



HELSINKI COMMISSION REPORT

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IN BRIEF

Religious Freedom in the National Security Strategy of the United States

The United States also remains committed to supporting and advancing religious freedom—America’s first freedom. Our Founders understood religious freedom not as the state’s creation, but as the gift of God to every person and a fundamental right for our flourishing society ... Priority Actions ... Protect Religious Freedom and Religious Minorities: We will advocate on behalf of religious freedom and threatened minorities. Religious minorities continue to be victims of violence. We will place a priority on protecting these groups and will continue working with regional partners to protect minority communities from attacks and to preserve their cultural heritage.

- President Donald Trump, National Security Strategy of the United States, December 18, 2017¹

The National Security Strategy of the United States is the most important comprehensive national security report an Administration releases. During the drafting process there is robust competition inside and outside government over wording. None of the first eight editions of the National Security Strategy, issued from 1987 to 1996, mentioned religious freedom. Legislation and law, grassroots advocacy and external events like the civil war in Sudan contributed to President William Clinton including the first reference in 1997. From 1997 to 2017, eight of the nine editions, spanning two Democratic and two Republican Administrations, have included religious freedom (2010 was the exception).

The Origins of the National Security Strategy

President Ronald Reagan signed the Goldwater-Nichols Department of Defense Reorganization Act of 1986 into law on October 10, 1986. It was named for its co-authors Senator Barry Goldwater (AZ), Chairman of the Armed Services

Committee, and Representative William Nichols (AL-03), a member of the Armed Services Committee. The law amended the National Security Act of 1947 to include:

The President shall transmit to Congress each year a comprehensive report on the national security strategy of the United States ... Each national security strategy report shall set forth the national security strategy of the United States and shall include a comprehensive description and discussion of ... The worldwide interests, goals, and objectives of the United States that are vital to the national security of the United States ... The foreign policy, worldwide commitments, and national defense capabilities of the United States necessary to deter aggression and to implement the national security strategy of the United States ... The proposed short-term and long-term uses of the political, economic, military, and other ele-

ments of the national power of the United States to protect or promote the interests and achieve the goals and objectives [of the United States that are vital to the national security of the United States] ... The adequacy of the capabilities of the United States to carry out the national security strategy of the United States, including an evaluation of the balance among the capabilities of all elements of the national power of the United States to support the implementation of the national security strategy.²

Since the law was enacted, no president has ever issued a National Security Strategy annually, in part because, as several former National Security Council officials who co-drafted or consulted on National Security Strategies for Democratic and Republican administrations argue, an annual strategy is unnecessary and low-value. The fundamental national interest of the United States and the strategic response of an Administration to national security challenges do not change every year.

According to the former officials, the National Security Strategy is supposed to be a long-view document, not tethered to the whims of daily events and headlines. They suggest that it makes more practical sense to put together a comprehensive strategy document every few years when there is a major change (such as a new presidential Administration).

The former officials are unaware of any member of Congress ever raising significant concerns about a President not issuing a National Security Strategy every year of his administration. These former officials hypothesize there is a de facto, implicit bargain between Congress and the White House: Congress quietly acknowledges there is minimal practical sense to annually issue a Strategy and refrains from demanding it. The White House effectively agrees to issue a Strategy at least every Presidential term, a pattern and precedent that began with the President George W. Bush Administration. Annual or near-annual National Security Strategies

are more likely to be shallow, recycle the previous version and list lots of past actions—rather than being strategic and clearly looking at the horizon—these former officials conclude.³

The National Security Strategy and Religious Freedom – 1987 to 1996

President Ronald Reagan

National Security Strategy of the United States 1987 (January 1, 1987): No reference to religious freedom.⁴

National Security Strategy of the United States 1988 (January 1, 1988): No reference to religious freedom.⁵

President George H.W. Bush

National Security Strategy of the United States 1990 (March 1, 1990): No reference to religious freedom.⁶

National Security Strategy of the United States 1991 (August 1, 1991): No reference to religious freedom.⁷

National Security Strategy of the United States 1993 (January 1, 1993): No reference to religious freedom.⁸

President William Clinton

National Security Strategy of the United States 1994 (July 1, 1994): No reference to religious freedom.⁹

National Security Strategy of the United States 1995 (February 1, 1995): No reference to religious freedom.¹⁰

National Security Strategy of the United States 1996 (February 1, 1996): No reference to religious freedom.¹¹

Although the first three versions of the National Security Strategy during the Clinton Admin-

istration never mentioned religious freedom, significant developments in domestic and international religious freedom law, policy, and advocacy took place in the 1990s.

Rep. Stephen Solarz (NY-13) and then-Sen. Joseph Biden (DE) introduced the first versions of the domestically focused Religious Freedom Restoration Act in 1990. Rep. Solarz reintroduced it in 1991 and Sen. Edward Kennedy (MA) in 1992. By 1993, Rep. Solarz had lost his reelection primary and his fellow New Yorker then-Rep. Charles Schumer (NY-09) and Sen. Kennedy re-introduced the bill on March 11, 1993. The Senate passed the House version 97-3 and President Clinton signed it into law on November 16 of the same year.

The law “prohibits any agency, department, or official of the United States or any State (the government) from substantially burdening a person’s exercise of religion even if the burden results from a rule of general applicability, except that the government may burden a person’s exercise of religion only if it demonstrates that application of the burden to the person: (1) furthers a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.”¹²

The congressional and grassroots civil society coalition that had supported the Religious Freedom Restoration Act subsequently began to press the Administration to do more to advance religious freedom internationally.

International religious freedom was added to the portfolio of Ambassador Richard Schifter, Special Assistant to the President, Counselor and Senior Director on the National Security Council. Ambassador Schifter had been Assistant Secretary of State for Human Rights and Humanitarian Affairs under President Reagan. He was well-regarded across the philosophical and political spectrum and had significant diplomatic experience, including representing the United States in different positions at the United Nations. However, the coalition continued to

call for a higher-level, more publicly prominent position and office dedicated to advising the president and secretary of state on international religious freedom.

In response, Secretary of State Warren Christopher established the Secretary of State’s Advisory Committee on Religious Freedom Abroad in November 1996 to “serve the Secretary of State and the Assistant Secretary for the Bureau of Democracy, Human Rights, and Labor in an advisory capacity with respect to significant issues of religious freedom, intolerance, and reconciliation abroad as agreed upon by the Committee and the Department of State.”¹³ Its members were U.S. government officials, along with no more than 20 additional persons from civil society. The committee first met February 13, 1997; Assistant Secretary of State for Democracy, Human Rights, and Labor John Shattuck, served as chairman.

Some observers, including a former member of the committee, say the committee was created to undercut and prevent potential legislation requiring U.S. government action. The former committee member says the committee only met a few times, had an inadequate mandate, was unwieldy and ineffective, and did little beyond releasing a report written by State Department staff.¹⁴ Legislative initiatives continued.

The National Security Strategy and Religious Freedom – 1997 to Present

When President Clinton released his 1997 National Security Strategy, religious freedom was explicitly referenced for the first time.

National Security Strategy of the United States 1997 (May 1, 1997): [W]e will work with international institutions to combat religious persecution.¹⁵

The elevation of religious freedom in U.S. national security policy and law also had been boosted by the Second Sudanese Civil War. The conflict between the central government of

Khartoum in the north and Sudan People's Liberation Army killed an estimated 2 million civilians and displaced another 4.5 million between 1983 and 2005.¹⁶

According to the Sudan Country Report on Human Rights Practices for 1996 issued by the State Department, "The Government continued to restrict freedom of assembly, association, religion, privacy, and movement ... In the context of the Islamization and Arabization drive, pressure—including forced Islamization—on non-Muslims remained strong. Fears of Arabization and Islamization and the imposition of Shari'a (Islamic Law) fueled support for the southern insurgency...Discrimination against religious and ethnic minorities persisted."¹⁷

Grassroots advocates called for U.S. action, including sanctions against the central government and restrictions on security assistance. Members of Congress from both parties introduced bills that included these measures. Some legislation, like the Freedom from Religious Persecution Act, explicitly referenced violations of religious freedom as a basis for sanctions.

On November 5, 1997, President Clinton cited religious freedom violations in his executive order blocking Sudanese government property and prohibiting transactions with Sudan.

I ... find that the policies and actions of the Government of Sudan, including continued support for international terrorism; ongoing efforts to destabilize neighboring governments; and the prevalence of human rights violations, including slavery and the denial of religious freedom, constitute an unusual and extraordinary threat to the national security and foreign policy of the United States.¹⁸

The release of the National Security Strategy 1997 was just before Rep. Frank Wolf (VA-10), then a member of the Helsinki Commission, and Sen. Arlen Specter (PA) introduced the Freedom from Religious Persecution Act on

May 20 and 21 respectively. The purpose of the Act was "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."¹⁹ The House version was bipartisan, with 33 Democrats and 72 Republicans as cosponsors.

On September 8, Rep. Wolf introduced the bipartisan International Religious Freedom Act, with eight Democrats, including future Speaker of the House Nancy Pelosi (CA-12), and 17 Republicans as original cosponsors. In the House of Representatives, the bill was referred to five committees and four subcommittees, including the House International Relations Subcommittee on International Operations and Human Rights. Then-Helsinki Commission Chairman Chris Smith (NJ-04) was chairman of the subcommittee and managed the subcommittee mark-up and vote.

The bill eventually garnered 131 cosponsors—49 Democrats, 81 Republicans and one Independent—and the House passed it 375-41 on May 14, 1998. The Senate passed it 98-0 on October 9, and the President signed it into law October 27, 1998. The law stated:

It shall be the policy of the United States ... To condemn violations of religious freedom, and to promote, and to assist other governments in the promotion of, the fundamental right to freedom of religion ... Standing for liberty and standing with the persecuted, to use and implement appropriate tools in the United States foreign policy apparatus, including diplomatic, political, commercial, charitable, educational, and cultural channels, to promote respect for religious freedom by all governments and peoples.²⁰

The law established the Office of International Religious Freedom in the State Department headed by an Ambassador-at-Large for International Religious Freedom; required the Secretary of State to issue an annual International Reli-

gious Report covering every country; directed the Secretary of State to include related instruction in standard foreign service training; directed U.S. chiefs of mission to proactively seek and meet with religious entities and imprisoned religious leaders; required the Secretary of State to develop country lists of persons thought to be imprisoned, detained, or under house arrest for their religious faith; and established the U.S. Commission on International Religious Freedom to review the annual State Department Report on International Religious Freedom and annual Country Reports on Human Rights Practices, make policy recommendations to the President, Secretary of State and Congress, and issue an annual report on its recommendations.

It also directed the President to act—the law lists some of the options—and promote religious freedom in countries where the violations are especially severe; required the President to annually review religious freedom in each foreign country during the preceding 12 months, designate countries of particular concern for religious freedom and take action against these countries; and required or called for additional measures to promote international religious freedom, strengthen existing law and address refugee, asylum, and consular matters.²¹

Shortly before signing the International Religious Freedom Act, President Clinton issued his 1998 National Security Strategy.

National Security Strategy of the United States 1998 (October 1, 1998): We will continue to work with individual nations, such as Russia and China, and with international institutions to combat religious persecution.²²

His Administration referenced religious freedom in its later editions of the Strategy.

National Security Strategy of the United States 2000 (December 1, 1999): Crises are averted – and U.S. preventive diplomacy actively reinforced – through U.S. sustainable

development programs that promote ... religious freedom ... The sometimes-difficult road for new democracies in the 1990's demonstrates that free elections are not enough. Genuine, lasting democracy also requires respect for human rights, including the right to ... freedom of religion and belief ... Promotion of religious freedom is one of the highest concerns in our foreign policy. Freedom of thought, conscience and religion is a bedrock issue for the American people.²³

National Security Strategy 2001 (December 1, 2000): The sometimes difficult road for new democracies in the 1990's demonstrates that free elections are not enough. Genuine, lasting democracy also requires respect for human rights, including the right to ... freedom of religion and belief ... Promotion of religious freedom is one of the highest concerns in our foreign policy ... Freedom of thought, conscience and religion is a bedrock issue for the American people.²⁴

With the exception of 2010, every subsequent National Security Strategy has included a commitment to defend religious freedom internationally.

President George W. Bush

National Security Strategy for the United States 2002 (September 17, 2002): America must stand firmly for the nonnegotiable demands of human dignity ... freedom of worship ... Our principles will guide our government's decisions about international cooperation, the character of our foreign assistance, and the allocation of resources. They will guide our actions and our words in international bodies. We will ... take special efforts to promote freedom of religion and conscience and defend it from encroachment by repressive governments.²⁵

National Security Strategy for the United States 2006 (March 16, 2006): As tyrannies

give way, we must help newly free nations build effective democracies: states that are respectful of human dignity, accountable to their citizens, and responsible towards their neighbors. Effective democracies ... Honor and uphold basic human rights, including freedom of religion, conscience ... Limit the reach of government, protecting the institutions of civil society, including ... religious communities ...

The United States will stand with and support advocates of freedom in every land. Though our principles are consistent, our tactics will vary. They will reflect, in part, where each government is on the path from tyranny to democracy. In some cases, we will take vocal and visible steps on behalf of immediate change. In other cases, we will lend more quiet support to lay the foundation for future reforms. As we consider which approaches to take, we will be guided by what will most effectively advance freedom's cause while we balance other interests that are also vital to the security and well-being of the American people ... In the cause of ending tyranny and promoting effective democracy, we will employ the full array of political, economic, diplomatic, and other tools at our disposal, including ... Using foreign assistance to support the development of ... religious freedom ... These tools must be used vigorously to protect the freedoms that face particular peril around the world ... religious freedom ... Against a terrorist enemy that is defined by religious intolerance, we defend the First Freedom: the right of people to believe and worship according to the dictates of their own con-

science, free from the coercion of the state, the coercion of the majority, or the coercion of a minority that wants to dictate what others must believe.²⁶

President Barack Obama

National Security Strategy of the United States 2010 (May 27, 2010): No reference to religious freedom.²⁷

National Security Strategy of the United States 2015 (February 6, 2015): We will be a champion for communities that are too frequently vulnerable to violence, abuse, and neglect—such as ethnic and religious minorities ...²⁸

President Donald Trump

National Security Strategy of the United States 2017 (December 18, 2017): The United States also remains committed to supporting and advancing religious freedom—America's first freedom. Our Founders understood religious freedom not as the state's creation, but as the gift of God to every person and a fundamental right for our flourishing society ... Priority Actions ... Protect Religious Freedom and Religious Minorities: We will advocate on behalf of religious freedom and threatened minorities. Religious minorities continue to be victims of violence. We will place a priority on protecting these groups and will continue working with regional partners to protect minority communities from attacks and to preserve their cultural heritage.²⁹

About the Helsinki Commission

The Commission on Security and Cooperation in Europe, also known as the U.S. Helsinki Commission, is an independent agency of the Federal Government charged with monitoring compliance with the Helsinki Accords and advancing comprehensive security through promotion of human rights, democracy, and economic, environmental and military cooperation in 57 countries. The Commission consists of nine members from the U.S. Senate, nine from the House of Representatives, and one member each from the Departments of State, Defense, and Commerce.

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¹ President Donald Trump, National Security Strategy of the United States, December 18, 2017.

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² Goldwater-Nichols Department of Defense Reorganization Act of 1986, Public Law 99-433, October 1, 1986.

³ Consultations with Nathaniel Hurd, January 2018.

http://history.defense.gov/Portals/70/Documents/dod_reforms/Goldwater-NicholsDoDReordAct1986.pdf.

⁴ President Ronald Reagan, National Security Strategy of the United States, January 1, 1987.

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⁵ President Ronald Reagan, National Security Strategy of the United States, January 1, 1988.

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⁶ President George H.W. Bush, National Security Strategy of the United States, March 1, 1990.

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¹⁰ President William Clinton, National Security Strategy of the United States, February 1, 1995.

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¹¹ President William Clinton, National Security Strategy of the United States, February 1, 1996.

¹² Congressional Research Service, summary of Religious Freedom Restoration Act of 1993, Public Law 103-141.

<https://www.congress.gov/bill/103rd-congress/house-bill/1308>.

¹³ Advisory Committee on Religious Freedom Abroad, "Charter of The Secretary of State's Advisory Committee on Religious Freedom Abroad," in "Interim Report to the Secretary of State and to the President of the United States," January 23, 1998 https://1997-2001.state.gov/global/human_rights/980123_acrfa_interim.html.

¹⁴ Consultations with Nathaniel Hurd, January 2018.

¹⁵ President William Clinton, National Security Strategy of the United States, May 1, 1997.

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¹⁶ E.g. "Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General," January 25, 2005. http://www.un.org/news/dh/sudan/com_inq_darfur.pdf.

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- ¹⁸ President Bill Clinton, “Executive Order 13067—Blocking Sudanese Government Property and Prohibiting Transactions with Sudan,” November 5, 1997 <https://www.treasury.gov/resource-center/sanctions/Documents/13067.pdf>.
- ¹⁹ H.R. 1685, Freedom From Religious Persecution Act of 1997, May 20, 1990 <https://www.congress.gov/bill/105th-congress/house-bill/1685> and S. 772, Freedom From Religious Persecution Act of 1997, May 21, 1997.
- ²⁰ International Religious Freedom Act of 1998, Public Law 105-292, October 27, 1998. <https://www.congress.gov/bill/105th-congress/senate-bill/772>.
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- ²⁹ President Donald Trump, National Security Strategy of the United States, December 18, 2017. <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>.