

H.R. 2431, TO ESTABLISH AN OFFICE OF RELIGIOUS PERSECUTION MONITORING, TO PROVIDE FOR THE IMPOSITION OF SANCTIONS AGAINST COUNTRIES ENGAGED IN A PATTERN OF RELIGIOUS PERSECUTION, AND FOR OTHER PURPOSES

MARKUP
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL OPERATIONS
AND HUMAN RIGHTS
OF THE
COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED FIFTH CONGRESS
FIRST SESSION

SEPTEMBER 18, 1997

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THURSDAY, SEPTEMBER 18, 1997

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND
HUMAN RIGHTS,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 11 a.m. in room 2118, Rayburn House Office Building, Hon. Christopher Smith (chairman of the Subcommittee) presiding.

Mr. SMITH. The Subcommittee on International Operations and Human Rights meets today in open session pursuant to notice to consider H.R. 2431, the Freedom from Religious Persecution Act of 1997, which has been referred to the Subcommittee. The Chair lays the bill before the Subcommittee, and the clerk will report the title of the bill.

The CLERK. Title of the bill is a bill "To establish an Office for Religious Persecution Monitoring to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution and for other purposes."

[The bill H.R. 2431 appears in the appendix.]

Mr. SMITH. The Chair lays before the Committee an amendment in the nature of a substitute, and the clerk will report the amendment.

The CLERK. Amendment in the nature of a substitute offered by Mr. Smith.

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

Mr. SMITH. Without objection, the amendment in the nature of a substitute will be considered as having been read and open to amendment at any time.

Without objection, the amendment in the nature of a substitute will be considered as a base text of a purpose of amendment, and I would like to make an opening comment at this point and then would like to yield to my good friend from California, Mr. Lantos, Ranking Member of our Subcommittee.

[The amendment appears in the appendix.]

Mr. SMITH. This meeting of the Subcommittee on International Operations and Human Rights is a markup of H.R. 2431, the Freedom from Religious Persecution Act.

The Subcommittee has held a number of hearings on the subject of religious persecution. One hearing was on the persecution of Christians worldwide, another was on the continued danger of worldwide anti-Semitism and especially on the privatizing of anti-Semitism in the former Soviet Union. We have heard of the torture of Tibetan Buddhist monks and nuns, and atrocities against Muslims in Bosnia and the Baha'i in Iran.

The time has now come not just to talk about the problem of religious persecution, but to do something about it. Congressman Frank Wolf, a hero of the human rights movement, has shown us the way, and I am very proud to be a cosponsor of Mr. Wolf's bill, as are other Members of the Subcommittee, including my good friend, Mr. Lantos.

In a few moments I will offer a Chairman's substitute amendment which the Subcommittee staff has worked out with Congressman Wolf and his staff as well as Chairman Gilman and the Full Committee staff. Various drafts of the amendment were also shared with the Democratic staff over the course of the last few days, and we did our best to respond to their suggestions and those of Members of the Committee.

Let me briefly describe what the substitute amendment does. First, it makes very clear that the protections afforded by this bill apply to everyone—Christians, Jews, Muslims, Hindus, religious believers of any faith—who are severely persecuted because of their religious belief, practice, or affiliation.

Pursuant to this inclusive approach, we also adopt a specific finding suggested by Congressman Rohrabacher with respect to the Uighur, an overwhelmingly Muslim ethnic group in the formerly independent Republic of East Turkistan who are now persecuted by the Communist Government of China.

We make crystal clear that in affording heightened protection for members of religious communities whose situation is particularly compelling, we do not sacrifice any of the protections afforded victims of other forms of persecution whether based on religion or other grounds under existing law.

We fine-tune the carefully calibrated sanctions the bill would impose against persecuting governments to ensure that we cut off assistance that helps these governments, but not assistance that helps the truly needy in the countries that serve vital U.S. interests.

We extend the national security waiver which formerly applied to all sanctioned governments, except the Government of Sudan, to include the sanctions imposed against the government by section 12 of the bill.

We made clear that all sanctions will terminate automatically against countries which are not listed as offenders in the latest report by the Office of Religious Persecution Monitoring.

We also clarify the bill with a number of technical and conforming changes.

This amendment goes a long way toward addressing criticisms of the bill as originally introduced. Frankly, we went as far as we

could without giving up the heart and soul of the bill and rendering it less effective as a tool in the struggle against these terrible human rights abuses. The bill still places the Office of Religious Persecution Monitoring in the White House, because I agree with Congressman Wolf, this problem is too important to be buried in a single bureau within a single agency. We also retain strong sanctions, although I agree that they are carefully tailored to meet the evil we are trying to address, and we have resisted creating a waiver so broad that persecuting governments would have no strong incentives to clean up their act.

I note further changes will be proposed as the legislative process moves along. This is clearly a work in progress, and I believe that in evaluating these changes we must keep in mind the crucial fact that tyrants understand strength. They also understand weakness. Of all the millions of people who are victimized by tyrants around the world today, many are in trouble because they share our values and share our beliefs in God. This bill is designed to help people whose situation is particularly compelling and who are suffering a terrible, horrific plight because of their belief system.

I yield to Mr. Lantos.

[The statement of Mr. Smith appears in the appendix.]

Mr. LANTOS. Thank you very much, Mr. Chairman.

I want to commend you and our friend, Congressman Wolf, for presenting this legislation, and I want to reaffirm my deep commitment and support for the fundamental principles behind this legislation. I obviously support the concept of freedom of religion. It is a fundamental human right, and we must take the strongest possible action to protect basic human rights around the world, including the right to freedom of religious belief. The United States must be in the forefront of opposition to all religious persecution as a violation of fundamental human rights.

As you well know, Mr. Chairman, there are two kinds of opposition to this legislation. There are some who oppose this legislation because they are opposed to the whole concept of putting teeth behind legislation dealing with human rights. These groups and individuals will oppose this legislation to whatever extent we might be able to improve upon it, and I have no common cause with them. But I do have some concerns about the legislation in its present form, although I want to commend you for the amendment that you offer because it distinctly improves the original draft.

When hearings were held last week, as you recall, there were serious questions raised about the legislation. To begin with, the Administration indicated that it does not support the bill in its present form. A number of human rights groups have written to the Committee to express serious concern concerning the legislation, as have a number of our colleagues who are among the most effective champions of human rights. I personally expressed a number of reservations about the bill as it is presently drafted, and I would like to touch on a few of these.

The bill gives priority to religious persecution at the expense—could we have order in the Committee room, Mr. Chairman?

Mr. SMITH. The gentleman will proceed.

Mr. LANTOS. Thank you.

The bill gives priority to religious persecution at the expense of other human rights. I find this aspect of the legislation particularly disturbing because in many countries the prime human rights under attack are not in the realm of religious freedom. In some countries it is ethnic issues; in some countries it is racial issues; in some countries it is political issues; in some countries it is matters relating to freedom of speech or freedom of the media. And since our commitment to human rights must be a universal commitment, I have some difficulty in accepting the notion that we are singling out one aspect of human rights, the right to religious freedom, over other aspects of human rights.

I find, for instance, as we all know, that in some countries the prime victims of human rights violations are women who have second class status in many aspects of community life. In those countries, to focus attention on the violation of religious freedom I think misses the point, because in countries which primarily discriminate against women, our focus should be on obtaining equal human rights for women as women. In some countries political freedoms, the rights to free speech, free assembly, free association in political groupings are the ones most vigorously denied, and in those countries our focus clearly needs to be on those items.

I also have a great deal of difficulty with the notion of giving primary authority in the Administration for questions of religious persecution to an individual in the White House by passing the foreign policy apparatus of this country. The President's designated representative in dealing with other countries is the Secretary of State. Our Secretary of State, as indeed most previous Secretaries of State, is committed to human rights. In the person of the Assistant Secretary of State for Human Rights and Humanitarian Affairs, Secretary Shattuck, we have an individual passionately committed to protecting human rights across the globe, and I find it inappropriate for us to legislate an office within the White House bypassing the appropriate agencies of the Government of the United States; namely, the Department of State in dealing with these issues. This simply does not make good policy sense, and I hope that during the course of the next few days we will be able to deal with this issue effectively.

I am also concerned about the automaticity of sanctions. Now, I am one of those people who believes in sanctions. Obviously, I prefer multilateral sanctions to unilateral sanctions, but I prefer unilateral sanctions to no sanctions. So I have no problem with sanctions. But I would like sanctions to be applied on the basis of an overall assessment of U.S. foreign policy and national interests and not automatic sanctions. This one-size-fits-all policy which when religious persecution is established automatically goes into effect, may be counterproductive to U.S. national interests.

Mr. Chairman, I welcome your efforts to improve the legislation through your amendment, and having carefully studied your amendment, I want to commend you for making significant improvements with respect to the original draft. But I do not believe that your amendment goes anywhere near far enough; there are still fundamental flaws in the bill. I encourage you and Chairman Gilman and others to work with the Department of State, with Secretary Shattuck, and with those of our colleagues who still have se-

vere reservations about the legislation in its present form, so when we bring it to the floor we can get the kind of overwhelming support that the intent of the legislation merits.

I will not propose any amendments at this hearing because I hope that the concerns I have expressed will be addressed in dialog and discussion during the course of the next few days. If they are not, I will propose amendments at the time of our Full Committee meeting, and if the amendments do not succeed, I may have to reconsider my support of the legislation.

I thank the Chair.

Mr. SMITH. Thank you very much, Mr. Lantos.

The Chair recognizes Mr. Salmon, the gentleman from Arizona.

Mr. SALMON. Thank you very much, Mr. Chairman.

I would like to join with Congressman Lantos in congratulating you and Congressman Wolf in diligently attempting to address a very, very critical issue across the globe. I believe that there is not a more fundamental right, human right, than the right to worship according to the dictates of your own conscience.

Our country was formed by a group of dissidents 200 years ago who believed that that was such an important issue that they were willing to leave their motherland to pursue their beliefs, and so obviously that is something I hope really as a member of a church that, I believe, has undergone great persecution over the last—well, not that currently, but in the last century that there was tremendous persecution. I am reminded that as we look to our neighbors to improve their situation as it comes to religious persecution, it wasn't so long ago that tremendous religious persecution took place in this very country.

And I am also of the belief that even though we think we are out of the woods and we are the moral arbiter of religious freedom across the globe, we have still got our problems, and we see them with swastikas being burned on synagogue lawns and vandalism and some of the horrors that are done in the name of religion still yet in this country, and I still have problems with the fact that in this country it is OK to talk about certain religious tenets, but others are forbidden when it comes to the separation of church and State.

All that being said, I know that the goals and the motives behind this legislation are noble, but I have got to share a lot of the concerns that Congressman Lantos has raised. Being somewhat of a fiscal conservative, I have a real problem establishing yet one more bureaucracy, one more level of government, when I believe that we have proper mechanisms to deal with religious persecution, religious violations across the globe because we are frustrated that it is too little too late maybe and because it is not addressing a lot of the concerns; the current mechanism isn't addressing concerns that we believe should be addressed, problems in Sudan, problems in China, problems in Mexico, I mean problems virtually across the globe that have not been addressed.

We wring our hands and we get frustrated and so we attempt to correct that through yet one more piece of legislation, and although those motives are very, very noble, and I think I would laud them, I think that probably, without the ability to articulate as well as Congressman Lantos, I share those concerns, I share them deeply,

because I wonder aloud also how political this office can become. Many times when stand-alone offices are established it seems as though the individual that is placed in that position uses it as a stepping stone or a place to thump their chest for their own gains, and I have concerns about that. I am going to keep an open mind, and as Congressman Lantos has expressed on his side, we want to accomplish the same objectives. But I think that the concerns have to be addressed.

I agree also that foreign policy initiatives are best suited with the Secretary of State and within the Administration, and deep concerns are becoming way too fragmented. By becoming so fragmented, I think there is an extreme possibility that we delude our ability to be successful and maybe not enhance our ability, so I hope we keep those concerns.

I would like to thank Congressman Lantos for expressing opinions that I have deep in my heart but maybe can't articulate as well as he can.

Thank you very much.

Mr. SMITH. Thank you very much, Mr. Salmon.

If there are no further comments, I would like to just begin with one very brief clarifying amendment I would like to offer, and the clerk will report the amendment.

The CLERK. "Amendment to the amendment in the nature of a substitute offered by Mr. Smith of New Jersey, page 18, line 20, strike "for humanitarian assistance" and insert"——

Mr. SMITH. Without objection, the amendment will be considered as having been read.

[The amendment appears in the appendix.]

Mr. SMITH. And this amendment very simply clarifies humanitarian exemption to the sanctions imposed on persecuting governments by making clear that our support for multilateral sanctions should not have the effect of blocking aid that helps the people of these countries and not the government. So it is a very straightforward, and I think a very simple amendment, and I would ask my colleagues to support it.

Mr. LANTOS. Mr. Chairman, I think it is a very good amendment, and I strongly support it.

Mr. SMITH. I would like to then put the question. As many as are in favor of the amendment will say aye.

Opposed.

The ayes have it, and the amendment is agreed to.

Are there any further amendments to the legislation?

Anyone else would like to be heard on the legislation?

If not, then I would ask one of my colleagues if they would move the legislation to the Full Committee.

Mr. BALLENGER. Mr. Chairman, I move the Subcommittee report the bill, H.R. 2431, as amended, to the Full Committee with the recommendation that the bill, as amended by the Subcommittee, be reported to the House.

Mr. SMITH. The question is on the motion.

As many as are in favor of the motion signify by saying aye.

As many as are opposed signify by saying no.

The ayes appear to have it, and the motion is agreed to.

I want to thank my colleagues for coming to the markup, and we look forward to working with my good friend, Mr. Lantos, in the Full Committee.

[Whereupon, at 11:45 a.m., the Subcommittee was adjourned.]

APPENDIX

I

105TH CONGRESS
1ST SESSION

H. R. 2431

To establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 1997

Mr. WOLF (for himself, Mr. PORTER, Mr. WATTS of Oklahoma, Mr. HALL of Ohio, Mr. ADERHOLT, Mr. SMITH of New Jersey, Ms. PELOSI, Mr. HUTCHINSON, Mr. ROHRBACHER, Mr. BLUNT, Mr. BISHOP, Mr. DUNCAN, Mr. MANTON, Mr. OLIVER, Mr. GILCHREST, Mr. KING, Mr. BOB SCHAEFFER of Colorado, Mr. GILMOR, Mr. COOKSEY, Mr. GILMAN, Mr. DICKEY, Mr. LIPINSKI, Mr. EHLERS, Mr. WAMP, Mrs. KELLY, and Mr. TOWNS) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committees on Ways and Means, the Judiciary, Banking and Financial Services, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Freedom From Reli-
3 gious Persecution Act of 1997".

4 **SEC. 2. FINDINGS.**

5 The Congress makes the following findings:

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

10 (2) The right to freedom of religion is recog-
11 nized by numerous international agreements and
12 covenants, including the following:

13 (A) Article 18 of the Universal Declaration
14 of Human Rights states that "Everyone has the
15 right to freedom of thought, conscience and re-
16 ligious; this right includes freedom to change his
17 religion or belief, and freedom, either alone or
18 in community with others and in public or pri-
19 vate, to manifest his religion or belief in teach-
20 ing, practice, worship and observance".

21 (B) Article 18 of the Covenant on Civil
22 and Political Rights declares that "Everyone
23 shall have the right to freedom of thought, con-
24 science, and religion . . ." and further delin-
25 eates the privileges under this right.

1 (3) Persecution of religious believers, particu-
2 larly Roman Catholic and evangelical Protestant
3 Christians, in Communist countries, such as Cuba,
4 Laos, the People's Republic of China, North Korea,
5 and Vietnam, persists and in some cases is increas-
6 ing.

7 (4) In many Islamic countries and regions
8 thereof, governments persecute non-Muslims and re-
9 ligious converts from Islam using means such as
10 "blasphemy" and "apostasy" laws, and militant
11 movements seek to corrupt a historically tolerant Is-
12 lamic faith and culture through the persecution of
13 Baha'is, Christians, and other religious minorities.

14 (5) The militant, Islamic Government of Sudan
15 is waging a self-described religious war against
16 Christian, non-Muslim, and moderate Muslim per-
17 sons by using torture, starvation, enslavement, and
18 murder.

19 (6) In Tibet, where Tibetan Buddhism is inex-
20 tricably linked to the Tibetan identity, the Govern-
21 ment of the People's Republic of China has intensi-
22 fied its control over the Tibetan people by perverting
23 the selection of the Panchen Lama, propagandizing
24 against the religious authority of the Dalai Lama,
25 restricting religious study and traditional religious

1 practices, and increasing the persecution of monks
2 and nuns.

3 (7) The United States Government is commit-
4 ted to the right to freedom of religion and its poli-
5 cies and relations with foreign governments should
6 be consistent with the commitment to this principle.

7 (8) The 104th Congress recognized the facts set
8 forth in this section and stated clearly the sense of
9 the Senate and the House of Representatives regard-
10 ing these matters in approving—

11 (A) House Resolution 515, expressing the
12 sense of the House of Representatives with re-
13 spect to the persecution of Christians world-
14 wide;

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

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

21 (D) section 1303 of H.R. 1561, the For-
22 eign Relations Authorization Act, Fiscal Years
23 1996 and 1997.

24 **SEC. 3. DEFINITIONS.**

25 As used in this Act:

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

4 (2) PERSECUTED COMMUNITY.—The term “per-
5 secuted community” means any religious group or
6 community identified in section 4.

7 (3) PERSECUTION FACILITATING PRODUCTS,
8 GOODS, AND SERVICES.—The term “persecution fa-
9 cilitating products, goods, and services” means those
10 products, goods, and services which are being used
11 or determined to be intended for use directly and in
12 significant measure to facilitate the carrying out of
13 acts of religious persecution.

14 (4) RELIGIOUS PERSECUTION.—

15 (A) IN GENERAL.—The term “religious
16 persecution” means widespread and ongoing
17 persecution of persons because of their member-
18 ship in or affiliation with a religion or religious
19 denomination, whether officially recognized or
20 otherwise, when such persecution includes ab-
21 duction, enslavement, killing, imprisonment,
22 forced mass resettlement, rape, or crucifixion or
23 other forms of torture.

24 (B) CATEGORY 1 RELIGIOUS PERSECU-
25 TION.—Category 1 religious persecution is reli-

1 gious persecution that is conducted with the in-
2 volvement or support of government officials or
3 its agents, or as part of official government pol-
4 icy.

5 (C) CATEGORY 2 RELIGIOUS PERSECUC-
6 TION.—Category 2 religious persecution is reli-
7 gious persecution that is not conducted with the
8 involvement or support of government officials
9 or its agents, or as part of official government
10 policy, but which the government fails to under-
11 take serious and sustained efforts to eliminate.

12 (5) RESPONSIBLE ENTITIES.—The term “re-
13 sponsible entities” means the specific government
14 departments, agencies, or units which directly carry
15 out acts of religious persecution.

16 (6) SANCTIONED COUNTRY.—The term “sanc-
17 tioned country” means a country on which sanctions
18 have been imposed under section 7.

19 (7) UNITED STATES ASSISTANCE.—The term
20 “United States assistance” means—

21 (A) any assistance under the Foreign As-
22 sistance Act of 1961 (including programs under
23 title IV of chapter 2 of part I of that Act, relat-
24 ing to the Overseas Private Investment Cor-
25 poration), other than—

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

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

10 (iii) disaster relief assistance, includ-
11 ing any assistance under chapter 9 of part
12 I of that Act;

13 (iv) assistance which involves the pro-
14 vision of food (including monetization of
15 food) or medicine; and

16 (v) assistance for refugees;

17 (B) sales, or financing on any terms, under
18 the Arms Export Control Act;

19 (C) the provision of agricultural commod-
20 ities, other than food, under the Agricultural
21 Trade Development and Assistance Act of
22 1954; and

23 (D) financing under the Export-Import
24 Bank Act of 1945.

1 (8) UNITED STATES PERSON.—Except as pro-
2 vided in section 12(b)(1), the term “United States
3 person” means—

4 (A) any United States citizen or alien law-
5 fully admitted for permanent residence into the
6 United States; and

7 (B) any corporation, partnership, or other
8 entity organized under the laws of the United
9 States or of any State, the District of Colum-
10 bia, or any territory or possession of the United
11 States.

12 **SEC. 4. APPLICATION AND SCOPE.**

13 (a) SCOPE.—The provisions of this Act shall apply
14 to all persecuted religious groups and communities, and
15 all countries and regions thereof, referred to in the resolu-
16 tions and bill set forth in paragraph (8) of section 2 or
17 referred to in paragraphs (3) through (6) of section 2,
18 and to any community within any country or region there-
19 of that the Director finds, by a preponderance of the evi-
20 dence, is the target of religious persecution.

21 (b) DESIGNATION OF ADDITIONAL COUNTRIES AND
22 REGIONS THEREOF.—The Congress may designate addi-
23 tional countries or regions to which this Act applies by
24 enacting legislation specifically citing the authority of this
25 section.

1 **SEC. 5. OFFICE OF RELIGIOUS PERSECUTION MONITORING.**

2 (a) **ESTABLISHMENT.**—There is established in the
3 Executive Office of the President the Office of Religious
4 Persecution Monitoring (hereafter in this Act referred to
5 as the “Office”).

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

12 (c) **REMOVAL.**—The Director shall serve at the pleas-
13 ure of the President.

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

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

19 (1) Consider the facts and circumstances of vio-
20 lations of religious freedom presented in the annual
21 reports of the Department of State on human rights
22 under sections 116(d) and 502B(b) of the Foreign
23 Assistance Act of 1961 (22 U.S.C. 2151n(d) and
24 2304(b)).

25 (2) Consider the facts and circumstances of vio-
26 lations of religious freedom presented by independ-

1 ent human rights groups and nongovernmental orga-
2 nizations.

3 (3) In consultation with the Secretary of State,
4 make policy recommendations to the President re-
5 garding the policies of the United States Govern-
6 ment toward governments which are determined to
7 be engaged in religious persecution.

8 (4) Prepare and submit the annual report de-
9 scribed in section 6, including the determination
10 whether a particular country is engaged in category
11 1 or category 2 religious persecution, and identify
12 the responsible entities within such countries. This
13 information shall be published in the Federal Reg-
14 ister.

15 (5) Maintain the lists of persecution facilitating
16 products, goods, and services, and the responsible
17 entities within countries determined to be engaged in
18 religious persecution, described in paragraph (4),
19 adding to the list as information becomes available.
20 This information shall be published in the Federal
21 Register.

22 (6) Coordinate with the Secretary of State, the
23 Attorney General, the Secretary of Commerce, and
24 the Secretary of the Treasury to ensure that the

1 provisions of this Act are fully and effectively imple-
2 mented.

3 (f) ADMINISTRATIVE MATTERS.—

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

7 (2) SERVICES OF OTHER AGENCIES.—The Di-
8 rector may use the personnel, services, and facilities
9 of any other department or agency, on a reimburs-
10 able basis, in carrying out the functions of the Of-
11 fice.

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

13 (a) ANNUAL REPORTS.—Not later than April 30 of
14 each year, the Director shall submit to the Committees
15 on Foreign Relations, Finance, the Judiciary, and Appro-
16 priations of the Senate and to the Committees on Inter-
17 national Relations, Ways and Means, the Judiciary, and
18 Appropriations of the House of Representatives a report
19 described in subsection (b).

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

22 (1) DETERMINATION OF RELIGIOUS PERSECU-
23 TION.—With respect to each country or region there-
24 of described in section 4, the Director shall include
25 his or her determination, with respect to each per-

1 secuted community, whether there is category 1 reli-
2 gious persecution or category 2 religious persecution.

3 (2) IDENTIFICATION OF PERSECUTION FACILI-
4 TATING PRODUCTS, GOODS, AND SERVICES.—With
5 respect to each country or region thereof which the
6 Director determines is engaged in either category 1
7 or category 2 religious persecution, the Director, in
8 consultation with the Secretary of State and the
9 Secretary of Commerce, shall identify and list the
10 persecution facilitating products, goods, and serv-
11 ices.

12 (3) IDENTIFICATION OF RESPONSIBLE ENTI-
13 TIES.—With respect to each country determined by
14 the Director to be engaged in category 1 religious
15 persecution, the Director, in consultation with the
16 Secretary of State, shall identify and list the respon-
17 sible entities within that country that are engaged in
18 religious persecution. Such entities shall be defined
19 as narrowly as possible.

20 (4) OTHER REPORTS.—The Director shall in-
21 clude the reports submitted to the Director by the
22 Attorney General under section 9 and by the Sec-
23 retary of State under section 10.

1 (c) INTERIM REPORTS.—The Director may submit
2 interim reports to the Congress containing such matters
3 as the Director considers necessary.

4 **SEC. 7. SANCTIONS.**

5 (a) PROHIBITION ON EXPORTS RELATING TO RELI-
6 GIOUS PERSECUTION.—

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

10 (A) the Director finds the occurrence of
11 category 1 religious persecution, the Director
12 shall so notify the relevant United States de-
13 partments and agencies, and such departments
14 and agencies shall—

15 (i) prohibit all exports to the respon-
16 sible entities listed under section 6(b)(3) or
17 in any supplemental list of the Director;
18 and

19 (ii) prohibit the export to such coun-
20 try of the persecution facilitating products,
21 goods, and services listed under section
22 6(b)(2) or in any supplemental list of the
23 Director; or

24 (B) the Director finds the occurrence of
25 category 2 religious persecution, the Director

1 shall so notify the relevant United States de-
2 partments and agencies, and such departments
3 and agencies shall prohibit the export to such
4 country of the persecution facilitating products,
5 goods, and services listed under section 6(b)(2)
6 or in any supplemental list of the Director.

7 (2) PROHIBITIONS ON U.S. PERSONS.—(A) With
8 respect to any country or region thereof in which the
9 Director finds the occurrence of category 1 religious
10 persecution, no United States person may—

11 (i) export any item to the responsible enti-
12 ties listed under section 6(b)(3) or in any sup-
13 plemental list of the Director; and

14 (ii) export to that country any persecution
15 facilitating products, goods, and services listed
16 under section 6(b)(2) or in any supplemental
17 list of the Director.

18 (B) With respect to any country in which the
19 Director finds the occurrence of category 2 religious
20 persecution, no United States person may export to
21 that country any persecution facilitating products,
22 goods, and services listed under section 6(b)(2) or in
23 any supplemental report of the Director.

24 (3) PENALTIES.—Any person who violates the
25 provisions of paragraph (2) shall be subject to the

1 penalties set forth in subsections (a) and (b)(1) of
2 section 16 of the Trading With the Enemy Act (50
3 U.S.C. App. 16 (a) and (b)(1)) for violations under
4 that Act.

5 (4) EFFECTIVE DATE OF PROHIBITIONS.—The
6 prohibitions on exports under paragraph (1) shall
7 take effect with respect to a country 90 days after
8 the finding of category 1 or category 2 religious per-
9 secution in that country or region thereof, except as
10 provided in section 11.

11 (b) UNITED STATES ASSISTANCE.—

12 (1) CATEGORY 1 RELIGIOUS PERSECUTION.—
13 No United States assistance may be provided to the
14 government of any country which the Director deter-
15 mines is engaged in category 1 religious persecution,
16 effective 90 days after the date on which the Direc-
17 tor submits the report in which the determination is
18 included.

19 (2) CATEGORY 2 RELIGIOUS PERSECUTION.—
20 No United States assistance may be provided to the
21 government of any country which the Director deter-
22 mines is engaged in category 2 religious persecution,
23 effective 1 year after the date on which the Director
24 submits the report in which the determination is in-
25 cluded, if the Director, in the next annual report of

1 the Director under section 6, determines that the
2 country is engaged in either category 1 or category
3 2 religious persecution.

4 (c) MULTILATERAL ASSISTANCE.—

5 (1) CATEGORY 1 RELIGIOUS PERSECUTION.—

6 With respect to any country which the Director de-
7 termines is engaged in category 1 religious persecu-
8 tion, the President shall instruct the United States
9 Executive Director of each multilateral development
10 bank and of the International Monetary Fund to
11 vote against, and use his or her best efforts to deny,
12 any loan or other utilization of the funds of their re-
13 spective institutions (other than for humanitarian
14 assistance) to that country, effective 90 days after
15 the Director submits the report in which the deter-
16 mination is included.

17 (2) CATEGORY 2 RELIGIOUS PERSECUTION.—

18 With respect to any country which the Director de-
19 termines is engaged in category 2 religious persecu-
20 tion, the President shall instruct the United States
21 Executive Director of each multilateral development
22 bank and of the International Monetary Fund to
23 vote against, and use his or her best efforts to deny,
24 any loan or other utilization of the funds of their re-
25 spective institutions (other than for humanitarian

1 assistance) to that country, effective 1 year after the
2 date on which the Director submits the report in
3 which the determination is included, if the Director,
4 in the next annual report of the Director under sec-
5 tion 6, determines that the country is engaged in ei-
6 ther category 1 or category 2 religious persecution.

7 (3) REPORTS TO DIRECTOR.—If a country de-
8 scribed in paragraph (1) or (2) is granted a loan or
9 other utilization of funds notwithstanding the objec-
10 tion of the United States under this subsection, the
11 Executive Director of the institution that made the
12 grant shall report to the President and the Congress
13 on the efforts made to deny loans or other utilization
14 of funds to that country, and shall include in the re-
15 port specific and explicit recommendations designed
16 to ensure that such loans or other utilization of
17 funds are denied to that country in the future.

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

23 (d) DENIAL OF VISAS.—No consular officer shall
24 issue a visa to, and the Attorney General shall exclude
25 from the United States, any alien who the Director deter-

1 mines carried out or directed the carrying out of category
2 1 or category 2 religious persecution.

3 **SEC. 8. WAIVER OF SANCTIONS.**

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

8 (1) determines that national security interests
9 justify such a waiver; and

10 (2) provides to the Committees on Foreign Re-
11 lations, Finance, the Judiciary, and Appropriations
12 of the Senate and to the Committees on Inter-
13 national Relations, the Judiciary, and Appropria-
14 tions of the House of Representatives a written noti-
15 fication of the President's intention to waive any
16 such sanction.

17 The justification shall contain an explanation of the rea-
18 sons why the President considers the waiver to be nec-
19 essary, the type and amount of goods, services, or assist-
20 ance to be provided pursuant to the waiver, and the period
21 of time during which such a waiver will be effective.

22 (b) **TAKING EFFECT OF WAIVER.**—

23 (1) **IN GENERAL.**—Subject to paragraph (2), a
24 waiver under subsection (a) shall take effect 45 days
25 after its submission to the Congress.

1 (2) IN EMERGENCY CONDITIONS.—The Presi-
2 dent may waive the imposition of sanctions against
3 a cōuntry under subsection (b) or (c) of section 7 to
4 take effect immediately if the President, in the writ-
5 ten notification of intention to waive the sanctions,
6 certifies that emergency conditions exist that make
7 an immediate waiver necessary.

8 (3) COMPUTATION OF 45-DAY PERIOD.—The
9 45-day period referred to in this subsection shall be
10 computed by excluding—

11 (A) the days on which either House of
12 Congress is not in session because of an ad-
13 journment of more than 3 days to a day certain
14 or an adjournment of the Congress sine die;
15 and

16 (B) any Saturday and Sunday, not ex-
17 cluded under paragraph (1), when either House
18 is not in session.

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

20 (a) CREDIBLE FEAR OF PERSECUTION DEFINED.—
21 Section 235(b)(1)(B)(v) of the Immigration and National-
22 ity Act (8 U.S.C. 1225(b)(1)(B)(v)) (as amended by sec-
23 tion 302 of the Illegal Immigration Reform and Immi-
24 grant Responsibility Act of 1996; Public Law 104-208;

1 110 Stat. 3009–582) is amended by adding at the end
2 the following:

3 “Any alien who can credibly claim mem-
4 bership in a persecuted community found
5 to be subject to category 1 or category 2
6 religious persecution in the most recent an-
7 nual report sent by the Director of the Of-
8 fice of Religious Persecution Monitoring to
9 the Congress under section 6 of the Free-
10 dom From Religious Persecution Act of
11 1997 shall be considered to have a credible
12 fear of persecution within the meaning of
13 the preceding sentence.”.

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

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

1 “(1) the fundamental components of the right
2 to freedom of religion;

3 “(2) the variation in beliefs of religious groups;
4 and

5 “(3) the governmental and nongovernmental
6 methods used in violation of the right to freedom of
7 religion.”.

8 (e) ASYLUM.—Section 208 of the Immigration and
9 Nationality Act (8 U.S.C. 1158) (as amended by section
10 604 of the Illegal Immigration Reform and Immigrant Re-
11 sponsibility Act of 1996; Public Law 104–208; 1110 Stat.
12 3009–690) is amended by adding at the end the following:

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

15 “(1) PROCEDURES UPON DENIAL.—

16 “(A) IN GENERAL.—In any case in which
17 the Service denies or refers to an immigration
18 judge an asylum application filed by an alien
19 described in the second sentence of section
20 235(b)(1)(B)(v), or any case in which an immi-
21 gration judge denies such an application on the
22 ground that the alien is not a refugee within
23 the meaning of section 101(a)(42)(A), the Serv-
24 ice shall provide the alien with the following:

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

4 “(I) the most recent annual re-
5 port sent by the Director of the Office
6 of Religious Persecution Monitoring to
7 the Congress under section 6 of the
8 Freedom From Religious Persecution
9 Act of 1997; and

10 “(II) either—

11 “(aa) the most recent coun-
12 try report on human rights prac-
13 tices issued by the Secretary of
14 State; or

15 “(bb) any other report is-
16 sued by the Secretary of State
17 concerning conditions in the
18 country of which the alien is a
19 national (or, in the case of an
20 alien having no nationality, the
21 country of the alien’s last habit-
22 ual residence).

23 “(ii) A copy of any assessment sheet
24 prepared by an asylum officer for a super-

1 visory asylum officer with respect to the
2 application.

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

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

13 “(B) CREDIBILITY IN ISSUE.—In any case
14 described in subparagraph (A) in which the de-
15 nial is based, in whole or in part, on credibility
16 grounds, the Service shall also provide the alien
17 with the following:

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

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

1 “(iii) A brief summary of such re-
2 sponse, if any was made.

3 “(iv) An explanation of how the nega-
4 tive determination on the credibility issue
5 relates to the applicant’s religious persecu-
6 tion claim.

7 “(2) EFFECT IN SUBSEQUENT PROCEEDINGS.—

8 “(A) USE AT OPTION OF APPLICANT.—Any
9 material provided to an alien under paragraph
10 (1) shall be considered part of the official
11 record pertaining to the alien’s asylum applica-
12 tion solely at the option of the alien.

13 “(B) NO EFFECT ON REVIEW.—The provi-
14 sion of any material under paragraph (1) to an
15 alien shall not be construed to alter any stand-
16 ard of review otherwise applicable in any ad-
17 ministrative or judicial adjudication concerning
18 the alien’s asylum application.

19 “(3) DUTY TO SUBMIT REPORT ON RELIGIOUS
20 PERSECUTION.—In any judicial or administrative
21 proceeding in which the Service opposes granting
22 asylum to an alien described in the second sentence
23 of section 235(b)(1)(B)(v), the Service shall submit
24 to the court or administrative adjudicator a copy of
25 the most recent annual report submitted to the Con-

1 gress by the Director of the Office of Religious Per-
2 secution Monitoring under section 6 of the Freedom
3 From Religious Persecution Act of 1997, and any
4 interim reports issued by such Director after such
5 annual report.”.

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

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

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

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

18 (4) A description of developments with respect
19 to the adjudication of applications for asylum or ref-
20 ugee status filed by an alien who claims to be a
21 member of a persecuted community that the Direc-
22 tor found to be subject to category 1 or category 2
23 religious persecution in the most recent annual re-
24 port submitted to the Congress under section 6.

1 (5) With respect to the year that is the subject
2 of the report, a description of training on religious
3 persecution provided under section 235(d) of the Im-
4 migration and Nationality Act (as added by sub-
5 section (b)) to immigration officers performing func-
6 tions under section 235(b) of such Act, or adjudicat-
7 ing applications under section 207 or 208 of such
8 Act, including a list of speakers and materials used
9 in such training and the number of officers who re-
10 ceived such training.

11 (e) **ADMISSION PRIORITY.**—For purposes of section
12 207(a)(3) of the Immigration and Nationality Act, an in-
13 dividual who is a member of a persecuted community that
14 the Director found to be subject to category 1 or category
15 2 religious persecution in the most recent annual report
16 submitted to the Congress under section 6, and is deter-
17 mined by the Attorney General to be a refugee within the
18 meaning of section 101(a)(42)(A) of the Immigration and
19 Nationality Act, shall be considered a refugee of special
20 humanitarian concern to the United States. In carrying
21 out such section, such an individual shall be given priority
22 status at least as high as that given to any member of
23 any other specific group of refugees of special concern to
24 the United States.

1 (f) NO EFFECT ON OTHERS' RIGHTS.—Nothing in
2 this section, or any amendment made by this section, shall
3 be construed to deny any applicant for asylum or refugee
4 status (including any applicant who is not a member of
5 a persecuted community but whose claim is based on reli-
6 gious persecution) any right, privilege, protection, or eligi-
7 bility otherwise provided by law.

8 (g) NO DISPLACEMENT OF OTHER REFUGEES.—Ref-
9 ugees admitted to the United States as a result of the
10 procedures set forth in this section shall not displace other
11 refugees in need of resettlement who would otherwise have
12 been admitted in accordance with existing law and proce-
13 dures.

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

17 “(4)(A) Notwithstanding any other provision of law,
18 prior to each annual determination regarding refugee ad-
19 missions under this subsection, there shall be a period of
20 public review and comment, particularly by appropriate
21 nongovernmental organizations, churches, and other reli-
22 gious communities and organizations, and the general
23 public.

24 “(B) Nothing in this paragraph may be construed to
25 apply subchapter II of chapter 5 of title 5, United States

1 Code, to the period of review and comment referred to in
2 subparagraph (A).”.

3 **SEC. 10. STATE DEPARTMENT HUMAN RIGHTS REPORTS.**

4 (a) **ANNUAL HUMAN RIGHTS REPORT.**—In preparing
5 the annual reports of the State Department on human
6 rights under sections 116(d) and 502B(b) of the Foreign
7 Assistance Act of 1961 (22 U.S.C. 2151n(d) and
8 -2304(b)), the Secretary of State shall, in the section on
9 religious freedom—

10 (1) consider the facts and circumstances of the
11 violation of the right to freedom of religion pre-
12 sented by independent human rights groups and
13 nongovernmental organizations;

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

21 (3) report on whether freedom of religion viola-
22 tions occur on a nationwide, regional, or local level;
23 and

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

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

5 (1) institute programs to provide training for
6 chiefs of mission as well as Department of State of-
7 ficials—

8 (A) having reporting responsibilities re-
9 garding the freedom of religion, which shall in-
10 clude training on the fundamental components
11 of the right to freedom of religion, the variation
12 in beliefs of religious groups, and the govern-
13 mental and nongovernmental methods used in
14 the violation of the right to freedom of religion;
15 and

16 (B) the identification of independent
17 human rights groups and nongovernmental or-
18 ganizations with expertise in the matters de-
19 scribed in subparagraph (A); and

20 (2) submit to the Director, not later than Janu-
21 ary 1 of each year, a report describing all training
22 provided to Department of State officials with re-
23 spect to religious persecution during the preceding
24 1-year period, including a list of instructors and ma-

1 terials used in such training and the number and
2 rank of individuals who received such training.

3 **SEC. 11. TERMINATION OF SANCTIONS.**

4 (a) **TERMINATION OF SANCTIONS.**—If the Director
5 determines that a sanctioned country has substantially
6 eliminated religious persecution in that country, the Direc-
7 tor shall notify the Congress of that determination in writ-
8 ing. The sanctions described in section 7 shall cease to
9 apply with respect to that country 45 days after the Con-
10 gress receives the notification of such a determination.
11 The 45-day period referred to in this section shall be com-
12 puted by excluding—

13 (1) the days on which either House of Congress
14 is not in session because of an adjournment of more
15 than 3 days to a day certain or an adjournment of
16 the Congress sine die; and

17 (2) any Saturday and Sunday, not excluded
18 under paragraph (1), when either House is not in
19 session.

20 (b) **WITHDRAWAL OF FINDING.**—Any determination
21 of the Director under section 6 may be withdrawn before
22 taking effect if the Director makes a written determina-
23 tion, on the basis of a preponderance of the evidence, that
24 the country substantially eliminated any category 1 or cat-
25 egory 2 religious persecution that existed in that country.

1 The Director shall submit to the Congress each determina-
2 tion under this subsection.

3 **SEC. 12. SANCTIONS AGAINST SUDAN.**

4 (a) **EXTENSION OF SANCTIONS UNDER EXISTING**
5 **LAW.**—Any sanction imposed on Sudan because of a de-
6 termination that the government of that country has pro-
7 vided support for acts of international terrorism, includ-
8 ing—

9 (1) export controls imposed pursuant to the Ex-
10 port Administration Act of 1979;

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

13 (3) the prohibition on assistance under section
14 620A of the Foreign Assistance Act of 1961;

15 (4) section 2327(a) of title 10, United States
16 Code;

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

19 (6) section 527 of the Foreign Operations, Ex-
20 port Financing, and Related Programs Appropria-
21 tions Act, 1997 (as contained in Public Law 104–
22 208); and

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

1 shall continue in effect after the enactment of this Act
2 until the Director determines that Sudan has substantially
3 eliminated religious persecution in that country, or the de-
4 termination that the government of that country has pro-
5 vided support for acts of international terrorism is no
6 longer in effect, whichever occurs later.

7 (b) ADDITIONAL SANCTIONS ON SUDAN.—Effective
8 90 days after the date of the enactment of this Act, the
9 following sanctions (to the extent not covered under sub-
10 section (a)) shall apply with respect to Sudan:

11 (1) PROHIBITION ON FINANCIAL TRANSACTIONS
12 WITH GOVERNMENT OF SUDAN.—

13 (A) OFFENSE.—Any United States person
14 who knowingly engages in any financial trans-
15 action, including any loan or other extension of
16 credit, directly or indirectly, with the Govern-
17 ment of Sudan shall be fined in accordance with
18 title 18, United States Code, or imprisoned for
19 not more than 10 years; or both.

20 (B) DEFINITIONS.—As used in this para-
21 graph:

22 (i) FINANCIAL TRANSACTION.—The
23 term “financial transaction” has the mean-
24 ing given that term in section 1956(c)(4)
25 of title 18, United States Code.

1 (ii) UNITED STATES PERSON.—The
2 term “United States person” means—

3 (I) any United States citizen or
4 national;

5 (II) any permanent resident
6 alien;

7 (III) any juridical person orga-
8 nized under the laws of the United
9 States; and

10 (IV) any person in the United
11 States.

12 (2) PROHIBITION ON IMPORTS FROM SUDAN.—
13 No article which is grown, produced, manufactured
14 by, marketed, or otherwise exported by the Govern-
15 ment of Sudan, may be imported into the United
16 States.

17 (3) PROHIBITIONS ON UNITED STATES EX-
18 PORTS TO SUDAN.—

19 (A) PROHIBITION ON COMPUTER EX-
20 PORTS.—No computers, computer software, or
21 goods or technology intended to manufacture or
22 service computers may be exported to or for use
23 of the Government of Sudan.

24 (B) REGULATIONS OF THE SECRETARY OF
25 COMMERCE.—The Secretary of Commerce may

1 prescribe such regulations as may be necessary
2 to carry out subparagraph (A).

3 (C) PENALTIES.—Any person who violates
4 this paragraph shall be subject to the penalties
5 provided in section 11 of the Export Adminis-
6 tration Act of 1979 (50 U.S.C. App. 2410) for
7 violations under that Act.

8 (4) PROHIBITION ON NEW INVESTMENT IN
9 SUDAN.—

10 (A) PROHIBITION.—No United States per-
11 son may, directly or through another person,
12 make any new investment in Sudan that is not
13 prohibited by paragraph (1).

14 (B) REGULATIONS.—The Secretary of
15 Commerce may prescribe such regulations as
16 may be necessary to carry out subparagraph
17 (A).

18 (C) PENALTIES.—Any person who violates
19 this paragraph shall be subject to penalties pro-
20 vided in section 11 of the Export Administra-
21 tion Act of 1979 (50 U.S.C. App. 2410) for vio-
22 lations under that Act.

23 (5) AVIATION RIGHTS.—

24 (A) AIR TRANSPORTATION RIGHTS.—The
25 Secretary of Transportation shall prohibit any

1 aircraft of a foreign air carrier owned or con-
2 trolled, directly or indirectly, by the Govern-
3 ment of Sudan or operating pursuant to a con-
4 tract with the Government of Sudan from en-
5 gaging in air transportation with respect to the
6 United States, except that such aircraft shall be
7 allowed to land in the event of an emergency
8 for which the safety of an aircraft's crew or
9 passengers is threatened.

10 (B) TAKEOFFS AND LANDINGS.—The Sec-
11 retary of Transportation shall prohibit the take-
12 off and landing in Sudan of any aircraft by an
13 air carrier owned, directly or indirectly, or con-
14 trolled by a United States person, except that
15 such aircraft shall be allowed to land in the
16 event of an emergency for which the safety of
17 an aircraft's crew or passengers is threatened,
18 or for humanitarian purposes.

19 (C) TERMINATION OF AIR SERVICE AGREE-
20 MENTS.—To carry out subparagraphs (A) and
21 (B), the Secretary of State shall terminate any
22 agreement between the Government of Sudan
23 and the Government of the United States relat-
24 ing to air services between their respective terri-
25 tories.

1 (D) DEFINITIONS.—For purposes of this
2 paragraph, the terms “aircraft”, “air transpor-
3 tation”, and “foreign air carrier” have the
4 meanings given those terms in section 40102 of
5 title 49, United States Code.

6 (6) PROHIBITION ON PROMOTION OF UNITED
7 STATES TOURISM.—None of the funds appropriated
8 or otherwise made available by any provision of law
9 may be available to promote United States tourism
10 in Sudan.

11 (7) GOVERNMENT OF SUDAN BANK AC-
12 COUNTS.—

13 (A) PROHIBITION.—A United States de-
14 pository institution may not accept, receive, or
15 hold a deposit account from the Government of
16 Sudan, except for such accounts which may be
17 authorized by the President for diplomatic or
18 consular purposes.

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

24 (C) DEFINITION.—For purposes of this
25 paragraph, the term “depository institution”

1 has the meaning given that term in section
2 19(b)(1) of the Act of December 23, 1913 (12
3 U.S.C. 461(b)(1)).

4 (8) PROHIBITION ON UNITED STATES GOVERN-
5 MENT PROCUREMENT FROM SUDAN.—

6 (A) PROHIBITION.—No department, agen-
7 cy, or any other entity of the United States
8 Government may enter into a contract for the
9 procurement of goods or services from
10 parastatal organizations of Sudan except for
11 items necessary for diplomatic or consular pur-
12 poses.

13 (B) DEFINITION.—As used in this para-
14 graph, the term “parastatal organization of
15 Sudan” means a corporation, partnership, or
16 entity owned, controlled, or subsidized by the
17 Government of Sudan.

18 (9) PROHIBITION ON UNITED STATES APPRO-
19 PRIATIONS FOR USE AS INVESTMENTS IN OR TRADE
20 SUBSIDIES FOR SUDAN.—None of the funds appro-
21 priated or otherwise made available by any provision
22 of law may be available for any new investment in,
23 or any subsidy for trade with, Sudan, including
24 funding for trade missions in Sudan and for partici-
25 pation in exhibitions and trade fairs in Sudan.

1 (10) PROHIBITION ON COOPERATION WITH
2 ARMED FORCES OF SUDAN.—No agency or entity of
3 the United States may engage in any form of co-
4 operation, direct or indirect, with the armed forces
5 of Sudan, except for activities which are reasonably
6 necessary to facilitate the collection of necessary in-
7 telligence. Each such activity shall be considered as
8 significant anticipated intelligence activity for pur-
9 poses of section 501 of the National Security Act of
10 1947 (50 U.S.C. 413).

11 (11) PROHIBITION ON COOPERATION WITH IN-
12 TELLIGENCE SERVICES OF SUDAN.—

13 (A) SANCTION.—No agency or entity of
14 the United States involved in intelligence activi-
15 ties may engage in any form of cooperation, di-
16 rect or indirect, with the Government of Sudan,
17 except for activities which are reasonably de-
18 signed to facilitate the collection of necessary
19 intelligence.

20 (B) POLICY.—It is the policy of the United
21 States that no agency or entity of the United
22 States involved in intelligence activities may
23 provide any intelligence information to the Gov-
24 ernment of Sudan which pertains to any inter-
25 nal group within Sudan. Any change in such

1 policy or any provision of intelligence informa-
2 tion contrary to this policy shall be considered
3 a significant anticipated intelligence activity for
4 purposes of section 501 of the National Secu-
5 rity Act of 1947 (50 U.S.C. 413).

6 The sanctions described in this subsection shall apply until
7 the Director determines that Sudan has substantially
8 eliminated religious persecution in that country.

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

11 (1) EFFORTS TO OBTAIN MULTILATERAL MEAS-
12 URES AGAINST SUDAN.—It is the policy of the Unit-
13 ed States to seek an international agreement with
14 the other industrialized democracies to bring about
15 an end to religious persecution by the Government
16 of Sudan. The net economic effect of such inter-
17 national agreement should be measurably greater
18 than the net economic effect of the other measures
19 imposed by this section.

20 (2) COMMENCEMENT OF NEGOTIATIONS TO INI-
21 TIATE MULTILATERAL SANCTIONS AGAINST
22 SUDAN.—It is the sense of the Congress that the
23 President or, at his direction, the Secretary of State
24 should convene an international conference of the
25 other industrialized democracies in order to reach an

1 international agreement to bring about an end to re-
2 ligious persecution in Sudan. The international con-
3 ference should begin promptly and should be con-
4 cluded not later than 180 days after the date of the
5 enactment of this Act.

6 (3) **PRESIDENTIAL REPORT.**—Not less than
7 210 days after the date of the enactment of this Act,
8 the President shall submit to the Congress a report
9 containing—

10 (A) a description of United States' efforts
11 to negotiate multilateral measures to bring
12 about an end to religious persecution in Sudan;
13 and

14 (B) a detailed description of economic and
15 other measures adopted by the other industri-
16 alized countries to bring about an end to reli-
17 gious persecution in Sudan, including an assess-
18 ment of the stringency with which such meas-
19 ures are enforced by those countries.

20 (4) **CONFORMITY OF UNITED STATES MEAS-**
21 **URES TO INTERNATIONAL AGREEMENT.**—If the
22 President successfully concludes an international
23 agreement described in paragraph (2), the President
24 may, after such agreement enters into force with re-
25 spect to the United States, adjust, modify, or other-

1 wise amend the measures imposed under any provi-
2 sion of this section to conform with such agreement.

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

7 (A) the President, not less than 30 days
8 before the day on which the President enters
9 into such agreement, notifies the House of Rep-
10 resentatives and the Senate of the President's
11 intention to enter into such an agreement, and
12 promptly thereafter publishes notice of such in-
13 tention in the Federal Register;

14 (B) after entering into the agreement, the
15 President transmits to the House of Represent-
16 atives and to the Senate a document containing
17 a copy of the final text of such agreement, to-
18 gether with—

19 (i) a description of any administrative
20 action proposed to implement such agree-
21 ment and an explanation as to how the
22 proposed administrative action would
23 change or affect existing law; and

24 (ii) a statement of the President's rea-
25 sons regarding—

1 (I) how the agreement serves the
2 interest of United States foreign pol-
3 icy; and

4 (II) why the proposed adminis-
5 trative action is required or appro-
6 priate to carry out the agreement; and

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

14 For purposes of applying such section 8066(c), any
15 reference in such section to "joint resolution", "reso-
16 lution", or "resolution described in paragraph (1)"
17 shall be deemed to refer to a joint resolution de-
18 scribed in subparagraph (C) of this paragraph.

19 (6) UNITED NATIONS SECURITY COUNCIL IMPO-
20 SITION OF SAME MEASURES AGAINST SUDAN.—It is
21 the sense of the Congress that the President should
22 instruct the Permanent Representative of the United
23 States to the United Nations to propose that the
24 United Nations Security Council, pursuant to Article
25 41 of the United Nations Charter, impose measures

1 against Sudan of the same type as are imposed by
2 this section.

3 (d) ADDITIONAL MEASURES AND REPORTS; REC-
4 COMMENDATIONS OF THE PRESIDENT.—

5 (1) UNITED STATES POLICY TO END RELIGIOUS
6 PERSECUTION.—It shall be the policy of the United
7 States to impose additional measures against the
8 Government of Sudan if its policy of religious perse-
9 cution has not ended on or before December 25,
10 1997.

11 (2) REPORT TO CONGRESS.—The Director shall
12 prepare and transmit to the Speaker of the House
13 of Representatives and the Chairman of the Com-
14 mittee on Foreign Relations of the Senate on or be-
15 fore February 1, 1998, and every 12 months there-
16 after, a report determining whether the policy of re-
17 ligious persecution by the Government of Sudan has
18 ended.

19 (3) RECOMMENDATION FOR IMPOSITION OF AD-
20 DITIONAL MEASURES.—If the Director determines
21 that the policy of religious persecution by the Gov-
22 ernment of Sudan has not ended, the President shall
23 prepare and transmit to the Speaker of the House
24 of Representatives and the Chairman of the Com-
25 mittee on Foreign Relations of the Senate on or be-

1 fore March 1, 1998, and every 12 months thereafter,
2 a report setting forth recommendations for such ad-
3 ditional measures and actions against the Govern-
4 ment of Sudan as the Director determines will end
5 the government's policy of religious persecution.

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

7 (1) GOVERNMENT OF SUDAN.—The term “Gov-
8 ernment of Sudan” includes any agency or instru-
9 mentality of the Government of Sudan.

10 (2) NEW INVESTMENT IN SUDAN.—The term
11 “new investment in Sudan”—

12 (A) means—

13 (i) a commitment or contribution of
14 funds or other assets; or

15 (ii) a loan or other extension of credit,
16 that is made on or after the effective date of
17 this subsection; and

18 (B) does not include—

19 (i) the reinvestment of profits gener-
20 erated by a controlled Sudanese entity into
21 that same controlled Sudanese entity, or
22 the investment of such profits in a Suda-
23 nese entity;

24 (ii) contributions of money or other
25 assets where such contributions are nec-

1 essary to enable a controlled Sudanese en-
2 tity to operate in an economically sound
3 manner, without expanding its operations;
4 or

5 (iii) the ownership or control of a
6 share or interest in a Sudanese entity or a
7 controlled Sudanese entity or a debt or eq-
8 uity security issued by the Government of
9 Sudan or a Sudanese entity before the date
10 of the enactment of this Act, or the trans-
11 fer or acquisition of such a share or inter-
12 est, or debt or equity security, if any such
13 transfer or acquisition does not result in a
14 payment, contribution of funds or assets,
15 or credit to a Sudanese entity, a controlled
16 Sudanese entity, or the Government of
17 Sudan.

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

20 (A) a corporation, partnership, or other
21 business association or entity organized in
22 Sudan and owned or controlled, directly or indi-
23 rectly, by a United States person; or

24 (B) a branch, office, agency, or sole propri-
25 etorship in Sudan of a United States person.

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

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

6 (B) a branch, office, agency, or sole propri-
7 etorship in Sudan of a person that resides or is
8 organized outside Sudan.

9 **SEC. 13. EFFECTIVE DATE.**

10 (a) IN GENERAL.—Subject to subsections (b) and (c),
11 and except as provided in section 12, this Act and the
12 amendments made by this Act shall take effect 120 days
13 after the date of the enactment of this Act.

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

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

○

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2431
OFFERED BY MR. SMITH OF NEW JERSEY**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Freedom From Reli-
3 gious Persecution Act of 1997".

4 **SEC. 2. FINDINGS.**

5 The Congress makes the following findings:

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

10 (2) The right to freedom of religion is recog-
11 nized by numerous international agreements and
12 covenants, including the following:

13 (A) Article 18 of the Universal Declaration
14 of Human Rights states that "Everyone has the
15 right to freedom of thought, conscience and re-
16 ligion; this right includes freedom to change his
17 religion or belief, and freedom, either alone or
18 in community with others and in public or pri-
19 vate, to manifest his religion or belief in teach-
20 ing, practice, worship and observance".

1 (B) Article 18 of the Covenant on Civil
2 and Political Rights declares that "Everyone
3 shall have the right to freedom of thought, con-
4 science, and religion . . ." and further delin-
5 eates the privileges under this right.

6 (C) The Declaration on the Elimination of
7 All Forms of Intolerance and of Discrimination
8 Based on Religion and Belief, adopted by the
9 United Nations General Assembly on November
10 25, 1981, declares that "religion or belief, for
11 anyone who professes either, is one of the fun-
12 damental elements in his conception of life .
13 . ." and that "freedom of religion and belief
14 should also contribute to the attainment of the
15 goals of world peace, social justice and friend-
16 ship among peoples and to the elimination of
17 ideologies or practices of colonialism and racial
18 discrimination".

19 (D) The Concluding Document of the
20 Third Follow-Up Meeting of the Organization
21 for Security and Cooperation in Europe com-
22 mits states to "ensure in their laws and regula-
23 tions and in their application the full and effec-
24 tive exercise of the freedom of thought, con-
25 science, religion or belief".

1 (3) Persecution of religious believers, particu-
2 larly Roman Catholic and evangelical Protestant
3 Christians, in Communist countries, such as Cuba,
4 Laos, the People's Republic of China, North Korea,
5 and Vietnam, persists and in some cases is increas-
6 ing.

7 (4) In many countries and regions thereof, gov-
8 ernments dominated by extremist movements per-
9 secute non-Muslims and religious converts from
10 Islam using means such as "blasphemy" and "apos-
11 tasy" laws, and such movements seek to corrupt a
12 historically tolerant Islamic faith and culture
13 through the persecution of Baha'is, Christians, and
14 other religious minorities.

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

19 (6) In Tibet, where Tibetan Buddhism is inex-
20 tricably linked to the Tibetan identity, the Govern-
21 ment of the People's Republic of China has intensi-
22 fied its control over the Tibetan people by interfer-
23 ing in the selection of the Panchen Lama, propa-
24 gandizing against the religious authority of the
25 Dalai Lama, restricting religious study and tradi-

1 tional religious practices, and increasing the persecu-
2 tion of monks and nuns.

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

13 (8) The United States Government is commit-
14 ted to the right to freedom of religion and its poli-
15 cies and relations with foreign governments should
16 be consistent with the commitment to this principle.

17 (9) The 104th Congress recognized the facts set
18 forth in this section and stated clearly the sense of
19 the Senate and the House of Representatives regard-
20 ing these matters in approving—

21 (A) House Resolution 515, expressing the
22 sense of the House of Representatives with re-
23 spect to the persecution of Christians world-
24 wide;

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

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

7 (D) section 1303 of H.R. 1561, the For-
8 eign Relations Authorization Act, Fiscal Years
9 1996 and 1997.

10 (10) The Department of State, in a report to
11 Congress filed pursuant to House Report 104-863,
12 accompanying the Omnibus Consolidated Appropria-
13 tions Act, 1997 (Public Law 104-208) suggested
14 strong evidence that widespread and ongoing reli-
15 gious persecution is occurring in Burma, the Peo-
16 ple's Republic of China, Cuba, Iran, Pakistan, Saudi
17 Arabia, Sudan, and Laos. It also suggested strong
18 evidence of serious acts of religious persecution in
19 Indonesia (including East Timor), Nigeria, Algeria,
20 Egypt, India, and Morocco.

21 (11) In countries around the world, Christians,
22 Jews, Muslims, Hindus, and other religious believers
23 continue to be persecuted on account of their reli-
24 gious beliefs, practices, and affiliations.

1 **SEC. 3. DEFINITIONS.**

2 As used in this Act:

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

6 (2) **PERSECUTED COMMUNITY.**—The term “per-
7 secuted community” means any religious group or
8 denomination whose members have been found to be
9 subject to category 1 or category 2 persecution in
10 the latest report described in section 6.

11 (3) **PERSECUTION FACILITATING PRODUCTS.**—
12 The term “persecution facilitating products” means
13 goods and services which are directly and substan-
14 tially used or intended for use in carrying out acts
15 of persecution described in paragraphs (4) and (5).

16 (4) **CATEGORY 1 PERSECUTION.**—The term
17 “category 1 persecution” means widespread and on-
18 going persecution of persons on account of their reli-
19 gious beliefs or practices, or membership in or affili-
20 ation with a religion or religious group or denomina-
21 tion, whether officially recognized or otherwise, when
22 such persecution—

23 (A) includes abduction, enslavement, kill-
24 ing, imprisonment, forced mass relocation, rape,
25 or crucifixion or other forms of torture; and

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

4 (5) CATEGORY 2 PERSECUTION.—The term
5 “category 2 persecution” means widespread and on-
6 going persecution of persons on account of their reli-
7 gious beliefs or practices, or membership in or affili-
8 ation with a religion or religious group or denomina-
9 tion, whether officially recognized or otherwise, when
10 such persecution—

11 (A) includes abduction, enslavement, kill-
12 ing, imprisonment, forced mass relocation, rape,
13 or crucifixion or other forms of torture; and

14 (B) is not conducted with the involvement
15 or support of government officials or agents, or
16 pursuant to official government policy, but
17 which the government fails to undertake serious
18 and sustained efforts to eliminate.

19 (6) RESPONSIBLE ENTITIES.—The term “re-
20 sponsible entities” means the specific government
21 departments, agencies, or units which directly carry
22 out acts of persecution described in paragraphs (4)
23 and (5).

1 (7) SANCTIONED COUNTRY.—The term “sanc-
2 tioned country” means a country on which sanctions
3 have been imposed under section 7.

4 (8) UNITED STATES ASSISTANCE.—The term
5 “United States assistance” means—

6 (A) any assistance under the Foreign As-
7 sistance Act of 1961 (including programs under
8 title IV of chapter 2 of part I of that Act, relat-
9 ing to the Overseas Private Investment Cor-
10 poration), other than—

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

13 (ii) any other narcotics-related assist-
14 ance under part I of that Act or under
15 chapter 4 or 5 of part II of that Act, but
16 any such assistance provided under this
17 clause shall be subject to the prior notifica-
18 tion procedures applicable to
19 reprogrammings pursuant to section 634A
20 of that Act;

21 (iii) disaster relief assistance, includ-
22 ing any assistance under chapter 9 of part
23 I of that Act;

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

1 (v) assistance which involves the pro-
2 vision of food (including monetization of
3 food) or medicine;

4 (vi) assistance for refugees; and

5 (vii) humanitarian and other develop-
6 ment assistance in support of programs of
7 nongovernmental organizations under
8 chapters 1 and 10 of that Act;

9 (B) sales, or financing on any terms, under
10 the Arms Export Control Act, other than sales
11 or financing provided for narcotics-related pur-
12 poses following notification in accordance with
13 the prior notification procedures applicable to
14 reprogrammings pursuant to section 634A of
15 the Foreign Assistance Act of 1961;

16 (C) the provision of agricultural commod-
17 ities, other than food, under the Agricultural
18 Trade Development and Assistance Act of
19 1954; and

20 (D) financing under the Export-Import
21 Bank Act of 1945.

22 (9) UNITED STATES PERSON.—Except as pro-
23 vided in section 12(b)(1), the term “United States
24 person” means—

1 (A) any United States citizen or alien law-
2 fully admitted for permanent residence into the
3 United States; and

4 (B) any corporation, partnership, or other
5 entity organized under the laws of the United
6 States or of any State, the District of Colum-
7 bia, or any territory or possession of the United
8 States.

9 **SEC. 4. APPLICATION AND SCOPE.**

10 The responsibility of the Director under section 6 to
11 determine whether category 1 or category 2 persecution
12 exists, and to identify persons and communities that are
13 subject to such persecution, extends to—

14 (1) all countries referred to in paragraphs (3)
15 through (7) of section 2, or in the resolutions and
16 bill set forth in paragraph (9) of section 2, or in the
17 report described in paragraph (10) of section 2;

18 (2) all countries in which alleged violations of
19 religious freedom have been set forth in the latest
20 annual report of the Department of State on human
21 rights under sections 116(d) and 502(b) of the For-
22 eign Assistance Act of 1961 (22 U.S.C. 2151n(d)
23 and 2304(b)); and

24 (3) such other countries in which, either as a
25 result of referral by an independent human rights

1 group or nongovernmental organization in accord-
2 ance with section 5(e)(2) or otherwise, the Director
3 has reason to believe category 1 or category 2 perse-
4 cution may exist.

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

6 (a) **ESTABLISHMENT.**—There is established in the
7 Executive Office of the President the Office of Religious
8 Persecution Monitoring (hereafter in this Act referred to
9 as the “Office”).

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

16 (c) **REMOVAL.**—The Director shall serve at the pleas-
17 ure of the President.

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

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

23 (1) Consider the facts and circumstances of vio-
24 lations of religious freedom presented in the annual
25 reports of the Department of State on human rights

1 under sections 116(d) and 502B(b) of the Foreign
2 Assistance Act of 1961 (22 U.S.C. 2151n(d) and
3 2304(b)).

4 (2) Consider the facts and circumstances of vio-
5 lations of religious freedom presented by independ-
6 ent human rights groups and nongovernmental orga-
7 nizations.

8 (3) In consultation with the Secretary of State,
9 make policy recommendations to the President re-
10 garding the policies of the United States Govern-
11 ment toward governments which are determined to
12 be engaged in religious persecution.

13 (4) Prepare and submit the annual report de-
14 scribed in section 6, including the determination of
15 countries in which there is category 1 or category 2
16 persecution, and identify the responsible entities
17 within such countries. This information shall be pub-
18 lished in the Federal Register.

19 (5) Maintain the lists of persecution facilitating
20 products, and the responsible entities within coun-
21 tries determined to be engaged in persecution de-
22 scribed in paragraph (4), adding to the list as infor-
23 mation becomes available. This information shall be
24 published in the Federal Register.

1 (6) Coordinate with the Secretary of State, the
2 Attorney General, the Secretary of Commerce, and
3 the Secretary of the Treasury to ensure that the
4 provisions of this Act are fully and effectively imple-
5 mented.

6 (f) ADMINISTRATIVE MATTERS.—

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

10 (2) SERVICES OF OTHER AGENCIES.—The Di-
11 rector may use the personnel, services, and facilities
12 of any other department or agency, on a reimburs-
13 able basis, in carrying out the functions of the Of-
14 fice.

15 SEC. 6. REPORTS TO CONGRESS.

16 (a) ANNUAL REPORTS.—Not later than April 30 of
17 each year, the Director shall submit to the Committees
18 on Foreign Relations, Finance, the Judiciary, and Appro-
19 priations of the Senate and to the Committees on Inter-
20 national Relations, Ways and Means, the Judiciary, and
21 Appropriations of the House of Representatives a report
22 described in subsection (b).

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

1 (1) DETERMINATION OF RELIGIOUS PERSECU-
2 TION.—With respect to each country described in
3 section 4, the Director shall determine whether there
4 is category 1 or category 2 persecution, and shall in-
5 clude in such determination the communities against
6 which such persecution is directed.

7 (2) IDENTIFICATION OF PERSECUTION FACILI-
8 TATING PRODUCTS.—With respect to each country
9 in which the Director determines that there is either
10 category 1 or category 2 persecution, the Director,
11 in consultation with the Secretary of State and the
12 Secretary of Commerce, shall identify and list the
13 persecution facilitating products used in such coun-
14 try.

15 (3) IDENTIFICATION OF RESPONSIBLE ENTI-
16 TIES.—With respect to each country determined by
17 the Director to be engaged in category 1 persecu-
18 tion, the Director, in consultation with the Secretary
19 of State, shall identify and list the responsible enti-
20 ties within that country that are engaged in such
21 persecution. Such entities shall be defined as nar-
22 rowly as possible.

23 (4) OTHER REPORTS.—The Director shall in-
24 clude the reports submitted to the Director by the

1 Attorney General under section 9 and by the Sec-
2 retary of State under section 10.

3 (c) INTERIM REPORTS.—The Director may submit
4 interim reports to the Congress containing such matters
5 as the Director considers necessary.

6 (d) PERSECUTION IN REGIONS OF A COUNTRY.—In
7 determining whether category 1 or category 2 persecution
8 exists in a country, the Director shall include such perse-
9 cution that is limited to 1 or more regions within the coun-
10 try, and shall indicate such regions in the reports de-
11 scribed in this section.

12 SEC. 7. SANCTIONS.

13 (a) PROHIBITION ON EXPORTS RELATING TO RELI-
14 GIOUS PERSECUTION.—

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

18 (A) the Director finds the occurrence of
19 category 1 persecution, the Director shall so no-
20 tify the relevant United States departments and
21 agencies, and such departments and agencies
22 shall—

23 (i) prohibit all exports to the respon-
24 sible entities listed under section 6(b)(3) or

1 in any supplemental list of the Director;
2 and

3 (ii) prohibit the export to such coun-
4 try of the persecution facilitating products
5 listed under section 6(b)(2) or in any sup-
6 plemental list of the Director; or

7 (B) the Director finds the occurrence of
8 category 2 persecution, the Director shall so no-
9 tify the relevant United States departments and
10 agencies, and such departments and agencies
11 shall prohibit the export to such country of the
12 persecution facilitating products listed under
13 section 6(b)(2) or in any supplemental list of
14 the Director.

15 (2) PROHIBITIONS ON U.S. PERSONS.—(A) With
16 respect to any country in which the Director finds
17 the occurrence of category 1 persecution, no United
18 States person may—

19 (i) export any item to the responsible enti-
20 ties listed under section 6(b)(3) or in any sup-
21 plemental list of the Director; and

22 (ii) export to that country any persecution
23 facilitating products listed under section 6(b)(2)
24 or in any supplemental list of the Director.

1 (B) With respect to any country in which the
2 Director finds the occurrence of category 2 persecu-
3 tion, no United States person may export to that
4 country any persecution facilitating products listed
5 under section 6(b)(2) or in any supplemental report
6 of the Director.

7 (3) PENALTIES.—Any person who violates the
8 provisions of paragraph (2) shall be subject to the
9 penalties set forth in subsections (a) and (b)(1) of
10 section 16 of the Trading With the Enemy Act (50
11 U.S.C. App. 16 (a) and (b)(1)) for violations under
12 that Act.

13 (4) EFFECTIVE DATE OF PROHIBITIONS.—The
14 prohibitions on exports under paragraph (1) shall
15 take effect with respect to a country 90 days after
16 the date on which the Director submits the report in
17 which the determination of category 1 or category 2
18 persecution in that country is included.

19 (b) UNITED STATES ASSISTANCE.—

20 (1) CATEGORY 1 PERSECUTION.—No United
21 States assistance may be provided to the government
22 of any country which the Director determines is en-
23 gaged in category 1 persecution, effective 90 days
24 after the date on which the Director submits the re-
25 port in which the determination is included.

1 (2) CATEGORY 2 PERSECUTION.—No United
2 States assistance may be provided to the government
3 of any country in which the Director determines that
4 there is category 2 persecution, effective 1 year after
5 the date on which the Director submits the report in
6 which the determination is included, if the Director,
7 in the next annual report of the Director under sec-
8 tion 6, determines that the country is engaged in
9 category 1 persecution or that category 2 persecu-
10 tion exists in that country.

11 (c) MULTILATERAL ASSISTANCE.—

12 (1) CATEGORY 1 PERSECUTION.—With respect
13 to any country which the Director determines is en-
14 gaged in category 1 persecution, the President shall
15 instruct the United States Executive Director of
16 each multilateral development bank and of the Inter-
17 national Monetary Fund to vote against, and use his
18 or her best efforts to deny, any loan or other utiliza-
19 tion of the funds of their respective institutions
20 (other than for humanitarian assistance) to that
21 country, effective 90 days after the Director submits
22 the report in which the determination is included.

23 (2) CATEGORY 2 PERSECUTION.—With respect
24 to any country in which the Director determines
25 there is category 2 persecution, the President shall

1 instruct the United States Executive Director of
2 each multilateral development bank and of the Inter-
3 national Monetary Fund to vote against, and use his
4 or her best efforts to deny, any loan or other utiliza-
5 tion of the funds of their respective institutions
6 (other than for humanitarian assistance) to that
7 country, effective 1 year after the date on which the
8 Director submits the report in which the determina-
9 tion is included, if the Director, in the next annual
10 report of the Director under section 6, determines
11 that the country is engaged in category 1 persecu-
12 tion or that category 2 persecution exists in that
13 country.

14 (3) REPORTS TO DIRECTOR.—If a country de-
15 scribed in paragraph (1) or (2) is granted a loan or
16 other utilization of funds notwithstanding the objec-
17 tion of the United States under this subsection, the
18 Executive Director of the institution that made the
19 grant shall report to the President and the Congress
20 on the efforts made to deny loans or other utilization
21 of funds to that country, and shall include in the re-
22 port specific and explicit recommendations designed
23 to ensure that such loans or other utilization of
24 funds are denied to that country in the future.

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

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

11 (e) RELATIONSHIP TO OTHER PROVISIONS.—The ef-
12 fective dates of the sanctions provided in this section are
13 subject to sections 8 and 11.

14 SEC. 8. WAIVER OF SANCTIONS.

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

19 (1) determines that national security interests
20 justify such a waiver; and

21 (2) provides to the Committees on Foreign Re-
22 lations, Finance, the Judiciary, and Appropriations
23 of the Senate and to the Committees on Inter-
24 national Relations, the Judiciary, and Appropria-
25 tions of the House of Representatives a written noti-

1 fication of the President's intention to waive any
2 such sanction.

3 The notification shall contain an explanation of the rea-
4 sons why the President considers the waiver to be nec-
5 essary, the type and amount of goods, services, or assist-
6 ance to be provided pursuant to the waiver, and the period
7 of time during which such a waiver will be effective. The
8 notification may, when the President considers it appro-
9 priate, include a classified index.

10 (b) TAKING EFFECT OF WAIVER.—

11 (1) IN GENERAL.—Subject to paragraph (2), a
12 waiver under subsection (a) shall take effect 45 days
13 after its submission to the Congress.

14 (2) IN EMERGENCY CONDITIONS.—The Presi-
15 dent may waive the imposition of sanctions against
16 a country under subsection (b) or (c) of section 7 to
17 take effect immediately if the President, in the writ-
18 ten notification of intention to waive the sanctions,
19 certifies that emergency conditions exist that make
20 an immediate waiver necessary.

21 (3) COMPUTATION OF 45-DAY PERIOD.—The
22 45-day period referred to in this subsection shall be
23 computed by excluding—

24 (A) the days on which either House of
25 Congress is not in session because of an ad-

1 jourment of more than 3 days to a day certain
2 or an adjournment of the Congress sine die;
3 and

4 (B) any Saturday and Sunday, not ex-
5 cluded under paragraph (1), when either House
6 is not in session.

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

8 (a) **CREDIBLE FEAR OF PERSECUTION DEFINED.**—

9 Section 235(b)(1)(B)(v) of the Immigration and National-
10 ity Act (8 U.S.C. 1225(b)(1)(B)(v)) (as amended by sec-
11 tion 302 of the Illegal Immigration Reform and Immi-
12 grant Responsibility Act of 1996; Public Law 104-208;
13 110 Stat. 3009-582) is amended by adding at the end
14 the following:

15 “Any alien who can credibly claim mem-
16 bership in a persecuted community found
17 to be subject to category 1 or category 2
18 religious persecution in the most recent an-
19 nual report sent by the Director of the Of-
20 fice of Religious Persecution Monitoring to
21 the Congress under section 6 of the Free-
22 dom From Religious Persecution Act of
23 1997 shall be considered to have a credible
24 fear of persecution within the meaning of
25 the preceding sentence.”.

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

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

12 “(1) the fundamental components of the right
13 to freedom of religion;

14 “(2) the variation in beliefs of religious groups;
15 and

16 “(3) the governmental and nongovernmental
17 methods used in violation of the right to freedom of
18 religion.”.

19 (c) ASYLUM.—Section 208 of the Immigration and
20 Nationality Act (8 U.S.C. 1158) (as amended by section
21 604 of the Illegal Immigration Reform and Immigrant Re-
22 sponsibility Act of 1996; Public Law 104–208; 1110 Stat.
23 3009–690) is amended by adding at the end the following:

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

1 “(1) PROCEDURES UPON DENIAL.—

2 “(A) IN GENERAL.—In any case in which
3 the Service denies or refers to an immigration
4 judge an asylum application filed by an alien
5 described in the second sentence of section
6 235(b)(1)(B)(v), or any case in which an immi-
7 gration judge denies such an application on the
8 ground that the alien is not a refugee within
9 the meaning of section 101(a)(42)(A), the Serv-
10 ice shall provide the alien with the following:

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

14 “(I) the most recent annual re-
15 port sent by the Director of the Office
16 of Religious Persecution Monitoring to
17 the Congress under section 6 of the
18 Freedom From Religious Persecution
19 Act of 1997; and

20 “(II) either—

21 “(aa) the most recent coun-
22 try report on human rights prac-
23 tices issued by the Secretary of
24 State; or

1 “(bb) any other report is-
2 sued by the Secretary of State
3 concerning conditions in the
4 country of which the alien is a
5 national (or, in the case of an
6 alien having no nationality, the
7 country of the alien’s last habit-
8 ual residence).

9 “(ii) A copy of any assessment sheet
10 prepared by an asylum officer for a super-
11 visory asylum officer with respect to the
12 application.

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

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

23 “(B) CREDIBILITY IN ISSUE.—In any case
24 described in subparagraph (A) in which the de-
25 nial is based, in whole or in part, on credibility

1 grounds, the Service shall also provide the alien
2 with the following:

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

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

10 “(iii) A brief summary of such re-
11 sponse, if any was made.

12 “(iv) An explanation of how the nega-
13 tive determination on the credibility issue
14 relates to the applicant’s religious persecu-
15 tion claim.

16 “(2) EFFECT IN SUBSEQUENT PROCEEDINGS.—

17 “(A) USE AT OPTION OF APPLICANT.—Any
18 material provided to an alien under paragraph
19 (1) shall be considered part of the official
20 record pertaining to the alien’s asylum applica-
21 tion solely at the option of the alien.

22 “(B) NO EFFECT ON REVIEW.—The provi-
23 sion of any material under paragraph (1) to an
24 alien shall not be construed to alter any stand-
25 ard of review otherwise applicable in any ad-

1 ministrative or judicial adjudication concerning
2 the alien's asylum application.

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

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

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

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

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

3 (4) A description of developments with respect
4 to the adjudication of applications for asylum or ref-
5 ugee status filed by an alien who claims to be a
6 member of a persecuted community that the Direc-
7 tor found to be subject to category 1 or category 2
8 religious persecution in the most recent annual re-
9 port submitted to the Congress under section 6.

10 (5) With respect to the year that is the subject
11 of the report, a description of training on religious
12 persecution provided under section 235(d) of the Im-
13 migration and Nationality Act (as added by sub-
14 section (b)) to immigration officers performing func-
15 tions under section 235(b) of such Act, or adjudicat-
16 ing applications under section 207 or 208 of such
17 Act, including a list of speakers and materials used
18 in such training and the number of officers who re-
19 ceived such training.

20 (e) **ADMISSION PRIORITY.**—For purposes of section
21 207(a)(3) of the Immigration and Nationality Act, an in-
22 dividual who is a member of a persecuted community that
23 the Director found to be subject to category 1 or category
24 2 religious persecution in the most recent annual report
25 submitted to the Congress under section 6, and is deter-

1 mined by the Attorney General to be a refugee within the
2 meaning of section 101(a)(42)(A) of the Immigration and
3 Nationality Act, shall be considered a refugee of special
4 humanitarian concern to the United States. In carrying
5 out such section, such an individual shall be given priority
6 status at least as high as that given to any member of
7 any other specific group of refugees of special concern to
8 the United States.

9 (f) NO EFFECT ON OTHERS' RIGHTS.—Nothing in
10 this section, or any amendment made by this section, shall
11 be construed to deny any applicant for asylum or refugee
12 status (including any applicant who is not a member of
13 a persecuted community but whose claim is based on reli-
14 gious persecution) any right, privilege, protection, or eligi-
15 bility otherwise provided by law.

16 (g) NO DISPLACEMENT OF OTHER REFUGEES.—Ref-
17 ugees admitted to the United States as a result of the
18 procedures set forth in this section shall not displace other
19 refugees in need of resettlement who would otherwise have
20 been admitted in accordance with existing law and proce-
21 dures.

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

1 “(4)(A) Notwithstanding any other provision of law,
2 prior to each annual determination regarding refugee ad-
3 missions under this subsection, there shall be a period of
4 public review and comment, particularly by appropriate
5 nongovernmental organizations, churches, and other reli-
6 gious communities and organizations, and the general
7 public.

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

12 **SEC. 10. STATE DEPARTMENT HUMAN RIGHTS REPORTS.**

13 (a) **ANNUAL HUMAN RIGHTS REPORT.**—In preparing
14 the annual reports of the State Department on human
15 rights under sections 116(d) and 502B(b) of the Foreign
16 Assistance Act of 1961 (22 U.S.C. 2151n(d) and
17 2304(b)), the Secretary of State shall, in the section on
18 religious freedom—

19 (1) consider the facts and circumstances of the
20 violation of the right to freedom of religion pre-
21 sented by independent human rights groups and
22 nongovernmental organizations;

23 (2) report on the extent of the violations of the
24 right to freedom of religion, specifically including
25 whether the violations arise from governmental or

1 nongovernmental sources, and whether the violations
2 are encouraged by the government or whether the
3 government fails to exercise satisfactory efforts to
4 control such violations;

5 (3) report on whether freedom of religion viola-
6 tions occur on a nationwide, regional, or local level;
7 and

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

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

12 (1) institute programs to provide training for
13 chiefs of mission as well as Department of State of-
14 ficials having reporting responsibilities regarding the
15 freedom of religion, which shall include training
16 on—

17 (A) the fundamental components of the
18 right to freedom of religion, the variation in be-
19 liefs of religious groups, and the governmental
20 and nongovernmental methods used in the vio-
21 lation of the right to freedom of religion; and

22 (B) the identification of independent
23 human rights groups and nongovernmental or-
24 ganizations with expertise in the matters de-
25 scribed in subparagraph (A); and

1 (2) submit to the Director, not later than Janu-
2 ary 1 of each year, a report describing all training
3 provided to Department of State officials with re-
4 spect to religious persecution during the preceding
5 1-year period, including a list of instructors and ma-
6 terials used in such training and the number and
7 rank of individuals who received such training.

8 **SEC. 11. TERMINATION OF SANCTIONS.**

9 (a) **TERMINATION.**—The sanctions described in sec-
10 tion 7 shall cease to apply with respect to a sanctioned
11 country on the earlier of the following dates:

12 (1) 45 days after the Director, in an annual re-
13 port described in section 6(b), does not include the
14 sanctioned country among those in which category 1
15 or category 2 persecution continues to exist.

16 (2) 45 days after the Director determines that
17 neither category 1 nor category 2 persecution exists
18 in such country, and notifies the Congress in writing
19 of such determination in an interim report in accord-
20 ance with section 6(c).

21 (b) **COMPUTATION OF TIME.**—The 45-day period re-
22 ferred to in this section shall be computed by excluding—

23 (1) the days on which either House of Congress
24 is not in session because of an adjournment of more

1 than 3 days to a day certain or an adjournment of
2 the Congress sine die; and

3 (2) any Saturday and Sunday, not excluded
4 under paragraph (1), when either House is not in
5 session.

6 (c) WITHDRAWAL OF FINDING.—Any determination
7 of the Director under section 6 may be withdrawn before
8 taking effect if the Director makes a written determina-
9 tion, on the basis of a preponderance of the evidence, that
10 the country substantially eliminated any category 1 or cat-
11 egory 2 persecution that existed in that country. The Di-
12 rector shall submit to the Congress each determination
13 under this subsection.

14 SEC. 12. SANCTIONS AGAINST SUDAN.

15 (a) EXTENSION OF SANCTIONS UNDER EXISTING
16 LAW.—Any sanction imposed on Sudan because of a de-
17 termination that the government of that country has pro-
18 vided support for acts of international terrorism, includ-
19 ing—

20 (1) export controls imposed pursuant to the Ex-
21 port Administration Act of 1979;

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

24 (3) the prohibition on assistance under section
25 620A of the Foreign Assistance Act of 1961;

1 (4) section 2327(a) of title 10, United States
2 Code;

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

5 (6) section 527 of the Foreign Operations, Ex-
6 port Financing, and Related Programs Appropria-
7 tions Act, 1997 (as contained in Public Law 104-
8 208); and

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

11 shall continue in effect after the enactment of this Act
12 until the Director determines that Sudan has substantially
13 eliminated religious persecution in that country, or the de-
14 termination that the government of that country has pro-
15 vided support for acts of international terrorism is no
16 longer in effect, whichever occurs later.

17 (b) **ADDITIONAL SANCTIONS ON SUDAN.**—Effective
18 90 days after the date of the enactment of this Act, the
19 following sanctions (to the extent not covered under sub-
20 section (a)) shall apply with respect to Sudan:

21 (1) **PROHIBITION ON FINANCIAL TRANSACTIONS**
22 **WITH GOVERNMENT OF SUDAN.**—

23 (A) **OFFENSE.**—Any United States person
24 who knowingly engages in any financial trans-
25 action, including any loan or other extension of

1 credit, directly or indirectly, with the Govern-
2 ment of Sudan shall be fined in accordance with
3 title 18, United States Code, or imprisoned for
4 not more than 10 years; or both.

5 (B) DEFINITIONS.—As used in this para-
6 graph:

7 (i) FINANCIAL TRANSACTION.—The
8 term “financial transaction” has the mean-
9 ing given that term in section 1956(c)(4)
10 of title 18, United States Code.

11 (ii) UNITED STATES PERSON.—The
12 term “United States person” means—

13 (I) any United States citizen or
14 national;

15 (II) any permanent resident
16 alien;

17 (III) any juridical person orga-
18 nized under the laws of the United
19 States; and

20 (IV) any person in the United
21 States.

22 (2) PROHIBITION ON IMPORTS FROM SUDAN.—

23 No article which is grown, produced, manufactured
24 by, marketed, or otherwise exported by the Govern-

1 ment of Sudan, may be imported into the United
2 States.

3 (3) PROHIBITIONS ON UNITED STATES EX-
4 PORTS TO SUDAN.—

5 (A) PROHIBITION ON COMPUTER EX-
6 PORTS.—No computers, computer software, or
7 goods or technology intended to manufacture or
8 service computers may be exported to or for use
9 of the Government of Sudan.

10 (B) REGULATIONS OF THE SECRETARY OF
11 COMMERCE.—The Secretary of Commerce may
12 prescribe such regulations as may be necessary
13 to carry out subparagraph (A).

14 (C) PENALTIES.—Any person who violates
15 this paragraph shall be subject to the penalties
16 provided in section 11 of the Export Adminis-
17 tration Act of 1979 (50 U.S.C. App. 2410) for
18 violations under that Act.

19 (4) PROHIBITION ON NEW INVESTMENT IN
20 SUDAN.—

21 (A) PROHIBITION.—No United States per-
22 son may, directly or through another person,
23 make any new investment in Sudan that is not
24 prohibited by paragraph (1).

1 (B) REGULATIONS.—The Secretary of
2 Commerce may prescribe such regulations as
3 may be necessary to carry out subparagraph
4 (A).

5 (C) PENALTIES.—Any person who violates
6 this paragraph shall be subject to penalties pro-
7 vided in section 11 of the Export Administra-
8 tion Act of 1979 (50 U.S.C. App. 2410) for vio-
9 lations under that Act.

10 (5) AVIATION RIGHTS.—

11 (A) AIR TRANSPORTATION RIGHTS.—The
12 Secretary of Transportation shall prohibit any
13 aircraft of a foreign air carrier owned or con-
14 trolled, directly or indirectly, by the Govern-
15 ment of Sudan or operating pursuant to a con-
16 tract with the Government of Sudan from en-
17 gaging in air transportation with respect to the
18 United States, except that such aircraft shall be
19 allowed to land in the event of an emergency
20 for which the safety of an aircraft's crew or
21 passengers is threatened.

22 (B) TAKEOFFS AND LANDINGS.—The Sec-
23 retary of Transportation shall prohibit the take-
24 off and landing in Sudan of any aircraft by an
25 air carrier owned, directly or indirectly, or con-

1 trolled by a United States person, except that
2 such aircraft shall be allowed to land in the
3 event of an emergency for which the safety of
4 an aircraft's crew or passengers is threatened,
5 or for humanitarian purposes.

6 (C) TERMINATION OF AIR SERVICE AGREE-
7 MENTS.—To carry out subparagraphs (A) and
8 (B), the Secretary of State shall terminate any
9 agreement between the Government of Sudan
10 and the Government of the United States relat-
11 ing to air services between their respective terri-
12 tories.

13 (D) DEFINITIONS.—For purposes of this
14 paragraph, the terms “aircraft”, “air transpor-
15 tation”, and “foreign air carrier” have the
16 meanings given those terms in section 40102 of
17 title 49, United States Code.

18 (6) PROHIBITION ON PROMOTION OF UNITED
19 STATES TOURISM.—None of the funds appropriated
20 or otherwise made available by any provision of law
21 may be available to promote United States tourism
22 in Sudan.

23 (7) GOVERNMENT OF SUDAN BANK AC-
24 COUNTS.—

1 (A) PROHIBITION.—A United States de-
2 pository institution may not accept, receive, or
3 hold a deposit account from the Government of
4 Sudan, except for such accounts which may be
5 authorized by the President for diplomatic or
6 consular purposes.

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

12 (C) DEFINITION.—For purposes of this
13 paragraph, the term “depository institution”
14 has the meaning given that term in section
15 19(b)(1) of the Act of December 23, 1913 (12
16 U.S.C. 461(b)(1)).

17 (8) PROHIBITION ON UNITED STATES GOVERN-
18 MENT PROCUREMENT FROM SUDAN.—

19 (A) PROHIBITION.—No department, agen-
20 cy, or any other entity of the United States
21 Government may enter into a contract for the
22 procurement of goods or services from
23 parastatal organizations of Sudan except for
24 items necessary for diplomatic or consular pur-
25 poses.

1 (B) DEFINITION.—As used in this para-
2 graph, the term “parastatal organization of
3 Sudan” means a corporation, partnership, or
4 entity owned, controlled, or subsidized by the
5 Government of Sudan.

6 (9) PROHIBITION ON UNITED STATES APPRO-
7 PRIATIONS FOR USE AS INVESTMENTS IN OR TRADE
8 SUBSIDIES FOR SUDAN.—None of the funds appro-
9 priated or otherwise made available by any provision
10 of law may be available for any new investment in,
11 or any subsidy for trade with, Sudan, including
12 funding for trade missions in Sudan and for partici-
13 pation in exhibitions and trade fairs in Sudan.

14 (10) PROHIBITION ON COOPERATION WITH
15 ARMED FORCES OF SUDAN.—No agency or entity of
16 the United States may engage in any form of co-
17 operation, direct or indirect, with the armed forces
18 of Sudan, except for activities which are reasonably
19 necessary to facilitate the collection of necessary in-
20 telligence. Each such activity shall be considered as
21 significant anticipated intelligence activity for pur-
22 poses of section 501 of the National Security Act of
23 1947 (50 U.S.C. 413).

24 (11) PROHIBITION ON COOPERATION WITH IN-
25 TELLIGENCE SERVICES OF SUDAN.—

1 (A) SANCTION.—No agency or entity of
2 the United States involved in intelligence activi-
3 ties may engage in any form of cooperation, di-
4 rect or indirect, with the Government of Sudan,
5 except for activities which are reasonably de-
6 signed to facilitate the collection of necessary
7 intelligence.

8 (B) POLICY.—It is the policy of the United
9 States that no agency or entity of the United
10 States involved in intelligence activities may
11 provide any intelligence information to the Gov-
12 ernment of Sudan which pertains to any inter-
13 nal group within Sudan. Any change in such
14 policy or any provision of intelligence informa-
15 tion contrary to this policy shall be considered
16 a significant anticipated intelligence activity for
17 purposes of section 501 of the National Secu-
18 rity Act of 1947 (50 U.S.C. 413).

19 The sanctions described in this subsection shall apply until
20 the Director determines that Sudan has substantially
21 eliminated religious persecution in that country.

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

24 (1) EFFORTS TO OBTAIN MULTILATERAL MEAS-
25 URES AGAINST SUDAN.—It is the policy of the Unit-

1 ed States to seek an international agreement with
2 the other industrialized democracies to bring about
3 an end to religious persecution by the Government
4 of Sudan. The net economic effect of such inter-
5 national agreement should be measurably greater
6 than the net economic effect of the other measures
7 imposed by this section.

8 (2) COMMENCEMENT OF NEGOTIATIONS TO INI-
9 TIATE MULTILATERAL SANCTIONS AGAINST
10 SUDAN.—It is the sense of the Congress that the
11 President or, at his direction, the Secretary of State
12 should convene an international conference of the in-
13 dustrialized democracies in order to reach an inter-
14 national agreement to bring about an end to reli-
15 gious persecution in Sudan. The international con-
16 ference should begin promptly and should be con-
17 cluded not later than 180 days after the date of the
18 enactment of this Act.

19 (3) PRESIDENTIAL REPORT.—Not less than
20 210 days after the date of the enactment of this Act,
21 the President shall submit to the Congress a report
22 containing—

23 (A) a description of United States' efforts
24 to negotiate multilateral measures to bring

1 about an end to religious persecution in Sudan;
2 and

3 (B) a detailed description of economic and
4 other measures adopted by the other industri-
5 alized countries to bring about an end to reli-
6 gious persecution in Sudan, including an assess-
7 ment of the stringency with which such meas-
8 ures are enforced by those countries.

9 (4) CONFORMITY OF UNITED STATES MEAS-
10 URES TO INTERNATIONAL AGREEMENT.—If the
11 President successfully concludes an international
12 agreement described in paragraph (2), the President
13 may, after such agreement enters into force with re-
14 spect to the United States, adjust, modify, or other-
15 wise amend the measures imposed under any provi-
16 sion of this section to conform with such agreement.

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

21 (A) the President, not less than 30 days
22 before the day on which the President enters
23 into such agreement, notifies the House of Rep-
24 resentatives and the Senate of the President's
25 intention to enter into such an agreement, and

1 promptly thereafter publishes notice of such in-
2 tention in the Federal Register;

3 (B) after entering into the agreement, the
4 President transmits to the House of Represent-
5 atives and to the Senate a document containing
6 a copy of the final text of such agreement, to-
7 gether with—

8 (i) a description of any administrative
9 action proposed to implement such agree-
10 ment and an explanation as to how the
11 proposed administrative action would
12 change or affect existing law; and

13 (ii) a statement of the President's rea-
14 sons regarding—

15 (I) how the agreement serves the
16 interest of United States foreign pol-
17 icy; and

18 (II) why the proposed adminis-
19 trative action is required or appro-
20 priate to carry out the agreement; and

21 (C) a joint resolution approving such
22 agreement has been enacted, in accordance with
23 section 8066(c) of the Department of Defense
24 Appropriations Act, 1985 (as contained in Pub-
25 lic Law 98-473 (98 Stat. 1936)), within 30

1 days of transmittal of such document to the
2 Congress.

3 For purposes of applying such section 8066(c), any
4 reference in such section to "joint resolution", "reso-
5 lution", or "resolution described in paragraph (1)"
6 shall be deemed to refer to a joint resolution de-
7 scribed in subparagraph (C) of this paragraph.

8 (6) UNITED NATIONS SECURITY COUNCIL IMPO-
9 SITION OF SAME MEASURES AGAINST SUDAN.—It is
10 the sense of the Congress that the President should
11 instruct the Permanent Representative of the United
12 States to the United Nations to propose that the
13 United Nations Security Council, pursuant to Article
14 41 of the United Nations Charter, impose measures
15 against Sudan of the same type as are imposed by
16 this section.

17 (d) ADDITIONAL MEASURES AND REPORTS; REC-
18 COMMENDATIONS OF THE PRESIDENT.—

19 (1) UNITED STATES POLICY TO END RELIGIOUS
20 PERSECUTION.—It shall be the policy of the United
21 States to impose additional measures against the
22 Government of Sudan if its policy of religious perse-
23 cution has not ended on or before December 25,
24 1997.

1 (2) REPORT TO CONGRESS.—The Director shall
2 prepare and transmit to the Speaker of the House
3 of Representatives and the Chairman of the Com-
4 mittee on Foreign Relations of the Senate on or be-
5 fore February 1, 1998, and every 12 months there-
6 after, a report determining whether the policy of re-
7 ligious persecution by the Government of Sudan has
8 ended.

9 (3) RECOMMENDATION FOR IMPOSITION OF AD-
10 DITIONAL MEASURES.—If the Director determines
11 that the policy of religious persecution by the Gov-
12 ernment of Sudan has not ended, the President shall
13 prepare and transmit to the Speaker of the House
14 of Representatives and the Chairman of the Com-
15 mittee on Foreign Relations of the Senate on or be-
16 fore March 1, 1998, and every 12 months thereafter,
17 a report setting forth such recommendations for
18 such additional measures and actions against the
19 Government of Sudan as the Director determines
20 will end that government's policy of religious perse-
21 cution.

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

23 (1) GOVERNMENT OF SUDAN.—The term “Gov-
24 ernment of Sudan” includes any agency or instru-
25 mentality of the Government of Sudan.

1 (2) NEW INVESTMENT IN SUDAN.—The term
2 “new investment in Sudan”—

3 (A) means—

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

6 (ii) a loan or other extension of credit,
7 that is made on or after the effective date of
8 this subsection; and

9 (B) does not include—

10 (i) the reinvestment of profits gener-
11 ated by a controlled Sudanese entity into
12 that same controlled Sudanese entity, or
13 the investment of such profits in a Suda-
14 nese entity;

15 (ii) contributions of money or other
16 assets where such contributions are nec-
17 essary to enable a controlled Sudanese en-
18 tity to operate in an economically sound
19 manner, without expanding its operations;
20 or

21 (iii) the ownership or control of a
22 share or interest in a Sudanese entity or a
23 controlled Sudanese entity or a debt or eq-
24 uity security issued by the Government of
25 Sudan or a Sudanese entity before the date

1 of the enactment of this Act, or the trans-
2 fer or acquisition of such a share or inter-
3 est, or debt or equity security, if any such
4 transfer or acquisition does not result in a
5 payment, contribution of funds or assets,
6 or credit to a Sudanese entity, a controlled
7 Sudanese entity, or the Government of
8 Sudan.

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

11 (A) a corporation, partnership, or other
12 business association or entity organized in
13 Sudan and owned or controlled, directly or indi-
14 rectly, by a United States person; or

15 (B) a branch, office, agency, or sole propri-
16 etorship in Sudan of a United States person.

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

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

22 (B) a branch, office, agency, or sole propri-
23 etorship in Sudan of a person that resides or is
24 organized outside Sudan.

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

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

11 (1) determines that national security interests
12 justify such a waiver; and

13 (2) provides to the Committees on Foreign Re-
14 lations, Finance, the Judiciary, and Appropriations
15 of the Senate and to the Committees on Inter-
16 national Relations, Ways and Means, the Judiciary,
17 and Appropriations of the House of Representatives
18 a written notification of the President’s intention to
19 waive any such sanction.

20 The notification shall contain an explanation of the rea-
21 sons why the President considers the waiver to be nec-
22 essary, the type and amount of goods, services, or assist-
23 ance to be provided pursuant to the waiver, and the period
24 of time during which such a waiver will be effective.

1 **SEC. 13. EFFECTIVE DATE.**

2 (a) **IN GENERAL.**—Subject to subsections (b) and (c),
3 and except as provided in section 12, this Act and the
4 amendments made by this Act shall take effect 120 days
5 after the date of the enactment of this Act.

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

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

**Statement of Representative Christopher H. Smith
Chairman, Subcommittee on International Operations
and Human Rights**

This meeting of the Subcommittee on International Operations and Human Rights is a markup of H.R. 2431, the Freedom from Religious Persecution Act.

The Subcommittee has held a number of hearings on the subject of religious persecution. One hearing was on the persecution of Christians, another was on the continued danger of worldwide anti-semitism. We have heard of the torture of Tibetan Buddhist monks and nuns, of atrocities against Muslims in Bosnia and Baha'i in Iran.

The time has now come not just to talk about the problem of religious persecution, but to do something about it. Congressman Frank Wolf, a hero of the human rights movement, has shown us the

way. I am proud to be a cosponsor of Congressman Wolf's bill, H.R. 2431, the Freedom from Religious Persecution Act.

In a few moments I will offer a chairman's substitute amendment, which the subcommittee staff has worked out with Congressman Wolf and his staff as well as with Chairman Gilman and the full Committee staff. Various drafts of the amendment were also shared with the Democratic staff over the course of the last few days, and we did our best to respond to their suggestions and those of members of the Committee. Let me describe briefly what the substitute amendment does:

--- First, it makes very clear that the protections afforded by this bill apply to everyone --- Christians, Jews, Muslims, Hindus, religious believers of any faith --- who are severely persecuted because of their religious belief, practice, or affiliation.

--- Pursuant to this inclusive approach, we also adopt a specific finding suggested by Congressman Rohrabacher, with respect to the

Uighur, an overwhelmingly Muslim ethnic group in the formerly independent republic of East Turkistan, who are now persecuted by the Communist government of China.

--- We make crystal clear that in affording heightened protection for members of religious communities whose situation is particularly compelling, we do not sacrifice any of the protections afforded victims of other forms of persecution --- whether based on religion or on other grounds --- under existing law.

--- We fine-tune the carefully calibrated sanction; the bill would impose against persecuting governments, to ensure that we cut off assistance that helps these governments, but not assistance that helps the truly needy in these countries or that serves vital United States interests.

--- We extend the national security waiver, which formerly applied to all sanctioned governments except the Government of Sudan,

to include the sanctions imposed against that Government by section 12 of the bill.

--- We make clear that all sanctions will terminate automatically against countries which are not listed as offenders in the latest report by the Office of Religious Persecution Monitoring.

--- We also clarify the bill with a number of technical and conforming changes.

This amendment goes a long way toward addressing criticisms of the bill as originally introduced. Frankly, we went as far as we could without giving up the heart and soul of the bill, and rendering it less effective as a tool in the struggle against these terrible human rights abuses. The bill still places the Office of Religious Persecution Monitoring in the White House, because I agree with Congressman Wolf that this problem is too important to be buried in a single bureau within a single agency. We also retain strong sanctions --- although I believe they are carefully tailored to meet the evil we are trying to

address --- and we have resisted creating a waiver so broad that persecuting governments would have no strong incentive to clean up their act.

I know further changes will be proposed as the legislative process moves along. I believe that in evaluating these changes, we must keep in mind that crucial fact: tyrants understand strength. They also understand weakness. Of all the millions of people who are victimized by tyrants around the world today, many are in trouble because they share our values. This bill is designed to help people whose situation is particularly compelling, and with whom many Americans feel particularly strong bonds of affinity and obligation. We owe it to them to be strong.

**AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2431
OFFERED BY MR. SMITH OF NEW JERSEY**

Page 18, line 20, strike "for humanitarian assistance" and insert "for humanitarian assistance, or for development assistance which directly benefits the poor in the poorest countries, is not administered by the government of a sanctioned country, and confers no benefit on the government of a sanctioned country".

Page 19, line 6, strike "for humanitarian assistance" and insert "for humanitarian assistance, or for development assistance which directly benefits the poor in the poorest countries, is not administered by the government of a sanctioned country, and confers no benefit on the government of a sanctioned country".

