

# CRS Report for Congress

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## Religious Persecution Abroad: Congressional Concerns and Actions

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### Summary

The 105<sup>th</sup> Congress has sought to raise the priority of combating religious persecution worldwide among U.S. foreign policy objectives. The difficulty has been in agreeing on legislation that would effectively deal with religious persecution without adversely affecting other important U.S. interests. On May 14, 1998, the House passed H.R. 2431 (the Freedom from Religious Persecution Act of 1998) establishing in the State Department a Director of the Office of Religious Persecution Monitoring who is to issue an annual report assessing religious persecution abroad. The legislation places sanctions on countries and groups that carry out or permit such activities. The Senate may soon consider S. 1868 establishing an office in the Department of State to monitor religious persecution headed by an Ambassador at Large and requiring the President to take some action from a broad list of options against countries found engaging in or tolerating religious persecution.

### Introduction

Religious intolerance persists in many part of the world today, and many religious groups face persecution and discrimination in practicing their faiths<sup>1</sup>. In some cases, religious intolerance, religious persecution, and the exploitation of religious differences for political and other ends may be intensifying.

In recent years, the United Nations, the U.S. government, and especially Congress have put a spotlight on religious intolerance in many countries. Congress has been especially interested in placing greater priority in U.S. foreign policy on combating religious persecution abroad. Congressional leaders have expressed their commitment to enact legislation addressing religious persecution abroad. This report outlines activities to address the issue of religious intolerance worldwide focusing especially on

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<sup>1</sup> Department of State, *Country Reports on Human Rights Practices for 1997*. Washington, U.S. Government Printing Office, 1998; and the report released on July 22, 1997 on *U.S. Policies in Support of Religious Freedom: Focus on Christians*.

congressional concerns and actions. It does not discuss congressional actions focusing on religious persecution issues in individual countries<sup>2</sup>.

## Background

### U.N. Actions

Article 1 (3) of the U.N. Charter enshrines "fundamental freedom for all without distinction as to race, sex, language, or religion". Subsequently Article 18 of the Universal Declaration of Human Rights stated that

everyone has the right to freedom of thought, conscience and religion; this includes the freedom to change his religion or belief, and freedom whether alone or in community with others and in public or private, to manifest his religion or belief in teaching , practices, worship, and observance.

This provision was further amplified and put into a binding treaty form in Article 18 of the International Covenant on Civil and Political Rights.<sup>3</sup> In 1981 the U.N. General Assembly adopted a Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religious Belief. Efforts in the United Nations to adopt a treaty or convention on religious intolerance thus far have not succeeded.

The U.N. Commission on Human Rights has, however, appointed Special Rapporteurs to "examine incidents and governmental actions in all parts of the world which were inconsistent with the provisions of the [1981] Declaration, and to recommend remedial measures for such situations." The Rapporteurs have issued annual and other reports on their findings since 1986 and initiated dialogues with governments (including on-site visits). Recent on-site visits by the U.N. Rapporteur have included: China, Pakistan, Iran, Greece, Sudan, India, Australia, and Germany. From January 22 to February 6, 1998 the Rapporteur visited the United States<sup>4</sup>.

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<sup>2</sup> For discussion of some of these activities see CRS Report 97-882, *China's Treatment of Religious Practices*; CRS Report 97-696, *Russia's Proposed Religion Law: Assessments and Implications*; and CRS Report 98-444, *Religious Discrimination in the Middle East*.

<sup>3</sup> Adopted by the U.N. General Assembly in 1966 and in force in 1976. The United States ratified in 1992 and the treaty entered into force for the United States on September 8, 1992.

<sup>4</sup> In a press statement on January 22, 1998, James P. Rubin, Spokesman for the U.S. Department of State said: "As a nation that has an exemplary record on religious tolerance, and is one of the world's more religiously and ethnically diverse, we are particularly pleased to welcome Mr. Amor to the U.S." Rubin further explained U.S. policy: "the U.S. government strongly supports the Special Rapporteur system which brings to light human rights abuses worldwide. By welcoming and facilitating his visit, we are able to establish an international norm of cooperation with United Nations efforts to ensure respect for human rights and help ensure that the special rapporteurs have access to other countries, including those with poor human rights records."

## Administration—State Department Actions

In recent years, the U.S. government has intensified its activities with regard to religious freedom abroad. Secretary of State Madeleine Albright has made advancing religious liberty a foreign policy priority of the United States. She has instructed U.S. embassies to give greater attention to religious liberty, report more actively on such issues, and provide suggestions on how the U.S. government might most effectively address questions of religious intolerance. The State Department's annual human rights reports give more attention to religious persecution and procedures for reviewing asylum requests have been modified to make reviewers more sensitive to religious persecution.<sup>5</sup> On June 18, 1998 President Clinton announced the appointment of Robert Seiple, President of World Visions, U.S., to the new State Department position of Senior Advisor for International Religious Freedom.<sup>6</sup>

In November 1996, the Department of State established an Advisory Committee on Religious Freedom Abroad, a panel of twenty U.S. religious leaders and scholars, chaired by Assistant Secretary of State for Democracy, Human Rights, and Labor. The Committee is to provide the U.S. government information about religious persecution around the world; and develop recommendations to combat religious intolerance and assist those seeking refuge from religious persecution. The Committee's interim report to the Secretary of State and the President, submitted on January 23, 1998, included extensive preliminary recommendations for U.S. actions.

On July 22, 1997, the Department of State released a report on *United States Policies in Support of Religious Freedom: Focus on Christians*. After a general overview of U.S. government policies and actions in support of religious freedom, the report describes the status of religious liberty in 75 countries including a description of U.S. government actions in response to each situation.

## Congressional Actions

Congressional concerns about religious intolerance issues have been addressed in hearings highlighting restrictions on religious liberty in many parts of the world. Legislation relating to specific country situations has been passed, and congressional leaders have expressed support for enactment of legislation to combat religious persecution worldwide. Agreeing on a bill that would effectively deal with religious persecution, however, has proven complex and difficult.

Bills were introduced in May 1997 (Representative Wolf sponsored H.R. 1685 and Senator Specter sponsored S. 772). Representative Wolf modified his proposed legislation and reintroduced it as H.R. 2431 in September, 1997, and that measure has been revised a number of times. S. 1868 was introduced by Senator Nickles on March 26, 1998. These legislative proposals have proven controversial because of their possible adverse impact on U.S. foreign relations and because they create a new bureaucracy.

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<sup>5</sup> Department of State, *U.S. Policies in Support of Religious Freedom: Focus on Christians*, July 22, 1997. See especially pp. 1-8.

<sup>6</sup> Remarks by President Clinton to religious leaders at the White House, June 18, 1998.

H.R. 2431, the Freedom from Religious Persecution Act of 1998, as passed (375-41) by the House on May 14, 1998, establishes an office in the Department of State to monitor religious persecution and requires the Director to be appointed by the President with the advice and consent of the Senate. The Director based on his findings of fact about violations of religious freedom is to: 1) make policy recommendations to the Secretary of State; 2) identify the entities responsible for persecution and maintain lists of religious persecution facilitating products and responsible entities; 3) annually report to Congress; and 4) make policy recommendations to the President. The Secretary of State is to make determinations about whether a country exhibits category 1 religious persecution (conducted by government officials or agents) or category 2 religious persecution (conducted by non-governmental entities or persons, but which the government fails to undertake serious and sustained efforts to eliminate). H.R. 2431 prohibits aid to entities which carry out persecution and prohibits export of goods which might be used in persecution. The President may waive sanctions. U.S. executive directors of multilateral financial institutions must vote against loans to persecuting countries. H.R. 2431 bans visas to individuals involved in religious persecution and seeks to ensure equal treatment in U.S. refugee policy for those claiming religious persecution<sup>7</sup>. The House also agreed to three amendments: the Brady amendment provides measures to promote religious freedom and establishes a five-member commission on international religious persecution; the Hastings amendment establishes an awards program for meritorious service by foreign service officers in the promotion of human rights including the right to religious freedom; and the Campbell amendment permits the President to waive sanctions against Sudan.

S. 1868, the International Religious Freedom Act of 1998, establishes within the Department of State an office of international religious freedom headed by an Ambassador at Large appointed by the President with the advice and consent of the Senate. The Ambassador is to be the principal advisor to the President and Secretary of State on religious freedom abroad, prepare an annual report to Congress, and establish a religious freedom internet site. S. 1868 expresses the sense of Congress: encouraging establishment of a Special Adviser to the President on Religious Persecution within the National Security Council; that U.S. diplomatic missions support programs which promote freedom of religion; and that the executive branch prepare prisoner lists and issue briefs to facilitate increased advocacy for religious freedom. It establishes a Commission to make policy recommendations to the President, Secretary of State, and Congress relating to religious persecution. Some members of the Commission are to be appointed by the leadership of the House and Senate. S. 1868 requires the President to impose at least one of a number of listed measures if a country is named in the Ambassadors' annual report to Congress as engaging in or tolerating religious persecution. The President also must determine whether a named country has engaged in "a consistent pattern of gross violations of the right to religious freedom". If so, the President must impose an economic sanction, or, alternatively, take commensurate action, or negotiate and enter into a binding agreement regarding cessation of the violative practices. The President may waive imposition of sanctions. The measure authorizes foreign assistance funds for promotion of religious freedom abroad and increases training for officials who consider refugee and asylum applications.

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<sup>7</sup> For an analysis of the immigration-related provisions see CRS Report 97-978, *Immigration Provisions of the "Freedom from Religious Persecution Act" (H.R. 2431)*.

Congressional leaders have indicated support for legislation on religious persecution abroad. However, initial hearings before the House International Relations Committee on September 9 and 10, 1997 revealed serious concerns about parts of H.R. 2431 raised by both Republican and Democratic Members. The Administration also expressed its opposition to the legislation as introduced. The House International Relations Committee amended the measure so that the Secretary of State rather than the Director of the Office of Religious Persecution Monitoring makes the determination of whether category 1 or category 2 religious persecution exists in a foreign country. On May 6, 1998, the House Judiciary Committee amended the immigration section, and the House Committee on Ways and Means amended the Sudan provisions. The Senate has thus far taken no action on S. 772 (or H.R. 2431). The Senate Foreign Relations Committee held hearings on S. 1868 on May 12, 1998 and June 17, 1998.

While there is universal praise for the goals of legislation to deter or punish severe forms of religious persecution, there is unease about specific provisions and possible effects of the legislation. The Administration opposes H.R. 2431 and S. 1868 because of their likely deleterious effect on U.S. bilateral relations, and some trade and business groups oppose the legislation as do some non-governmental human rights and other organizations including some religious organizations. The legislation is supported by a large number of religious groups and conservative organizations.

Supporters stress that the measure is intended to increase the priority given to religious persecution issues in U.S. foreign policy.<sup>8</sup> They feel that the U.S. foreign affairs establishment has simply avoided the subject of religious persecution. Proponents argue that the United States cannot remain silent while serious religious persecution occurs and point to numerous examples.<sup>9</sup> Proponents argue that the measure focuses on the most heinous forms of persecution, abduction, enslavement, imprisonment, killing, forced mass resettlement, rape, and torture. Proponents stress that the sanctions are carefully focused and limited.<sup>10</sup>

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<sup>8</sup> In his testimony on September 10, 1997, William J. Bennet, Co-Director of Empower America argued that the legislation redresses the past lack of attention to horrific religious persecution. While recognizing that there are limits to what the United States can do to influence internal policies in other countries, he felt that the United States should, where appropriate and effective, restrict trade and non-humanitarian aid to nations sponsoring religious persecution.

<sup>9</sup> Representative Frank Wolf in testimony before the House Committee on International Relations on September 9, 1997 described the legislation as a fundamental departure from the "business as usual" U.S. human rights policy of words with few actions to back up the words. He characterized his bill as attempting to address the most severe violations which are widespread and demonstrate direct threats to life and limb.

<sup>10</sup> Don Hodel in testimony on behalf of the Christian Coalition on September 10, 1997 described religious persecution as an international crisis which needs to be addressed by creation of an office to monitor religious persecution in the White House. Such placement would give powerful visibility to persecution issues and thereby send a strong and consistent message to all federal agencies to take appropriate measures. In his view, the legislation does not seek to alter U.S. trade policies except in very narrowly defined area of "persecution-enhancing goods and services" which are banned from export. Enhancing asylum and refugee status for victims of religious persecution, he argues, is appropriate for a country founded as a haven for victims of religious persecution.

Critics of the bill fear that it would hurt the United States more than the countries at which it may be directed.<sup>11</sup> It might lead, they argue, to sanctions against countries important to the United States such as Egypt, Saudi Arabia, and Turkey. All those countries count themselves as U.S. allies, and some get U.S. assistance. Another country likely to be affected is China.<sup>12</sup> Some critics feel that the legislation takes a meat-ax or one-size-fits-all approach to a very delicate issue touching on sensitive internal affairs of many countries and which requires, in their view, persistent quiet dialogue with the governments involved.<sup>13</sup>

The Administration while expressing strong commitment to religious liberty and to the objectives of eliminating religious persecution opposes H.R. 2431 and S. 1868.<sup>14</sup> Among Administration objections to H.R. 2431 are that: it is a blunt instrument more likely to harm than aid victims of religious persecution; it is likely to harm U.S. bilateral relationships with key allies and important regional powers; it will create a confusing and unnecessary bureaucratic structure just when the Department of State is upgrading and expanding its activities on this issue; and that it establishes a hierarchy of human rights violations, severely undermining the long-standing U.S. policy of ensuring that all human rights are equally protected. The measure, in the Administration's view, would also allow little flexibility in tailoring policies to promote religious freedom to differing circumstances in different countries. President Clinton in designating the State Department's Senior Advisor for International Religious Freedom on June 18, 1998 expressed the view that "America is not strengthened in fighting for religious liberty or in fighting against religious persecution by laws that are so rigid a President's hands are tied."

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<sup>11</sup> Robert P. O'Quinn, policy analyst at the Heritage Foundation argues that the bill's sanctions provisions "could undermine U.S. security, harm the U.S. economy, and needlessly constrain the economic freedom of Americans—and, in the process, be of little if any effect in advancing religious liberty abroad." He asserts that the bill's sponsors overestimate the ability of the United States alone, to pressure abusive countries to end persecution through unilateral economic sanctions. See *To Promote Religious Liberty, Cut Aid, not Trade*, Issue Bulletin No. 246, September 18, 1997, The Heritage Foundation.

<sup>12</sup> See CRS Report 97-882, *China's Treatment of Religious Practices*.

<sup>13</sup> The National Council of Churches of Christ in the USA did not support the legislation as introduced, in particular opposing: creation of an Office of Religious Persecution Monitoring in the White House as too political a placement; automatic imposition of sanctions as a first option as too simplistic; and singling out of religion as more important than other forms of persecution in the refugee determination process. They support activity within the State Department using an advisory committee representing a diversity of religious communities rather than placing responsibility on one individual, and suggest that the U.S. government seek ways to help victims of persecution. See letter from Oliver Thomas, NCCC Special Counsel, to the Members of the International Relations Committee, inserted in the *Congressional Record*, September 16, 1997, p. E1760 by Representative Lee Hamilton.

<sup>14</sup> Statement of John Shattuck, Assistant Secretary of State for Democracy, Human Rights, and Labor, before the House International Relations Committee on September 9, 1997, and before the Senate Committee on Foreign Relations on May 12, 1998.