

## **Examining the Government's Record on Implementing the International Religious Freedom Act**

Testimony before the House Committee on Oversight and Government Reform  
Subcommittee on National Security, June 13, 2013

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Mr. Chairman and members of the sub-committee, thank you for calling this important hearing and for giving me the opportunity to present my views.

The policy mandated by the 1998 International Religious Freedom Act (IRFA) has now been in operation for fifteen years. This is the first and only Congressional oversight hearing in those fifteen years concerning the operation of the IRFA. I applaud you for taking this issue on.

I want to focus on three questions that get to the heart of our subject.

First, *why* does the United States seek to promote religious freedom and reduce religious persecution in its foreign policy, and can it enhance our national security? Second, are we succeeding, and, if not, why not? Third, how can we improve our policy?

Before I address these questions, let me affirm that I am committed to the success of US religious freedom policy. I have spent the past fifteen years reflecting, speaking, teaching, and writing about that subject. I direct a Religious Freedom Project at Georgetown University's Berkley Center that will in 2014 begin a three-year investigation into the causal connections between religious freedom, economic growth, and democratic stability.

My experience has convinced me that the success of America's IRF policy is vital to our country, both because it reflects our deepest moral principles, and because success will further our vital national interests, including our national security.

Let me also note that between 1999 and 2003 I was honored to serve as the first Director of the State Department's Office of International Religious Freedom – the office responsible for implementing US policy. As such, I am conscious that I bear some responsibility for the way that policy has developed.

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Now the first question: *why* does the United States promote religious freedom in its foreign policy? Can it enhance our national security?

The most immediate answer is that in 1998 Congress passed the International Religious Freedom Act (IRFA) which mandated the initiative. IRFA established a State Department office of international religious freedom, put a very senior diplomatic official (an ambassador at large) at its head, and created an independent U.S. Commission on International Religious Freedom to provide separate policy recommendations and act as a watchdog. The law also encourages, but does not require, the use of foreign aid to advance religious freedom abroad.

But what's the *rationale* for IRFA and the institutions and procedures it establishes? What do we hope to accomplish?

First and foremost, I believe that advancing religious freedom is simply the right thing to do. Unjust restrictions on religious individuals and groups, as well as violent religious persecution, have steadily worsened in recent years. The results have been catastrophic for many people and many societies.

[Studies](#) by the Pew Research Center demonstrate that, as of 2010, *75 percent of the world's population* lives in countries where religious freedom is severely restricted. That's three-quarters of the world's people. And there is no sign things are getting any better.

Millions are vulnerable to violent abuse, such as torture, rape, "disappearance," unjust imprisonment, and unjust execution, because of their religious beliefs and practices, or those of their tormentors.

Of the victims of religious persecution, Christians head the list, with Muslims not far behind. Both groups are persecuted in the Far East, South Asia, the Middle East, and Africa.

Strikingly, we are also seeing mounting government restrictions on and social hostility toward religion in the continent where the idea of religious freedom was born - Europe.

Taken together, these data provide a clear *humanitarian* imperative for US policy.

But there are other reasons – reasons that address vital American interests and national security - for conducting a serious, vigorous, and effective US international religious freedom policy.

There are approximately 70 countries where persecution and restrictions on religion are severe. That list includes virtually all the nations whose internal stability, economic policies, and foreign policies are of substantial concern to the United States, including China, Indonesia, Russia, India, Pakistan, Afghanistan, Iran, Turkey, Saudi Arabia, Syria, and Iraq, as well as Egypt, Libya, and most of the nations comprising what was once wistfully labeled "the Arab Spring."

There is strong evidence that, in many of these countries, the absence of religious freedom is directly related to high levels of religious violence and conflict, in turn a major source of social, economic, and political instability. The terrible Syrian civil war in large part stems from generations of religious persecution, first of Alawites by Sunnis, and then of Sunnis by the Alawite regime of the Assads.

Studies also indicate that the absence of religious freedom can stimulate religious terrorism and energize transnational terrorist movements.

On the other hand, there is also strong evidence that increasing religious freedom can undermine religion-related violence and terrorism, promote economic growth, and help democracy to root and achieve stability.

In short, if the United States could succeed in moving any of these nations in the direction of religious freedom, we would be helping the victims of persecution and increasing our own national security at the same time. Over the long term, increases in religious freedom in Iran, Pakistan or Afghanistan, for example, could help undermine religion-related terrorism. By moving toward equality under the law for all religious communities, increases in religious freedom in Egypt could help democracy to become stable and durable, and provide a stimulus to economic growth.

### **How Are We Doing?**

Mr. Chairman, the Pew studies strongly suggest an answer to my second question concerning US effectiveness. Notwithstanding the hard, creative work of the State Department's Office of International Religious Freedom, it would be difficult to name a single country in the world over the past fifteen years where American religious freedom policy has helped to reduce religious persecution or to increase religious freedom in any substantial or sustained way.

In fact, the Pew Reports make it clear that in most of the countries where the United States has in recent years poured blood, treasure, and diplomatic resources (such as Iraq, Afghanistan, Pakistan, Egypt, China, Saudi Arabia, and Russia), levels of religious freedom are declining and religious persecution is rising.

Some of these countries have been on the IRFA- mandated list of particularly severe violators, the so-called "countries of particular concern." IRFA requires that this list be issued annually but the Obama administration has not done so since 2011. Congress, it seems, takes little notice of this omission (although the US Commission on International Religious Freedom has voiced its concern).

IRFA permits economic sanctions against the nations on this list, but in fifteen years only one country has ever been sanctioned. That country was Eritrea, and I know of no evidence that

either the listing or the sanctions have had any positive effect. The status of religious freedom in Eritrea has in fact declined.

Indeed, I know of no evidence that these lists have substantially improved the status of religious freedom in any country. At one time there was an argument to be made that Vietnam had improved, but that seems no longer to be the case. The US Commission has recommended that Vietnam, which was removed from the list of “countries of particular concern” a few years ago because of improvements in religious freedom, be returned to the list this year.

As for our broader foreign policy goals, religious freedom has played little or no role in political, economic, or strategic programs to achieve fundamental American interests. US officials, including Presidents and Secretaries of State, have done very little to integrate religious freedom into our democracy, economic growth and development, and counter-terrorism strategies.

What is the explanation for this ineffectiveness? There is much to be said here, but let me focus on two problems: first, the anemic, largely rhetorical methodology employed by all three administrations under which IRFA has operated, and second, the decline among our policymakers of the conviction that religious freedom is “the first freedom.”

### **The Deficiencies of the US Approach**

None of the three administrations responsible for IRFA have adopted a robust view of the law and the policy it mandates. Each has assumed a narrow, highly rhetorical approach – characterized by reports, speeches, lists of severe persecutors that have little effect, and a State Department activity known as “raising the issue” with governments (an activity which should not be confused with “solving the problem”).

To be sure, IRFA has driven some internal progress at State. A perusal of this year’s Annual Report shows that some US embassies are in fact operating programs that could have a positive impact on religious freedom over the long-term.

For example, in Afghanistan the embassy has established a program “to support traditional [Afghan] voices that oppose violent extremism....” This is an important initiative that should be replicated wherever Muslims are accused of blasphemy and punished if they argue that Islam does not support extremist ideas. A few years ago an Afghan grad student was sentenced to death for blasphemy. His crime? Writing a paper arguing that the Koran supported the equality of men and women.

Providing a place for such voices – especially in the erstwhile democracies that the United States is supporting -- is vital to religious freedom, and to American national security. Unfortunately, programs like this are largely ad hoc.

There is no comprehensive US strategy in place to advance religious freedom in the Muslim world or anywhere else. While Congress appropriates millions of dollars annually for democracy and counter-terrorism programs, little of that money is spent on promoting religious liberty. All three Presidents, and most Secretaries of State, who have presided over the implementation of IRFA have insisted that they do support international religious freedom. But none has made any serious attempt to integrate the advancement of religious freedom into the foreign policy of the United States, even though that is the express purpose of the International Religious Freedom Act.

The Annual Report itself has had some positive effects, and the Ambassador at Large and her staff are to be congratulated for their hard work. For one thing, the report has taught younger American diplomats (who typically draft it) to ferret out the status of religious freedom in the countries in which they are serving. For another, the report has long been considered the gold standard in showcasing the facts. It is routinely consulted by advocates and academic researchers like the Pew Research Center.

As such, the report “shines a spotlight” on religious persecution and the state of religious freedom all over the world – something most would agree is a good thing.

But illuminating the persecutory acts of governments and others, and the fates of victims has, at best, limited effects. Rarely does it lead persecutors to change their behavior.

Chinese actions, for example, have not been affected by the reports, nor by the fact that China is perennially placed on the list of particularly severe violators (“countries of particular concern”). While persecution in China waxes and wanes, the government still imprisons, tortures, and generally terrorizes religious groups that don’t conform. It still supports forced sterilizations and abortions, and forbids Catholic priests and Protestant ministers from criticizing the “one-child” policy from the pulpit. It continues to brutalize Uighur Muslims in China’s northwest province, and to attack quite viciously the culture and religion of the people of Tibet.

IRFA also mandates training for diplomats, which is obviously a sensible and necessary element of any new worldwide foreign policy initiative. The Obama administration has experimented with a potentially useful training program conceived under its predecessor. Unfortunately, the program remains voluntary and the curriculum weak on religious freedom.

The stark reality is that fifteen years after IRFA’s passage, our diplomats are not being trained to know what religious freedom is and why it is important, let alone how to advance it. This stunning deficiency reflects a continuing, deep-seated skepticism in our foreign policy establishment that religious freedom is in fact important for individuals or societies, or that it should be considered *real* foreign policy.

That skepticism also helps explain why all ambassadors at large for religious freedom – the senior official established by IRFA to carry out the policy – have been and remain isolated within the State Department, and severely under-resourced. Other ambassadors at large report directly to the Secretary of State (e.g., those for Global Women’s Issues and for Global AIDS Coordination). But the religious freedom ambassador and office have historically been placed many levels below the Secretary. The ambassador has reported, and reports today, to a lower-ranking official. It is as if an army general were reporting to an army colonel. The religious freedom ambassador does not attend meetings of other senior State Department officials on a regular basis.

In addition, the ambassador at large and the office of international religious freedom are marginalized in a bureau (Democracy, Human Rights, and Labor) that has itself long been marginalized at the State Department, notwithstanding the outstanding people who serve there.

Given this isolation of the office and the official responsible for carrying our America’s religious freedom policy, it is hardly surprising that American diplomats and foreign governments do not see religious freedom as a priority for US foreign policy. It is not surprising that religious freedom programs play little or no role in US strategies to stabilize key struggling democracies such as Iraq or Pakistan, encourage economic growth in places like Egypt or Nigeria, or undermine the religion-related terrorism that is still being incubated in many nations of the broader Middle East.

### **Is Religious Freedom No Longer the “First Freedom”?**

If I am correct that American’s religious freedom policy has been ineffective over the past fifteen years, and that a major reason for this ineffectiveness is the State Department’s largely rhetorical implementation of IRFA, why is this the case? Why have three administrations failed to make this policy a foreign policy priority? Why have they failed to integrate religious freedom into our broader foreign policy strategies?

There are many possible answers to these questions. For example, there is some evidence of a generalized sense among our diplomats that a vigorously pursued religious freedom policy would be unconstitutional. Some believe the policy itself constitutes cultural imperialism. Others think it is a policy imposed by Christians and is designed to clear the way for Christian missionaries. Some conservatives are hesitant to support religious freedom for Muslims around the world.

Such false perceptions and destructive attitudes exist – I personally have encountered each of them. But they do not, in my view, sufficiently explain our diplomatic ineffectiveness. I want to focus on what I see as the major overarching explanation.

It seems to me that a significant proportion of our foreign policy officials no longer believe that religious freedom is the “first freedom” -- of American history, of the US constitution, and of all people everywhere.

At the State Department, and in the foreign affairs establishment in general, too many have rejected the proposition that was central to our founding, namely that religion itself is necessary for the survival of democracy, and therefore that religious freedom is foundational.

If we no longer believe that religious freedom is foundational, it is no surprise that we do not make it a priority in our foreign policy.

For America’s founding generation, and most generations since, religious freedom constituted the “first freedom” because it was thought necessary for the well-being of individuals and societies. In particular, religion *in the public square* was considered crucial for the health of democracy.

The Founders believed that religious freedom entailed not only the right to believe and worship, but the right to *act* on the basis of religious belief, individually and in concert with others, privately and in civil society and political life – all within broad and equally applied limits. James Madison viewed religious actors in civil society as a critical check on the power of government. George Washington, in his farewell address, famously argued that religion was necessary for the “dispositions and habits which lead to political prosperity.”

Many of our political and foreign policy leaders today, however, see religious freedom as a private matter, with few legitimate public purposes. For some, religious liberty is in no sense *necessary* to individuals and societies. Rather, it is merely one in an ever growing list of rights claims – in this case a claim of privilege by religious people. As such it warrants no special protection, but must be “balanced” against all other claims.

Such views are reflected in positions taken by the Obama administration on the HHS mandate, but also in its international religious freedom policy. In a 2009 speech on the importance of human rights in foreign policy, Secretary of State Hilary Clinton insisted that “to fulfill their potential, people...must be free to worship .... and to love in the way that they choose.”

Here we see the diminution of religious freedom in two ways. First, Secretary Clinton evokes the freedom to worship, not religious freedom. But “worship” is essentially a private activity, with few if any civic or public policy implications. As such, it is certainly easier to balance against other rights claims.

Second, she implies that a putative “right to love” is a comparable right. Clearly the Obama administration has in its domestic policy weighed religious freedom against other rights claims it believes important, such as the right to contraceptives and abortifacients, or to same-sex “marriage,” and religious freedom has been found to be an inferior right.

This helps to explain why, in its foreign policy, the Obama administration has applied far more policy energy in its international pursuit of a “right to love” than it has religious freedom.

It was no accident that the first affirmation in our Bill of Rights is that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” The anti-establishment clause was intended to protect the free exercise of religion, in part by ensuring that no particular religious group was given any privileged position within the country.

Ironically, today the threat of "establishment" is not from any religious entity but rather from an increasingly aggressive secular ideology which is quite willing to abridge the religious freedoms of its citizens when they do not conform to the secular creeds of the day, such as abortion, contraception, and a redefinition of marriage. For these new ideologues, "error has no rights." Religious individuals and entities must toe the line.

Is it any wonder that this new aggressively secular creed, which privatizes and relativizes religious freedom, undermines our will and our capacity as a country to defend religious freedom abroad?

Europe provides an example of what lies ahead. The official American understanding of religious freedom is in many ways reminiscent of the French ideology of *laicete*, which relegates religion to an entirely private role in society and politics. This ideology has spread throughout Europe, and is largely responsible for the growing hostility toward religion we are seeing reflected in the Pew reports.

One of the characteristics of the European privatization project, notes Oxford University Professor Roger Trigg, is its willful dilution of religious freedom to a right of freedom of “religion and belief.” The problem here is that “belief” can mean virtually anything one feels strongly about, from environmentalism to the Manchester soccer club. Religion in Europe has long since lost any special status in law, society and politics, and is now routinely treated as merely one human preference among an infinite possible number of preferences.

It is therefore a cause for alarm to see the following sentence at the beginning of the 2012 State Department Annual Report, in a section describing why this right is important for the United States: “Freedom of religion and belief and the right to worship as one chooses fulfill a deep and abiding human need.”

To drive this point home Secretary of State John Kerry, in his remarks on the release of the Annual Report, used the “worship” phrase twice to describe the content of US policy. Regarding his own actions, Kerry said he pressed foreign leaders “to safeguard freedom of belief.”

All this constitutes thin gruel indeed when compared to the vigorous brand of religious freedom endorsed in our Founding and the First Amendment. It helps to explain the unwillingness of political and foreign policy elites to pursue international religious freedom in a broad and



vigorous way, through coordinated inter-agency strategies, Congressionally-funded democracy and counter-terrorism programs, US economic programs, and the like.

As I have noted, there are other factors contributing to our anemic policy. But the most convincing explanation – and the most disturbing -- is the abandonment of the conviction that religious freedom is the first freedom because it benefits everyone, whether they are religious or not. At the end of the day this is the best explanation of why our diplomacy has settled on a lowest-common-denominator anti-persecution approach -- a largely symbolic rhetorical methodology that gives the illusion of movement but in the end accomplishes little, either for others or for our own nation.

### **Suggestions for Improving US International Religious Freedom Policy**

I will close with a few concrete suggestions for improving our policy, and therefore our moral integrity and our national security at the same time. Some of the problem is deeply ideological, and solutions go beyond the purview of this hearing. However, I would urge members to speak out about the value of religious freedom as the first freedom, to pay more attention to this issue in our foreign policy, and to demand answers from State Department officials in public hearings and private meetings.

In addition, I believe that a few simple amendments could be made in the IRFA that would remove some of the institutional obstacles to a more effective religious freedom policy. Let me mention five.

First, require the Department to treat the ambassador at large for international religious freedom as it does most other such ambassadors, which is to say have this ambassador report directly to the Secretary of State, and attend all regular meetings of senior State Department officials. This will ensure that foreign governments and American diplomats alike see that the administration takes religious freedom seriously enough to give it the same priority they do other key issues.

Second, give the ambassador the resources he or she needs to develop strategies, and to implement them, in key countries around the globe. This need not involve the appropriation of new monies, but the allocation of portions of existing appropriations for programs such as democracy promotion and counter terrorism.

Third, make training of American diplomats mandatory at three stages: when they enter the Foreign Service, when they receive “area studies” training prior to departing for post, and when they become Deputy Chiefs of Mission and Ambassadors. This training should tell them what religious freedom is, why it is important for individuals and societies, why advancing it is important for America’s national interests, its status in the country and region to which they have been assigned, and how to advance it.

I should note that the Religious Freedom Project at Georgetown University's Berkley Center ([berkeleycenter.georgetown.edu/rfp](http://berkeleycenter.georgetown.edu/rfp)) is one of a handful of institutions developing materials that could be used in such training.

Fourth, amend the IRFA to *require* that the list of particularly severe violators (the "countries of particular concern") be issued annually with the Report. In addition to the economic sanctions that might be levied against these countries, *require* the State Department to provide a comprehensive analysis of other policy tools being applied in each country, including programs that target democratic stability, economic growth and counter terrorism.

Finally, require the State Department to respond in writing to recommendations by the US Commission on International Religious Freedom. At the same time, require the Commission to pay greater attention to the question of why the United States is not succeeding in advancing religious freedom, as gauged by objective reports such as those by the Pew Research Center. The Commission should recommend concrete steps for the State Department that will result in increasing the status and authority of the ambassador at large, increasing the resources allocated to religious freedom policy, achieving permanent, effective training for all diplomats, and integrating religious freedom into US strategies for democracy promotion, economic growth, and counter terrorism.

Such changes will not transform our policy overnight. But until they are made, the policy mandated by the IRFA will remain a powerful idea that has not yet gelled, one that is not reducing religious persecution, advancing the institutions and habits of religious freedom, or serving the national security of the United States.

Thank you for having me here today.