

## **International Religious Freedom Act 1998 and the Issues of Religious Freedom in Muslim Countries**

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### **ABSTRACT**

In the late 20<sup>th</sup> century the increasing international emphasis on the recognition of religious freedom had led the United States to draw the International Religious Freedom Act (1998) in October 1998. The Act aims to improve the ability of United States to advance religious freedom through its foreign policy. However, after almost 18 years since its establishment, it is important to highlight that IRFA's report had focused on the issue in Muslim-majority countries. In fact, many Muslim countries were classified as "Countries Particular Concern" (CPC) that is violators of religious freedom. The objective of this article is to study critically the IRFA report with regard to Muslim countries. It contends that the US government had given too much focus to Muslim countries. Though the law has the potential to be a useful tool to protect religious freedom, the result of IRFA report in meddling in affairs of Muslim-majority states is the major flaw. The paper will also examine, at glance, on the concept of religious freedom within the framework of *maqasid al-shariah* (the objectives of Shariah law).

*Keywords:* International Religious Freedom Act (IRFA), religious freedom, religion and international relations

### **INTRODUCTION**

International Religious Freedom Act (IRFA) implementation towards Muslim countries has been criticized and provides misunderstanding to the US government. Most of the studies were on Muslim countries seen as violators of religious freedom, i.e. Countries of Particular Concern (CPC). This study thus argues that IRFA does not adequately specify particular rights on religious freedom in Muslim countries.

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### **IRFA: A General Background**

In 1998, IRFA was passed unanimously by the US government and it requires the United States to extend the concern for religious freedom in its foreign relations (Danchin, 2002). The establishment of IRFA creates the Office of International Religious Freedom, a Commission and a special adviser on International Religious Freedom. The Office of International Religious Freedom within the State Department and is headed by an Ambassador at Large for International Religious Freedom who is appointed by President. The State Department's duty is to highlight the status of religious freedom around the world, together with foreign officials and besides, to publish its International Religious Freedom Report annually.

The main part of IRFA is laid down in Subchapter III of the Act. Under the Act, the President has to respond to a violation and promote the right to freedom of religion. Actions taken are based on the annual report which released in September by State Department and findings of the Commission (Sadat, 2003). The Secretary of State is responsible to manage the countries termed as Countries of Particular Concern (CPC). The reports describe measures needed to address the issue and serves as a resource for diplomacy, policy, assistance, recommendations and other resource allocations and decision in determining countries that have engaged in "particular severe violations". The US government will independently handle the countries that are

in violation with the report used as a tool of US human rights policy (Farr, 2001).

The objective of the annual report is to advance US human right policy in promoting and protecting religious freedom. The annual report on the current status and development of religious freedom around the world has been recognized as "the most comprehensive account of religious ever compiled" (Smith, 2001). In addition, the IRFA report is one of the most widely read documents of American diplomacy and has become the gold standard on international religious freedom (Hertzke, 2008).

Generally, the main purpose of IRFA is "*to condemn violations of religious freedom, and to promote, and to assist other governments in the promotion of, the fundamental freedom of religion.*" (International Religious Freedom Act Of 1998). The passage of IRFA might be argued with some justifications and criticisms, however it is unfair to evaluate the success or failure of US religious freedom policy from worldwide reported statistics (Farr, 2012).

IRFA had created an independent watchdog agency, known as US Commission on International Religious Freedom (USCIRF), to monitor IRFA's implementation. The USCIRF consists of nine unpaid commissioners to oversee the implementation of the Act. USCIRF also produces their own report and it will serve as a basis for the US government's cooperation with private groups to promote internationally recognized right to religious freedom.

Hence, the IRFA empowers a legal framework for the US government through the institution of the US State Department and the Commission on International Religious Freedom to examine the status of religious persecution in other countries. In addition, it will suggest proper punishment such as economic sanction to countries that repress religious freedom. However, there are some criticisms levelled against the US government over the IRFA, including disagreements on the question of the promotion of religious freedom internationally.

### **Defining the Key Concept of Religious Freedom from International Perspective**

Generally, religious freedom has been embedded in various instruments of international law. One of the four major international documents that universalized the principle of religious freedom can be found in Universal Declaration of Human Rights. Under the declaration, it recognizes a broader spectrum of the definition of religious freedom. Article 18 reads:

*“ Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”*

The right includes freedom of conscience and association, the right to own property, to publicly worship, publish, speak, petition government, and raise children according to family desires (Hertzke, 2012). The declaration asserts that any religious differences should be respected (Davis, 2002). The longstanding principle of religious freedom as a fundamental human right deeply affected in human’s life and as the persuasive evidence in religious freedom advocacy. Later documents such as the International Covenant on Civil and Political Right (ICCPR) of which Article 2(1) it states, “ *without distinction of any kind, such race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*” This provision prohibits religious discrimination and includes the right of parents to direct the religious education of their children.

The United Nations Declaration on the Elimination of All Forms of Intolerance and Of Discrimination Based on Religion and Belief is also one of the fundamental documents that protect religious freedom. Particularly, the right has been embedded in Art. 1 and 6 of the Declaration. In Article 1, it stipulates, “*Everyone shall have the right to freedom of thought, conscience and religion.*” This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practices and teaching.”

### **Countries of Particular Concern (CPC)**

Designation for Countries of Particular Concern (CPC) refers to those countries with severe violations of religious freedom. The annual report lists nine countries as CPC; Burma, China, Eritrea, Iran, North Korea, Saudi Arabia, Sudan, Uzbekistan and Turkmenistan (US Department of State, 2014). When a country is designated as CPC by the Secretary of State, the President is responsible for instituting measures to improve the protection of religious freedom in the States concerned (Rieffer-Flanagan, 2014). The President, either he or she does not have complete discretion if it concerning CPC, *“that have engaged particularly severe religious freedom violations”*<sup>1</sup>.

In September 2011, Suzan Johnson Cook, an Ambassador-at-large for International Religious Freedom, stated that CPC designations is a starting point for the US government to work constructively with foreign governments to improve religious freedom. Measures such as sanctions will be considered according to the circumstances. The results of IRFA is rather ambiguous. Farr (2013) states that, the designation “Countries of Particular Concern” list as ineffective. During Obama administration, it was reported that listed countries has not been issued annually since 2011. In the first place, the commission under Robert George had publicly expressed its concern regarding

the issue but the Congress itself did not show moral support.

Under IRFA, countries remain designated as CPC until removed and any corresponding penalties will expire after two years. When the President determines that “the government of a foreign country has engaged in or tolerated particularly severe violations of religious freedom,” it is designated as a “Country of Particular Concern” (CPCs). The effectiveness of designation of CPC is not easy to measure, requiring thorough scrutiny. Therefore it is not surprising that the designation of CPC received criticisms by the opponent and rendering it as a major flaw of IRFA. Among other things, it is important to highlight the issue of CPC in order to see the implementation of the law.

### **Religious Freedom and the Contents of IRFA**

By virtue of IRFA, the US has recognized four principles in promoting and monitoring international religious freedom. Firstly, freedom of religion is a fundamental human right and is a source of stability for all nations. Secondly, the US government and its agencies will assist any newly democratic country to implement freedom of religion. Thirdly, it will support any religious group as well as human rights NGOs in their mission to promote religious freedom. Fourthly, the U.S government and its agencies will identify and take a specific measure to punish any regime or country that severely violates freedom of religion and persecute their citizens or

<sup>1</sup> 22 U.S.C. § (c)(1)(A) (providing that the President shall respond to violations of religious freedom by taking the “action or actions that most appropriately respond to the nature and severity of the violations of religious freedom.”)

others because of their religious belief (US Department of State, 2016).

The introduction of the Act became a new landmark in the foreign policy making and diplomatic practice of American government. The Act created a new dimension in US foreign relations and its engagement with other nations when it obliged the President's office and Department of State to consider any claims on abuse of religious freedom. Moreover, it also created a set of requirements for which the US government can be held accountable by public interest groups concerned with religious rights. In addition, by virtue of the Act, the US started to consider any issues related to international religious freedom as its important concern of its foreign affairs.

### **Religious Freedom in Muslim Countries**

Religious freedom in Muslim countries have high level of violation. Muslims are trying to revive and uphold Islamic law and it leads to challenges as an important aspect is the regulation of society according to Shariah law.

In the Muslim world, oppression of Christians and other non-Muslims are increasing every day in Saudi Arabia, Sudan, Pakistan and Egypt (Nickles, 1998). It is important to note that freedom of religion is a good thing. However, the freedom should not include matters of religion because religion is sacred and cannot be questioned and must be handled with sensitivity (Uddin, 2011). John Ambassador, US ambassador for religious freedom believed that there is no room for religious freedom in a country

where Islam is the state religion. He further explains that in Muslim majority countries, the law will be based on Holy Koran and the Prophet's Sunna while at the same time upholding constitution (Hanford, 2004). They believe Muslims are ruled by their own Islamic law which is based on Islamic sources. The perception of non-Muslims pertaining to Islam somehow distracted by baseless accusation. The media, the electronic sources sometimes posted the wrong perceptions on the true teaching of Islam.

Grim and Finke (2010) highlights violations on religious freedom in most Muslim-majority countries, creating the assumption that Muslim countries are "*exceptionally repressive and their societies uniquely tolerant.*" However, surprisingly the data provided in the book showed that almost sixty-two percent have high levels of persecution.

It was contended that Iran has one of the world's worst records (Marshall, Gilbert, & Shea, 2013). Iran's population consists of 99% of Muslims and its constitution states that Islam is the official religion. According to the latest International Religious Freedom report, Iran was re-designated as CPC country (US Department of State, 2014). In Saudi Arabia, religious freedom is not protected under the law. It has been designated as CPC since 2004 having engaged in or tolerated particularly severe violations of religious freedom. In Pakistan, 95% of the population consists of Muslims. The Criminal Code in Sudan criminalizes both the offence of apostasy and acts that

will lead to apostasy. In the case of Ms. Meriam Yahya Ibrahim Ishag in Sudan, received global condemnation when she was spared a death sentence for apostasy. She is a Sudanese woman and according to her family, her father is a Muslim and according to Sudan's Islamic law, Meriam is a Muslim. She argued that she was brought up by a Christian family and never practiced Islam (BBC News, 2014). Initially the court passed the death penalty but international pressure led to it being overturned. (US Department of State, 2014). Misconception of the concept of religious freedom in Islam has led global community to condemn teachings of Islam.

On the other hand, many Muslims have lost confidence in the international system as a neutral problem solver after the experiences of the post-Cold War era and the persistence of the geopolitics of exclusion, double standards and intervention. The answer to the question on how best to promote and protect human rights and human dignity lies within the purview of internal domains. The choices made by the leaders and peoples of the Muslim world will play a key role in shaping the politics and the practice of human rights in their societies.

The IRFA's report had focused on Muslim-majority countries. The result after the implementation of IRFA was suspicious. In addition, IRFA's goal was suspicious because US only focuses on Muslim countries. Saudi Arabia is considered one of the most oppressive Islamic states (McCormick, 1998). Laila Maryati, who is

the only commissioner of the nine-member US Commission on International Religious Freedom believes that the Act is biased against Islam.

### **Islamic View of Religious Freedom**

In Islam, a human is God's creature. The relation between human being and God is to be defined through human responsibilities. The Secular West depicted Islam as a religion that seems to clash with human rights. Westernized liberal advocates and Muslims have debated and exchanged their arguments on human rights and the sanctity of their religion (Ahmad, 2015).

Accordingly, human rights are given by God as the creator of human beings as creatures. It is not the result or the fruit of mind but determined in the Holy Quran. There are a lot of matters relating to human rights in Quran, there are almost 40 verses circulate the matters on compulsion and coercion.

The Quran is clear on the right to religious freedom and the Islamic concept of religious freedom is simple. The general rule in Surah al-Baqarah reads,

*Let there be is no compulsion in religion. Truth has been made clear from error. Whoever reject false worship and believes in Allah has grasped the most trustworthy handhold that never breaks. And Allah hears and knows all things.*  
(Al-Quran, 2:256)

According to the Quran, no one can be compelled to embrace Islam. Every Muslim

has the duty to prove Islam is sacred. Allah will reward the person who accepts Islam and if a person becomes an apostate, he or she will be punished by Allah.

Based on the perspective of Shariah law, a Muslim cannot change his or her religion. In contrast to Muslims, non-Muslims are free to follow and profess any religion they like. The Islamic concept of religious freedom is laid down in the first pillar of Islam "Declaration of Faith" (*shahadah*) (Khan, 2003). A Muslim is obliged to testify to the Unity of Allah and one's commitment to the cause of Islam. *Shahadah* which means witness in Arabic is the most essential part of a Muslim whereby he declares, "There is no God but Allah and Muhammad is the Messenger of Allah."

It is vital a Muslim to not only remain as a Muslim but to proclaim that he will always be a Muslim. Hence, the issue of religious freedom is not applicable to Muslims. Be that as it may, being a surrendered Muslim, a Muslim has a right to invite non-Muslims to Islam.

It is prohibited for a Muslim to force any non-Muslim to accept Islam because professing the religion is a matter of choice. Done forcefully and it will only harm others' feeling and sensitivities. Islam respects other religions to be practiced as long as it guaranteed peacefulness among society throughout the world.

Shah (2005) highlights the example of freedom of religion in the Quran and the way of the Prophet Muhammad followed. When the Prophet Muhammad failed to convince delegates of non-Muslim tribes

to accept Islam, Allah commanded him to tell them that, "to you be your religion, and to me my religion" (Al-Quran, 109:6). This explains that people have a choice whether to embrace or leave the religion and Allah has the reward and punishment for those who believe and those who do not.

Shariah law itself has put forward several mechanisms to protect Islam. In *maqasid al-shariah* they are regarded as *al-wasailila al-maqasid* (ways to achieve objectives). One of the mechanisms is capital punishment for those who convert out and denounce Islam. Muslim scholars have unanimously agreed the Prophet Muhammad said, "Who changes the religion, kill him". However the punishment may be set aside if the culprit reverses back his decision to convert out of Islam.

## CONCLUSION

This study concludes that it is obvious that US International Religious Freedom report had focused on Muslim-majority countries. However, the US government had denied the fact since the first report was released. Instead, they had blamed Muslims countries as repressive and the worst violators of religious freedom. The effort by US to improve religious freedom around the world is commendable. However, the clashes of Islamic law and international law showed that the result of IRFA report in meddling in the affairs of Muslim-majority countries is its major flaw. In addition, the designation of those Muslim countries as CPC was mainly based on bias and US national interest.

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