

Revisiting the CPC Designation

IMPROVING ACCOUNTABILITY AND ENGAGING PRODUCTIVELY
TO ADVANCE RELIGIOUS FREEDOM ABROAD

POLICY.

(1) To condemn violations of the fundamental right to freedom of religion, and to assist other governments engaged in gross violations of the right to freedom of religion as set forth in the Foreign Assistance Act of 1973, and in international formulations of United States human rights policy.

(2) To seek to channel United States assistance to governments engaged in gross violations of the right to freedom of religion, reflecting both the principled commitment of the United States to religious freedom and the desire of the United States for the most effective response to religious persecution, in light of the range of violations of religious freedom by a variety of persecuting regimes.

(3) To be vigorous and flexible in the United States' response to the status of the relations of the United States with foreign governments that protect religious freedom, in order to develop multi-principled and initiatives to combat violations of religious freedom and promote the right to religious freedom abroad.

(4) To work with foreign governments that protect religious freedom, in order to develop multi-principled and initiatives to combat violations of religious freedom and promote the right to religious freedom abroad.

(5) Standing for liberty and standing with the use and implement appropriate tools in the foreign policy apparatus, including diplomatic, commercial, charitable, educational, and other means to promote respect for religious freedom by all.



USCIRF'S MISSION

To advance international freedom of religion or belief, by independently assessing and unflinchingly confronting threats to this fundamental right.

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ABOUT THE UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

WHO WE ARE

The U.S. Commission on International Religious Freedom (USCIRF) is an independent, bipartisan U.S. Federal Government commission created by the 1998 International Religious Freedom Act (IRFA). USCIRF uses international standards to monitor violations of freedom of religion or belief abroad and makes policy recommendations to the president, the secretary of state, and Congress. USCIRF Commissioners are appointed by the president and congressional leaders of both political parties. The Commission's work is supported by a professional, nonpartisan staff of regional and subject matter experts. USCIRF is separate from the U.S. Department of State, although the department's ambassador-at-large for international religious freedom is a nonvoting, ex officio Commissioner.

WHAT RELIGIOUS FREEDOM IS

Inherent in religious freedom is the right to believe or not believe as one's conscience leads and to live out one's beliefs openly, peacefully, and without fear. Freedom of religion or belief is an expansive right that includes the freedoms of thought, conscience, expression, association, and assembly. While religious freedom is America's first freedom, it also is a core human right that international law and treaty recognize; a necessary component of U.S. foreign policy and America's commitment to defending democracy and freedom globally; and a vital element of national security, critical to ensuring a more peaceful, prosperous, and stable world.

EXECUTIVE SUMMARY

The International Religious Freedom Act (IRFA), passed in 1998, was a landmark piece of legislation declaring it U.S. policy to achieve two complementary aims: “to condemn violations of religious freedom, and to promote, and to assist other governments in the promotion of, the fundamental right to freedom of religion.”

Among its many provisions, IRFA requires the president or his designee, the secretary of state, to make an annual review of the status of religious freedom in each foreign country “to determine whether the government of that country has engaged in or tolerated particularly severe violations of religious freedom in that country during the preceding 12 months.” When such a finding is made, the president or secretary is required to formally designate the country as a Country of Particular Concern (CPC).

IRFA prescribes a CPC designation and a specific class of presidential actions for violations deemed particularly severe, defined as those that are “systematic, ongoing, and egregious.” The statute also provides a nonexclusive list of examples of such violations, including:

- A. Torture or cruel, inhumane, or degrading treatment or punishment
- B. Prolonged detention without charges
- C. Disappearance of persons by abduction or clandestine detention
- D. Other flagrant denial of the right to life, liberty, or security of persons

IRFA also requires that presidential actions accompany CPC designations. As noted in interviews with those involved in drafting the statute, at the time of its passage in 1998, no other human rights apparatus carried such a binding obligation to act. This mandate was intended to ensure genuine consequences for particularly severe religious freedom violations. The presidential actions were designed to require intentional, high-level, vigorous actions specifically intended to reduce persecution and advance religious freedom in CPC countries.

Now, 25 years later, successive secretaries of state have issued 19 rounds of CPC designations—the most recent on December 29, 2023—designating 17 different countries as CPCs 164 times. As a result of those designations, the U.S.

Department of State has imposed a range of actions, some far more frequently than others.

Key informant interviews and independent discourse analysis reveal that the CPC designation mechanism is far more effective at condemning religious freedom violations than promoting changes to policy. The interviews conducted for this report include engagements with a dozen former or current officials, religious freedom advocates, and researchers and an analysis of more than 260 annual religious freedom reports covering all countries that have been designated as CPCs.

Although the State Department has regularly identified CPCs, its record in using the range of executive responses spelled out in IRFA to respond to those violations has been mixed. Stakeholders did tend to praise the State Department’s Office of International Religious Freedom (IRF) for its candor, thoroughness, and objectivity in reporting violations of religious freedom in all foreign countries, year over year. They revealed limited criticisms of the State Department’s evidence collection and reporting process that informs the CPC decision-making process.

However, there was consensus among interviewees that while IRFA has driven important changes in the status of religious freedom as a foreign policy goal, the act and its sanctions instruments have yet to be utilized to their intended extent. In the vast majority of cases, CPC designations have resulted in the application of existing sanctions (67.7 percent of cases) or a presidential waiver based on national interests (24.4 percent of cases). In seven cases (4.3 percent of cases), a waiver was granted to further the purposes of the act. Only on three occasions (1.8 percent of cases)—all with reference to Eritrea—were new sanctions enforced explicitly because of a CPC designation. In just three instances concerning two countries (1.8 percent of cases), a binding agreement was either secured, in the case of Vietnam (2004 and 2005), or pursued, in the case of Uzbekistan (2006). Interviewees viewed the limited use of specific actions as the primary barrier to greater effectiveness of the act.

As noted above, there have been 164 CPC designations since the State Department first made such designations in 1999. The breakdown of actions taken in response to those designations has been:

Sanctions: 114 times

- Application of Existing Sanctions: 111 times
- New Sanctions: 3 times

Presidential Waiver: 47 times

- National Interest: 40 times
- Further the Purposes of the Act: 7 times

Binding Agreement (secured or pursued): 3 times

This report evaluates where CPC designations have proven most effective across three situations: a) collaboration, b) designation with waivers, and c) as part of punitive sanctions. Additionally, the report includes case studies on Eritrea, Saudi Arabia, Vietnam, and Uzbekistan, including lessons learned from U.S. IRF efforts in those countries.

In its 25-year history, IRFA has played a significant role in elevating international religious freedom as a U.S. foreign policy priority and galvanizing a global effort to advance this fundamental human right. The CPC designation mandate, including its requirement for subsequent actions, represents a core component of that policy effort. When appropriately utilized, it has energized action across the IRF ecosystem. Maintaining this energy has been critical in cases of success; this is true both within the U.S. foreign policy sphere and with violator states. When the United States is able to make a sustained, coherent, and adaptive case for religious freedom, U.S. interlocutors take note. The CPC designation tool is the enforcement mechanism that undergirds these efforts. However, its use can be improved through more consistent application, integration into U.S. bilateral relationships, and documentation of changes to freedom of religion or belief.

Too often, the application of IRFA has failed to produce genuine change to advance religious freedom. The repeated use of sanctions waivers backed by vague justifications and the repurposed application of preexisting sanctions dilute the effectiveness of the CPC designation. The indefinite suspension of sanctions or other punitive measures for religious freedom violators, whether due to inertia or competing policy priorities, impedes accountability for religious freedom violators. When waivers must be issued, as the act permits, the State Department should provide clear justifications and timelines.

After 25 years of implementation of IRFA and more than 160 CPC designations, further adjustments could be made to ensure the act is optimized as a tool of U.S. foreign policy to condemn violations of religious freedom and to promote the fundamental right to freedom of religion for all people.

SELECTED RECOMMENDATIONS:

The State Department should:

- Develop a clear action plan for engagement with each CPC-designated country, including a bilateral agenda with the violator country with benchmarks and timelines, outlining the response to positive and negative developments regarding religious freedom promotion.
- Include religious freedom in the Integrated Country Strategy for all CPC-designated countries to pursue alignment of priorities and programmatic approaches across various offices, bureaus, and agencies. It also should consider such inclusion for countries it has placed on the Special Watch List (SWL) and other countries where there are significant religious freedom concerns.
- Strengthen the evidence collection process regarding specific individuals or entities responsible for particularly severe religious freedom violations as part of the annual reporting process. This would streamline the imposition of targeted sanctions against specific religious freedom violators, in keeping with IRFA's requirement for identification of the responsible parties.
- Use the SWL designation as both an “on-ramp” and an “off-ramp” to CPC designation; it should be used in conjunction with other means and can be presented to the violator country as a viable alternative. The State Department also should seek to use a bilateral agreement in the case of an SWL designation to avoid a CPC determination.
- Ensure religious freedom is included in public diplomacy, education and cultural affairs, democracy promotion, and human rights programs and engagements with both government and civil society partners. Doing so would help mainstream religious freedom into U.S. foreign policy, enabling it to be part of a proactive strategy rather than solely punitive or reactive.

Congress should:

- Update the list of required actions for CPC designation to include more modern, targeted sanctions alongside other sanction options, particularly utilizing Global Magnitsky sanctions against individuals and entities responsible for particularly severe violations of religious freedom.
- Hold regular hearings on the U.S. government's implementation of IRFA. These hearings should cover specific actions and programs taken over the previous year and priorities for the coming year, with specific attention to CPC countries. Witnesses should include relevant officials from USCIRF, the State Department, the U.S. Agency for International Development (USAID), the National Security Council, the U.S. Department of the Treasury, and other relevant agencies.
- Request a Government Accountability Office report on the use of IRF program funds and their impact in implementing IRFA.

INTRODUCTION

Unanimously passed by Congress in 1998, the International Religious Freedom Act (IRFA) was a landmark piece of legislation declaring it U.S. policy to achieve two complementary aims: “to condemn violations of religious freedom, and to promote, and to assist other governments in the promotion of, the fundamental right to freedom of religion.”

While drawing on a long tradition through the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981), IRFA was historic in how it explicitly stated a commitment of policy and provided concrete resources for the United States to enact that commitment.

IRFA created various positions and tools to fulfill that directive. These roles included the ambassador-at-large for international religious freedom (IRF), the Office of International Religious Freedom at the State Department, and the independent U.S. Commission on International Religious Freedom (USCIRF). IRFA also mandated that the State Department produce an annual report to Congress on international religious freedom. The report documents the status of religious freedom in each foreign country, including an assessment of violations of religious freedom and a description of U.S. actions and policies in support of religious freedom or opposition to religious freedom violations.

The CPC mechanism represents one of the most concrete elements of implementing IRFA’s mandate. The president (or his designee, the secretary of state) must review annually the status of religious freedom in each foreign country to identify whether “the government of that country has engaged in or tolerated particularly severe violations of religious freedom.” Following a country’s designation as a CPC based on such a finding, IRFA mandates that within 90 days, the president

shall take one or more actions from a menu of presidential actions or what is deemed a “commensurate action.” These presidential actions range from a private demarche to the delay of exchanges, official visits, financial aid, and economic sanctions. For CPC countries, however, the actions are drawn from the more significant actions listed in the statute, ranging from “the withdrawal, limitation, or suspension of United States development assistance” to other punitive measures. In addition, IRFA authorizes the pursuit of a binding agreement on religious freedom as another means for fulfilling the intent of the act. The statute also allows the president to waive taking any presidential action on a CPC-designated country if the president determines that a waiver would further IRFA’s purposes or is required by the important national interest of the United States.

In the 25 years since the passage of IRFA, successive secretaries of state have issued 19 rounds of designations of CPC countries (the most recent on December 29, 2023), designating 17 different countries as CPCs 164 times. As a result of those designations, the State Department has imposed a range of actions, some far more frequently than others.

This report considers the implementation of the CPC mechanism as a tool of U.S. international religious freedom policy over the past 25 years. The findings of this report are based on a robust range of sources and information, including evaluation and coding of the State Department’s annual IRF reports, review of primary source information, and key informant interviews with past and present government officials, congressional staff, civil society actors, and religious communities. The goal of the research was to examine past utilization of the CPC mechanism and to identify potential recommendations for improved policy and practice for the United States government’s efforts to advance international religious freedom.

SCOPE OF THE RESEARCH AND METHODOLOGY

The research conducted for this report utilized key informant interviews (KIIs) with a range of stakeholders, document and discourse analysis of statements and reports from relevant public officials, and comparative analysis with existing and similar legislation. The findings provide qualitative and quantitative insights into CPC designations versus USCIRF recommendations, CPC designations and utilization of waivers, and CPC designations and related programmatic or policy interventions.

The initial research for this project focused on the means and processes of CPC determinations and concurrent presidential actions. This included KIIs with former or current officials to gain insight into the determination process, action decision, implementation, and evaluation of those actions as communicated by the State Department, including with embassies and ambassadors.

A second phase of analysis looked specifically at the countries that have received CPC determination to consider the country conditions and evaluate U.S. government efforts to promote accountability and encourage the development of religious freedom in the given country. This consisted of reviewing and analyzing the annual IRF country reports for each country that has been designated as a CPC, including reports from at least two years before a CPC designation and all years a country was designated. In total, this research covered more than 260 country years of annual IRF reports. Additionally, the researchers reviewed the USCIRF annual reports for the CPC countries over the same period.

The third phase of evaluation looked explicitly at the mechanics of implementation of the legislation from a technical perspective, including submission of required reporting, documentation of required actions, and relevant congressional oversight. Finally, the researchers reviewed the existing IRFA legislation and other legislative tools and considered potential refinements or other remedies via amendment language.

THE DESIGNATION: IDENTIFYING THE WORST VIOLATORS

One of the central provisions of IRFA is that the president or his designee, the secretary of state, is required to make an annual review of the status of religious freedom in each foreign country “to determine whether the government of that country has engaged in or tolerated particularly severe violations of religious freedom in that country during the preceding 12 months.” Where a government is found to have engaged in or tolerated such violations, IRFA provides that the president shall designate it as a CPC with respect to religious freedom. Based on the statute, if a country meets the standard, the president or his designee is required to designate it as a CPC.

One KII said, “I think the CPC designation exercise and list is the most important part of IRFA. Sometimes, the worst abusers can get lost in the details of the report. So, the CPC designation highlights them, and for many countries, even if they say they do not care, they do not want to be on the list.”

IRFA (Sec. 402) prescribes CPC designation and a specific class of presidential actions for violations deemed particularly severe, meaning those falling under the specific criteria of “systematic, ongoing, and egregious.” The statute also provides a nonexclusive list of examples of such violations, which includes:

- A. Torture or cruel, inhumane, or degrading treatment or punishment
- B. Prolonged detention without charges
- C. Disappearance of persons by abduction or clandestine detention
- D. Other flagrant denial of the right to life, liberty, or security of persons

In 2016, IRFA was updated by the Frank R. Wolf International Religious Freedom Act, or the Wolf Act. The Wolf Act was intended to improve reporting on country conditions, expand diplomatic responses, and grant additional flexibility in the mandated designations. It created a new category of designation for nonstate actors—Entities of Particular Concern (EPCs)—and instated the SWL designation. Per the Wolf Act, the SWL is for countries whose governments have engaged in or tolerated violations of religious freedom that are “severe” but do not rise to the level of “particularly severe” (as defined by Sec. 402) warranting a CPC designation.

Despite creating this distinction, the Wolf Act did not specifically define or provide examples of severe violations. Neither the annual IRF report nor the State Department’s annual CPC and SWL designations delineate which specific violations have been deemed particularly severe or severe. As a result, it can be difficult for observers to discern the differences between the two standards and levels of designations.

In the early years of reporting under IRFA, the focus seemed exclusively on violations by the foreign government or where the government tolerated these violations. While culpability for government-committed violations is often more clearcut, whether a government has explicitly and inappropriately “tolerated” particularly severe violations committed by nonstate actors can be harder to determine. As one KII highlighted regarding Nigeria and Iraq, questions around when a government had permitted a culture of “impunity” or tolerated religious freedom violations were more challenging to assess. In the case of both countries, the interviewee noted that the results of unaddressed religious freedom violations were disastrous for religious minorities.

As articulated in IRFA, the basis of review for CPC determinations includes information contained in the State Department’s annual human rights country reports, the annual IRF report, and any other evidence available. It also considers the findings or recommendations from USCIRF concerning conditions of religious freedom in a given country.

Notably, the act also specifies that parties responsible for religious freedom violations be identified. As IRFA states, “The President shall seek to determine the agency or instrumentality thereof and the specific officials thereof that are responsible for the particularly severe violations of religious freedom engaged in or tolerated by that government.” This is important for an accurate assessment of the conditions, as there may often be regional variations based on the country’s demographics or context. Identifying the responsible actors also helps “to appropriately target Presidential actions.” As designed, the review and designations are not meant to be merely a blanket condemnation of an entire country as violators but rather to have an express intent to call out specific abuses and

abusers and to tailor U.S. policy responses toward bringing positive change.

IRFA also defines and provides examples of a class of less serious abuses referred to as “violations” of religious freedom. These are defined as “any violations of the internationally recognized right to freedom of religion” articulated by several international instruments cited by the act (Sec. 2(a)2), including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the United Nations (UN) Charter, and others. While violations not meeting the “particularly severe” level do not carry the statutory requirement of a CPC designation, they require their own set of less severe presidential actions. They also may lead to a country being placed on the SWL, which the State Department has been mandated to keep since 2016.

REPORTING AND DETERMINATION

Across KIIs and independent discourse analysis conducted in this report, limited criticisms were made of the evidence collection and reporting process used to inform the CPC decision-making process. Stakeholders tended to praise the IRF Office for its candor, thoroughness, and objectivity in reporting violations of religious freedom in all foreign countries, year after year.

Some interviewees highlighted their concerns with the perceived tone or interpretation of facts in some reports, including those based on interactions with local religious communities. As one religious freedom advocate noted, some representatives of religious communities, particularly those in positions of prominence, are prone to represent a positive picture and hesitant to cite specific incidents that may reflect negatively on the government. Alternatively, those in independent or activist roles with a more oppositional relationship with the government would be more prone to identify specific incidents in a more critical matter. This tension in many countries highlights the importance of a dedicated IRF policy and staff committed to this issue within the U.S. foreign policy establishment.

The potential for these tensions of competing viewpoints and perspectives was foreseen in the drafting of IRFA, which includes language that mandates that U.S. embassies abroad “maintain a consistent reporting standard and thoroughly investigate reports of violations.” As an element of this process, the statute explicitly notes that United States Mission personnel, as part of compiling and assessing the status of religious freedom, shall, as appropriate, “seek out and maintain contacts with religious and human rights

nongovernmental organizations” and utilize or investigate the information provided in reports from these interlocutors.

Another interviewee highlighted the difficulty of obtaining complete information. Even when single incidents are reported, it can be hard to grasp the full context of what is happening in a given area without direct engagement with affected communities or independent voices. Such engagement, however, can be challenging when governments highly restrict access to sensitive areas.

The proactive mandate that U.S. officials develop and maintain contacts with a broad range of stakeholders is vital in assessing the country’s religious freedom conditions. There are often competing narratives and perspectives on the status of religious freedom in each country. Experiences of local faith communities from various backgrounds or diverse geographic areas may differ significantly from what U.S. diplomats hear through formal diplomatic channels or from recognized religious leaders who may, by necessity, have an established relationship with a government. Yet for more independent, nongovernmental sources (minority religious communities, minority news networks), providing information on rights violations or forms of oppression can come with risks. Some interviewees highlighted the challenges their interlocutors faced within a country, and some described instances of transnational repression due to their work on human rights issues.

These challenges highlight the value of a proactive religious freedom policy that involves engaging with both government interlocutors and religious communities. The annual religious freedom report and CPC determination process represent an important opportunity for U.S. officials. The annual preparation of the country report presents an opportunity to engage with diverse perspectives and stakeholders, both within and outside of the country, as part of the effort to pursue fact-based decisions.

Within this process, conceptualizing IRFA’s religious freedom reporting apparatus as an ecosystem can be helpful. Wherein the State Department’s IRF Office publishes an exhaustive timeline-style yearly report for nearly every country and territory throughout the world, USCIRF publishes its annual report primarily on countries that fall into its CPC or watchlist recommendations. The purpose and style of these reporting mechanisms are fundamentally different. Therefore, their conclusions also bear important differences.

The State Department’s yearly IRF report is designed to be an exhaustive reporting mechanism, covering facts on the ground in nearly every foreign country for that reporting period. These reports are usually drawn from an initial draft from a country-level human rights officer in each U.S.

embassy. This process is overseen by a dedicated team within the IRF Office, managing input from across the department. The ultimate objective of the report, formally submitted to Congress, is to present information in a comprehensive, disciplined timeline style. Accordingly, the IRF reports are dense—some spanning over 100 pages per country—and aim to describe specific incidents and the overall country conditions. They provide an essential basis for the CPC decision-making process. They are also a resource utilized regularly by civil society organizations and even other governments to lend credibility to reports of religious freedom conditions in a given country.

On the other hand, USCIRF is intended by IRFA to be a watchdog of religious freedom conditions abroad and U.S. IRF policy and to provide independent recommendations for policy options. USCIRF's reporting is quicker to respond to changes on the ground. The current versions of USCIRF annual reports and other publications are more easily digestible for public consumption. The annual USCIRF report has become something like a report card for the latest changes in global religious freedom, along with a narrow list of specific policy recommendations.

COUNTRY CASE STUDY – ERITREA: REPORTING AS THE FIRST STEP

Overview of Religious Freedom Conditions

The religious freedom conditions in Eritrea are among the most repressive in Africa. The government regularly violates both individual and institutional expressions of religious freedom. Since gaining independence in 1993, under President Isaias Afewerki, the Eritrean state has exercised strict control over religious practice and institutions and sought to impose national values through compulsory military service. The government's concern is not necessarily with religion per se but rather that religious affiliation, especially with potential foreign connections, may become a source of mobilization and association that threatens the established political order and government control. A 1995 proclamation to standardize religious activities and institutions and separate religion and politics has instead been the basis for state control of and intervention in religious life. The government formally recognizes only four officially registered religious groups: the Eritrean Orthodox Tewahedo Church, Sunni Islam, the Roman Catholic Church, and the Evangelical Lutheran Church of Eritrea. A 2002 order requiring re-registration has effectively closed all other organizations. The government has not granted any new registrations since that time, providing the pretext for the arrests of thousands of individuals for unsanctioned religious activities.

CPC Designation and U.S. Policy

The State Department first designated Eritrea as a CPC in 2004 and has redesignated it as such in every set of religious freedom designations since then. The announcement of the initial designation *cited* the 2002 closure of all activities outside of the recognized four groups. Also noted were more than 200 religious prisoners, including those who had faced severe torture and pressure to renounce their faith.

As of 2023, Eritrea still retains the distinction of being the only country sanctioned explicitly for its violations of religious freedom. Starting in 2005, the secretary of state *restricted* the export of defense articles and services under the Arms Export Control Act. The ability to engage substantively with Eritrea on religious freedom has been relatively limited. The annual IRF report notes that embassy officials regularly attempted to meet with religious leaders and government officials responsible for religious affairs to raise religious freedom concerns—but with mixed results, as these efforts were often blocked. For years, Eritrea has received little to no U.S. *foreign assistance*, which further limits the available tools for meaningful engagement with governmental or civil society actors.

Policy Effectiveness and Outcomes

Eritrea represents an example of a primarily punitive approach to religious freedom efforts in a repressive country that has limited relations with the United States, complicating efforts to develop a robust *strategy for engagement*. In 2005, the Eritrean government ordered USAID and many other bilateral donors and international nongovernmental organizations (NGOs) to leave the country. The Eritrean state frequently shows hostility toward external intervention in the country, viewing it as a threat to national sovereignty and pride. In this context, there has been minimal space for direct engagement and limited success in addressing religious freedom concerns in Eritrea.

In addition to continued efforts at engagement with religious leaders in the country and government officials, the U.S. government has highlighted its concern about religious freedom violations in Eritrea by condemning unjust detentions and expressing solidarity and concern for persecuted religious communities. In 2012, the IRF Report noted that embassy staff had sought to promote religious tolerance through educational, cultural, and charitable activities. At times, these were limited or private, while other events were public, such as a Muhammad Ali film festival highlighting key religious freedom issues. Additionally, the IRF Reports cited examples of the U.S. embassy using social media to highlight the principles and values of religious freedom or condemn specific abuses to counter false

messaging. Following a 2018 agreement between Eritrea and Ethiopia, formal U.S. delegations to the country increased, including State Department *officials* and *congressional representatives*. In 2019, a staff delegation from the Bureau of Democracy, Human Rights, and Labor and the Office of International Religious Freedom *visited Eritrea*, meeting with government officials and representatives of religious communities. The most recent *Integrated Country Strategy* (November 2023) highlighted that despite constraints due to a lack of typical foreign assistance or other policy tools, efforts were still being taken to share American values through the American Center and other public diplomacy programs, although not explicitly mentioning religious freedom. However, it described the challenging environment, noting that the government had forced the American Center to close indefinitely in November 2022. In addition to these efforts, the State Department highlighted where it would take opportunities to engage with other diplomatic missions and multilateral institutions to bring attention to religious freedom concerns in Eritrea. The strategy of ensuring that these issues are known and recognized by other missions can be an important aspect in the context of countries that have strained bilateral relations with the United States.

Summary Lessons Learned

- While punitive measures alone are unlikely to bring about substantive change, they send a message of the U.S. government's seriousness in combating violations of fundamental rights and freedoms. It is critical that the U.S. government consistently communicate the underlying values and motivations for the measures to combat false narratives.
- In the context of ongoing repressive behavior, the regular documentation, reporting, and condemnation of ongoing abuses are important. Even if unlikely to bring change in the short term, this provides an important accounting of conditions and offers U.S. support and solidarity with those suffering violations of their rights and freedoms.
- Broader regional or geopolitical developments, such as the 2018 agreement with Ethiopia, can present new opportunities for the U.S. government to engage with a violator country on religious freedom issues. Nominal improvements in the U.S.-Eritrea relationship following that agreement allowed the United States to send several delegations to the country to press the government on human rights issues while continuing to call out ongoing abuses.

- In a country such as Eritrea, with punitive measures in place and a limited bilateral relationship, there can still be opportunities to raise religious freedom concerns through engagement via other diplomatic channels and multilateral mechanisms. In this case, the intentional and creative use of educational and cultural activities was a key avenue for advancing support for fundamental rights and freedoms.

CPC AND U.S. FOREIGN POLICY PRIORITIES

A central objective of IRFA was to explicitly recognize international religious freedom as a priority within U.S. foreign policy. With each change of administration and in each bilateral relationship, numerous issues are constantly vying for attention. Within U.S. IRF policy, the CPC mechanism is perhaps the most concrete way to demonstrate a priority for religious freedom. Religious freedom is never a standalone issue. As a congressional staffer directly involved in drafting IRF legislation reflected, “The CPC in a vacuum may have little hope of bringing about change. The use of the mechanism is always contextual, tied to larger bilateral relations and world events at that time.”

When a CPC determination is made, the designation serves as a tool for elevating religious freedom concerns within the broader context of U.S. foreign policy with respect to that country. It emphasizes religious freedom issues among competing priorities and ensures their prominence among U.S. strategic interests. A former State Department official recalled how frequently the department’s geographic bureaus would push back against a CPC designation because of economic or bilateral interests being impacted should the country end up on the CPC list. As another former State Department official said, “The CPC designation elevates [religious freedom] issues on the human rights agenda and sends a signal across the whole State Department that this is a priority.”

At the passage of the act 25 years ago, this recognition given to religious freedom in foreign policy was unthinkable. CPC designations and the underlying body of evidence in the annual IRF Report provide significant leverage for engaging countries on these human rights concerns. In entering bilateral dialogues or other forms of direct engagement, former State Department officials highlighted how these IRFA mechanisms provided the framework for raising religious freedom concerns as part of these dialogues, which often covered a range of topics and for which human rights concerns could be seen as an obstacle to progress.

One KII indicated that the CPC process may be the most important part of IRFA because it shines a spotlight on abusers and tells them that the world sees and knows about their actions.

However, while IRFA and the CPC designation tool have made significant inroads in advancing religious freedom as a foreign policy priority, the issue still must contend with other highly competitive policy and bureaucratic interests. A former State Department official reflected, “While the standard is clear, there [were] debates over interpretation of what was required.” As a result, broader policy or relational concerns may still influence the ultimate decision on a determination. The KII continued, “It is not an information problem. It is a political will issue. Based on the information, what do you do with it? Are you willing to admit that this actually is systematic, egregious, and ongoing and thus triggers a CPC designation? And that’s always where the debate is.”

Another KII recalled, “The biggest criticism I saw over time [of the CPC designations] is that [the U.S. government is] quick to call out countries where they have adversarial relationships, but allies either don’t get that designation or there are no repercussions for the designation.”

Particularly at the country level, bureaucratic actors often see the presidential actions, including potential sanctions, required by a CPC designation as working counter to the diplomatic interests of other initiatives. Stakeholders frequently reported that geographic bureaus or U.S. embassies cited their policy priorities in contradiction to religious freedom concerns and at times opposed a CPC designation altogether. The maintenance of sanctions waivers on countries designated as CPCs—in some cases for over 10 years—is often driven out of these bilateral policy concerns.

The utility of bilateral religious freedom agreements in achieving broader country-level goals has been only minimally realized. In the most successful examples, bilateral agreements with CPC-designated countries involved government interlocutors and engagement with civil society, business leadership, and trade representatives. Accordingly, bilateral engagement following a CPC designation can drive other human rights and development initiatives if conceptualized as a holistic policy tool. Conditioned military aid and human rights conditional trade partnerships are also pertinent examples of potential pathways for engagement.

DESIGNATION DELAYS OR GAPS

Given the obligations following designation and diplomatic considerations, the State Department's CPC designations often lag significantly behind recommendations made by USCIRF. A side-by-side review of the State Department's designations and USCIRF's recommendations found a clear gap in time-to-CPC recommendations. In almost all cases of an emergent violator, USCIRF was "sounding the alarm" multiple years ahead of the State Department's designation of the country as a CPC. For example, in the cases of Turkmenistan and Pakistan, the State Department lagged behind USCIRF's recommendations by seven and 10 years, respectively. In the recent cases of Nicaragua and Cuba, however, State Department CPC designations had for the first time preempted USCIRF recommendations, as political factors in both countries heightened the department's prioritization of them within a broader regional human rights strategy.

Stakeholders disagreed on the implications of this gap. Many observed that, in some sense, disparities over designation recommendations reinforced the importance of having two separate reporting bodies with different objectives, considerations, and audiences. Others noted that in almost all cases, State Department designations followed USCIRF recommendations, representing missed opportunities for earlier State Department engagement with violator countries. In the era following the Wolf Act, the SWL designation can be an essential tool in closing the designation gap, allowing the State Department to begin engagement with soon-to-be CPCs before major violations and driving proactive diplomatic engagement before a CPC designation is made.

See Annex 1 for a comparison of State Department designations and USCIRF recommendations.

COUNTRY CASE STUDY – SAUDI ARABIA: MAKING A BILATERAL AGREEMENT WORK

Overview of Religious Freedom Conditions

Violations of religious freedom in Saudi Arabia consistently emerge from the state apparatus, which formally embraces Sunni Islam, particularly the Salafi Hanbali interpretation. Salafism is a fundamental source of legitimacy for the monarchy and has been since its founding despite recent changes to how religion has been centered in Saudi national identity. Accordingly, the Saudi government regards Shi'a Muslims, Saudi Arabia's largest religious minority (10–12 percent of citizens), as a demographic threat to the established order and routinely suppresses their identity or confines them to particular regions. Saudi Arabia's population is also made up of approximately 38 percent expatriate

workers of manifold religious backgrounds. Expatriates exercise non-Islamic faiths in private, though state authorities surveil and interrupt these activities on what are at times religious and political grounds. The public expression of any non-Muslim faith is legally prohibited.

CPC Designation and U.S. Policy

Engagement and progress toward improved religious freedom conditions in Saudi Arabia have been decisively slow, though not insubstantial. The State Department has designated Saudi Arabia as a CPC every year since 2004. However, due to Saudi Arabia's role as a key strategic ally to the United States in the Persian Gulf and a major energy partner, the U.S. government has not imposed IRFA sanctions in response to the CPC designation.

In 2006, the State Department announced that extensive bilateral discussions related to the CPC designation had produced a list of policy changes the Saudi government would implement. In the negotiations, according to stakeholders, officials expressly avoided phrases such as "binding agreement" and even "bilateral work plan" for diplomatic maneuverability. Instead, the 2006 agreement was referred to as a "confirmation of policies." Its announcement was accompanied by an indefinite sanctions waiver "to further the purposes of the act" implicitly tied to the pursuit of those policies. Primary among the requests were revisions to intolerant content in school *textbooks*, protections for non-Muslim private worship, and limitations to the notoriously overreaching state religious police.

Policy Effectiveness and Outcomes

Despite marginal gains on these issues at the time, in redesignating Saudi Arabia as a CPC in July 2014, the State Department again granted a sanctions waiver, citing "important national interests of the United States." Every year since, USCIRF's country report has recommended against the waiver, but the State Department has renewed it. Since then, the State Department has indicated in the IRF Reports that its primary modes of engagement on religious freedom issues in Saudi Arabia have included ambassador-level discussions on human rights, meetings between U.S. religious freedom officials and Saudi government officials, pressure applied to the Saudi Ministry of Culture and Information on the textbook issue, and educational exchanges to build religious tolerance.

While the Saudi government did not meet the desired timelines on the policy outcomes it agreed to in 2006, progress on all three can be seen today. In the case of textbooks, reforms were made in fits and starts through the mid-2000s. However, by 2020, an independent NGO *observed* that several improvements had been implemented, although some problems persisted. While legal protections for the private religious practice of non-Muslim faiths have not been enacted, human rights groups report a de

facto loosening of restrictions and oversight, especially when compared to the environment of 20 years ago. In the case of the religious police, royal decrees gradually reduced their autonomy, and in 2016, an act by the royal Cabinet *revoked* their authority to arrest, interrogate, and detain independently.

While these policy outcomes happened amid over a decade of express U.S. government engagement, domestic changes within Saudi Arabia have had the most significant effect on improvements in religious freedom. Specifically, Mohammad Bin Salman's ascension to Crown Prince in 2017 was followed by a renewed focus on reform and a desire for religious moderation, as outlined in the 2030 Vision. Bin Salman's reforms have included additional marginalization of religious police, codification of laws previously at the discretion of religious courts, and some limitations to the male guardianship system.

However, Bin Salman has also used many of these developments to consolidate his power domestically and appeal to foreign partners by nodding to liberalization without enacting policies that create systemic change. Egregious violations of religious freedom persist under the new Crown Prince, some at a scale previously unseen. For example, in 2022, Bin Salman presided over a mass execution—the largest in the country's history—of individuals convicted of holding “deviant beliefs” and terrorism; over half of the prisoners were from the Shi'a minority. Laws that criminalize blasphemy, apostasy, and atheism remain in place and still result in executions. U.S. engagement has had ostensibly little effect on changes to these laws.

While some aspects of the religious freedom situation in Saudi Arabia have improved through the period of IRFA

engagement, grave violations remain. Saudi Arabia's position as a special partner of the United States significantly complicates diplomatic attempts to improve the Saudi human rights framework. It has been an impediment to the United States imposing meaningful sanctions based on the CPC designation. Further, U.S. sanctions waivers predicated on bilateral discussions have not produced results in a timely manner. While tangible gains have been made, many of the more recent changes are linked to considerations and developments within the country rather than the CPC designation, which has, over time, been rendered all but toothless given nearly two decades of uninterrupted waivers.

Summary Lessons Learned

- Bilateral agreements addressing CPC violations and improving religious freedom conditions can take many forms. Flexibility in drafting or implementing these agreements—in this case, with respect to even the name of the agreement—proved essential in creating mutually agreed-upon and cognizable goals between the U.S. government and the foreign government in response to the CPC designation.
- Without the credible threat of the imposition of sanctions or other punitive measures, a bilateral agreement risks becoming overly flexible, surpassing realistic deadlines, and serving to legitimize negative behaviors.
- Domestic political changes in a country, including high-level leadership changes, can be key opportunities for policy advancements on religious freedom. The IRF Office must be prepared to present religious freedom as a policy priority quickly and persuasively during a major administrative or ideological change.

CPC DESIGNATION: A MANDATE TO TAKE ACTION

One of the most significant aspects of IRFA was its requirement that presidential actions accompany CPC designations. As noted in interviews with those involved in drafting IRFA, at the time of its passage in 1998, no other human rights apparatus carried such a binding obligation to action.

This mandate was to ensure there were genuine consequences for particularly severe religious freedom violations.

The presidential actions were designed to require those consequences to be intentional, high-level, vigorous actions specifically intended to reduce persecution and advance religious freedom in CPC countries. A former State Department official said, “I think this is where the drafters of IRFA were smart not just to create a report that would ‘name and shame,’ but an ambassador and commissioners that would engage with the CPC. You have some teeth that can bite, that can create consequences for their unwillingness to adhere to the international standards they have committed to.” However, the State Department’s preference for waivers or applying existing sanctions has limited the effectiveness of other means of response, in contradiction to the original spirit of the law.

As noted at the outset, IRFA had dual aims for U.S. policy: condemning violations of religious freedom on the one hand and promoting religious freedom on the other. The CPC designation mechanism and IRF policy seem to have been far more effective on the former than the latter. As one former State Department official said, “To the extent that our policy is the denunciation of violations of religious freedom, the CPC mechanism has, in fact, achieved that or assisted in the achievement of that.” There have been collateral impacts on raising awareness of violations. However, when considering the effects on a government’s policy or practices, a KII commented that in many places, “the CPC designation hasn’t really had an impact on the ground.”

Another longtime State Department official, while pointing out IRFA’s remarkable successes in highlighting religious freedom as a global human rights concern, said the most significant shortcoming has been in acting. The KII said, “There hasn’t been that sustained political will at a leadership level to use the CPC in a coordinated fashion, in a broader strategy of engagement, to move a country in a positive direction on human rights. But when it has been used, it works.”

MENU OF OPTIONS

Under IRFA, the U.S. government must take some action toward all foreign countries whose governments engage in or tolerate violations of religious freedom (IRFA Sec. 401), with specific requirements in response to particularly severe violations of religious freedom (IRFA, Sec. 402). These actions are to be undertaken following steps to request consultation with the government regarding the violations of religious freedom, with the hope of securing change (IRFA, Sec. 403). While the criteria for designation are somewhat rigid, this menu of policy options affords some flexibility in how specifically the U.S. government responds.

The act provides four categories of responses to the violations of religious freedom. These include a range of presidential actions, a commensurate action in substitution for any of the specifically listed actions, a binding agreement, and finally a waiver on taking any action.

The following is a complete list of the actions outlined in IRFA:

A. Presidential Actions (IRFA, Sec. 405(a))

Available in response to any religious freedom violations

1. A private demarche
2. An official public demarche
3. A public condemnation
4. A public condemnation within one or more multilateral fora
5. The delay or cancelation of one or more scientific exchanges
6. The delay or cancelation of one or more cultural exchanges
7. The denial of one or more working, official, or state visits
8. The delay or cancelation of one or more working official or state visits

Available following a CPC designation

9. The withdrawal, limitation, or suspension of United States development assistance
10. Denials of credit, insurance, or guarantees by the U.S. Export-Import Bank, U.S. International Development Finance Corporation, or U.S. Trade and Development

Agency to the government, entities, or officials responsible for the violations

11. The withdrawal, limitation, or suspension of U.S. security assistance
12. Directing the U.S. executive directors of international financial institutions to oppose and vote against loans primarily benefiting the government, entities, or officials responsible for the violations
13. Denials of licenses for exports under certain instruments such as the Arms Export Control Act
14. Prohibiting U.S. financial institutions from making loans or extending credit over a certain amount to the government, entities, or officials responsible for the violations
15. Prohibiting the U.S. government from procuring goods or services from the government, entities, or officials responsible for violations

B. Commensurate Action (IRFA, Sec. 405(b))

For any of the actions listed above, IRFA allows the president to substitute “any other action authorized by law” if that action “is commensurate in effect to the action substituted and if the action would further the policy of the United States” outlined in IRFA. If a commensurate action is taken, the statute requires the president to “report such action, together with an explanation for taking such action, to the appropriate congressional committees.”

C. Binding Agreement (IRFA, Sec. 405(c))

IRFA provides that:

The president may negotiate and enter into a binding agreement with a foreign government that obligates such government to cease, or take substantial steps to address and phase out, the act, policy, or practice constituting the violation of religious freedom. The entry into force of a binding agreement for the cessation of the violations shall be a primary objective for the president in responding to a foreign government that has engaged in or tolerated particularly severe violations of religious freedom.

D. Waiver (IRFA, Sec. 407, as amended)

IRFA allows for a waiver on taking any presidential action under certain circumstances. The relevant provision states:

(a) In general

Subject to Subsection (c), the president may waive, for a single, 180-day period, the application of any

of the actions described in paragraphs (9) through (15) of Section 6445(a) of this title (or commensurate action in substitution thereto) with respect to a country, if the president determines and so reports to the appropriate congressional committees that—

- (1) the exercise of such waiver authority would further the purposes of this chapter; or
- (2) the important national interest of the United States requires the exercise of such waiver authority.

(b) Additional authority

Subject to Subsection (c), the president may waive, for any additional specified period of time after the 180-day period described in Subsection (a), the application of any of the actions described in paragraphs (9) through (15) of Section 6445(a) of this title (or a commensurate substitute action) with respect to a country, if the president determines and reports to the appropriate congressional committees that—

- (1) the respective foreign government has ceased the violations giving rise to the presidential action; or
- (2) the important national interest of the United States requires the exercise of such waiver authority.

(c) Congressional notification

Not later than the date of the exercise of a waiver under subsection (a) or (b), the president shall notify the appropriate congressional committees of the waiver or the intention to exercise the waiver, together with a detailed justification thereof.

(d) Sense of Congress

It is the sense of Congress that—

- (1) ongoing and persistent waivers of the application of any of the actions described in paragraphs (9) through (15) of Section 6445(a) of this title (or commensurate substitute action) with respect to a country do not fulfill the purposes of this chapter; and
- (2) because the promotion of religious freedom is an important interest of United States foreign policy, the president, the secretary of state, and other executive branch officials, in consultation with Congress, should seek to find ways to address existing violations, on a case-by-case basis, through the actions described in Section 6445 of this title or other commensurate substitute action.

APPLICATION OF THE MANDATE

Although the State Department has regularly identified CPCs, its record in using the range of executive responses spelled out in IRFA to respond to those violations has been mixed over the 25-year history of the act. Stakeholders interviewed for this report agreed that while IRFA has driven important changes in the status of religious freedom as a foreign policy goal, the act and its sanctions instruments have not been utilized to their intended extent.

In the vast majority of cases, CPC designations have resulted in the application of existing sanctions (67.7 percent of cases) or a presidential waiver based on national interests (24.4 percent of cases). In seven cases (4.3 percent of cases), a waiver was granted to further the purposes of the act. Only on three occasions (1.8 percent of cases), all with reference to Eritrea, were new sanctions enforced explicitly because of a CPC designation. In just three instances concerning two countries (1.8 percent of cases), a binding agreement was either secured, in the case of Vietnam (2004 and 2005), or pursued, in the case of Uzbekistan (2006). Interviewees viewed the limited use of specific actions as the primary barrier to greater effectiveness of the act.

As noted above, there have been 164 CPC designations since the first in 1999.¹ The breakdown of actions taken in response to those designations has been:

Sanctions: 114 times

- Application of Existing Sanctions: 111 times
- New Sanctions: 3 times

Presidential Waiver: 47 times

- National Interest: 40 times
- Further the Purposes of the Act: 7 times

Binding Agreement (secured or pursued): 3 times

Other Presidential Actions Certified to Congress: N/A

See Annex 2 for a table showing the State Department's CPC designations and accompanying presidential actions.

The following sections will consider how IRFA's mandate to take action against governments that engage in or tolerate particularly severe violations of religious freedom has been applied across three primary types of responses following CPC designations. First, as the basis for collaborative engagement; second, with a waiver of further actions; and third, as part of punitive sanctions.

CPC Designation as the Basis for Collaborative Engagement

While a CPC designation is punitive, the State Department has sometimes used it as a tool to encourage improvements rather than simply to “name and shame” a violator government. Even if sanctions accompanied a CPC designation in every case, this approach alone would be unlikely to improve global religious freedom as the act intends.

IRFA includes various mechanisms for pursuing joint partnerships to address religious freedom concerns. Whether to end a designation or to avoid the expiration of a waiver, bilateral cooperation coupled with the CPC process has been the most reliable means to securing tangible results. A former State Department official recalled, “When countries feared actual consequences from being designated, that gave diplomats, gave the IRF office, gave the ambassador the leverage, that was so crucial to see things change.”

The most robust of these tools is the development of a binding agreement with a violating country, securing commitments to make substantive improvements to address religious freedom concerns.

One of the KIIs stated in an interview that the binding agreement mechanism was drawn from trade law, where it had been effective, but it had never been applied to a human rights issue. If, through this process, a country reformed the violations justifying a CPC designation in the first place, that would be “emblematic of the purpose of the whole bill.”

The only example of a binding agreement being entered into force is with Vietnam in 2004 and 2005. In 2006, based on the Vietnamese government's actions under the agreement, the State Department lifted the country's CPC designation. Since then, and despite continued USCIRF CPC recommendations, Vietnam has remained off the State Department's CPC list. However, recent regressions led the department to place Vietnam on the SWL in its 2022 and 2023 designations.

The State Department's CPC designations of Vietnam in 2004 and 2005, combined with waivers on taking any presidential action and efforts toward the binding agreement, provides a case study of the United States using IRFA's tools to spur a violating government to take visible, constructive actions on religious freedom, even as the United States continued to engage with it fruitfully on other matters like trade and regional security. USCIRF noted in its 2005 and 2006 annual reports that the government of Vietnam

¹ In IRFA's early years, the State Department also deemed as “particularly severe violators of religious freedom” two regimes that the United States did not recognize as legitimate governments—the Milosevic regime in the Serbian Republic of Yugoslavia (in 1999 and 2000) and the Taliban regime in Afghanistan (in 1999, 2000, and 2001). Because these were not formal CPC designations and no presidential actions were imposed, they were not counted in this analysis.

responded to the designation, U.S. diplomacy, and positive engagement by international civil society organizations by:

- Releasing “several prominent democracy, free speech, and religious freedom advocates” from prison.
- Issuing “legal documents to clarify and implement Vietnam’s 2004 Ordinance on Religious Beliefs and Religious Organization.... The new instructions also prohibit forced renunciation of faith efforts by government officials,” although they “do not specify criminal penalties for those who carry out these practices.”
- The prime minister [issuing] Decree 22, “establishing specific requirements and deadlines for government approval of all religious groups, venues, seminaries, conferences, donations, festivals, ceremonies, and the selection and training of religious leaders.... The primary benefit of the new decree appears to be streamlining the process of registration and obtaining permits; deadlines for an official response are outlined in the decree, and, in some cases, religious groups can expect a written explanation on why their application was denied.”
- Reaching the May 2005 binding agreement with the State Department “on benchmarks to demonstrate an improvement in religious freedom conditions. Under the agreement, the Vietnamese government committed to: 1) implement fully the new legislation on religious freedom and render previous contradictory regulations obsolete; 2) instruct local authorities strictly and completely to adhere to the new legislation and ensure compliance; 3) facilitate the process by which religious congregations are able to open houses of worship; and 4) give special consideration to prisoners and cases of concern raised by the United States during the granting of prisoner amnesties.”
- Reopening “some churches in the Central Highlands, officially outlawed forced renunciations of faith, and issued new guidelines to help speed the process of registration of religious congregations.”

The 2004 and 2005 CPC designations of Vietnam offer counterevidence to the argument that the United States should not designate a strategically important country as a CPC because the designation will undermine U.S. national interests and security. As one interviewee who was a senior State Department official at that time noted, rather than breaking the relationship, the extensive engagement with the Vietnamese around the CPC designation and the development of the binding agreement led to deepening relational ties and mutual respect. The official recalled that in his subsequent engagements with other countries, he could cite Vietnam as an example of the positive outcomes

of engaging with the United States and seeking substantive changes to protect religious freedom.

While not resulting in fully executed binding agreements, several interviewees cited similar efforts of substantive engagement to encourage a foreign government to make changes before a CPC designation, including work with Saudi Arabia, Sudan, Turkmenistan, and Uzbekistan. As one former senior official recalled, a high level of collaborative engagement on IRF concerns was important not only for the relationship with officials in the other government but also for U.S. officials in other offices and bureaus within the State Department and the White House. Recalling one such negotiation, a former State Department official remembered that by the time the CPC designation for Vietnam was announced by the secretary of state, the representatives of the foreign government “really admired the carefulness with which we’ve made that process.” Also, within the U.S. government, the KII recalled that “you’ve got to earn the right to [recommend a CPC determination] by proving to people within the building that this is necessary and that you have warned [the violator government] and you have tried to do everything you can with them.”

Another former official recalled that U.S. diplomats engaging in diplomacy on IRF issues made a point of providing the violator country a clear indication of the issues being considered as part of the CPC designation process. While acknowledging that the final decision was with the secretary of state, the interviewee noted that officials could indicate that steps such as reforming the registration process for houses of worship, allowing churches to operate, allowing men to grow beards in line with their religious convictions, releasing prisoners held for religious reasons, allowing the training of children in line with parents’ religious beliefs, etc. would be considered. In some cases, these recommendations became a roadmap for ongoing engagement and a pathway toward reforms. These examples suggest ways that U.S. officials can use the CPC designation process within the context of ongoing collaborative engagement driven toward change.

Waiver of Presidential Action

If using the binding agreement option as the consequence of a CPC designation has been rare but effective, using a waiver on taking any presidential action has been far more common. However, its effectiveness is questionable at best. Of 164 total CPC designations during the lifetime of the act, the State Department has granted a waiver on 47 occasions. For these waivers, which the statute allows for two reasons, the State Department cited the important national interest of the United States as the basis 40 times and furthering the purposes of IRFA seven times.

Given IRFA's requirements concerning presidential actions, the waiver authority allows the U.S. government flexibility in certain instances based on the two specified grounds. As a former State Department official remarked, "There are circumstances under which there might be military or geopolitical concerns, where it is wise to hold off on a sanction per se, or something that's as heavy as something could be. But in that case, you need to come up with an alternative, [but] there's no excuse for waivers without any action at all."

Waivers justified on the grounds of furthering the purposes of IRFA have been used seven times and for only two countries (i.e., Saudi Arabia five times and Uzbekistan twice). For both countries, these waivers were granted in connection with ongoing and significant diplomatic engagement on religious freedom concerns, which saw meaningful, if incomplete, progress on some religious freedom violations. A former senior State Department official recalled that in both instances, these waivers came amid intense negotiations with those governments that made clear what violations required a CPC designation and what steps could be taken to address them in the particular context of each country. When these waivers were issued, they were clear pieces of an ongoing engagement process.

Waivers based on the requirements of the important national interest of the United States have been far more common. National interest waivers have been utilized 40 times for six different countries (i.e., Nigeria once, Pakistan six times, Saudi Arabia 10 times, Tajikistan nine times, Turkmenistan 10 times, and Uzbekistan four times).

Interviewees expressed concern about the perpetual use of the waiver. One former official noted that repeatedly waiving punitive measures can make the CPC designation "be seen as worthless, especially by regimes who will not care unless there is some economic impact." By contrast, when there was a robust policy of engagement and genuine economic impacts, there were examples of both short-term (e.g., prisoner releases) or longer-term movement in some countries, the former State Department official recalled.

Another former official recalled an example where the IRF ambassador began questioning the longstanding waiver on a particular country, which was important in incentivizing change. When the possibility of removing the waiver was included in a letter to the foreign minister, the IRF ambassador understood this as a type of "saber-rattling." It became part of a "carrot and stick" approach that led to a ministerial-level change in that country and improvements resulting in it ultimately coming off the State Department's CPC list altogether.

While recognizing the necessity of the waiver, legislative or policy fixes that would "limit the amount of waivers before you take action" would be a significant development, said a congressional staffer.

In the Wolf Act, Congress expressed its concern with the abuse of the waiver policy. It inserted into law that "it is the sense of Congress that—(1) ongoing and persistent waivers of the application of any of the actions described in paragraphs (9) through (15) of Section 405(a) (or commensurate substitute action) with respect to a country do not fulfill the purposes of this act."

Reforming this policy, which allows indefinite waivers without requiring any meaningful actions, was one of the changes to U.S. IRF policy most frequently suggested by interviewees. The perception of the waivers as perpetual and without conditions undercuts the value of the CPC designation as a tool for advancing international religious freedom.

"Double-Hatted" Sanctions

By far the most common presidential action, used in 67.7 percent of cases, has been the application of existing sanctions—also referred to as "double-hatting," to fulfill the required presidential action in response to a CPC designation. In total, existing sanctions have been cited 111 times (i.e., Burma 19; China 19; Cuba two; Eritrea 12; Iran 19; Iraq four; Nicaragua two; North Korea 17; Russia three; and Sudan 14) as the means for fulfilling the required actions.

IRFA included the application of existing sanctions as an exception to the requirement for presidential actions in the case that the "country is already subject to multiple, broad-based sanctions imposed in significant part in response to human rights abuses, and such sanctions are ongoing" (IRFA, Sec. 402(a)(5)). The president must certify to Congress the specific sanction that has been determined to fulfill the intention of IRFA and, following the Wolf Act amendment, describe the impact of the sanction on each country. A congressional staffer recalled the intent was to ensure that the sanctions being cited genuinely were relevant to the religious freedom violations in the country.

In the case of long-term CPC designees (such as Burma, China, Iran, and North Korea, where existing sanctions have remained consistent), it becomes more difficult to single out actions taken in response to specific violations of religious freedom rather than other forms of human rights abuse. As one former official noted, a presidential action that was "a unique sanction for religious freedom violations" could provide a significant additional incentive for change by a foreign government based on the knowledge that

certain violations are being targeted. Another former State Department official recalled that a robust policy toward one country could have knock-on effects, such as “encouraging countries to reform and seeing the reforms happen can generate new diplomatic avenues. And responding with sanctions when countries refuse to reform can also create deterrence and prevent other countries from going further.”

Targeted sanctions tools provide an important mechanism for taking explicit action. The most prominent of these mechanisms, the Global Magnitsky Human Rights Accountability Act, was enacted in 2016 and permanently reauthorized in 2022. It represents an important authority that can be used against foreign individuals and entities responsible for “extrajudicial killings, torture, or other gross violations of internationally protected rights,” including gross religious freedom violations. The Global Magnitsky Act and other measures allowing for visa bans and asset freezes against human rights violators represent a critical opportunity for fulfilling the CPC designation mandate, including determining responsible parties and taking specific action in response to abuses.

Since 2016, the Departments of State and the Treasury have used Global Magnitsky Act sanctions to target individuals and entities responsible for religious freedom violations, including in CPC-designated countries such as China and Burma. There are opportunities for a far more robust utilization of this tool in closer coordination with CPC designations. The Wolf Act, signed into law in December 2016, included a sense of Congress provision calling on the State Department, Congress, and USCIRF to consider ways to update the existing list of presidential actions included in IRFA.

While legislative language could explicitly add the use of Global Magnitsky or other targeted sanctions to IRFA’s list of presidential actions, the ability to substitute commensurate action already exists within the law. This allows for using these or similar human rights sanctions measures to fulfill the spirit of IRFA.

While the required documentation for targeted sanctions is substantial, the sanctions process allows U.S. officials to use and refine the annual IRF reporting process. This would include enhanced engagement with civil society and affected communities to effectively gather the necessary information to apply tailored measures against specific religious freedom violators. Doing so more frequently, instead of continually relying on existing sanctions already in place for other human rights issues, would help reinvigorate the CPC designation tool.

COUNTRY CASE STUDY – VIETNAM: RESPONDING TO BACKSLIDING

Overview of Religious Freedom Conditions

Abuses of religious freedom in Vietnam have tended to stem from the state’s control over the process of religious registration and its persecution of unregistered groups. Although Vietnam is a highly religiously diverse society, state authorities have frequently opposed the registration of minority religious organizations, often for perceived political reasons. Groups that have experienced frequent legal and administrative disenfranchisement include Montagnard and Hmong Protestants, Cao Dai, Hoa Hao and Unified Buddhists, Duong Van Minh, and the Falun Gong. Lack of oversight on local authorities has created significant imbalances in how Vietnam’s laws and regulations on religion and belief have been applied to the particular detriment of the groups mentioned above. Even among registered groups, state authorities have near total control over the approval and content of religious activities, gatherings, and appointment of leaders. Dissidents, including religious leaders, have faced harassment, physical abuse, imprisonment, and surveillance. The government’s interference has extended to the confiscation of property, closure of religious institutions, and censorship of religious materials.

CPC Designation and U.S. Policy

Although Vietnam was once a success story for using a binding agreement and CPC designation, today the country is a case study in using IRFA to respond to backsliding. The State Department first designated Vietnam as a CPC in 2004. It lifted that designation after two years, following the negotiation of a binding agreement, and observed improvements in the religious freedom landscape during that period. In 2022 and 2023, the State Department placed Vietnam on its SWL. However, USCIRF has recommended a CPC designation for Vietnam every year since 2002.

Vietnam’s path to CPC designation was graduated, though swift. In May 2002, U.S. officials warned the Vietnamese government of a possible CPC designation should it fail to improve stipulated religious freedom conditions. In 2003, the United States suspended its annual human rights dialogue with Vietnam, noting a “lack of progress” in issues including religious freedom.

Upon designating the country as a CPC in September 2004, the State Department proved equally nimble in driving positive engagement on religious freedom concerns with Vietnam. By May 2005, the U.S. government signed an agreement promising to reconsider the designation following commitments by the government of Vietnam to implement

new laws to improve religious freedom thoroughly, reign in noncompliance from local authorities, streamline processes to register religious groups and activities, and reevaluate the cases of several religious prisoners. Then President George W. Bush met with then Vietnamese President Tran Duc Luong in Washington, DC, to discuss these issues in 2005 and again in-country in 2006. The United States resumed the annual bilateral human rights dialogue in 2006, and religious freedom became a regular topic.

Policy Effectiveness and Outcomes

The outcomes were, at first, largely positive. The Vietnamese government enacted several implementing decrees streamlining the country's religious registration laws, registered an unprecedented number of religious groups, and freed numerous prisoners of conscience. Within a year of the CPC withdrawal, the United States granted the country permanent normal trade relations status and gave final approval to Vietnam's accession to the World Trade Organization. While these policies dramatically improved Vietnamese economic conditions, and the government made clear improvements on some religious freedom issues, USCIRF and other observers argued that the CPC withdrawal and trade normalization had been premature.

In the years to follow, enforcement of new laws governing religion in Vietnam remained regionally uneven, while overarching rights abuses against dissenters and minorities continued. In its 10-year *retrospective*, USCIRF suggested that elements of the U.S. administration pursuing trade goals in Vietnam rushed the CPC withdrawal because human rights sanctions otherwise would have precluded those goals. When Vietnam passed a new Law on Belief and Religion in 2016, stakeholders observed that while the law does include language on rights to freedom of religion and belief, it further entrenches the state's firm grip on defining allowable practice and stifling dissent.

In 2022, the State Department named Vietnam an SWL country for the first time, repeating this designation in 2023. Vietnam is a challenging case for IRF policymakers as the government met nearly all conditions of the 2005 agreement. Yet, inconsistencies in the application of these policies mean that religious freedom conditions have broadly deteriorated. While the United States has maintained a strong level of discourse with Vietnamese leadership on religious freedom concerns, additional guardrails are needed to secure robust religious freedom in the country.

Summary Lessons Learned

- Linear progress resulting from a CPC designation is ideal but unlikely. Backsliding should be expected to some degree and must be accounted for in country agreements. During the negotiation stage, the State Department should consider how to deal with future backsliding, defining clear measurements of progress and avenues for redress for regression even after a designation has been lifted.
- Local authorities' attitudes and behaviors can diverge significantly from those of central-level representatives participating in bilateral agreement negotiations. Accordingly, U.S. officials should consult or include such entities where possible, aiming to understand gaps in perception and diminish gaps in implementation.
- U.S. government programming on religious freedom and related human rights should seek to expand efforts at the provincial/state and local levels. This is especially important in localities where religious freedom violations are particularly egregious.

MAKING RELIGIOUS FREEDOM A PART OF THE STRATEGIC PLAN

While much of IRFA's focus on responses to the CPC designation are punitive measures, the act also provides that State Department-administered funds and programs should be used to promote religious freedom. Accordingly, IRFA recommends that U.S. diplomatic missions in countries that engage in or tolerate violations of religious freedom should develop a strategy to promote respect for religious freedom as part of their annual program planning (IRFA, Sec. 106).

However, a review of the latest *Integrated Country Strategies* for CPC countries shows substantial room for improvement in meaningfully integrating religious freedom as part of these overall strategies. Of the 12 CPC countries designated in 2023, the strategies for only two countries (China and Pakistan) meaningfully discuss religious freedom dynamics. For three other countries (Burma, Eritrea, and Tajikistan), the strategies minimally acknowledge the issue. For four others, the country strategies make no mention of religious freedom or related dynamics in the country, though they reference to American values or fundamental freedoms more generally. For the remaining three countries, no strategy is available.

Country	Last Date Approved	Level of Integration	Excerpts
Burma	7/26/2022	Minimal	<p>“The regime continues to deploy violence and other forms of oppression against pro-democracy activists, deposed government officials, and members of ethnic and religious communities.”</p> <p>“Provide targeted and timely humanitarian assistance to communities in crisis to save lives, alleviate suffering, and maintain dignity.”</p>
China	2/2/2023	Meaningful	<p>“We will defend democracy and freedom of expression, freedom of the press, religion, and the rule of law.”</p> <p>“Mission Goal 5: Champion American values to promote freedom and equality for all, including by promoting: the rule of law; freedom of speech, religion, assembly, and the press; combating censorship; promoting the principles of diversity and inclusion; and by advancing human rights and fundamental freedoms.”</p> <p>“Mission Objective 5.1: Promote and defend internationally recognized standards on human rights and rule of law, including the promotion of freedoms for marginalized groups and civil society.”</p> <p>“In all aspects of the U.S.-PRC [People’s Republic of China] relationship, the U.S. government will press for the protection of individual and collective rights and freedoms and rule of law, including religious freedoms, labor rights, and freedom of speech and of the press, equal treatment of women and minorities, and due process.”</p>
Cuba	5/27/2022	No Mention	<p>“The United States, through its engagement with human rights activists and denunciations of Cuban abuses, upholds our universal values and promotes human dignity in the face of a regime that denies its citizens the basic freedoms enshrined in the Universal Declaration of Human Rights, to which it is a signatory.”</p>
Eritrea	11/17/2023	Minimal	<p>“Eritrea’s tier 3 rating for Trafficking in Persons, and designation as a Country of Particular Concern with regard to religious freedom, further impede use of funds for targeted programs.”</p> <p>“Sharing American values and fostering relations with Eritreans: Our diplomatic engagement and public diplomacy programming are focused on laying the groundwork for building ties with the Eritrean people [...] to promote cultural exchange and engender close relations with students, educators, artists, intellectuals, businesspeople, religious leaders, technocrats in the government, people with disabilities, and other civil society contacts.”</p>
Iran	None		
Nicaragua	5/23/2023	No Mention	<p>“To help build a future Nicaragua that is more democratic and prosperous, we must also engage and support Nicaraguan civil society to bolster its resilience and capacity to promote our shared values.”</p> <p>“Credible independent polling shows an overwhelming majority of Nicaraguans want such change and share our fundamental values.”</p>
North Korea	None		
Pakistan	3/16/2023	Meaningful	<p>“Mission Objective 4.1: Pakistan strengthens democratic institutions and supports the political participation and civil rights of women, religious minorities, ethnic minorities, residents of under-governed areas, and other disadvantaged groups.”</p> <p>“The U.S. Mission will also support Pakistan’s efforts to enact Financial Action Task Force international standards for anti-money laundering/ countering the financing of terrorism (AML/CFT), develop an effective, professional, and transparent criminal justice system and increase law enforcement capacity that serves all citizens, regardless of religion or ethnicity, equally.”</p>
Russia	None		
Saudi Arabia	7/11/2022	No Mention	<p>“We will advocate for the rule of law, good governance, the inclusion of women and marginalized communities, and the protection of individual freedoms.”</p>
Tajikistan	4/1/2022	Minimal	<p>“Furthermore, refugee communities and ethnic and religious minorities groups remain economically, educationally, and politically marginalized, furthering the appeal of messaging from extremist organizations. PAS [Public Affairs Section] programs seek to raise awareness about the harm of radicalization and provides positive alternative narratives among affected communities so that the communities will be less susceptible to violent extremist messaging.”</p>
Turkmenistan	4/26/2022	No Mention	<p>“Objective 4.1 Advance basic freedoms, effective governance, and democratic values throughout Turkmenistan’s government and society.”</p> <p>“Achievement of this objective will positively impact human rights in Turkmenistan, advance the rights and freedoms for which the United States is known and respected worldwide.”</p>

While program planning is only one measure of potential U.S. engagement in a country, it provides an opportunity for a more robust and strategic approach to proactively integrate religious freedom within the mainstream priorities of U.S. foreign policy in countries designated as CPCs. Where the violations of religious freedom have reached a level severe enough for a designation as a CPC, the issue should be reflected in the strategy for that country.

The U.S. government could also do more in other strategic planning efforts to incorporate a commitment to advancing religious freedom as a foreign policy priority across the government. The *Joint Strategic Plan* for the State Department and USAID (most recent version, March 2022) also plays an important role in outlining agency priorities. In this strategy, however, religious freedom explicitly receives only limited attention. The Joint Strategic Plan mentions IRFA as one means by which U.S. foreign policy offers support to marginalized people, acknowledges religious communities as among those who may be most vulnerable and in need of protection in crises, and mentions the need to include religious communities as participants in efforts to break cycles of violence. These are important markers of how religious freedom fits within foreign policy priorities, and greater attention should be given to making this operational within the agencies' programs at multiple levels.

In contrast to these department-wide strategies, the *Functional Bureau Strategy* for the Office of International Religious Freedom (O/IRF) represents a developed and coherent strategy for carrying out its mandate to promote religious freedom abroad in U.S. foreign policy. The most recent strategy (December 2021) seeks to connect its specific aims and objectives with topline U.S. foreign policy priorities as articulated in the Interim National Security Strategy Guidance and remarks by the secretary of state. After delineating the high-level linkages, the strategy sets out specific commitments and objectives. These include religious freedom advocacy to see more governments make meaningful steps to reform laws and practices, more frequent use of bilateral and multilateral tools to hold individuals accountable for religious freedom abuses, and efforts to increase the awareness among other U.S. government personnel of religious freedom issues and the tools available to advocate for this right.

The IRF Office has also developed tailored action plans for CPC countries, which can be essential tools to proactively encourage change. As a former State Department official said, "The big thing is having an action plan. For each country to come off [the CPC list], what would be required to move them to the Special Watch List? What measurable, practical things may not be as crazy for the Saudis to do in the next

ten years? What may not be as wild for the Tajiks to do in the next few years? That is how to make the CPC designation more fluid and make it a kind of breathing and helpful list. Not just saying that you're on this irredeemable list that just entrenches them and gives them cover."

As another former official recalled, "The CPC, the way we used it, and the way it's historically been used is that it is most valuable for countries in transit in a sense, for countries that are going up or down in terms of religious freedom measures." Citing examples from South and Central Asia or Sub-Saharan Africa, the official recalled that the designation mandate and process could be a valuable tool to prompt "those direct diplomatic conversations with the government saying this is likely coming down the pipe if x, y, z doesn't change." While such conversations may not impact entrenched violators, they can be a valuable tool for other countries where the situation is deteriorating or improving.

COUNTRY CASE STUDY – UZBEKISTAN: RELIGIOUS FREEDOM MEETS STRATEGIC PLANNING

Overview of Religious Freedom Conditions

Historically, the government of Uzbekistan has violated religious freedom mainly under the justification of anti-extremism laws and state control over religious participation. Crackdowns against Sunni Muslims and perceived foreign groups have been severe following security events such as domestic unrest in 2004, the rise of Islamic State of Iraq and Syria (ISIS) in 2014, and the Taliban takeover of Afghanistan in 2021. In 2004, mass protests in the Andijan region ushered in a new era of arrests, violence, surveillance, and social control against Muslims accused of membership in extremist groups. The country's 1998 Law on Freedom of Conscience and Religious Organizations criminalizes unregistered religious groups, requires permission for all religious activities and materials, and bans proselytization and private religious education. These abuses led to Uzbekistan's first CPC designation in 2006.

CPC Designation and U.S. Policy

Uzbekistan is a story of significant legal and procedural improvements on religious freedom achieved via diplomatic engagement, especially after the accession of Shavkat Mirziyoyev to the presidency in 2016. The administration of President Islam Karimov (from independence in 1991 until 2016) established nearly every major restriction on religious freedom in Uzbekistan during that period. Following the initial CPC designation in 2006, the State Department dispatched the IRF ambassador to the country to begin a dialogue and issued a 180-day waiver. The department

extended that waiver each time it redesignated Uzbekistan as a CPC until 2011, when it made the waiver indefinite to “further the purposes of the act.”

Particularly in the mid-2000s, security cooperation in Afghanistan was a central consideration in any U.S. human rights diplomacy conducted with Uzbekistan. This consideration limited diplomatic potential on human rights issues, though the U.S. government sometimes conditioned security exchanges on human rights improvements from 2005 to 2012. Throughout that period, the IRF Office continued to conduct visits and negotiate for specific reforms to the country’s religion and terrorism laws with marginal success (reductions in religious prisoners and raids on houses of worship).

President Karimov’s death and President Mirziyoyev’s ascension in 2016 was a critical moment for U.S. religious freedom engagement with Uzbekistan. According to stakeholders, the Mirziyoyev administration expressed a strong desire to work with U.S. government entities to end the CPC designation. Shortly after taking office, Mirziyoyev announced a new policy for the regulation of religion, which included new freedoms of worship, reduced surveillance, and the largest pardoning of prisoners of conscience in the country’s history.

In pursuit of this new opening, the IRF ambassador held regular meetings with Uzbek representatives and traveled to the country in 2018. In the spring of that year, Uzbekistan’s parliament approved a Religious Freedom Roadmap guided by the UN special rapporteur on freedom of religion or belief, who had visited the country in 2017. The roadmap included simplified rules for registering religious organizations, set forth clemency measures for extremism charges, and established a consultative body of 17 recognized religious groups. Former State Department officials interviewed noted that the drafting of this document by a UN expert, rather than U.S. officials, was important to the Uzbek leadership. The roadmap’s reforms also reflected many of the IRF ambassador’s specific requests. After the government of Uzbekistan made progress on some elements of the roadmap, the State Department downgraded the country from a CPC to an SWL country at the end of 2018.

Policy Effectiveness and Outcomes

During the following two years, the IRF ambassador continued close engagement with Uzbek officials on amendments to the country’s 1998 Religion Law. The State Department removed Uzbekistan’s SWL designation in 2020. In 2021, the Uzbek government approved the amended religion law, which further streamlined the registration process and lifted the ban on religious attire in public spaces. The government also promised to release additional religious prisoners. However, USCIRF and other observers continued to warn that the government retained nearly total control over exercising freedom of religion in the country and that its promises of amnesty and registrations remained unfulfilled. According to a 2021 USCIRF [report](#), the Uzbek authorities continued to imprison over 2,000 people for practicing their religious beliefs peacefully. In addition, after the Taliban takeover of neighboring Afghanistan in 2021, Uzbek authorities ramped up their targeting of individuals with extremism charges based on their religious identity or activities and imposed new restrictions on travel for religious education.

In 2023, both [USCIRF](#) and [Human Rights Watch](#) issued warnings about the country’s backsliding on religious freedom, especially concerning detentions of Sunni Muslims and restrictions on public displays of religion. In 2021, 2022, and 2023, USCIRF recommended that the State Department return Uzbekistan to its SWL.

Summary Lessons Learned

- When a new administration took power in Uzbekistan in 2016, representatives sought ways to end the CPC designation. This kind of enthusiasm for engagement is not possible without a sustained commitment by the United States to continue communicating the importance of religious freedom, even to an unresponsive regime.
- It is often misconstrued that religious freedom policy complicates or detracts from more topline foreign policy priorities. In Uzbekistan, the use of withheld military exchanges in the mid-2000s produced meaningful progress toward additional dialogues for human rights, demonstrating how U.S. defense policy can interact productively with religious freedom policy.

CONCLUSION

In its 25-year history, IRFA has played a significant role in elevating international religious freedom as a U.S. foreign policy priority and galvanizing a global effort to advance this fundamental human right. The CPC designation mandate, including its requirement for subsequent actions, represents a core component of that policy effort. When appropriately utilized, as a former State Department official said, “the CPC tool gave energy to the whole ecosystem of IRF players.” Maintaining this energy has been critical in cases of success; this is true both within the U.S. policy sphere and with violator states. When the United States is able to make a sustained, coherent, and adaptive case for religious freedom, our interlocutors take note. The CPC designation is the enforcement mechanism that undergirds these efforts. However, it can be used more effectively to this end.

Too often, the application of IRFA fails to produce genuine change to advance religious freedom. The repeated use of sanctions waivers backed by vague justifications and the repurposed application of preexisting sanctions dilute the effectiveness of the CPC designation. The indefinite suspension of sanctions or other punitive measures for religious freedom violators, whether due to inertia or competing policy priorities, is a source of frustration within the IRF policy community. When waivers must be issued, as the original act permits, clear justifications and timelines should be given.

Of course, the nature of a violator government and its relationship with the United States are crucial in determining the impact of a CPC designation. Where the designation has been effective—such as in Uzbekistan or Vietnam—U.S. diplomacy has been able to leverage the bilateral relationship with those states to produce clear and attainable objectives for reform and to work in tandem with government and civil society counterparts to see them achieved. Building religious freedom into country-level policy planning can be an effective approach. However, progress on the ground can be inconsistent and backsliding is possible. When regression does take place, punitive measures must again be on the table. Clearly defined metrics for success and penalties or modes of redress for backsliding must be a part of any IRF policy.

Further, the value of leadership cannot be understated. In the most successful cases, the role of the ambassador-at-large for IRF has been vital in serving as a champion for religious freedom not only with foreign governments and on behalf of persecuted communities but also within the U.S. bureaucracy facing a range of competing policy priorities. Similarly, congressional oversight and engagement play a crucial role in ensuring there are appropriate resources and accountability to push meaningful initiatives forward.

After 25 years of implementation of IRFA and more than 160 CPC designations, much has been accomplished. Nevertheless, further adjustments in policy and practice could be made to ensure the act is fit for purpose in its next 25 years as a tool of U.S. foreign policy to condemn violations of religious freedom and to promote the fundamental right to freedom of religion for all people.

RECOMMENDATIONS FOR ENHANCING THE RELIGIOUS FREEDOM TOOLBOX

Action Planning:

- For all CPC-designated countries, the State Department should develop a clear action plan or “toolbox” for engagement and a bilateral agenda with the violator country with benchmarks and timelines, outlining the response to positive and negative developments regarding religious freedom promotion.
- The State Department should clearly delineate and enforce requirements for following up on CPC/SWL designations, including but not limited to the sanctions or waiver designation made by the secretary of state.
- The State Department should ensure that religious freedom is meaningfully included in the Integrated Country Strategy for all CPC countries to pursue alignment of priorities and programmatic approaches across various offices, bureaus, and agencies. It also should consider such inclusion for countries it has placed on the SWL and other countries where there are significant religious freedom concerns.

Sanctions:

- Congress should update the list of required actions for CPC designation to include more modern, targeted sanctions alongside other sanction options, particularly utilizing Global Magnitsky sanctions against individuals and entities responsible for particularly severe violations of religious freedom.
- The State Department should strengthen the evidence collection process regarding specific individuals or entities responsible for particularly severe violations of religious freedom as part of the annual reporting process. This would streamline the imposition of targeted sanctions against specific religious freedom violators, in keeping with IRFA’s requirement for identification of the responsible parties.
- Where applicable, the U.S. government should pursue targeted sanctions that focus on the sectors or regions where the worst violations occur, rather than country-wide sanctions. This may incentivize local reforms and enable meaningful government partnership rather than prompt a hostile or adversarial response.

Bilateral Agreements:

- The State Department should prioritize using bilateral agreements (whether binding agreements or other types of formal commitments) as a response to CPC designations. While the specifics may change in each instance, these agreements can provide measurable benchmarks and a basis for ongoing engagement.
- The State Department should use the SWL designation as both an “on-ramp” and an “off-ramp” to CPC designation; it expands the IRF toolbox when used in conjunction with other means and can be presented to the violator country as a viable alternative. The State Department should also seek to use bilateral agreements in the case of an SWL designation to avoid a CPC determination.

Robust Engagement:

- The State Department should ensure religious freedom is included in public diplomacy, education and cultural affairs, democracy promotion, and human rights programs and engagements with both government and civil society partners. Doing so would help mainstream religious freedom into U.S. foreign policy, enabling it to be part of a proactive strategy rather than solely punitive or reactive.
- The State Department should leverage the perspectives and approaches of other IRF actors—including USCIRF, multilateral institutions or networks (such as the UN special rapporteur on freedom of religion or belief and the International Religious Freedom or Belief Alliance/Article 18 Alliance), and NGOs—to enhance its efforts to provide both accountability and incentives to support religious freedom to foreign governments.

Accountability:

- The State Department should provide specific and meaningful justification to Congress (whether public or private) for issuing any CPC waiver, including waivers extended from the previous year.
- Congress should consider amendments to IRFA to limit the renewal of waivers and the application of preexisting sanctions.
- The State Department should ensure that meaningful reporting on implementing actions taken in furtherance of IRFA (including CPC, SWL, and EPC designations, presidential actions and their impact, diplomatic engagement, IRF programs funded, or other activities) is provided to Congress and the public through the annual international religious freedom report.
- Congress should hold regular hearings on the U.S. government's implementation of IRFA. These hearings should cover specific actions and programs taken over the previous year, including IRFA designations and presidential actions, as well as priorities for the coming year, with specific attention to CPC and SWL countries. Witnesses should include the secretary of state, the ambassador-at-large for IRF, and other relevant officials from the State Department, USAID, the National Security Council, and other agencies.
- Congress should request a Government Accountability Office report on the use of IRF program funds and their impact in implementing IRFA.

ANNEX 1: COMPARISON BETWEEN STATE DEPARTMENT DESIGNATIONS AND USCIRF RECOMMENDATIONS

Country	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023										
Algeria	State Dept.																							SWL	SWL	SWL									
	USCIRF																									SWL	SWL	SWL	SWL						
Azerbaijan	State Dept.																										SWL								
	USCIRF														T2	T2	T2	T2	T2	T2	T2	T2	SWL	SWL	SWL	SWL									
Burma	State Dept.	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC		CPC	CPC			CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC									
	USCIRF		CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC								
Central African Republic	State Dept.																									SWL	SWL								
	USCIRF																	CPC	CPC	CPC	CPC	CPC	SWL			SWL	SWL								
China	State Dept.	CPC	CPC	CPC	CPC	CPC	CPC	CPC			CPC	CPC			CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC									
	USCIRF	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC								
Comoros	State Dept.																										SWL	SWL	SWL	SWL	SWL	SWL			
	USCIRF																																		
Cuba	State Dept.																																		
	USCIRF							WL	WL	WL	WL	WL	WL	WL	T2	T2	T2	T2	T2	T2	T2	T2	SWL	SWL	SWL	CPC	CPC								
Eritrea	State Dept.						CPC	CPC	CPC			CPC	CPC			CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC								
	USCIRF						CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC							
Iran	State Dept.	CPC	CPC	CPC	CPC	CPC	CPC	CPC			CPC	CPC			CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC								
	USCIRF		CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC							
Iraq	State Dept.	CPC	CPC	CPC	CPC																														
	USCIRF		CPC	CPC	CPC	CPC	CPC			WL		CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	T2	T2	T2	SWL	SWL	SWL	SWL	SWL								
Nicaragua	State Dept.																																		
	USCIRF																																		
Nigeria	State Dept.																																		
	USCIRF						WL	WL	WL	WL	WL	WL	WL	WL	T2	T2	T2	T2	T2	T2	T2	T2	SWL	CPC											
North Korea	State Dept.			CPC	CPC	CPC	CPC	CPC			CPC	CPC			CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC								
	USCIRF			CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC							
Pakistan	State Dept.																																		
	USCIRF						CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC							
Russia	State Dept.																																		
	USCIRF											WL	WL	WL	WL	T2	T2	T2	T2	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC							
Saudi Arabia	State Dept.						CPC	CPC	CPC			CPC	CPC			CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC								
	USCIRF						CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC							
Sudan	State Dept.	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC			CPC	CPC			CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC								
	USCIRF		CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC								
Tajikistan	State Dept.																																		
	USCIRF												WL	WL	WL	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC	CPC								
Turkmenistan	State Dept.																																		
	USCIRF																																		
Uzbekistan	State Dept.																																		
	USCIRF																																		
Vietnam	State Dept.																																		
	USCIRF																																		

This table includes only the countries that the State Dept. has designated as CPCs or placed on its SWL. USCIRF has recommended other countries for CPC or SWL status that are not listed. USCIRF began making recommendations for the State Dept.'s SWL in 2020. Previously, USCIRF called its second category its Watch List (WL) from 2003-2012 and its Tier 2 (T2) from 2013-2019. Countries on USCIRF's WL or T2 that the State Dept. has not named as CPCs or SWL countries are also not shown.

ANNEX 2: STATE DEPARTMENT CPC DESIGNATIONS AND PRESIDENTIAL ACTIONS

Country	1999	2000	2001	2003	2004	2005	2006	2009	2011	2014	2016 (FEB)	2016 (OCT)	2017	2018	2019	2020	2021	2022	2023	
Burma	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES
China	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES
Cuba																			ES	ES
Eritrea					NS	NS	NS	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES
Iran	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES
Iraq	ES	ES	ES	ES																
Nicaragua																			ES	ES
Nigeria																				NI
North Korea			ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES
Pakistan														NI	NI	NI	NI	NI	NI	NI
Russia																			ES	ES
Saudi Arabia					FP	FP	FP	FP	FP	NI	NI	NI	NI	NI	NI	NI	NI	NI	NI	NI
Sudan	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES	ES						
Tajikistan																				
Turkmenistan										NI	NI	NI	NI	NI	NI	NI	NI	NI	NI	NI
Uzbekistan							BA	FP	FP	NI	NI	NI	NI							
Vietnam					BA	BA														

Key:

- ES = Existing Sanctions
- NS = New Sanctions
- NI = Waiver based on National Interests
- FP = Waiver to Further the Purposes of IRFA
- BA = Binding Agreement (secured or pursued)

ABOUT THE AUTHORS

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