at a later date, CBO cannot estimate whether the direct costs of mandates in the bill would exceed the statutory threshold established in UMRA.

Section 7 would prohibit all exports to identified responsible entities within a country that has been determined to carry out religious persecution or exports of products that facilitate persecution, depending on the specific findings of the Secretary of State. Because we have no basis for predicting what the secretary's findings would be, CBO cannot estimate the direct costs to the private-sector of these provisions.

Section 12 would extend current sanctions against Sudan. Because existing sanctions ban virtually all economic relations with Sudan, CBO estimates that the provisions of this section would not impose significant additional costs on private-sector entities.

Estimate prepared by: Impact on Federal Register Budget: Joseph Whitehill prepared the estimate of costs to the State Department; Kathy Ruffing prepared the estimate of the impacts on entitlement programs; and Mark Grabowicz prepared the estimate of costs to the Department of Justice. Impact on State, Local, and Tribal Governments: Pepper Santalucia. Impact on the Private sector: Elliot Schwartz.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### JURISDICTIONAL ISSUES AND OTHER MATTERS

The following material is included for the interest of Members:

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC, March 20, 1998.*

Re immigration provisions of Religious Persecution Act.

Hon. BENNJAMIN A. GILMAN,  
*Chairman, Committee on International Relations, House of Representatives, Rayburn House Office Building, Washington, DC*

DEAR CHAIRMAN GILMAN: We are writing to request that the Committee on International Relations adopt the enclosed amendment during its upcoming markup of H.R. 2431, the "Freedom from Religious Persecution Act of 1997." The amendment relates to immigration provisions of the bill. The Committee on the Judiciary, as you know, has joint jurisdiction with the Committee on International Relations over section 7(d), and sole jurisdiction over section 9.

In order to obviate the necessity of a markup of H.R. 2431 by the Committee on the Judiciary, we hope your committee will follow recommendations relating to Section 7(d) and Section 9 of the bill. Such action will enable us to waive our referral on the bill.

The requested amendments, a copy of which is attached,<sup>1</sup> is based on concerns explained in an attached memorandum by Chairman Smith. Descriptively, our proposal is as follows:

<sup>1</sup>The attached amendments is based on the version of H.R. 2431 reported by the International Relations Committee's Subcommittee on International Operations and Human Rights. If a different version of the bill is taken up by the International Relations Committee, the Judiciary

1. Section 7(d) of the bill would be struck and replaced by a new Section 9(a), adding to the Immigration and Nationality Act a new provision making inadmissible any alien who has carried out or directed the carrying out of religious persecution as defined in the Religious Persecution Act.

2. The present Section 9(a), regarding the "credible fear" standard for asylum claims, and Section 9(c), regarding special asylum rules for designated religious persecution claims, would be struck.

3. Retain unchanged Section 9(b), regarding training requirements for immigration officers; Section 9(d), regarding annual reports submitted by the Attorney General; Sections 9(e), (f), and (g), regarding special refugee admissions for members of designated religious groups; and Section 9(h), regarding public comment and review on refugee admissions.

If the amendment we propose is adopted and no additional immigration related provisions are added to the bill, the Judiciary Committee will waive its jurisdiction over H.R. 2431. Otherwise, we anticipate proceeding through regular order, which would necessitate our marking up the bill, thereby making all of the bill's immigration related provisions open to amendment.

Your consideration of this request is greatly appreciated.

Sincerely,

HENRY J. HYDE,

*Chairman.*

LAMAR SMITH,

*Chairman, Subcommittee on  
Immigration and Claims.*

Attachments: Amendment to H.R. 2431.

In section 7, strike subsection (d) (and redesignate provisions accordingly).

In section 9, strike subsection (a) and insert the following:

(a) CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.—Section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)) is amended by adding at the end the following:

"(F) PARTICIPANTS IN RELIGIOUS PERSECUTION.—Any alien who carried out or directed the carrying out of category 1 persecution (as defined in section 3 of the Freedom from Religious Persecution Act of 1997) or category 2 persecution (as so defined) is inadmissible."

In section 9, strike subsection (c) (and redesignate provisions accordingly).

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INTERNATIONAL RELATIONS,  
*Washington, DC, March 31, 1998.*

Hon. HENRY HYDE,  
*Chairman, Committee on the Judiciary, House of Representatives,  
Rayburn House Office Building, Washington, DC.*

DEAR HENRY: Thank you for your letter of March 20th, proposing an amendment to H.R. 2431, the "Freedom From Religious Perse-

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Committee's requested amendment might have to be modified so that the same end result is achieved.

cution Act of 1998,” that would address the concerns of the Judiciary Committee with respect to provisions of the bill within your jurisdiction.

During our Committee mark-up of H.R. 2431 on March 25th, Congressman Bereuter offered you proposed language as an amendment. A point of order was made to Mr. Bereuter’s amendment, and in accordance with advice provided to me by the Office of the Parliamentarian, I sustained the point of order.

Because we were unable to incorporate your proposal at our mark-up, I anticipate that your Committee will want to consider the provisions of H.R. 2431 within your jurisdiction on sequential referral.

I appreciate the efforts made by you and Subcommittee Chairman Lamar Smith to resolve the concerns of the judiciary Committee by means short of sequential referral, and I am confident that the measure will receive appropriate consideration by your Committee under regular order.

With warmest regards,  
Sincerely,

BENJAMIN A. GILMAN, *Chairman.*

#### SECTION-BY SECTION ANALYSIS

##### SECTION 1. SHORT TITLE

Provides that the Act may be cited as the “Freedom from Religious Persecution Act of 1998”.

##### SECTION 2. FINDINGS AND PURPOSE

Sets forth relevant findings, including that persecution of religious believers is a serious problem in many countries around the world; that the 104th Congress adopted a number of measures calling attention to and condemning such persecution; and that such persecution was reviewed in detail in a State Department report to Congress. Recites provisions of the Declaration of Independence, Constitution, and various international legal instruments that establish freedom of religion as a fundamental right. Declares that the purpose of the Act is to reduce and eliminate the widespread and ongoing religious persecution taking place throughout the world today.

##### SECTION 3. DEFINITIONS

Defines terms used in the Act, including “persecution facilitating products,” “responsible entities,” and “United States assistance.”

“Category 1 persecution” is defined as widespread and ongoing persecution of persons because of their religious beliefs or practices or membership in or affiliation with a religion or religious denomination, officially recognized or otherwise, when such persecution (1) includes abduction, enslavement, killing, imprisonment, forced mass relocation, rape, crucifixion or other forms of torture, or the systematic imposition of fines or penalties that have the purpose and effect of destroying the economic existence of persons on whom they are imposed, and (2) is conducted with the involvement or support of government officials or its agents or as part of official government policy.

“Category 2 persecution” has the same elements as category 1 persecution, except it is not conducted with the involvement or support of government officials or agents, or pursuant to official government policy, in circumstances where the government, being able to undertake serious and sustained efforts to eliminate the persecution, fails to do so.

By incorporating a requirement of abduction, enslavement, killing, or similar gross violations of human rights, the definitions of category 1 and category 2 persecution set a much higher threshold for a finding of religious persecution than ordinarily is the case under international law. This higher standard is adopted for purposes of this Act only, and does not imply any retreat from or lack of support for the generally-applicable definition of religious freedom set forth in article 18 of the Universal Declaration of Human Rights, article 18 of the International Covenant on Civil and Political Rights, and similar international legal instruments.

#### SECTION 4. APPLICATION AND SCOPE

The Secretary of State is required to make a determination at least annually whether or not category 1 or category 2 persecution exists in each foreign country that is either (1) a foreign country in which alleged violations of religious freedom have been described in the latest annual human rights report of the Department of State, or (2) a foreign country in which the Director of the Office of Religious Persecution Monitoring has reason to believe that category 1 or category 2 persecution may exist as a result of a referral by an independent human rights group or nongovernmental organization or otherwise.

#### SECTION 5. OFFICE OF RELIGIOUS PERSECUTION MONITORING

Establishes within the Department of State the Office of Religious Persecution Monitoring, to be headed by a Director appointed by the President with the advice and consent of the Senate. The Director should be an individual with recognized knowledge and expertise in matters relating to religious persecution. The Director is barred from holding any other federal position, and has the following responsibilities:

Consider information regarding violations of religious freedom presented in the State Department’s annual human rights reports;

Make findings of facts on violations of religious freedom based on information presented by the State Department, independent human rights groups, non-governmental organizations, and other interested parties (which may include foreign governments subject to review under the Act and persecuted communities abroad);

Make recommendations to the Secretary of State for consideration by the Secretary in making determinations regarding whether there is category 1 or category 2 persecution in countries subject to review under the Act;

Maintain the list of persecution-facilitating products and the responsible entities within countries determined to be engaged in religious persecution and revise the lists as information becomes available;

In consultation with the Secretary of State, make policy recommendations to the President regarding the policies of the U.S. government towards governments determined to be engaged in the violation of the right to freedom of religion;

Coordinate with the Secretary of State, the Attorney General, the Secretary of Commerce and the Secretary of the Treasury to ensure the provisions of the Act are fully implemented.

The Secretary of State is responsible for making determinations about whether there is category 1 or category 2 persecution in particular countries, which determinations are to be included in annual and appropriate interim reports submitted pursuant to section 6.

#### SECTION 6. REPORTS TO CONGRESS

Not later than April 30 of each year, the Director is required to submit to Congress a report containing the determinations of the Secretary of State regarding whether there is category 1 or category 2 persecution occurring in foreign countries subject to review under the Act.

In each country determined by the Secretary of State to have category 1 or category 2 persecution, the Director is required, in consultation with the Secretary of Commerce, to identify the goods on the Commerce Department's crime control list established under section 6(n) of the Export Administration Act of 1979 that are directly and substantially used or intended for use in carrying out of acts of religious persecution in that country. The Director may not identify as a "persecution facilitating product" any item that does not appear on the Commerce Department's crime control list.

In countries determined by the Secretary of State to have category 1 persecution, the Director is required to identify which the responsible entities within the foreign government that are engaged in religious persecution. Such entities are to be identified as narrowly as possible.

The Director may submit interim reports to Congress that may, among other things, transmit determinations by the Secretary of State about whether there is category 1 or category 2 persecution in a country, or revise the lists of responsible entities or persecution facilitating products for a country.

#### SECTION 7. SANCTIONS

For all countries in which the Secretary of State has found category 1 religious persecution, all exports to the responsible entities of the foreign government shall be prohibited. For all countries in which the Secretary of State has found category 1 or category 2 persecution, all exports of persecution-facilitating products to the country shall be prohibited. Both of these prohibitions shall be effective 90 days after the Director submits the report to Congress containing the determination or identifying the responsible entity or persecution facilitating product, as the case may be.

No United States assistance may be provided to the government of any country determined by the Secretary of State to have category 1 or category 2 persecution. This prohibition shall be effective with respect to a particular country 90 days after a report to Con-

gress by the Director containing a finding of category 1 persecution in that country, and one year after a report to Congress by the Director containing a finding of category 2 persecution in that country. This prohibition extends to military assistance, Export-Import Bank, Overseas Private Investment Corporation (OPIC), and Trade and Development Agency assistance. The prohibition does not apply to disaster assistance, narcotics-related assistance, provision of food and medicine, or refugee assistance. In limited circumstances, the performance of OPIC contracts entered into before the effective date of sanctions is not prohibited.

The President shall instruct the U.S. Executive Directors of all international financial institutions to vote against and lobby against loans to countries determined by the Secretary of State to have category 1 or category 2 persecution. Certain loans to address basic human needs are exempted. This restriction shall be effective with respect to a particular country 90 days after a report to Congress by the Director containing a finding of category 1 persecution in that country, and one year after a report to Congress by the Director containing a finding of category 2 persecution in that country. If in international financial institution approves loans to these countries, the Secretary of Treasury must report to Congress on efforts made to deny loans and what steps will be taken in the future to deny loans to these countries.

No consular officer may issue a visa to, and the Attorney General shall exclude from the United States, any alien who the Director determines carried out any act of category 1 or category 2 persecution.

#### SECTION 8. WAIVER OF SANCTIONS

The President may waive the imposition of any sanction against a country under section 7 for periods of not more than 12 months each for either of two reasons: (1) he determines that the national security interests of the United States justify such a waiver; or (2) he determines that such a waiver will substantially promote the purposes of the Act. The President must report to Congress on his intent to waive the sanctions at least 45 calendar days before the waiver takes effect (or 15 legislative days, whichever is later) and provide a written explanation of why he believes a waiver to be necessary. The President can exercise a partial waiver immediately by reporting to Congress that emergency conditions require immediate termination of sanctions.

The waiver authority provided in this section is intended to be used only in extraordinary circumstances.

#### SECTION 9. MODIFICATION OF IMMIGRATION POLICY

This section makes changes to asylum and refugee policy that are not within the jurisdiction of the Committee on International Relations.

#### SECTION 10. STATE DEPARTMENT HUMAN RIGHTS REPORTS

The State Department is directed to report more thoroughly on religious persecution in the Annual Country Reports on Human Rights Practices by investigating whether persecution arises from

governmental or nongovernmental sources, whether the persecution occurs on a nationwide, regional or localized level, and whether the persecution targets an entire religion or certain denominations. The State Department is also directed to train its human rights officers on religious persecution and report to the Director on the training provided.

#### SECTION 11. TERMINATION OF SANCTIONS

Sanctions against a country are terminated if an annual report by the Director does not contain a determination by the Secretary of State that that country has category 1 or category 2 persecution. Sanctions against a country are also terminated if the Director transmits an interim report to Congress containing a determination by the Secretary of State that neither category 1 nor category 2 persecution exists in that country. The termination of sanctions is effective 45 calendar days (or 15 legislative days, whichever is later) after the relevant report is transmitted to Congress.

A finding of category 1 or category 2 persecution may be withdrawn at any time before sanctions take effect if the Secretary of State makes a written determination, on the basis of a preponderance of the evidence, that the country has substantially eliminated category 1 or category 2 persecution.

#### SECTION 12. SANCTIONS AGAINST SUDAN

The Act provides that the sanctions currently in place against Sudan because of Sudan's designation as a state sponsor of terrorism shall remain in place until the government of Sudan has substantially eliminated religious persecution, or until that government is no longer designated as a state sponsor of terrorism, whichever is later. In addition, the Act imposes new sanctions similar to those imposed on South Africa in 1986. These include, among others, a prohibition on exports to and imports from Sudan, a prohibition on financial transactions with the government of Sudan, a prohibition on new investment in Sudan, a prohibition on flights to and from Sudan, a prohibition on the promotion of U.S. tourism in Sudan, a prohibition on U.S. depository institutions holding deposits from the government of Sudan, and a prohibition on U.S. government procurement from Sudan.

In addition, the President is urged to pursue multilateral measures against Sudan.

The President may waive the imposition of certain sanctions against Sudan for periods of not more than 12 months each if he determines that the national security interests of the United States justify such a waiver and notifies specified committees of Congress of his intent to waive such sanctions.

#### SECTION 13. EXCEPTION FOR IMPORTATION OF CERTAIN AGRICULTURAL PRODUCTS

No provision of the Act shall restrict the importation of gum Arabic from Sudan during a calendar year if, during the preceding calendar year, a supply of that commodity in unprocessed form from other countries of equal quality to that cultivated in Sudan is not available in sufficient supply to meet United States requirements.

SECTION 14. EFFECTIVE DATE

The Act is effective 120 days after enactment. The Director shall be appointed 60 days after enactment. All necessary regulations shall be issued within 120 days of enactment.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**IMMIGRATION AND NATIONALITY ACT**

\* \* \* \* \*

**TITLE II—IMMIGRATION**

\* \* \* \* \*

ANNUAL ADMISSION OF REFUGEES AND ADMISSION OF EMERGENCY SITUATION REFUGEES

SEC. 207. (a) \* \* \*

\* \* \* \* \*

(d)(1) \* \* \*

\* \* \* \* \*

*(4)(A) Notwithstanding any other provision of law, prior to each annual determination regarding refugee admissions under this subsection, there shall be a period of public review and comment, particularly by appropriate nongovernmental organizations, churches, and other religious communities and organizations, and the general public.*

*(B) Nothing in this paragraph may be construed to apply subchapter II of chapter 5 of title 5, United States Code, to the period of review and comment referred to in subparagraph (A).*

ASYLUM

SEC. 208. (a) \* \* \*

\* \* \* \* \*

*(e) SPECIAL RULES FOR RELIGIOUS PERSECUTION CLAIMS.—*

*(1) PROCEDURES UPON DENIAL.—*

*(A) IN GENERAL.—In any case in which the Service denies or refers to an immigration judge an asylum application filed by an alien described in the second sentence of section 235(b)(1)(B)(v), or any case in which an immigration judge denies such an application on the ground that the alien is not a refugee within the meaning of section 101(a)(42)(A), the Service shall provide the alien with the following:*

*(i) A written statement containing the reasons for the denial, which shall be supported by references to—*

*(I) the most recent annual report sent by the Director of the Office of Religious Persecution Mon-*

itoring to the Congress under section 6 of the Freedom From Religious Persecution Act of 1997; and

(II) either—

(aa) the most recent country report on human rights practices issued by the Secretary of State; or

(bb) any other report issued by the Secretary of State concerning conditions in the country of which the alien is a national (or, in the case of an alien having no nationality, the country of the alien's last habitual residence).

(ii) A copy of any assessment sheet prepared by an asylum officer for a supervisory asylum officer with respect to the application.

(iii) A list of any publicly available materials relied upon by an asylum officer as a basis for denying the application.

(iv) A copy of any materials relied upon by an asylum officer as a basis for denying the application that are not available to the public, except Federal agency records that are exempt from disclosure under section 552(b) of title 5, United States Code.

(B) CREDIBILITY IN ISSUE.—In any case described in subparagraph (A) in which the denial is based, in whole or in part, on credibility grounds, the Service shall also provide the alien with the following:

(i) The statements by the applicant, or other evidence, that were found not to be credible.

(ii) A statement certifying that the applicant was provided an opportunity to respond to the Service's position on the credibility issue.

(iii) A brief summary of such response, if any was made.

(iv) An explanation of how the negative determination on the credibility issue relates to the applicant's religious persecution claim.

(2) EFFECT IN SUBSEQUENT PROCEEDINGS.—

(A) USE AT OPTION OF APPLICANT.—Any material provided to an alien under paragraph (1) shall be considered part of the official record pertaining to the alien's asylum application solely at the option of the alien.

(B) NO EFFECT ON REVIEW.—The provision of any material under paragraph (1) to an alien shall not be construed to alter any standard of review otherwise applicable in any administrative or judicial adjudication concerning the alien's asylum application.

(3) DUTY TO SUBMIT REPORT ON RELIGIOUS PERSECUTION.—In any judicial or administrative proceeding in which the Service opposes granting asylum to an alien described in the second sentence of section 235(b)(1)(B)(v), the Service shall submit to the court or administrative adjudicator a copy of the most recent annual report submitted to the Congress by the Director of the Office of Religious Persecution Monitoring under section 6 of the Freedom From Religious Persecution Act of 1997, and

*any interim reports issued by such Director after such annual report.*

\* \* \* \* \*

INSPECTION BY IMMIGRATION OFFICERS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING

SEC. 235. (a) \* \* \*

(b) INSPECTION OF APPLICANTS FOR ADMISSION.—

(1) INSPECTION OF ALIENS ARRIVING IN THE UNITED STATES AND CERTAIN OTHER ALIENS WHO HAVE NOT BEEN ADMITTED OR PAROLED.—

(A) \* \* \*

(B) ASYLUM INTERVIEWS.—

(i) \* \* \*

\* \* \* \* \*

(v) CREDIBLE FEAR OF PERSECUTION DEFINED.—For purposes of this subparagraph, the term “credible fear of persecution” means that there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien’s claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208. *Any alien who can credibly claim membership in a persecuted community found to be subject to category 1 or category 2 religious persecution in the most recent annual report sent by the Director of the Office of Religious Persecution Monitoring to the Congress under section 6 of the Freedom From Religious Persecution Act of 1997 shall be considered to have a credible fear of persecution within the meaning of the preceding sentence.*

\* \* \* \* \*

(d) TRAINING ON RELIGIOUS PERSECUTION.—*The Attorney General shall establish and operate a program to provide to immigration officers performing functions under subsection (b), or section 207 or 208, training on religious persecution, including training on—*

- (1) the fundamental components of the right to freedom of religion;*
- (2) the variation in beliefs of religious groups; and*
- (3) the governmental and nongovernmental methods used in violation of the right to freedom of religion.*

\* \* \* \* \*

DISSENTING VIEWS OF HON. LEE H. HAMILTON, HON.  
ALCEE L. HASTINGS; AND HON. EARL F. HILLIARD

We have several concerns about H.R. 2431, which the Committee ordered reported, as amended, on March 25, 1998. The bill does not provide sufficient flexibility to the President in the conduct of American foreign policy. It forces the Secretary of State to devote enormous amounts of time in the making of a huge number of decisions about religious persecution, grading each country. These decisions will not lessen religious persecution, and will be counter-productive.

*What does this bill do?*

This bill creates an Office of Religious Persecution Monitoring, whose Director is assigned the responsibility of evaluating the state of religious freedom abroad. The Director must make recommendations about the existence and nature of religious persecution in countries around the world, to the Secretary of State. The Secretary must then sift through these recommendations and make decisions about sanctions because of religious persecution. She must find that a country either does or does not engage in religious persecution. If it does, a long list of sanctions apply automatically.

Under this bill, the Secretary of State has no authority to balance other U.S. interests—such as economics, security issues, or even other human rights issues—in the making of her decision. Under this bill, the Secretary is confronted with the enormous burden of determining the applicability of sanctions to over seventy countries. On an extremely complex issue, where every country has a different history of religious expression and religious tolerance, the Secretary cannot judge nuances—she is forced to make a stark yes or no choice on sanctions.

Countries determined to be Category One or Category Two persecutors under this bill are automatically sanctioned. Once sanctions are imposed, the President would have the ability to review those sanctions, but he could waive them only after a sanctions determination had already been made public. The result of this process would be to complicate, if not damage seriously, our bilateral relations with several countries of enormous importance to the United States, and to harm the U.S. national interest.

*What would be the impact of the bill if enacted today?*

Today, if Indonesia, Egypt, or Saudi Arabia were determined to fit the definition of religious persecution—as they almost surely would under this bill—the consequences could be severe. Even if the President were to waive the application of sanctions, U.S. relations with these important countries would be harmed, and so would key U.S. foreign policy objectives. The targeted countries would be outraged and deeply offended.

How would sanctions against Indonesia impact on jittery world financial markets? How would such sanctions help the United States address the financial crisis in Asia and the threat to the world financial system?

How would sanctions against Egypt—the first and most important Arab country to make peace with Israel—advance the Middle East peace process, at a time when the peace process is already in great difficulty?

How would sanctions against Saudi Arabia impact on the presence of U.S. troops in Saudi Arabia, and advance the vital U.S. national interest in the secure and stable flow of oil from the Persian Gulf? Or on the U.S. goal of containing Saddam Hussein and enforcing UN Security Council Resolutions concerning Iraq?

#### *Objections to the bill*

Our objections in detail to this bill follow:

*First*, the mandatory, automatic sanctions in this bill sharply restrict the President's ability to conduct American foreign policy. A determination of religious persecution would automatically trigger all the sanctions listed in the bill.

Sanctions would be triggered without consideration of any other U.S. interests. We are equipping ourselves with a single, inflexible, one-size-fits-all tool to address an issue of immense complexity and scope. U.S. interests in any country are multifaceted. No President should be forced to conduct American foreign policy toward a country on the basis of a single standard.

*Second*, this bill could harm, not promote, efforts to protect religious freedom. We must be very careful about the impact of our action on the groups we seek to protect. Automatically launching an array of sanctions against a targeted country upon our determination could have serious consequences.

A government that is willing to commit grave acts of persecution is not likely to stop persecution to avert sanctions mandated by this bill. We simply do not provide enough assistance or export enough critical products to give us this kind of leverage.

But even if sanctions do not end persecution, they could provoke governments to strike out at those they hold responsible for U.S. pressure: the persecuted religious minorities we are trying to help. This is not a theoretical concern. In recent weeks, we have heard from churches and evangelical groups with tens of thousands of missionaries in China and other countries. They are concerned that the punitive approach in this bill will produce a backlash against them and the persecuted communities they are trying to help.

*Third*, the bill has a cumbersome waiver provision.

The President will not be able to waive these mandatory sanctions until after a public determination to impose them has been made. Even if sanctions are never imposed, they will cause harm long before a waiver takes effect.

This waiver, like so many others we have written into law, lets Congress posture on an issue without taking responsibility. We leave the tough calls to the President.

Waivers are not cost-free. They create huge foreign policy problems in themselves. They tie up the foreign policy bureaucracy with immensely complicated decisions, as is the case in the Iran-Libya

Sanctions Act. They ask the President to make a static “pass or fail” determination with respect to issues of enormous complexity.

Each and every time the President exercises his waiver authority to avoid sanctions, he will be sending mixed signals about the Administration’s resolve in fighting religious persecution. He will have to defend each decision, which will require drawing narrow distinctions among countries.

*Fourth*, this bill establishes a hierarchy of human rights violations, damaging to U.S. foreign policy.

This bill establishes religious persecution as the top priority of U.S. human rights and immigration policy. We are saying in these bills that religious persecution is more important to us than any other form of persecution—more important than female infanticide, than racial discrimination; more important even than ethnic cleansing.

We agree that religious persecution is abhorrent, but we believe it is a mistake to establish a hierarchy of human rights violations in U.S. law. We should never put ourselves in the position of stating that one type of human rights abuse is more or less serious than another. This is a dangerous precedent. When we signal that one form of persecution takes priority for us, we invite governments to test our tolerance for other forms of persecution.

*Finally*, let us say a word about the broader context of this bill.

Seventy-five countries, representing more than half the world’s population, are now subject to, or threatened by, unilateral U.S. sanctions. Two dozen more sanctions proposals are pending before Congress. Dozens of state and local governments have adopted, or are considering, their own foreign policy sanctions.

There are scores of other Presidential certifications and waivers in U.S. law, all of which require the Administration to spend an enormous amount of time “grading” countries—time that would be better spent engaging those countries on issues of concern to us.

In our rush to sanction and grade so many countries, we needlessly complicate the ability of the President to conduct American foreign policy.

We note that the Administration had stated prior to mark up that the President’s senior advisers would recommend that he veto the bill.

While we voted against H.R. 2431 in committee, we are committed to working with its sponsors to improve this bill as it moves through the congressional process. We note that a different—and better—version of this bill was introduced in the Senate. Our fervent hope and expectation is that in the end we can work out a bill that will have strong bipartisan support and the support of the President, so that it can be signed into law and promote the goals of religious freedom and tolerance that we all share.

LEE H. HAMILTON.  
ALCEE L. HASTINGS.  
EARL F. HILLIARD.

## DISSENTING VIEWS OF CONGRESSMAN TOM CAMPBELL

I reluctantly oppose this bill in its present form. An amendment in the nature of a substitute was offered at the mark-up that included a very limited waiver authority with respect to the Sudan sanctions. The national security of the United States might require an import from Sudan. It might require that an airplane under the control of a United States citizen fly to Sudan. It might require procurement of a substance needed by the United States government from Sudan. Yet none of these are possible under the version reported by the committee. The bill as it leaves our committee limits that waiver to only the sponsoring of trade missions to Sudan and exports to Sudan.

Several colleagues on the committee assured me that this problem would be taken care of in the next committee of jurisdiction to consider the bill. I certainly hope this is the case. However, I cannot vote on a bill on the basis of what another committee might (or might not) do with it. I can only vote on bills before me. And this bill is grossly deficient. It has the potential to jeopardize the national security of our country.

One other aspect of the sanctions against Sudan is troublesome. The bill keeps in force the current sanctions that were imposed because of Sudan's alleged support for international terrorism. Under the bill, these sanctions may not be waived even if Sudan shows improvement in respect to the factors that caused Sudan to be subjected to those sanctions. Instead, Sudan would have to meet additional tests for any such removal to occur. And, with the changes made in the bill at the mark-up, these sanctions, which are currently able to be waived in the national security interest of the United States, may no longer be waived even if the national security compels it.

Should Sudan show some progress, it is better for the President to have the authority to reward that progress by some selective easing of sanctions. Now that is impossible.

TOM CAMPBELL.

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