

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

MAY 8, 1998.—Ordered to be printed

Mr. SMITH of Texas, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2431]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, 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, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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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 im-

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

(e) 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.

(f) 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.

(g) 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) **INADMISSIBILITY OF CERTAIN PARTICIPANTS IN RELIGIOUS PERSECUTION.**—

(1) **IN GENERAL.**—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 1998) or category 2 persecution (as so defined) is inadmissible.”.

(2) **APPLICABILITY.**—The amendment made by paragraph (1) shall apply to persecution occurring before, on, or after the date of the enactment of this Act.

(b) **REFUGEES.**—

(1) **GUIDELINES FOR ADDRESSING BIAS AFFECTING REFUGEES.**—Not later than 180 days after the date of the enactment of this Act, the Attorney General and the Secretary of State shall jointly promulgate and implement guidelines for identifying and addressing improper biases, affecting the treatment of persons who may be eligible for admission into the United States as a refugee based upon a claim of persecution or a well-founded fear of persecution on account of religion, on the part of—

(A) immigration officers adjudicating applications for admission as a refugee submitted by such persons and interpreters assisting immigration officers in adjudicating such applications; and

(B) individuals and entities assisting in the identification of such persons and the preparation of such applications.

(2) **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, 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 207(a)(3), applicants for refugee status who are members of a persecuted community shall be given priority status equal to that given to applicants who are members of other specific groups of special concern to the United States. This paragraph shall be construed only to require that members of a persecuted community be accorded equal consideration in determining admissions under section 207(a) of such Act, and shall not be construed to require that any particular individual or group be admitted under that section.

(3) **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 race, religion, nationality, membership in a particular social group, or political opinion) any right, privilege, protection, or eligibility otherwise provided by law.

(4) **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.

(5) 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).”.

(c) ASYLEES.—

(1) GUIDELINES FOR ADDRESSING BIAS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall develop and implement guidelines for identifying and addressing improper biases, affecting the treatment of persons who may be eligible for asylum in the United States, based upon a claim of persecution or a well-founded fear of persecution on account of religion, on the part of immigration officers carrying out functions under section 208 or 235 of the Immigration and Nationality Act and interpreters assisting immigration officers in carrying out such functions.

(2) STUDIES OF EFFECT OF EXPEDITED REMOVAL PROVISIONS ON ASYLUM CLAIMS.—

(A) STUDIES.—

(i) PARTICIPATION BY UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.—The Attorney General shall invite the United Nations High Commissioner for Refugees to conduct a study, alone or in cooperation with the Comptroller General of the United States (as determined in the discretion of the United Nations High Commissioner for Refugees), to determine whether immigration officers described in clause (ii) are engaging in any of the conduct described in such clause.

(ii) DUTIES OF COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct a study, alone or, upon request by the United Nations High Commissioner for Refugees, in cooperation with the United Nations High Commissioner for Refugees, to determine whether immigration officers performing duties under section 235(b) of the Immigration and Nationality Act with respect to aliens who may be eligible to be granted asylum are engaging in any of the following conduct:

(I) Improperly encouraging such aliens to withdraw their applications for admission.

(II) Incorrectly failing to refer such aliens for an interview by an asylum officer for a determination of whether they have a credible fear of persecution (within the meaning of section 235(b)(1)(B)(v) of such Act).

(III) Incorrectly removing such aliens to a country where they may be persecuted.

(IV) Detaining such aliens improperly or in inappropriate conditions.

(B) REPORTS.—

(i) PARTICIPATION BY UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.—The United Nations High Commissioner for Refugees may submit to the committees described in clause (ii) a report containing the results of a study conducted under subparagraph (A)(i) or, if the United Nations High Commissioner for Refugees elected to participate in the study conducted under subparagraph (A)(ii), may submit with the Comptroller General of the United States a report under clause (ii).

(ii) DUTIES OF COMPTROLLER GENERAL.—Not later than September 30, 1999, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate a report containing the results of the study conducted under subparagraph (A)(ii). If the United Nations High Commissioner for Refugees requests to participate with the Comptroller General in the preparation and submission of the report, the Comptroller General shall grant the request.

(C) ACCESS TO PROCEEDINGS.—

(i) IN GENERAL.—Except as provided in clause (ii), to facilitate the studies and reports, the Attorney General shall permit the United Na-

tions High Commissioner for Refugees and the Comptroller General of the United States to have unrestricted access to all stages of all proceedings conducted under section 235(b).

(ii) EXCEPTIONS.—Clause (i) shall not apply in cases in which the alien objects to such access, or the Attorney General determines that the security of a particular proceeding would be threatened by such access, so long as any restrictions on the United Nations High Commissioner for Refugees' access under this subparagraph do not contravene international law.

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1999 to carry out this paragraph not to exceed \$1,000,000 to the Attorney General (for a United States contribution to the Office of the United Nations High Commission for Refugees for the activities of the United Nations High Commissioner for Refugees under this paragraph) and not to exceed \$1,000,000 to the Comptroller General of the United States.

(d) TRAINING.—

(1) TRAINING ON RELIGIOUS PERSECUTION.—The Attorney General shall provide training regarding religious persecution to all immigration officers and immigration judges adjudicating applications for admission as a refugee or asylum applications, including—

(A) country-specific instruction on the practices and beliefs of religious groups, and on the methods of governmental and nongovernmental persecution employed on account of religious practices and beliefs; and

(B) other relevant information contained in the most recent annual report submitted by the Director to the Congress under section 6.

(2) INSTRUCTION BY NONGOVERNMENTAL EXPERTS.—It is the sense of the Congress that the Attorney General, in carrying out paragraph (1)(A), should include in the training under the paragraph, where practicable, instruction by nongovernmental experts on religious persecution.

(3) TRAINING FOR IMMIGRATION OFFICERS ADJUDICATING REFUGEE APPLICATIONS.—Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) is amended by adding at the end the following:

“(f) The Attorney General shall provide training in country conditions, refugee law, and interview techniques, comparable to that provided to full-time adjudicators of applications under section 208, to all immigration officers adjudicating applications for admission as a refugee under this section.”

(e) REPORTING.—Not later than March 30 of each year, the Attorney General shall provide to the Director, for inclusion in the Director's annual report under section 6(b)(4), a report containing 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 other developments with respect to the adjudication of applications for asylum or refugee status that were based, in whole or in part, on religious persecution.

(5) A description of the training conducted for immigration officers and immigration judges under subsection (d)(1), including a list of speakers and materials used in such training and the number of immigration officers and immigration judges who received such training.

(6) A description of the development and implementation of anti-bias guidelines under subsections (b)(1) and (c)(1).

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 Foreign 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 gov-

ernment 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 non-governmental methods used in the violation of the right to freedom of religion; and

(B) the identification of independent human rights groups and non-governmental 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 described 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.

PURPOSE AND SUMMARY

H.R. 2431, the Freedom From Religious Persecution Act, is intended to reduce persecution of religious minorities abroad. It creates an Office of Religious Persecution Monitoring within the State Department that may designate groups suffering from widespread and ongoing persecution on account of religion as “persecuted communities.” Once a group has been so designated, H.R. 2431 imposes sanctions on the responsible foreign government and grants benefits to members of the persecuted community.

The immigration provisions of the bill are the only provisions within the jurisdiction of the Committee on the Judiciary. The immigration provisions, as amended by the Committee, are intended to improve the processing of refugee and asylum claims based on religious persecution, and also to deny admission to aliens who have carried out or directed widespread and ongoing religious persecution.

BACKGROUND AND NEED FOR THE LEGISLATION

Background

Aliens applying for asylum in the United States, or for refugee status as a ground for admission to the United States, generally must show that they have a well-founded fear of persecution in their home countries on account of race, religion, nationality, membership in a particular social group, or political opinion. The difference between asylum and refugee claims is that asylum claims are made by aliens who are already in the United States, usually illegally, while refugee claims are made by aliens who are in foreign countries.

The primary impetus behind the immigration provisions of H.R. 2431 is the concern that victims of religious persecution may not be treated fairly by the organizations and individuals responsible for screening applicants for asylum or refugee status and adjudicating their claims. Such unfair treatment could arise from improper biases or from lack of proper training.

Asylum and Refugee Status

The immigration provisions of the bill mandate training on religious persecution for immigration officers and judges who are involved in the adjudication of asylum or refugee claims. They also require the implementation of guidelines to ensure that governmental and non-governmental organizations and individuals involved in screening applicants for asylum or refugee status and adjudicating their claims do not discriminate against victims of religious persecution.

The immigration provisions provide for the admission of refugees from religious groups that have been designated as persecuted communities. They also provide for an annual period of public review and comment, in which religious and other organizations may participate, on United States refugee admissions.

Finally, the Attorney General is required to provide annual reports to Congress including statistical information on refugee and asylum cases based on religious persecution, and including a de-

scription of the training and guidelines used to improve the adjudication of such cases.

Expedited Removal Study

In response to grave and persistent abuses of the United States' asylum system, including the widespread use of fraudulent asylum claims as a method of illegal immigration, Congress and the President enacted the 1996 immigration reform law which created the expedited removal process.¹ Under expedited removal procedures, illegal aliens arriving at United States ports of entry without proper documents are denied admission unless they can demonstrate a "credible fear" of persecution, in which case they are entitled to full asylum proceedings before an immigration judge.

The expedited removal process has been a dramatic success. Bona fide asylum claims are now granted much more quickly, but illegal immigration is no longer encouraged or rewarded. The "credible fear" standard is not onerous—according to the INS, over 90% of illegal aliens who claim asylum in expedited removal proceedings pass the "credible fear" test—but it is effective in deterring manifestly unfounded claims. At this time, more than 50,000 illegal aliens have been through expedited removal proceedings, and there is no evidence that aliens with bona fide asylum claims have been prejudiced by such proceedings.

A U.S. General Accounting Office study of expedited removal issued in March 1998 showed that the process, although new, is already working well. In fact, GAO made no recommendations for improvement, which is extremely unusual.

Nonetheless, some concerns have been expressed about the conduct of INS inspectors at ports of entry who are responsible for prescreening illegal aliens within the expedited removal process. Although the INS asylum officers responsible for credible fear determinations are highly regarded, there is concern that some INS inspectors at ports of entry may not always be following INS procedures designed to ensure that potential asylum claimants are properly referred to such asylum officers.

To address this concern, the bill provides that GAO will conduct a follow-up study and report to ensure that illegal aliens who are bona fide victims of persecution are not treated improperly by INS inspectors in expedited removal proceedings. The United Nations High Commissioner for Refugees is also invited to conduct such a study and submit a report, alone or in cooperation with the General Accounting Office. Funding authorization is provided for the study and report, which is to be submitted to Congress by September 30, 1999.²

Denial of Admission to Religious Persecutors

As part of the sanctions imposed on religious persecutors by H.R. 2431, the immigration provisions deny admission to the United States to persons who have carried out or directed widespread and

¹ Many serious and tragic abuses of the asylum system are detailed in *Asylum and Inspections Reform: Hearing Before the Subcomm. on International Law, Immigration, and Refugees of the House Comm. on the Judiciary*, 103rd Cong., 1st Sess. (1993).

² Although the deadline for the report is not until September 30, 1999, the Committee encourages both agencies to conduct and complete the study and report more expeditiously, if such can be accomplished without reducing the quality or thoroughness of the study and report.

ongoing persecution of persons on account of their religious beliefs or practices. This is in keeping with the United States' tradition of denying admission to criminals, wrongdoers, and violators of human rights.

HEARINGS

The Committee's Subcommittee on Immigration and Claims held a hearing on H.R. 2431 on March 24, 1998. Testimony was received from Mr. Paul Virtue, General Counsel for the U.S. Immigration and Naturalization Service; Mr. Alan Kreczko, Principal Deputy Assistant Secretary of the Bureau of Population, Refugees, and Migration, U.S. Department of State; Ms. Nancy Sambaiew, Deputy Assistant Secretary for Visa Services of the Bureau of Consular Affairs, U.S. Department of State; Mr. Mark Krikorian, Executive Director, Center for Immigration Studies; Mr. James Robb, Coordinator, Evangelicals for Immigration Reform, and Mr. Mark Franken, Executive Director, U.S. Catholic Conference Migration and Refugee Services.

COMMITTEE CONSIDERATION

On April 30, 1998, the Subcommittee on Immigration and Claims met in open session and ordered reported an amendment striking all the immigration provisions of H.R. 2431 by a voice vote, a quorum being present. On May 6, 1998, the Committee met in open session and ordered reported favorably the bill H.R. 2431 with amendment by a voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that 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.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 16, 1997.

Hon. HENRY J. HYDE,
*Chairman, Committee on the Judiciary,
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 contacts are Joseph C. Whitehill, who can be reached at 226-2840, and Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

cc: Honorable John Conyers, Jr.,
Ranking Minority Member.

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

SUMMARY

H.R. 2431 would create an Office of Religious Persecution Monitoring to monitor and to report on violations of religious freedom throughout the world. The bill would authorize the appropriation of \$2 million for fiscal year 1999 for the Attorney General and the General Accounting Office (GAO) to prepare a report on the treatment of applicants for asylum. The bill would impose restrictions 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 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 Monitoring would cost about \$600,000 a year and that the report required by the bill would cost about \$2 million in 1999.

H.R. 2431 would affect direct spending, and thus pay-as-you-go procedures would apply. The bill would change policies governing refugees and could affect direct spending for 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 by September 30, 1998, and subsequent appropriation of the estimated authorizations. The costs of this legislation fall within budget functions 150 (international affairs) and 750 (administration of justice).

Spending Subject to Appropriations

The bill would require the creation of an Office of Religious Persecution Monitoring 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.

H.R. 2431 would authorize the appropriation of \$2 million for fiscal year 1999 for the Attorney General and the GAO to prepare a report to the Congress on how the Immigration and Naturalization Service treats applicants for asylum. Assuming the appropriation of the necessary funds, CBO estimates that this provision would result in additional spending of about \$2 million in 1999.

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 make certain changes to policies governing the admission of refugees 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, applicants 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 automatically place victims of religious persecution in a higher priority classification in the refugee queue, although that status does not constitute a guarantee of admission. It would also provide for a period of public review and comment on the proposed ceiling for refugee admissions in the coming year, 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. But after consulting with the Department of Justice and the Department of State, CBO concludes that the number of additional people granted refugee status is likely to be quite small.

PAY-AS-YOU-GO CONSIDERATIONS

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending and receipts. Because the bill would result in additional direct spending, pay-as-you-go procedures would apply. The bill would change policies governing refugees and could affect direct spending for certain benefit programs, but CBO does not expect that such costs would be significant.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

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.

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 Sudan. Because the precise prohibitions against exports relating to religious 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 exports to identified responsible entities within a country that has been determined to carry out religious persecution and 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.

PREVIOUS CBO ESTIMATE

On April 1, 1998, CBO prepared an estimate for H.R. 2431 as ordered reported by the House Committee on International Relations. This estimate contains the amendments to immigration policy made by the House Committee on the Judiciary. The committee's amendments would make no substantive changes in the asylum adjudication process, but would provide for a study by the General Accounting Office and the Attorney General.

ESTIMATE PREPARED BY:

Impact on the Federal Budget: Joseph Whitehill prepared the estimate of costs to the State Department; he can be reached at 226–2840. Kathy Ruffing (226–2820) prepared the estimate of the impacts on entitlement programs, and Mark Grabowicz (226–2860) prepared the estimate of costs to the Department of Justice.

Impact on State, Local, and Tribal Governments: Pepper Santalucia (225–3220).

Impact on the Private Sector: Elliot Schwartz (226–2940).

ESTIMATE APPROVED BY:

Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to Rule XI, clause 2(1)(4) of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, section 8, clause 4 of the Constitution.

SECTION-BY-SECTION ANALYSIS

H.R. 2431 was referred to the Committee on International Relations and in addition to the Committee on the Judiciary in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. The following is a discussion of sections within the jurisdiction of the Committee on the Judiciary.

Section 9. Modification of Immigration Policy

Section 9(a). Visa Denials. Section 9(a) makes inadmissible those aliens who have carried out or directed widespread and ongoing persecution of persons on account of their religious beliefs or practices.

Section 9(b). Refugees. Section 9(b)(1) mandates the implementation of guidelines to address improper biases regarding religious persecution claims on the part of immigration officers and others involved in screening potential refugees and adjudicating applications.

Section 9(b)(2) designates refugees from persecuted communities as refugees of “special humanitarian concern,” which is a condition for admission to the United States. It also provides such refugees applying for admission to the United States priority status for processing of applications equal to that given to applicants from other groups of special concern. However, it does not guarantee admission as a refugee to any particular individual or group.

Sections 9(b)(3) and 9(b)(4) provide that the preferences granted by section 9(b)(2) do not prejudice the rights of other refugees or displace them from admission to the United States.

Section 9(b)(5) mandates an annual period of public comment and review on United States refugee admissions for religious and other organizations and individuals.

Section 9(c). Asylees. Section 9(c)(1) mandates the implementation of guidelines to address improper biases regarding religious persecution claims on the part of immigration officers and others

involved in screening potential asylees and adjudicating applications.

Section 9(c)(2) mandates a U.S. General Accounting Office study and report to determine whether Immigration and Naturalization Service inspectors conducting expedited removal procedures are improperly encouraging aliens who are eligible for asylum to withdraw their applications for admission, incorrectly failing to refer such aliens to asylum officers for “credible fear” interviews, incorrectly removing such aliens to countries where they are likely to suffer persecution, or improperly detaining such aliens. The United Nations High Commissioner for Refugees is also invited to conduct such a study and submit a report, alone or in cooperation with the General Accounting Office. An appropriation of up to \$1,000,000 is authorized for each agency to fund the study and report.

Section 9(d). Training. Section 9(d)(1) mandates training on religious persecution for immigration officers and immigration judges adjudicating refugee and asylum applications. Section 9(d)(2) mandates training for immigration officers who adjudicate refugee applications comparable to the training currently provided to asylum officers.

Section 9(e). Reporting. Section 9(e) mandates annual reports from the Attorney General to the Director of the Office of Religious Persecution Monitoring. The reports must contain the annual number of asylum and refugee applications based on religious persecution, the number of such applications that were granted and denied, and a description of other developments regarding the adjudication of such applications. The reports must also describe the anti-bias guidelines and training mandated by sections 9(b)(1), 9(c)(1), and 9(d)(1).

AGENCY VIEWS

The State Department submitted the Administration’s views on H.R. 2431:

SECRETARY OF STATE

Washington, DC, October 7, 1997.

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

DEAR MR. CHAIRMAN; I am writing to express the Administration’s views on the “Freedom From Religious Persecution” bill (H.R. 2431) reported out of the Subcommittee on International Operations and Human Rights. We commend the bill’s authors for drawing attention to the important issue of religious freedom abroad, and appreciate the efforts made by Subcommittee Chairman Smith and others to improve the bill. Nonetheless, we continue to oppose the bill as drafted. Enactment of the bill in its current form could undermine many of our important foreign policy interests, including our mutual goal of helping those who face religious persecution. If passed by the Congress in its current form, I and the President’s other Senior Advisors would recommend that the President veto the bill.

As Assistant Secretary Shattuck explained in his recent testimony before your Committee, the bill has a number of serious de-

fects. The bill's automatic sanctions—including restrictions on exports, foreign assistance, U.S. votes in international financial institutions and visa eligibility—are blunt instruments that will be counterproductive. Because our laws and policies already give significant weight to human rights, the United States restricts direct aid to repressive governments and the imposition of automatic sanctions is likely to have little impact on government-sponsored persecution. On the other hand, it will run the risk of strengthening the hands of governments and extremists who seek to incite religious intolerance, and we fear reprisals against victims as well as an end to dialogue with offending governments on the issue of religious freedom. Moreover, because the bill could have adverse impacts on our diplomacy in regions from South Asia to the Middle East, it will undercut Administration efforts to promote the very regional peace and reconciliation that can foster religious tolerance and understanding—and respect for other human rights.

The bill would create a confusing bureaucratic structure for dealing with religious freedom that would fragment foreign policy decision-making, including decision-making on human rights, just as we consolidate our foreign policy apparatus. This new bureaucracy is proposed even though I have made it clear that religious freedom is a foreign policy priority and has sought to “mainstream” concern for the issue through greater reporting, new Department of State mechanisms and increased diplomatic activity on the issue.

The bill—through its single issue sanctions and preferential treatment for those fleeing certain forms of religious persecution—would establish, further, an inappropriate hierarchy of human rights violations in U.S. law that could damage our efforts to ensure universal respect for all civil and political rights. Severe acts of persecution on ethnic or political grounds, for example, would not result in automatic sanctions or bring about procedural advantages in the immigration context, though certain acts of religious persecution would. The bill would also undermine successful Administration efforts to reform the asylum process, and risk creating the very backlogs and delays that undermined public support for asylum. For a more complete statement of our general concerns regarding the bill, I refer you to Assistant Secretary Larkin's letter of September 8, and its attachments, which I have enclosed.

We also have serious concerns about two provisions added to the bill since the date of that letter. Section 9(g) would require that “refugees admitted to the United States as a result of the [bill] shall not displace other refugees in need of resettlement who would otherwise have been admitted in accordance with existing law and procedures.” The intent and possible effect of this provision are unclear.

To the extent the provision would require the President to disregard refugees admitted under the bill when counting the number of refugees admitted for purposes of our annual refugee ceilings, then the provision could result in a significant and costly increase in refugee admissions above agreed upon ceilings and appropriations. If the provision, alternatively, is intended to be implemented within existing refugee admission ceilings and appropriations, then as a practical matter those fleeing religious persecution would in fact displace other refugees in need of resettlement once a relevant

refugee ceiling is met. In either event, the result seems contrary to our long-standing bipartisan refugee policies.

I am also troubled by the addition of Section 9(h) which would make each determination regarding refugee admission numbers subject to a period of public review and comment. As required by the Immigration and Nationality Act, the Administration currently consults with the Congress on the President's proposed refugee admission levels for each fiscal year. We also hold regularly scheduled meetings with the non-governmental organizations that carry out refugee resettlement all across the United States. Section 9(h) is unnecessary and would undermine the Congress' existing oversight mechanism.

Despite my very serious concerns about the bill in its present form, I wish to reemphasize our shared commitment to protecting religious liberty. The Administration remains interested in working with the Committee and others in the Congress to explore ideas to strengthen the U.S. Government's ability to promote religious freedom abroad. Should you or your staff wish to meet with the Administration to discuss alternatives to the bill in its current form, we would be pleased to do so. We hope that the Committee will consider our concerns carefully and report out an amended version of the bill that the President could sign into law.

The Office of Management and Budget advises that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

I hope this information is useful to you. Please do not hesitate to call if we can be of further assistance.

Sincerely,

MADELEINE K. ALBRIGHT

UNITED STATES DEPARTMENT OF STATE
Washington, DC, March 24, 1998.

Hon. LEE HAMILTON,
Committee on International Relations,
House of Representatives.

DEAR MR. HAMILTON: This letter responds to your Committee's request for views on the March 10, 1998, draft amendment in the nature of a substitute to H.R. 2431, "The Freedom From Religious Persecution Act of 1998." As the Secretary of State explained in her letter of October 7, 1997 (enclosed), we commend the bill's authors for drawing attention to the important issue of religious freedom abroad, and appreciate the efforts made to address some of our concerns. Nonetheless, we continue to oppose the bill in its current form and the substitute amendment. We believe that enactment of the bill in either form would undermine many of our important foreign policy interests, including the goal of helping those who face religious persecution.

None of the changes in the draft substitute amendment of the bill rectify the significant problems that led the Secretary to state in her previous letter that "If passed by the Congress in its current form, I and the President's other Senior Advisors would recommend that the President veto the bill." The problems she discussed in detail—the bill's automatic sanctions, the confusing bureaucratic

structure the bill would create, and the hierarchy of human rights violations in U.S. law that it would establish—remain in the substitute amendment.

As you know, the Secretary announced on January 23, 1998, following the recommendation of her Advisory Committee on Religious Freedom Abroad, that she will designate a new State Department senior-level coordinator who will be responsible for integrating religious freedom into our foreign policy and for developing an interagency strategy. We believe that the most effective way to ensure the prominence of religious freedom in our foreign policy is to enhance existing structures.

Despite the Secretary's initiative, the substitute amendment continues to mandate the creation of a separate "Office of Religious Persecution Monitoring," headed by a Director whose appointment is subject to the advise and consent of the Senate. The Office has been moved from the White House, where it was originally placed, to the State Department, a change we appreciate. Nevertheless, the Director maintains complete discretion to determine whether a government is engaged in officially-sponsored religious persecution ("category 1") or has failed to combat adequately societal religious persecution ("category 2")—determinations which are reported to the Congress and automatically trigger a broad array of sanctions. This is an inappropriate invasion of the powers and responsibilities of the Secretary of State and the President.

The sanctions that would be automatically triggered by the Director's determinations—including restrictions on exports, export finance, foreign assistance, U.S. votes in international financial institutions, and visa eligibility—remain in the bill and are blunt instruments that could be counterproductive. The President already has the authority to restrict aid to countries and to impose sanctions—both economic and non-economic—on countries and entities that violate human rights and he has done so, in close coordination with the Congress, in appropriate cases. The automaticity of the sanctions under the bill, however, denies the President the ability to tailor measures for optimum effectiveness in relation to a particular country.

Moreover, the trigger for the imposition of sanctions occurs devoid of any role for the President, the Secretary of State, or any other Cabinet members or senior foreign policy advisors. Sanctions are triggered without consideration of the impact they might have on the problem of religious persecution in a specific country and on any other interests the U.S. has in its relations with that country. In some cases, the imposition of sanctions could be inconsistent with our international obligations, such as in the World Trade Organization. The mandatory unilateral sanctions in the bill could also undermine our effectiveness in working with our allies to take multilateral measures.

The substitute amendment expands the waiver provision to permit the President to waive the imposition of any sanction against a country for up to twelve months if he determines that the "national security interests of the United States justify such a waiver or that such a waiver will substantially promote the purposes of this Act." Yet even if the President determines that sanctions would harm persecuted communities or U.S. national security in-

terests, the bill confines the President to intervening only *after* a determination by the Director would automatically trigger sanctions. By the time the President could use the waiver, harm to religious communities might have already occurred due to the misperception that they were responsible for punitive U.S. policies.

We also remain concerned that the bill, through its single issue sanctions and preferential treatment for those fleeing persecution, would establish an inappropriate hierarchy of human rights violations in U.S. law. This hierarchy could damage our efforts to ensure universal and equal protection of victims of violations of all civil and political rights.

The substitute amendment continues to include provisions that would adversely affect the process for determining which refugees are admitted to the United States for resettlement. We share the sponsors' concern for assisting and resettling individuals who flee human rights violations, including religious persecution. In place of the current statutorily-required consultative process, the bill would provide for the automatic designation of groups eligible for processing for entry into the U.S. as refugees, without regard to the actual need of resettlement for such refugees, the number of refugees, international burdensharing, and other humanitarian and foreign policy considerations. The bill creates a hierarchy of human rights under U.S. law in which victims of religious persecution are given precedence over victims of persecution on the basis of political opinion, race, ethnicity, or membership in particular social groups. A provision in the amendment purports to ensure that other refugees are not displaced; in practice, the provision would be highly problematic to implement.

Although we remain willing to discuss with the Congress ways to more effectively deny visas and exclude from the United States individuals responsible for gross violations of human rights, including government-sponsored acts of religious persecution, the visa provisions in the bill remain unwise and unworkable. The provision is totally outside the Congress' own comprehensive regime for immigration and visa control—the Immigration and Nationality Act (INA). We believe any changes in visa law should be in the context of the INA. Moreover, the waiver provision—based on national security and requiring a forty-five day delay—was drafted with economic sanctions in mind and would prove unworkable for a typical visa or immigration case.

The section of the substitute amendment that imposes sanctions on Sudan is redundant since the President imposed comprehensive sanctions on Sudan on November 4, 1997. The amendment's provisions, however, would have the effect of preventing current emergency food aid distribution programs, such as Operation Lifeline Sudan, and would therefore place many more innocent Sudanese civilians in danger of starvation. The bill also sets a unique standard for lifting of the Sudan sanctions that is unlike that for any other country.

Despite our continuing serious concerns with the bill, we would like to reemphasize our shared commitment to protecting religious liberty. The Administration remains interested in working with the Committee and others in the Congress to explore ideas to strengthen the U.S. Government's ability to promote religious freedom

abroad. Should you or your staff wish to meet with representatives of the Administration to discuss alternatives to the bill, we would be pleased to do so. We continue to hope that the Committee will consider our concerns carefully and report out an amended version of the bill that addresses the core concerns outlined above so that the President can sign the bill into law.

Sincerely,

BARBARA LARKIN,
*Assistant Secretary,
Legislative Affairs.*

Enclosure:

Letter from the Secretary of State dated October 7, 1997.

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 italics 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).

* * * * *

(f) The Attorney General shall provide training in country conditions, refugee law, and interview techniques, comparable to that provided to full-time adjudicators of applications under section 208, to all immigration officers adjudicating applications for admission as a refugee under this section.

* * * * *

GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND
INELIGIBLE FOR ADMISSION; WAIVERS OF INADMISSIBILITY

SEC. 212. (a) CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.—Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(1) * * *

* * * * *

(3) SECURITY AND RELATED GROUNDS.—

(A) * * *

* * * * *

(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 1998) or category 2 persecution (as so defined) is inadmissible.

* * * * *

ADDITIONAL VIEWS TO H.R. 2431

H.R. 2431 was introduced in response to a perceived lack of attention by the Department of State and the Immigration and Naturalization Service to certain forms of religious persecution. Some of us think that H.R. 2431 is a necessary and an appropriate response to religious persecution. Others believe H.R. 2431 creates an unnecessary bureaucracy within the federal government and inadvertently creates a hierarchy of persecuted people. While there were different views expressed on whether H.R. 2431 is an appropriate response to the problem of religious persecution, we are all unified in our belief that religious persecution in any form is an intolerable violation of human rights.

We also agree that none of us intends to place religious persecution above other forms of persecution. We believe our government must treat all people fleeing persecution (whether based on race, nationality, membership in a particular social group, political opinion or religion) fairly and equitably within our asylum procedures and our refugee resettlement programs. For this reason, we support those provisions of H.R. 2431 which make clear that persons fleeing religious persecution must be given priority in our asylum and refugee laws that is equal to all others and that no other asylum seekers or refugees will be displaced in order to give special treatment to those fleeing religious persecution.

JOHN CONYERS, Jr.
HOWARD L. BERMAN.
JERROLD NADLER.
ROBERT C. SCOTT.
MELVIN L. WATT.
SHEILA JACKSON LEE.
MAXINE WATERS.
MARTIN T. MEEHAN.
WILLAM D. DELAHUNT.
ROBERT WEXLER.