



One Free World International
El Shafie Ministries

**RELIGIOUS FREEDOM IN
EGYPT AND IRAQ**

**A STATEMENT BY
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**BEFORE THE
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, AND HUMAN RIGHTS
OF THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON FOREIGN AFFAIRS**

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I. Introduction

We would like to thank the members of the Subcommittee on Africa, Global Health, and Human Rights for the opportunity to present our comments and recommendations on this important matter of religious freedom. Our mission and calling is to stand up for religious minorities and individuals around the world who are being persecuted because of their personal beliefs. Our goal in presenting these recommendations is to encourage the United States to step up to the plate and take a principled stand for justice and freedom for religious minorities that are voiceless, vulnerable, and oppressed.

We have been asked to comment specifically on the situation in Egypt and Iraq based on our extensive experience with religious freedom issues in these countries. Our work is not limited to these countries, however, and we would be remiss under the circumstances if we did not include some brief mention of the issues facing religious minorities in Afghanistan and Pakistan, especially given their central role in U.S. foreign policy at the present time.

Freedom of religion is a fundamental, universal right that speaks to the very core of what it means to be human. The basic freedom to believe in (or not believe in) and to practice the religion of one's choice (or equally to refrain from any religious practice) forms the very basis of human dignity and is a pre-requisite for true equality under the law. This right is recognized both by U.S. and international law as foundational and intrinsic to any truly free society, and without freedom of religion experience has shown that there can be no democracy, peace, or security.

In order to live up to its stated commitment to global religious freedom, the United States must take a more comprehensive and proactive approach to this issue, and it must take immediate steps to improve integration of freedom of religion considerations within its overall foreign policy. Although we will not dwell extensively on institutional issues, we would like to note that in order for this shift to take place, both the Office of Religious Freedom and Ambassador-at-Large must be elevated to the status envisioned by Congress in the *International Religious Freedom Act*. Such concrete steps will send a strong message that the United States is committed to religious freedom as part of its vital foreign policy interests, thereby enabling the United States to have a positive impact on the behaviour of the countries examined in these comments.

We also felt it necessary to briefly comment on some aspects of the International Religious Freedom Report's portrayal of the situation in Egypt and Iraq. Because this report inevitably shapes the perceptions of U.S. decision-makers, we are concerned that the State Department's analysis may lead some to underestimate the seriousness of the situation facing religious minorities in both countries. The need for action is urgent due to the historic circumstances facing these countries and the United States needs to take immediate and decisive action in its relations with these states.

To this end, we recommend that the United States explicitly link its aid and trade relationship with each of these countries to positive progress with regard to freedom of religion. In the case of both Egypt and Iraq, the U.S. government cannot continue to provide billions of dollars of military aid with 'no strings attached' to governments that refuse to protect (and even directly

attack) their religious minorities. The United States must also make religious freedom a priority in its diplomatic and bilateral relations with both countries, and actively hold each government accountable for its failure to uphold religious freedom. As part of these efforts, the United States should seek out multilateral partnerships to enhance the effectiveness of its efforts.

Both Egypt and Iraq are entering a critical period of transition in their respective history. Both have recently emerged from decades of dictatorship, and both are, in different ways, trying to forge their own path toward a stable democracy. In both cases, the United States is in a position to help determine whether each country goes down the path of freedom and the rule of law or a path of extremism and sectarian violence. To its credit, the United States, including the present administration, has repeatedly and publicly reiterated its commitment to promote and defend freedom of religion in this region and around the world. While such strong public endorsements of religious freedom are an important first step, the time has come for the reality of U.S. foreign policy to live up to the rhetoric.

II. About Rev. Majed El Shafie and One Free World International (OFWI)

Reverend Majed El Shafie, President and Founder of One Free World International (OFWI), was born in Egypt to a prominent Muslim family of judges and lawyers. He was detained and severely tortured by Egyptian authorities after he converted to Christianity and began advocating equal rights for Egyptian Christians. Sentenced to death, he fled Egypt by way of Israel and settled in Canada in 2002, establishing OFWI to share a message of freedom, hope, and tolerance for religious differences and to promote human rights in this area through advocacy and public education.

As a young law student, Rev. El Shafie tried to work within the Egyptian system to secure equal rights for Christians by beginning a ministry and human rights organization, which in just two years grew to 24,000 members. Through numerous operations to investigate allegations of persecution against Christians, assist them in escaping persecution and other hardship, build churches, and build bridges between Muslims and Christians, Rev. El Shafie gained a great deal of knowledge and insight into the persecution of the Christian community in Egypt both by the government and by society at large.

Rev. El Shafie has been invited to speak in churches and synagogues across Canada and the United States and has been interviewed by numerous magazines, newspapers, and broadcast media, both religious and secular. He has also provided expert evidence for numerous courts and tribunals on behalf of individuals seeking protection in Canada and the United States. He has appeared three times before the Canadian Parliament's Sub-Committee on International Human Rights in Ottawa and once before the Parliamentary Coalition against Antisemitism's inquiry into antisemitism in Canada. He has built bridges with politicians inside and outside North America and addressed these issues directly with cabinet ministers and high-level officials in the Canadian government, including the Prime Minister's Office, in order to help educate decision-makers about the on-going issue of religious persecution around the world.

Never one to back down from an opportunity to stand against injustice, Rev. El Shafie has travelled to countries such as Iraq, Pakistan, and Afghanistan, where he has met face-to-face with top government officials, confronting them with evidence of human rights abuses in their countries and the failure of their governments to address these issues, also documenting some of these missions for his new feature-length documentary film, *Freedom Fighter*. OFWI has built an extensive network of trusted local sources in 28 countries around the world and where possible Rev. El Shafie visits areas of concern personally to see firsthand what the threats are. OFWI also cooperates with and relies on other trusted human rights organizations and media sources as necessary in order to ensure that it can help as many as possible.

III. Religious Freedom

1. Freedom of Religion as a Human Right and in International Law

Recognition of the rights of individuals and nations, minorities and majorities, is basic. Ultimately everyone is in some respect or at some time or place a member of a minority and one need only consider one's own position but for a moment in order to see the importance of respecting the rights of others and the universal nature of this principle, known in the Christian tradition as the Golden Rule, or "Do unto others as you would have others do unto you".

Human beings have learned this painful lesson the hard way over thousands of years of violations of this foundational principle. As a result, communities and humanity as a whole have sought ways to promote respect for these lessons learned by enshrining the principle in constitutions and international documents such as the *Universal Declaration of Human Rights* (UDHR) and the *International Covenant on Civil and Political Rights* (ICCPR).

The UDHR, while not in itself binding, is considered by international law experts to reflect customary international law which in turn is binding on states. The UDHR states in Article 18 that,

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.¹

However, it is not necessary to rely on general principles of morality or international law or even less on mere declarations of principle or aspiration in order to establish the rights of religious minorities. A large part of the world community has expressly agreed to submit to binding international law in this matter by signing or acceding to the ICCPR. Article 18 of the (ICCPR) states that,

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or 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, practice and teaching.

¹ *Universal Declaration of Human Rights*, GA Res. 217(III), UN GAOR, 3d Sess., Supp. No. 13, UN Doc. A/810 (1948).

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. ...²

Freedom of religion requires that all members of a given society are not only able to live without fear, but are also free to meaningfully participate in all aspects of their society without having to divorce their fundamental beliefs from their participation as citizens. Religious freedom touches the very core of human dignity and identity, and the ability to believe in and practice according to one's religion of choice is a pre-requisite for true equality under the law.

2. Freedom of Religion in U.S. Law and Diplomacy

In order for the United States to live up to its responsibility as the 'leader of the free world,' it is not enough that the American government respect the rights and freedoms of its citizens within U.S. borders. The United States must ensure that its foreign policy is consistent with the fundamental values that form the basis of American society and identity. There is no question that freedom of religion, as articulated in the *United States Constitution*, is one such basic and universal right that is central to both the American legal system and society at large.

The First Amendment of the *Constitution* clearly states that the U.S. government "shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."³ Although the scope of the so-called "Establishment Clause" and the "Free Exercise Clause" has been the subject of some debate, the placement of this guarantee in the first clause of what is commonly referred to as the *Bill of Rights* clearly indicates a desire by the founders of the United States to enshrine freedom of religion as a foundational principle of the new nation. Article VI of the *Constitution* further ensures that individuals will not be excluded from participating in government on the basis of their religion, by prohibiting the "requirement" of any kind of "religious test ... as a Qualification for any Office or public Trust under the United States."⁴

The foundational role played by religious freedom in the United States is eloquently expressed in the preamble of the *International Religious Freedom Act* of 1998, where Congress stated that:

The right to freedom of religion undergirds the very origin and existence of the United States. Many of our Nation's founders fled religious persecution abroad, cherishing in their hearts and minds the ideal of religious freedom. They established in law, as a fundamental right and as a pillar of our Nation, the right to freedom of religion. From its birth to this day, the United States has prized this legacy of religious freedom and honored this heritage by standing for religious freedom and offering refuge to those suffering religious persecution.⁵

(emphasis added)

² *International Covenant on Civil and Political Rights*, 19 December 1966, 999 UNTS 171, online: Office of the United Nations High Commissioner for Human Rights <<http://www2.ohchr.org/english/law/ccpr.htm>> accessed 12 November 2011.

³ U.S. Const. amend. I.

⁴ U.S. Const. art. VI.

⁵ U.S., Bill H.R. 2431, *International Religious Freedom Act of 1998*, 105th Cong., 1998, § 2(a)(1) (enacted) [*IRFA*].

Indeed, freedom of religion is absolutely intrinsic to the broader system of rights and freedoms that underpin the United States as a society and a nation. As President Obama acknowledged in his 2009 Cairo speech, “[f]reedom in America is indivisible from the freedom to practice one’s religion.”⁶ Ever since the birth of the United States, American leaders have recognized that no society can be truly free if it denies an individual’s inviolable right to believe and practice his or her religion of choice.

For U.S. foreign policy to be truly ‘American’ it must be reflective of and consistent with core American values, including freedom of religion, especially given the centrality of this principle in shaping U.S. domestic policy and legislation. When the United States overlooks violations of religious freedom perpetrated (or condoned) by states with which it has ongoing diplomatic and economic relations, it is legitimizing the actions of those who would undermine the very principles that underlie American identity and society. Yet within the context of U.S. diplomacy and international relations, however, freedom of religion appears to be viewed as little more than a niche ‘humanitarian’ concern related strictly to relieving the direct human cost of persecution in individual cases. Nonetheless, while addressing and eliminating religious persecution around the world is an imperative for all nations – and it forms the core of our mission – religious freedom involves more than simply the absence of persecution or discrimination.

3. Religious Freedom and Egypt

a. The Mubarak Regime

Egypt is a predominately Muslim country with a population of approximately 77 million. Prior to the advent of Islam, Egypt was a primarily Christian country. Nevertheless, Christians today account for only about 10% of the population and do not enjoy the same rights as their Muslim countrymen. Recent events have caused a sea-change in the governance of the country, but the prognosis for Egypt is not nearly as positive as most international observers and optimists in policy-making positions would like to think.

Despite Egypt’s attempts to portray itself as a democracy, it has been ruled for decades as a dictatorship by successive presidents, most recently Hosni Mubarak. The only religions recognized by the government have been Islam, Christianity, and Judaism. Islam is the dominant and official religion and Islamic fundamentalism is a powerful force. Anti-semitism has also been on the rise even though the Jewish community in Egypt is virtually non-existent and the few remaining members are mostly elderly individuals.

The Mubarak regime walked a fine line between opposing the extremists and appeasing them in order to maintain its hold on power. While extremists were closely monitored by the regime for anti-government activity, as long as their activities were focused on minorities the authorities paid little attention. Minorities, on the other hand, were left at the mercy of the extremists due to fears that any perceived government support could have turned the extremists against the authorities. During this period extremists also penetrated many government agencies, especially

⁶ “Remarks by the President on a New Beginning at Cairo University, Cairo, Egypt”, 4 June 2009, online: The White House, Office of the Press Secretary <<http://www.whitehouse.gov/the-press-office/remarks-president-cairo-university-6-04-09>> accessed 12 November 2011 [“A New Beginning”] (emphasis added).

local positions, and were able to exercise influence over government action or inaction in many cases. As a result, the Egyptian government has long paid lip-service to human rights conventions and international conferences for the protection of religious freedom and human rights, but the reality has been quite different.

During a tumultuous spring of 2011, however, the world watched with incredulity as the Egyptian people forced President Mubarak to step down after more than 30 years, raising hopes that a democratic, peaceful government would take his place. The government is currently in the hands of a transitional military council as the country prepares to hold elections to determine its future direction. At the same time, the only group with any substantial support and ability to organize for those elections is the Muslim Brotherhood which, despite its rhetoric, has never renounced its extreme ideals and objectives for Egyptian society. It is the ideological parent of terrorist movements such as Hamas and Al-Qaeda and members and supporters are behind daily forced conversion attempts, violent attacks, and torture against Egyptian Christians. With a profoundly religious, largely uneducated population (illiteracy is approximately 30%) there is great reason to be concerned for the future.

b. Day-to-day Experiences

In the meantime, the bureaucracy and local government positions remain in the hands of the same people as during the Mubarak regime. As a result, little positive change can be expected in the day-to-day lives of religious minorities who experience serious violations of their rights on a daily basis, ranging from discrimination in official and civil matters such as employment, to intimidation, threats, and physical violence against property and the person, including death. Police and security forces typically do not come to the assistance of religious minorities and often charge the victims if they try to lay a complaint. When confronted by state security forces members of religious minorities face the very real possibility of torture, which international observers, including the United Nations, confirm is a systemic problem in the country.



A man holds up a blood-soaked cloth during demonstrations in Cairo on October 9, 2011.

Even though Christianity is recognized by the government, Christians are treated as second-class citizens in every respect and left at the whim and mercy of Islamic extremists. Members of unrecognized religions, such as Bahá'í's, and Muslim converts to Christianity face even greater challenges in the most basic transactions, from obtaining an education or owning property, to

marriage and divorce or burying their dead, because of their inability to obtain official recognition of their religious status on identity documents. Converting to Islam is easy, but Muslims who convert to other religions find it virtually impossible to make the change official, not to mention being faced with the threat of death for apostasy from Islamic extremists and family members. Moreover, a child whose parent converts to Islam is automatically registered as a Muslim, regardless of the child's or the other parent's wishes, thus exposing the child to the apostasy threat if they choose to identify with Christianity or another minority.

Despite the restrictions, life has been tolerable for most Egyptian Christians but only as long as they maintain a low profile and bear their circumstances in silence. They must constantly be on their guard against any real or perceived offence to their Muslim neighbours which can result in everything from simple harassment and property damage to the torture and death of the perceived offender(s) or their family members. Christian girls face kidnapping and forced marriage to Muslim men and related forced conversion. While government agencies are sometimes directly involved either officially or unofficially, the perpetrators most often are family members, neighbours, friends, employers, or local mobs, often with the tacit approval or encouragement of the police or other government agencies.

The offence that can bring on the wrath of the Muslim community, leaving the Christian with no option but to flee for their safety or their life, can be anything as simple as a personal or business dispute, dating a Muslim, explaining Christianity to a Muslim or helping a Muslim convert to Christianity, coming to the aid of a Christian who had been forced to convert to Islam, or refusing themselves to convert. Often the purported offence is based on simple allegations, inferences, or a misinterpretation of the facts.

In a society that is not closed and private like North American society, once a Christian has attracted the attention of Muslim extremists, even inadvertently or through the innocent exercise of their right to freedom of religion, they are marked in society and cannot escape the threats and persecution. Moreover, if the government security services have been involved in the incident, the unfortunate Christian will likely have been placed on an internal watch-list.

c. Hope for the Future?

The revolution that began on January 25, 2011 raised the hopes of Egyptians and the international community alike for a new era of freedom and democracy. The future, however, begins today and the signs are not good. Whether the Muslim Brotherhood and other Islamic extremists will move into control of the government is almost a foregone conclusion. In any event, their influence has been growing in the absence of any force determined to keep them in check and regardless of the shape the new government will take, Muslim extremists will unquestionably have a strong influence in the coming regime.

The signs for minorities in the current situation are foreboding. Weeks before the revolution, one of the most destructive attacks on a Christian church in many years killed at least 21 and injured more than 70 at an Alexandria church during a New Year's mass. After the revolution, on the other hand, there have been eleven major attacks against Christians that have been significant enough to attract the attention of the media. Many of these have been perpetrated by Muslim

mobs such as one on September 30, 2011 in which a church and several Coptic homes and businesses were burned down. On October 9, 2011, however, the world watched in horror as the army turned in full force with a vicious attack against peaceful Coptic demonstrators who were demanding only that the interim government provide protection against an ever-escalating series of attacks. Twenty-seven were confirmed dead (although our sources indicate that the number is likely much higher) as the army fired indiscriminately into the crowd of Christian protesters with live ammunition and drove armoured vehicles and tanks into the crowd, ruthlessly crushing any demonstrators in their path.



4. Religious Freedom and Iraq

The area comprising modern-day Iraq has been populated since ancient times by numerous successive civilizations. As in much of the Middle East, Christianity was once the dominant religion and its presence pre-dates the existence of Islam by several centuries and earlier various indigenous beliefs prevailed. Beginning in the 7th century, however, Islam spread through the region, mostly violently, leaving Christians and other local religions a frightened minority, subdued and subject to the Islamic majority.

Under Saddam Hussein's secular Ba'athist party, however, Iraqi minorities shared a relatively equal existence with their Muslim compatriots and, despite the regime's other failures, experienced a measure of prosperity in business, education, and society. With the invasion and subsequent insurgency, however, the fragile balance collapsed as the majority Sunni and Shi'a Muslims, encouraged by religious extremists from within and without, began vying for influence.

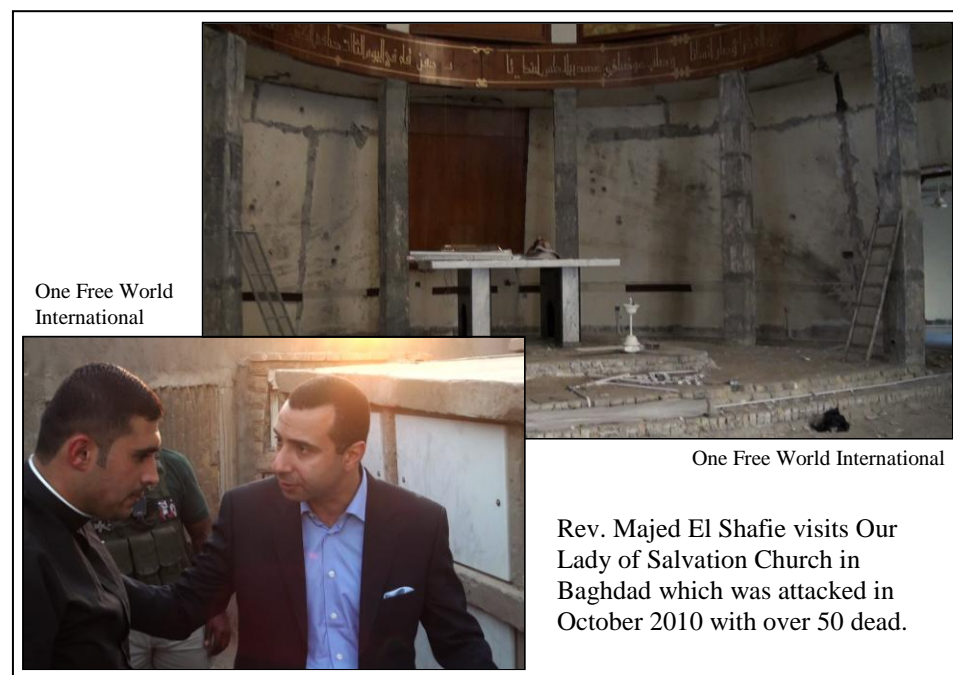
A once rich and diverse population is rapidly becoming more and more homogenous. Prior to the 2003 intervention by the United States-led coalition, Christians numbered an estimated 800,000 to 1 million, possibly as high as 1.4 million, but not more than approximately 3% of the population. It is estimated that eight years later only some 400,000-500,000 remain. Yazidis, with 4,000 year-old roots in the area, are estimated at 500,000 compared to 700,000 only a few years ago. Sabeian Mandaean are another minority unique to the region. With only some 60,000-70,000 worldwide, of whom approximately 50,000 resided in Iraq before the invasion, the Iraqi population is now an estimated 5,000-6,000. As members have fled Iraq, this close-knit community whose very continuation depends on its ability to maintain close community ties, faces being scattered around the globe and lost forever. The Jewish community was once a thriving minority whose presence in Iraq dates from some 2,600 years ago but it has been

reduced to a handful of individuals who live in anonymity, and Bahá'í's number about 2,000 members who are scattered across the country.

Sunni and Shi'a Muslims and Kurdish separatists in the north all have large, heavily-armed militias and access to outside support, often from foreign extremist groups. Iraqi Christians and other minorities, however, are tiny communities which refuse to arm themselves or to compromise their non-violent beliefs in order to protect themselves. Christians in particular are further prevented from seeking outside help for fear of giving credence to accusations of suspect loyalties, despite the 2,000-year tradition of Christianity in the area, and thus imperilling their situation even further. Despite, or perhaps because of, their non-violent principles, Iraqi minorities are caught in the crossfire as Sunni and Shi'a factions continue to attack each other and both, in turn, attack the Christians and other minorities.

An estimated 4 million Iraqis have been displaced by the violence, 2 million internally and another 2 million as refugees, mostly in Syria, Jordan, and other surrounding countries. Of these, a vastly disproportionate number are Christians, or about a quarter of all Iraqi refugees compared with 3% of the population. Most minorities cannot stay in these countries where they cannot find work and where they continue to face discrimination as foreigners but, unlike Muslim Iraqis, also because they are, once again, of a different religion than the local Muslim population. On the other hand, they cannot return to Iraq where their jobs, homes, lives, and communities have been destroyed and where they would face further threats, torture, and possibly even death.

Although the Iraqi government has had some success in stabilizing the security situation, it has not succeeded in decisively stemming the insurgency or creating the conditions that would allow Iraqis to move on and create a prosperous society and as Western forces prepare to leave Iraqi authorities fully responsible there is reason for concern. The Iraqi constitution provides some limited recognition of religious rights but it has serious flaws, from fundamental ambiguities that



leave the door open to interpretations mandating the implementation of shariah law to conflicting provisions regarding the respective supremacy of Islamic principles or the rights enumerated in the constitution. Many provisions require implementing legislation and others will not be clarified until the courts weigh in or a

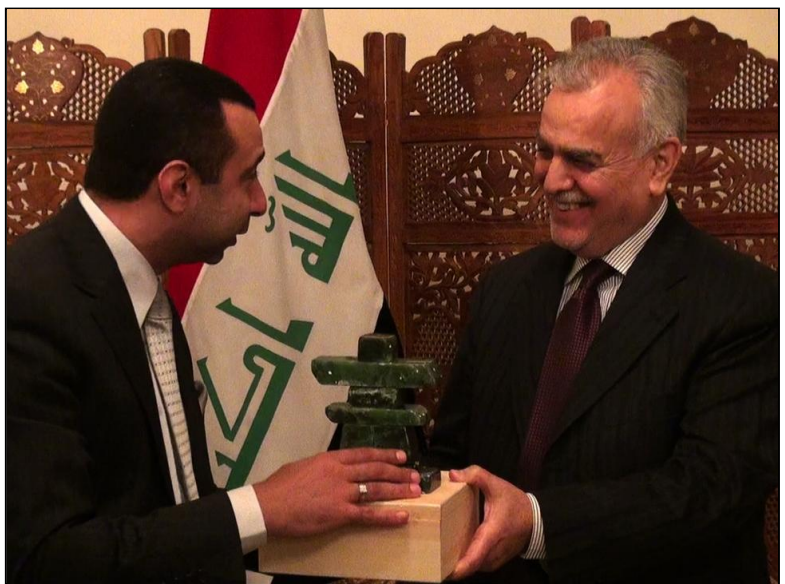
constitutional reform process takes place.

Yet despite the *prima facie* religious rights afforded in theory by the Iraqi Constitution, there is an undeniable and unacceptable gap between its promises and the reality faced by minorities in their day-to-day lives. Not only are there fundamental flaws in the text itself, but there is also a systemic lack of enforcement of the protections articulated in the constitution. The resulting culture of impunity has enabled extremist groups and left religious minorities in danger of being wiped out by what can only be described as a concerted and widespread campaign aimed at eliminating Christians and other non-Islamic minorities from Iraq.

Extremists have employed a variety of violent tactics. In certain areas, Christians and other minorities have been forced to pay *jizya*, an Islamic tax on non-Muslims akin to protection money, under threat to convert to Islam, pay the *jizya*, leave, or be killed. Churches and priests have been targeted with the aim of terrorizing parishioners. Basic extortion, kidnappings, and murders are typically informed as much by religious considerations as they are by criminal aims. While the Constitution commits the state to protecting the religious sites of all religions, Sunni and Shi'a militias continue to intermittently attack each other's places of worship and Christian churches.

In this regard, over 50 people were killed in a bloody assault and siege on Our Lady of Salvation Church in Baghdad on October 31, 2010. On August 15, 2011 a church in Kirkuk was bombed in the midst of a wave of deadly attacks on a variety of targets across Iraq in which over 70 were killed. While fortunately no one at the church was hurt as a priest narrowly escaped injury, the physical damage was significant. However, this attack came less than two weeks after an August 2, 2011 car-bomb attack on another church in Kirkuk injured 13 neighbourhood residents and car-bombs near two other Kirkuk churches were discovered and dismantled with only minor damage to one of the churches.

While the majority of the outright attacks against Christians and other minorities are not directly perpetrated by government agencies – although in some cases government-allied militias or even individual government officials have been implicated – there is a systemic lack of enforcement of protective laws. In the case of Attra Qiryaqous, for example, a young man who was shot and left for dead after a demanded ransom was not paid in 2007, not a single person has been arrested or charged and brought to justice.



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Rev. Majed El Shafie with Iraqi Vice-President Tareq al-Hashemi.

This could be taken as an isolated case, but unfortunately it is not. Moreover, a police guard who came across Attra in the hospital would not have hesitated to “finish the job” if he had not been held off by by-standers and some of the gang-members responsible for kidnapping and torturing him wore police uniforms.

Clearly no government can be expected to solve every crime that occurs within its borders; however, the government’s efforts in this regard set the tone and an example for the population. Unfortunately, the Iraqi authorities have time and again failed in the area of enforcement. Moreover, what little action has been taken has come in response to events that have brought international scrutiny, such as the October 2010 church attack, where the authorities had no choice but to respond. Such selective action is an abdication of responsibility on the part of the authorities and sends the wrong message to criminals and religious extremists as well as average Iraqis. To the minorities, on the other hand, it sends the message that the government is not committed to protecting their rights.

5. Religious Freedom: Pakistan and Afghanistan

Pakistan is a key ally in the United States’ effort to ensure the stability of the region and especially because of its nuclear capability. Yet the country’s commitment to American interests in the region is suspect at best, as confirmed with the discovery in 2011 of Osama Bin Laden’s hiding-place. Its commitment to human rights and religious freedom is certainly at least equally questionable. The issues are far too complex and broad-ranging to address in this brief statement; however, we would like to take this opportunity to briefly mention two issues, namely the brick factories where poor Pakistani Christians and other minority members are forced to work in indentured servitude in a form of modern-day slave camp where they live and work with their families in appalling conditions and the Pakistani blasphemy laws.

Minority rights groups and others have long advocated the repeal of Pakistan’s vague and draconian blasphemy laws, sections 295B and 295C of the penal code, which mandate life imprisonment for defiling, damaging, or desecrating a copy of the Koran or an extract from it and life imprisonment or death for derogatory remarks, direct or indirect, against the Islamic prophet Mohammed. Section 295C reads:

295-C. Use of derogatory remarks, etc., in respect of the Holy Prophet: Whoever by words, either spoken or written, or by visible representation or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine. ⁷

The blasphemy laws are typically used to terrorize minorities and pursue personal scores and vendettas but once accused, even if acquitted, the hapless victim is not safe from murder by frenzied mobs. On March 2, 2011, two months after the government’s weak response to the January 4, 2011 assassination of Salman Taseer, Governor of Punjab, who was killed by his own security guard for his opposition to the blasphemy laws, Shab haz Bhatti, the country’s first Christian Minister for Minority Affairs, was killed for the same reason.

⁷ *Pakistan Penal Code*, (XLV OF 1860), c. 15, s. 295-C., online:
<<http://www.unhcr.org/refworld/docid/485231942.html> > accessed 13 November 2011.

Afghanistan, on the other hand, is 99% Muslim and religious freedom is for all intents and purposes non-existent in a country that claims all its citizens are Muslim. It has tiny historic communities of Hindus, Sikhs, and others, but all indigenous Christians (whose numbers are impossible to determine but have been estimated by the State Department at 500-8,000) are converts from Islam and must not only worship secretly but must even keep their very conversion secret due to the threat of death for apostasy. The immediate threat is from family, neighbours, or co-workers but converts have no relief even from the Western-backed government. In the summer of 2010, a television program focused on exposing converts led to a public outcry and a campaign that was pushed by a leading parliamentarian and supported by President Karzai himself, to find and execute converts. Several converts were arrested and Western aid organizations suspended while numerous converts fled the country.

IV. Religious Freedom in U.S. Foreign Policy

In the *International Religious Freedom Act*, the United States has established a unique mechanism with enormous potential to foster positive change around the world with regard to freedom of religion. We would like to commend the United States government for taking such an important (and virtually unparalleled) step toward making religious freedom a true focus of its foreign policy. We have consistently and actively supported recent efforts by the Canadian government to introduce similar structures into Canada's foreign policy framework, and we sincerely hope that our government will adopt the lessons from the American experience.

Unfortunately, half-hearted implementation by the Clinton, Bush, and now the Obama administrations, along with a systemic subordination of religious freedom to other foreign policy objectives, has hindered the realization of the promise of *IRFA* and threatens to undermine the effectiveness and legitimacy of U.S. policy on global freedom of religion specifically, and its foreign policy in highly religious regions more broadly (as outlined in part V below).

The prevailing view with the American foreign policy establishment of religious freedom as distinct from the more 'traditional' focuses of diplomacy and international relations – such as peace, security, and, more recently, fostering democracy – has led to a perpetual subordination of freedom of religion to other, more 'vital' concerns. However, experience has shown us that this approach is not only morally untenable, but also fundamentally flawed. In a world where religion holds an enduring (and arguably increasing) relevance, the absence of religious freedom has far-reaching implications beyond individual abuses that must be taken into account in the formulation of foreign policy as even a cursory review of history shows that societies that restrict religious freedom are far more likely to experience profound social upheaval that jeopardizes the long-term survival of democracy in the state in question.

At the same time, freedom of religion must not be viewed as merely a 'means to an end,' as this will lead to a similar result, namely compromising the 'means' (religious freedom) for the sake of the 'ends' (such as national security). Any diplomatic initiatives on behalf of religious freedom must be premised on a commitment to its intrinsic value as an inalienable right vested in

individuals on the basis of their humanity alone. However, the realization that a denial of this fundamental right impacts all other U.S. interests will help to give it the priority it deserves.

1. Need for a Comprehensive and Proactive Approach to Religious Freedom

Despite the goal of *IRFA* to prioritize freedom of religion, this issue remains marginalized within U.S. foreign policy. While case-specific interventions are essential and, in a very real sense, can be credited with saving numerous lives, religious freedom must be more than a ‘niche’ concern focused primarily on *ad hoc* interventions. In this regard, the United States has acknowledged the role of religious freedom as a fundamental pre-requisite not only for the existence of stable, rights-based democracies, but also for international peace and security. In her remarks at the release of the latest International Religious Freedom Report, Secretary of State Hillary Clinton stated that

...it is [the United States’] core conviction that religious tolerance is one of the essential elements not only of a sustainable democracy but of a peaceful society that respects the rights and dignity of each individual. People who have a voice in how they are governed—no matter what their identity or ethnicity or religion—are more likely to have a stake in both their government’s and their society’s success. That is good for stability, for American national security, and for global security.⁸

(emphasis added)

This conviction, however, has not been translated into practice, as the State Department has taken a very narrow view of the role of religious freedom in U.S. foreign policy. Its freedom of religion initiatives have been primarily reactive, consisting almost entirely of *ad hoc* measures triggered by specific instances of persecution – and even these have been applied very selectively subject to other ‘overriding’ political considerations.

While we steadfastly endorse the notion that violations of religious freedom must be met with consequences (as discussed in part V below), the United States must also implement a pro-active long-term policy aimed at promoting religious freedom as a key component of its overall foreign policy. The United States must not only respond decisively when religious freedom is denied, it must also work consistently and positively to promote the ability of all individuals in all places to be full participants in their societies irrespective of their religious beliefs or practice. Interventions in individual instances of persecution must be part of an overall, concerted strategy to actively promote the creation of free and inclusive societies where such instances of persecution will not occur in the first place.

2. Prioritizing and Integrating Religious Freedom in Overall U.S. Foreign Policy

Not only does the United States need to adopt a more comprehensive and proactive approach to the issue of global religious freedom, it also needs to take immediate steps to ensure that this issue is both prioritized in and effectively integrated into its broader foreign policy apparatus. While it is not our purpose to engage in a detailed examination of the structural and institutional

⁸ Remarks by Hillary Rodham Clinton, “Remarks at the Release of the 13th Annual Report on International Freedom”, 13 September 2011, online: State Department < <http://www.state.gov/secretary/rm/2011/09/172254.htm> > accessed 12 November 2011.

dynamics around freedom of religion in U.S. foreign policy, it must be emphasized that the current institutional commitment to religious freedom falls short of the broad-based emphasis on freedom of religion envisioned by Congress in *IRFA*. Section 2 of *IRFA* clearly states that

(b) It shall be the policy of the United States ...:

...

(3) To be vigorous and flexible, reflecting both the unwavering commitment of the United States to religious freedom and the desire of the United States for the most effective and principled response, in light of the range of violations of religious freedom by a variety of persecuting regimes, and the status of the relations of the United States with different nations.

...

(5) 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.⁹

(emphasis added)

Even a cursory examination of the current U.S. foreign policy mechanism reveals both a lack of “unwavering commitment” to religious freedom and a failure to integrate freedom of religion considerations into the full range of foreign policy initiatives envisaged in *IRFA*.

The type of institutional integration and prioritization outlined briefly below will foster a balanced and multi-faceted approach that will be responsive both to global realities and individual contexts. Moreover, it will communicate to the entire U.S. foreign policy establishment that religious freedom is a key objective that forms a vital part of U.S. interests. Finally, and most importantly, these reforms will send a clear message to the governments discussed in this report that the United States is committed to religious freedom as a key component of its foreign policy interests, which will enhance its ability to both effectively address the systemic violations of religious freedom outlined earlier in this statement and promote meaningful change in these countries in accordance with the recommendations herein.

a. The Role of the Office of Religious Freedom and Ambassador-at-Large

The subordination of the Ambassador-at-Large for Religious Freedom, and the marginalization of the Office of Religious Freedom more generally, within the State Department must be addressed. According to *IRFA*, the Ambassador-at-Large is to be the “principal adviser to the President and the Secretary of State regarding matters affecting religious freedom abroad”.¹⁰ Yet one of the most common criticisms of the Office is that, contrary to normal State Department procedure and the evident intention of Congress, the Ambassador-at-Large reports not to the Secretary of State directly, but to the Assistant Secretary of State for Democracy, Human Rights, and Labor. In order for religious freedom to receive the priority it deserves in U.S. foreign policy, the Ambassador-at-Large must be in a position to be consulted directly by the Secretary of State and other key decision-makers when formulating broader policy and making key decisions.

⁹ *IRFA*, *supra* note 5 at §2.

¹⁰ *IRFA*, *supra* note 5 at § 101(c)(2).

Moreover, the Office of Religious Freedom must be given appropriate priority in the overall scheme of United States policy. The recent two year delay in filling the position of Ambassador-at-Large sends the message to both U.S. foreign policy officials and to the world at large that freedom of religion is little more than an afterthought.¹¹ It is vital that the Office and the Ambassador be given sufficient attention and resources not only to carry out their advisory and reporting duties, but also to effectively incorporate religious freedom expertise into the broader State Department context.

b. Effectively Integrating Religious Freedom into Broader U.S. Foreign Policy

Religious freedom must be effectively integrated and prioritized not only within the State Department apparatus, but also into the foreign policy initiatives undertaken by other agencies and departments – such as USAID, the Department of Defense, the Department of Homeland Security, the Office of the U.S. Trade Representative, and others. Once again, the practice of the United States must reflect the recognition that freedom of religion is not merely a peripheral ‘humanitarian’ concern, but it affects every single aspect of U.S. foreign policy – including security and counter-terrorism policy. One of the concrete steps needed is to follow through with the creation of the position of Special Adviser on International Religious Freedom on the National Security Council as proposed by *IRFA* (amending the *National Security Act* of 1947).¹² This would ensure that the impact on religious minorities of high-level security decisions in foreign theatres is taken into account by the Executive – and ensure that U.S. foreign policy reality lives up to its rhetoric on the relevance of religious freedom to issues such as global security.

c. Addressing Systemic Subordination of Religious Freedom to Other Objectives

While verbal condemnations of countries that violate religious freedom are a necessary and extremely valuable first step, ‘naming and shaming’ must be backed up by a demonstrable commitment to take substantive policy action against persistent offenders who fail to respond to other measures. The “Country of Particular Concern” (CPC) designation set out in *IRFA*, provides the United States government with a mandate for effective action against a country that “has engaged in or tolerated particularly severe violations of religious freedom.”¹³ Unfortunately other considerations – such as trade – have taken priority both in the designation of CPCs and in the determination of policy responses. Serious concerns have been raised, for instance, about the practice of ‘double-hatting’ (or simply citing) already existing sanctions as a ‘response’ to violations of religious freedom which not only conveys a lack of commitment by the United States to defending religious freedom around the world – thereby rendering its official

¹¹ It should be noted that the Bush administration also did not fill the position for a full year.

¹² Sec. 301(i) of *IRFA* states: “It is the sense of the Congress that there should be within the staff of the National Security Council a Special Adviser to the President on International Religious Freedom, whose position should be comparable to that of a director within the Executive Office of the President. The Special Adviser should serve as a resource for executive branch officials, compiling and maintaining information on the facts and circumstances of violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998), and making policy recommendations. The Special Adviser should serve as liaison with the Ambassador-at-Large for International Religious Freedom, the United States Commission on International Religious Freedom, Congress and, as advisable, religious nongovernmental organizations.” *IRFA*, *supra* note 5 at § 301(i).

¹³ *Ibid.* at § 402(b)(1)(A).

condemnations empty and meaningless – it is also entirely ineffective in influencing the behaviour of the states in question. As a leader in global affairs and a country that has tremendous influence around the world, the United States has a responsibility translate its “unwavering commitment” to religious freedom into real and meaningful action.

V. Recommendations for U.S. Foreign Policy in Egypt, Iraq, Afghanistan, and Pakistan

The restrictions on religious freedom and persecution of religious minorities described earlier in this statement and U.S. integrity demand immediate and substantive action on the part of the United States. Despite the fact that President Obama stood in Cairo in June 2009 and affirmed that, “[f]reedom of religion is central to the ability of peoples to live together,”¹⁴ religious freedom has been marginalized and subordinated to other considerations in the formulation and implementation of U.S. foreign policy toward Egypt and the other countries discussed in this statement. This trend cannot be allowed to continue. Any U.S. foreign policy efforts aimed at promoting democracy, social stability, peace, and security without taking into account the issue of religious freedom effectively ignore one of the fundamental sources of the very problem they are seeking to address and is slated to fail.

Unless meaningful steps are taken to prioritize religious freedom in U.S. relations with Egypt, Iraq, Pakistan, and Afghanistan, U.S. foreign policy in these highly religious states will not only be highly ineffective, but will also risk exacerbating tensions and insecurity in the region. We have seen firsthand how, in these societies where the role of religion as a foundational source of individual identity is particularly heightened and the acknowledged organizing principle of society itself, the absence of religious freedom forces individuals to choose between living as second class citizens, being denied the right to participate in the full benefits of society, or denying their most deeply held beliefs in order to participate in the public sphere. This is an untenable choice, and history and experience clearly demonstrate that societies where religious freedom is denied are incapable of sustaining meaningful democratic institutions and are highly susceptible to both internal and external conflict.

Moreover, ignoring the fundamental role played by religion in these states in the name of ‘secularizing’ U.S. foreign policy and exporting the ‘separation between church and state’ will lead (and already has led) to the perception of U.S. policy as threatening the religious identity of the majority community and of the state as a whole. U.S. analysis and policy measures in these highly religious societies must be based on a recognition of the historical and social role played by religion in each country and a realization that religion will continue to play a major role in the public life of each community. Therefore, U.S. policy must accept and work within this historical and social framework, and steadfastly promote the creation of free and inclusive societies while respecting the unique identity of each individual country.

¹⁴ “A New Beginning”, *supra* note 6.

1. The Role of the International Religious Freedom Report

We welcome the publication of the International Religious Freedom Report (“the Report”), a unique and vital instrument in the promotion of global religious freedom. Given the importance of the Report both in informing the formulation of foreign policy and, in the case of the Countries of Particular Concern (CPC), in triggering substantive policy, it is vital that the Report present not only a comprehensive record of the violations occurring in a particular state but also an analysis that accurately reflects the overall state of religious freedom in each country. While a detailed analysis of the Report goes beyond the scope of these comments, we have several key concerns regarding both the failure to designate the countries discussed in part III as CPCs and the overall approach to the dynamics of religious persecution in these countries. Far from being merely academic critiques regarding analytical method, we believe that the problems contribute to a misleading portrayal of the religious dynamics in Egypt and Iraq, in particular, which could, in turn, lead to misguided policy in the region.

a. Failure to Identify CPCs on a Coherent Basis

A source of great concern is the failure by the State Department to designate any of the four countries discussed in this statement as “Countries of Particular Concern.” According to *IRFA*, a “country of particular concern” is one that “has engaged in or tolerated particularly severe violations of religious freedom.”¹⁵ In light of the patterns of impunity and violations outlined in part III, it is difficult to conceive of any reason why each of these countries would not meet this threshold. It is notable that, with the exception of Afghanistan, the U.S. Commission on International Religious Freedom recommended that all of the states in question receive the CPC designation in its 2011 report.¹⁶ In light of recent events, particularly in Egypt, this recommendation has even greater force and urgency. In order for the CPC mechanism to live up to its potential, political and diplomatic considerations cannot be allowed to guide what should be an objective analysis of the condition of religious freedom in a state.

b. Concerns re Overall Approach to Country Reports

While a detailed examination of the treatment of individual incidents is beyond the scope of this statement, we have identified a number of broader issues surrounding the portrayal of the dynamics of religious persecution in these four countries that bear highlighting. Specifically, we have found that, while the Report presents an extensive catalogue of individual restrictions or violations of religious freedom, the fragmented reporting style actually obscures the overall trends and dynamics in each country.

This is partly due to the failure of the Report to draw a distinction between different classes of events, notably the important difference between attacks perpetrated by an armed majority religious group against an unarmed minority, on the one hand, and ‘sectarian’ violence between two armed religious factions, on the other. This is particularly problematic in the case of Iraq,

¹⁵ *IRFA*, *supra* note 5 at § 402(b)(1)(A).

¹⁶ United States Commission on International Religious Freedom, *Annual Report 2011*, online: United States Commission on International Religious Freedom <<http://www.uscifr.gov/images/book%20with%20cover%20for%20web.pdf>> accessed 12 November 2011.

where the report systematically conflates the violence perpetrated between various armed Islamic factions and the attacks by those armed factions against unarmed minorities. The Report's treatment of the religious dynamics in Egypt is similarly problematic, as the 'tit for tat' approach taken to the so-called 'sectarian violence' between the Muslim majority and the Coptic minority glosses over the fact that the latter is a vulnerable minority. This is not to suggest that violence by vulnerable minorities should be overlooked or go unreported. However, to simply include very distinct phenomena (each calling for distinct solutions) under the heading of 'sectarian violence' is profoundly misleading as to the true dynamics. While it is important to be fair by reporting all violations, the Report appears to go too far in the direction of 'balancing the score sheet'. The resulting flawed analysis leads to flawed policy.

On the other hand, the Report tends to set up a rather unhelpful (and once again misleading) rigid dichotomy between "societal actions" that restrict religious freedom, on the one hand, and official abuses by government officials, on the other. While this is undoubtedly a valid analytical distinction, its use as the basis for analysis obscures the fundamental role played by government inaction in enabling "societal actions". If the authorities fail to make reasonable efforts to meet their responsibilities, they encourage lawless individuals to oppress the vulnerable and in doing so, are just as guilty as the criminals and extremists who pull the trigger or set the detonator. In Iraq, for example, despite the absence of an official government policy to persecute religious minorities, the impunity with which non-state actors are allowed to attack vulnerable religious groups has enabled the rise of extremism and rendered the government effectively complicit in the violence.

Finally, there is little discussion of any follow-up or substantive action taken by the U.S. government in response to the violations summarized in the report or of any response by the government concerned. Repeated references are made to instances where U.S. officials "raised concerns" with their Egyptian and Iraqi counterparts over issues surrounding religious freedom. However, "raising concerns" should not be equated with addressing the problem. It is an invaluable first step but cannot be the sum total of U.S. actions in response to these violations.

2. General Recommendations

In light of the deplorable state of religious freedom in Egypt, Iraq, Pakistan, and Afghanistan, the United States must use all foreign policy tools at its disposal both to address the violations described in this statement and the State Department's Report and to ensure that the governments in question take the necessary steps to ensure long-term protection of the rights of religious minorities. As history has shown, diplomatic engagement and political dialogue – however sustained and constructive – is often insufficient.

In order for U.S. diplomatic engagement to be effective in these four countries, it must be backed by a demonstrable commitment to take substantive policy measures. If any of these governments is not willing to respond positively to the United States' representations, it must not continue its relationship with that country on a "business-as-usual" basis but be willing to disengage and make the resumption of normal relations conditional on measurable progress in the area of religious freedom. While some specific recommendations for Egypt and Iraq will be discussed in

more detail in the following sections, the current section will outline some more general recommendations that apply to all four countries.

The purpose behind the recommended actions is not simply to punish violating states and voice the United States' outrage at the behaviour in question. The ultimate purpose is to see these four states take positive steps toward the protection of religious freedom by providing them with a real incentive to change their behaviour. In Pakistan, for instance, the United States must apply substantive policy measures to exert pressure on the government to repeal its blasphemy laws, while in Afghanistan such targeted measures must be used to compel the Western-backed government to desist from its officially-sanctioned policy of pursuing converts from Islam. These examples are certainly not an exhaustive list of the issues that must be addressed, or even of the ultimate goals of achieving real religious freedom, but they demonstrate areas in which the United States must begin to move beyond mere rhetoric and take real, substantive action.

a. Linking U.S. Aid to Religious Freedom

Perhaps the most effective way for the United States to encourage these states to address the state of religious freedom is to create an explicit link between that country's respect for freedom of religion and its eligibility to receive U.S. aid. Given the magnitude of U.S. contributions to each of these countries, international aid is perhaps the United States' most powerful means of exerting pressure on states that refuse to respond positively to its diplomatic efforts in matters relating to religious freedom. Moreover, the resumption of aid payments (or the return to previous levels) must be made conditional on the attainment of achievable yet substantial targets in terms of protecting freedom of religion. This approach will provide an incentive for violating states to take measurable steps while, at the same time, demonstrating the United States' unwavering commitment to religious freedom as a vital component of its foreign policy.

The legislative authority for such an explicit link between aid and religious freedom already exists within *IRFA* and the *Foreign Assistance Act* of 1961. Section 2(b) of *IRFA* clearly states that it "shall be the policy of the United States ... to seek to channel United States security and development assistance to governments other than those found to be engaged in gross violations of freedom of religion."¹⁷ Moreover, section 405(a) of *IRFA*¹⁸ empowers the President to authorize the "withdrawal, limitation, or suspension of" both "development assistance" (paragraph 9) and "security assistance" (paragraph 11) in accordance with the *Foreign Assistance Act*. Section 116(a) of the *Foreign Assistance Act* further states that "no assistance may be provided under this part to the government of any country which engages in a consistent pattern of gross violations of international human rights,"¹⁹ including "particularly severe violations of religious freedom."²⁰ If the United States is serious about its commitment to religious freedom, it must take action based on this authority given to it by Congress to compel these countries to undertake positive change or face serious consequences.

¹⁷ *IRFA*, *supra* note 5 at § 2(b).

¹⁸ *Ibid.* at § 405(a).

¹⁹ *The Foreign Assistance Act of 1961, as Amended*, Pub.L. No. 87-195, § 116(a), 75 Stat 424 (enacted September 4, 1961, 22 U.S.C. § 2151 et seq.) [*Foreign Assistance Act*].

²⁰ *Ibid.* at § 116(c)(3).

b. Linking U.S. Trade to Religious Freedom

While the United States must not carry on ‘business-as-usual’ aid relationships with the countries discussed in this report so long as their respective governments refuse to take substantive steps to address the abuses occurring within their borders, all of these countries – but especially Iraq and Egypt – have significant trading relationships with the United States. In 2010, the United States exported nearly \$4 billion of goods to Egypt and nearly \$1.5 billion to Iraq, while importing nearly \$8 billion of goods from Iraq – primarily consisting of oil and gas. According to figures compiled by the European Union and the International Monetary Fund, the United States is Iraq’s top trading partner as of 2010, accounting for 26% of Iraqi exports and nearly 20% of total Iraqi trade.²¹

These economic relationships provide the United States with a significant avenue for influence over both the Iraqi and Egyptian governments if they fail to make the necessary changes to ensure the protection of religious minorities. If other policy options to this end fail, the United States must, as a last resort, curtail its trade relationship with these states. Any government that persistently refuses to protect the human rights of its citizens must not be able to count on a business relationship with the United States with ‘no strings attached’ – as this would amount to an outright abdication of the United States’s stated commitment to global religious freedom.

At the same time, the United States government must identify specific steps relating to religious freedom that would lead to a resumption (or continuation, as the case may be) of normal economic relations. By setting achievable yet substantial targets for progress in the area of religious freedom in these countries, the United States can both promote positive and sincere engagement and ensure that the governments in question demonstrate a commitment to achieve measurable progress toward the protection of fundamental human rights for all their citizens. Such an approach will help prevent the perception of the measures as heavy-handed and overly punitive, while also providing a positive incentive for each respective government to make measurable changes to its behaviour.

c. Building multilateral partnerships

Based on our experience, we believe that a major hindrance to U.S. efforts to promote religious freedom in these countries is the strong reaction against perceived U.S. unilateralism. While bilateral engagement is vitally important – and indeed most of our recommendations relate to U.S. bilateral relations – in order to enhance the effectiveness and legitimacy of its policies, the United States must be willing to create partnerships with like-minded states and to strengthen its engagements with multilateral initiatives on these issues. The importance of such multilateral engagement was emphasized by Congress in *IRFA*, which states, in section 2:

(b) It shall be the policy of the United States:

...

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

²¹ *Iraq: EU Bilateral Trade and Trade with the World*, online: European Union <http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113405.pdf> accessed 11 November 2011.

To this end, the United States must broaden its partnerships with regional organizations and countries such as Canada who share the same commitment to global religious freedom. Working with initiatives such as the Canadian government's newly-announced Office of Religious Freedom, for example, will help create a coalition of states that can both assist and support U.S. efforts in these countries.

Moreover, in order to ensure that it has the necessary moral authority to promote religious freedom around the world, it is vital that the United States strengthen its engagement with other human rights initiatives and instruments. As has already been noted above, religious freedom is intimately inter-connected with all other human rights; therefore, any efforts to promote religious freedom while overlooking other key rights will be incomplete at best. Additionally, U.S. actions will be seen as more legitimate – and not driven by narrow interests – if its efforts to uphold global religious freedom are accompanied by corresponding efforts on behalf of human rights more broadly.

d. Assisting Vulnerable Refugees

Despite all other efforts, victims of religious persecution often have no option but to flee their homes to secure their safety. During the course of our work on behalf of victims of persecution in Egypt and Iraq in particular, we have observed the importance of refugee protection as a safety net where all other efforts have failed. It is critical that the United States ensure that its refugee protection system is up to the task of providing this last-ditch solution. This means ensuring that its decision-makers are knowledgeable about issues around religious persecution and given the necessary resources so that legitimate cases can be determined in a timely fashion. In particular, we have seen a number of Egyptian cases rejected in the U.S. system leaving legitimate refugees without alternatives, especially when the U.S. rejection compromises their ability to claim in another country due to safe third country agreements.

Moreover, the United States must not only take all steps necessary to accept as many refugees from these countries as possible, but must also ensure that its refugee admission process prioritizes members of minorities whose circumstances and non-violent beliefs render them especially vulnerable. Unarmed minorities such as the Christians, Bahá'ís, and Sabean

Mandaeans in Iraq, or the Coptic Christians in Egypt, some of whom are forbidden by their beliefs from carrying weapons or engaging in violence of any kind – even in self defence – are particularly vulnerable. Yet these groups do not have the option of seeking refuge in the surrounding countries where their religious beliefs and practices render them all but as vulnerable as in their country of origin.



One Free World International

Coptic Christians demonstrating in Cairo on October 9, 2011.

3. U.S. Foreign Policy in Egypt

With the fall of the Mubarak regime, Egypt is

in a state of transition. Given the United States' significant economic and political influence in Egypt, as will be outlined in more detail below, it is imperative that the United States take immediate steps to prioritize freedom of religion in its economic and political relations with the provisional military government and the future permanent government. With great influence comes great responsibility, and the United States cannot continue to stand by while the atrocities outlined in part III continue with the acquiescence and even direct participation by the military government's own security forces.

a. Linking Military Aid with Human Rights

The most important area in which the United States must take action to address the egregious violations of religious freedom in Egypt documented above is by linking U.S. military aid with real progress and substantive positive change on these issues. Since 1979, when the *Special International Security Assistance Act* was passed, Egypt has been the second largest recipient of overall U.S. aid, receiving approximately \$2 billion in general and military assistance annually.²² Since 2007, the United States has given approximately \$1.3 billion annually in military aid to Egypt,²³ an amount that has been requested once again as part of the fiscal year 2012 budget.²⁴

The United States cannot continue to provide essentially 'blank cheques' to a military and security establishment that not only refuses to live up to its basic responsibilities toward Egypt's most vulnerable citizens, but that is also responsible for directly attacking and murdering members of the Christian minority. Secretary of State Clinton is on the record as stating that the United States "believe[s] in aid to [the Egyptian] military without any conditions" and "no conditionality."²⁵ Yet such unconditional support for the perpetrators of the very abuses the United States government purports to condemn – and even claims to take action against – is indefensible, especially as the latest instalment of U.S. military aid will be directed to the very same military forces that, during the incidents on 9 October described above, viciously turned their guns and armoured vehicles on the crowd.

As was the case with general aid, Congress has clearly indicated its intention that U.S. military aid should not be directed at systemic violators of human rights. Section 502B(2) of the *Foreign Assistance Act* clearly states that, except under "extraordinary circumstances" warranting military assistance, "no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights,"²⁶ including severe violations of religious freedom. Once again, section 405(a) of *IRFA* empowers the President to authorize the "withdrawal, limitation, or suspension of ... security

²² Jeremy M. Sharp, *U.S. Foreign Assistance to the Middle East: Historical Background, Recent Trends, and the FY2010 Request*, 17 June 2009, online: USAID <http://pdf.usaid.gov/pdf_docs/PCAAB954.pdf> accessed 12 November 2011.

²³ *Egypt*, online: Foreign Assistance.Gov <<http://foreignassistance.gov/OU.aspx?OUID=165&FY=2012>> accessed 12 November 2011.

²⁴ Bureau of Resource Management, *FY 2012 State and USAID – Core Budget*, online: State Department <<http://www.state.gov/s/d/rm/rls/fs/2011/156553.htm>> accessed 12 November 2011.

²⁵ Interview with Secretary of State Hillary Rodham Clinton, "Interview with Sharif Amer of Al-Hayat TV", 29 September 2011, online: State Department <<http://www.state.gov/secretary/rm/2011/09/174882.htm>> accessed 12 November 2011.

²⁶ *Foreign Assistance Act*, *supra* note 19 at § 502B(2).

assistance” (paragraph 11) to countries engaged in such violations.²⁷ The State Department itself attests to the violations of religious freedom taking place in Egypt, and it is time for the United States to stop subordinating religious freedom to self-interested political considerations and follow through on its moral (and legal) responsibilities. The United States cannot go on providing unconditional assistance to a military regime that has shown blatant disregard for the basic human rights of vulnerable religious minorities.

b. U.S. Diplomatic Relations with Egypt

The United States must actively prioritize religious freedom in its diplomatic relations with the Egyptian government, all the more so in this time of uncertainty and transition. Low-key diplomatic efforts are important but public statements by the United States carry enormous weight. However, the United States has, to date, failed in its responsibility to use this influence to vigorously defend the vulnerable minorities in Egypt.

This is particularly evident in the administration’s muted response to the October 9 massacre. On October 10, White House Press Secretary Jay Carney issued a statement noting that “the President is deeply concerned about the violence in Egypt that has led to a tragic loss of life among demonstrators and security forces.”²⁸ Not only is an expression of “deep concern” falling short of outright condemnation unacceptable given the horrific events that transpired, but equating the “loss of life” among demonstrators with that incurred by heavily armed security forces is a blatant failure to indict those actually responsible for the vicious attacks against unarmed civilians. Furthermore, a statement vigorously condemning the attacks should have come from President Obama directly, rather than his press secretary, in order to appropriately reflect the gravity of the attacks for which responsibility must be taken by the provisional military council.

Moreover, in a call with Egyptian Foreign Minister Mohamed Kamel Amr on October 11, Secretary of State Clinton expressed U.S. support for the transitional military government’s decision to “launch a transparent and credible investigation into the violence and stressed the importance of ... holding accountable all responsible parties with full due process of law.”²⁹ While such support for an immediate investigation into the killings is commendable, we are unaware of any clear and substantive statements by the United States with regard to the subsequent decision by the ruling military council to take over the inquiry from the civilian prosecutor and ‘investigate’ its own actions. An ‘investigation’ conducted by officials falling within the chain of command of the very same forces that carried out these brutal attacks is neither “transparent” nor “credible” – and yet the United States has been silent on this development.

²⁷ *IRFA*, *supra* note 5 at § 405(a).

²⁸ White House Office of the Press Secretary, “Statement by the Press Secretary on Violence in Egypt,” 10 October 2011, online: White House <<http://www.whitehouse.gov/the-press-office/2011/10/10/statement-press-secretary-violence-egypt>> accessed 12 November 2011.

²⁹ State Department Office of the Spokesperson, “Secretary Clinton’s Call with Egyptian Foreign Minister Mohamed Kamel Amr,” 11 October 2011, online: State Department <<http://www.state.gov/r/pa/prs/ps/2011/10/175236.htm>> accessed 12 November 2011.

The United States cannot stand quietly by while the transitional government oppresses the rights of its religious minorities and engages in what can only be described as a thinly-veiled cover-up of its actions. The United States has a unique opportunity to help shape the future of the nascent Egyptian democracy, and it must take this responsibility seriously. Overlooking or downplaying such blatant violations sends the message to the Egyptian military council and the people at large that the United States is not committed to religious freedom and that it will tolerate systemic human rights abuses so long as U.S. economic interests are not directly affected.

c. Address the Rising Influence of the Muslim Brotherhood

As Egypt looks forward to future elections and the easing of restrictions on the Muslim Brotherhood, there have been indications of its rising influence in Egyptian politics, particularly through its newly established Freedom and Justice Party. The United States has been pursuing an “approach of limited contacts” with the Muslim Brotherhood,³⁰ and Secretary of State Clinton has stated publicly that the United States is willing to “work with all those who have a real commitment to what an Egyptian democracy should look like.”³¹ She has also emphasized the United States’ commitment to “democratic principles,” including “non-violence, respect for minority rights, and the full inclusion of women in any democracy.”³²

It is imperative that the United States translate this commitment to such key democratic principles into reality, especially in its dealings with the Muslim Brotherhood given that the Freedom and Justice Party has already shown signs of rejecting the full inclusion of minorities and women, by announcing publicly that it “rejects the candidacy of women or Copts for Egypt’s presidency.”³³ The United States must base its foreign policy on the realization that democracy alone is not the answer and democratic elections must not be used as either a licence to violate human rights by foreign governments or as a justification for inaction by the United States. Democracy that is not founded in and informed by universal principles of human rights and the rule of law is simply licence for mob rule and democratic institutions must be developed and protected by a government committed to enforcing and protecting human rights. In this regard, supporting the approach to democracy espoused by the Muslim Brotherhood would be a betrayal of the minorities, women, and any other vulnerable segments of the population and ultimately a betrayal of the very principles of democracy itself which can only truly exist where people have the right and unhindered ability to pursue their goals and express their individuality.

³⁰ Remarks by Secretary of State Hillary Rodham Clinton, “Remarks with Hungarian Prime Minister Viktor Orban”, 30 June 2011, online: State Department <<http://www.state.gov/secretary/rm/2011/06/167374.htm>> accessed 12 November 2011.

³¹ Interview by Secretary of State Hillary Rodham Clinton, “Secretary Clinton’s Interview with Sharif Amer of Al-Hayat TV”, 1 October 2011, online: <<http://translations.state.gov/st/english/texttrans/2011/10/20111001163846su9.648639e-02.html>> accessed 12 November 2011.

³² “Remarks with Hungarian Prime Minister Viktor Orban,” *supra* note 30.

³³ “Freedom and Justice Party Open to Copt as Deputy,” online: IkhwanWeb (Official English Site of the Muslim Brotherhood) <<http://www.ikhwanweb.com/article.php?id=28554>> accessed 12 November 2011.

4. U.S. Foreign Policy in Iraq

As Iraq is on the verge of being fully responsible for its own affairs, the United States' role in Iraq is changing but its responsibility toward the Iraqi people still remains. Although the 'official' war in Iraq is drawing to a close, the troubling pattern of violations described above clearly shows that the crisis for religious minorities in Iraq is far from over. The United States must take immediate and concrete steps to help ensure that Iraq goes down the path of freedom and the rule of law rather than a path of extremism and sectarian violence which will inexorably affect both the broader security situation in the region and U.S. security interests.

a. Accountability for Enforcing the Law and Fighting Impunity

Perhaps the most important way in which the United States can have a positive impact on the state of religious freedom in Iraq is to vigorously and consistently hold the Iraqi government accountable for its systematic failure to enforce the laws protecting vulnerable groups from religious persecution. Despite the absence of an active, concerted policy on the part of the government to target and attack minorities the authorities must ultimately bear responsibility in these matters. While religious extremists have the ability even to infiltrate government positions, they must be pursued for their violations and brought to justice.

What little action has been taken by the Iraqi authorities in response to the violations outlined above has come in response to events that have brought international scrutiny, such as the October 2010 church attack – when the world was watching and there was no choice but to act. While such cases are a clear sign that the Iraqi government is failing in its responsibility toward religious minorities, they should also serve as an encouragement in that they show that Iraq is listening and sensitive to outside opinion. Consequently, they are also a call to action for the United States to step up its engagement with and scrutiny of the enforcement policies of the Iraqi government, not only to secure justice in individual cases but to help eliminate the culture of impunity within Iraq's legal system. The United States cannot sit quietly by while the Iraqi government continues to allow these crimes to go unpunished.

b. Prioritizing Religious Freedom in Bilateral Framework and U.S. Aid

In light of the imminent change in the nature of U.S.-Iraqi relations with the upcoming pull-out of U.S. troops, the United States must seize this unique (but limited) opportunity to prioritize religious freedom within its new bilateral relationship with Iraq. Of immediate concern is the fact that the *Strategic Framework Agreement for a Relationship of Friendship and Cooperation between the United States of America and the Republic of Iraq*³⁴, which was signed in November of 2008 and still forms the legal basis of the long-term bilateral relationship,³⁵ makes no mention

³⁴ *Strategic Framework Agreement for a Relationship of Friendship and Cooperation between the United States of America and the Republic of Iraq*, United States and Iraq, 17 November 2008, online: State Department <<http://www.state.gov/documents/organization/122076.pdf>> accessed 12 November 2011 [*Strategic Framework Agreement*].

³⁵ See Secretary Clinton's statement: "With the new government in place, we look forward to expanding our economic and security relationship, promoting cooperation on science, education, and health, strengthening the rule of law and transparent governance, deepening our cultural exchanges, and improving our partnership in all the areas laid out in our Strategic Framework Agreement" (emphasis added). Press Statement by Secretary of State Hillary

of religious freedom and only refers to human rights once as part of a vague statement about promoting Iraq's efforts in "the field of social welfare and human rights."³⁶ This blatant subordination of human rights in general, and religious freedom in particular, to other political considerations is not only morally unacceptable but also politically unwise. A failure by the United States to emphasize human rights during this transitional period in Iraq will only serve to perpetuate the instability and conflict in Iraq and the region as a whole with obvious broader implications.

The need to prioritize religious freedom in the United States' bilateral relations with Iraq is especially crucial in the management of U.S. aid to Iraq, particularly the \$2 billion of security and military assistance that have been requested as part of the fiscal year 2012 budget.³⁷ While it is unnecessary to reiterate the points made above in the context of U.S. military aid to Egypt, it is valuable to state once more that the United States cannot simply sign over \$2 billion to a government that has, to date, consistently failed in its responsibility to enforce the law and protect its religious minorities. While this pervasive culture of impunity can be viewed as precisely the reason why such assistance is necessary, the United States cannot simply turn over \$2 billion dollars to the Iraqi government with 'no strings attached.' This security sector aid must be conditional on the Iraqi government taking clear and substantive steps toward the protection of religious freedom. The United States aid policy must be based on the realization that an Iraq that systematically ignores the violation of the basic human rights of its citizens – and allows for the rise of extremism and the influence of Iran, as discussed below – will not only fail as a democratic state but will also emerge as a grave threat to U.S. national security.

c. Act to Neutralize Influence of Iran in Iraq

While a detailed examination of Iran's role and influence in Iraq goes beyond the scope of these comments, a brief mention is necessary. The upheaval of recent years in Iraq has allowed Iran to increase its influence in the country – especially given the rise of the Shi'ite sector that has close ties to Iran. As U.S. forces prepare to withdraw at the end of the year, there is a very real risk that Iran could step into the void. This will inevitably lead to further curtailment of minority rights and a strengthening of Iran in the region. As of the preparation of this statement, 4,421 U.S. servicemen and women have given their lives for "Operation Iraqi Freedom" – and nearly 32,000 have been wounded. If the United States stands by and allows Iraq to become a satellite of Iran, the blood of all those brave American heroes will have been shed in vain.

VI. Conclusion

Every member of the international community has undertaken a sacred trust to uphold fundamental human rights. There is no right more fundamental to human dignity and to truly free

Rodham Clinton, "Announcement of New Iraqi Government," 21 December 2010, online: Secretary of State <<http://www.state.gov/secretary/rm/2010/12/153423.htm>> accessed 12 November 2011. See also *Iraq*, online: Foreign Assistance.Gov <<http://foreignassistance.gov/OU.aspx?OUID=167&FY=2012>> accessed 12 November 2011 ("the Strategic Framework Agreement between the United States and the GOI will continue to guide the relationship between the two nations").

³⁶ *Security Framework Agreement*, *supra* note 34 at § IV(5).

³⁷ *Iraq*, *supra* note 35.

and inclusive societies than freedom of religion. In light of the horrific abuses of this basic right occurring throughout the world today, no country, the United States included, can say that it has fulfilled its duty to protect religious freedom and the vulnerable minorities to whom this freedom is denied. As a leader in global affairs and a country with an unmatched influence on the world stage, the United States cannot stand by while these abuses continue.

While we commend the United States for publicly stating its commitment to religious freedom – and for enshrining that commitment in law – statements of concern and condemnation must be followed up with substance and action. The full implementation of the promise of the *International Religious Freedom Act* is long overdue. Well over a decade after the creation of this first-of-its-kind legislative mechanism with incredible potential for the promotion of global religious freedom, the United States faces a moment of truth. Will it continue to treat religious freedom as an afterthought in its foreign policy and lose its moral authority as a leader on this issue, or will the United States government renew its commitment to global freedom of religion and take an unwavering stand on behalf of vulnerable minorities?

The United States is facing a choice as to how its influence will help shape the future of two would-be democracies entering a critical state of transition. This is a unique opportunity to assist both Egypt and Iraq to pursue the path of freedom and the rule of law, but inaction at this crucial juncture could have devastating consequences not only for the regions' religious minorities, but also for global stability and, therefore, the security of the United States itself. At this pivotal moment in history, will the United States choose to be part of the problem or the heart of the solution?

RECOMMENDATIONS – SUMMARY –

The United States has the opportunity to fully implement the vision of *IRFA* and address the systemic subordination and marginalization of religious freedom in U.S. foreign policy and the historic opportunity to make a long-term impact on peace, democracy, and stability in the Middle East and beyond by prioritizing freedom of religion in its dealings with Egypt and Iraq.

1. Religious Freedom and General U.S. Foreign Policy

- U.S. policy must be based on the premise that religious freedom is not only a humanitarian concern, but also a pre-requisite for stable democracy, social stability, and global security
- the U.S. must adopt a more comprehensive and proactive approach to religious freedom as part of its foreign policy
 - religious freedom initiatives must be fully implemented into long-term policy and not restricted to *ad hoc* interventions in individual cases
 - the U.S. must be proactive in promoting religious freedom as part of its vital foreign policy interests, and not merely reactive
- religious freedom must be prioritized in and integrated into the mainstream of U.S. foreign policy as envisioned in *IRFA*, a process that can be facilitated by:
 - elevating the Ambassador-at-Large for Religious Freedom to the proper position in State Department hierarchy to ensure consultation on key policy decisions
 - allocating sufficient resources to the Office of Religious Freedom and placing religious freedom experts in other departments
 - following through with the creation of the position of Special Adviser on International Religious Freedom on the National Security Council (as proposed in *IRFA*)
 - following through with substantive action against states designated as Countries of Particular Concern (CPC)
- such concrete steps will:
 - communicate to the U.S. foreign policy establishment and the world that religious freedom is a vital component of U.S. interests
 - foster a balanced and multi-faceted approach to religious freedom in U.S. foreign policy

2. General Recommendations for U.S. Foreign Policy in Egypt, Iraq, Afghanistan, and Pakistan

- U.S. foreign policy in these highly religious societies must be based on a recognition of the prominent role played by religion as a source of individual and collective identity
- U.S. foreign policy officials must steadfastly promote free and fully inclusive societies while respecting the role of religion as an organizing principle of society in these countries
- the State Department must address the unsatisfactory portrayal of the religious dynamics in these countries and designate them as Countries of Particular Concern
- U.S. foreign aid to these countries (both general and military aid) must be explicitly linked to religious freedom and conditional on substantive progress in this area

- the U.S. must not continue ‘business-as-usual’ economic relations with these states, and must be willing to curtail its trade relationships in the absence of positive progress
- the U.S. must build multilateral partnerships with like-minded states and international bodies to enhance the effectiveness of its policies and counter perceptions of unilateralism
- the U.S. must ensure that its refugee protection system provides an effective remedy of last resort for legitimate refugees and that members of vulnerable, unarmed minorities are prioritized

3. Recommendations for U.S. Foreign Policy in Egypt

- U.S. military aid must be made conditional on substantial and measurable progress in the area of religious freedom
 - the U.S. must not continue to provide \$1.3 billion annually with ‘no strings attached’ to a military establishment that not only fails to protect religious minorities, but also attacks them directly
- the U.S. must make use of its influence in Egypt and prioritize religious freedom in its diplomatic relations with the transitional government
 - U.S. officials must move beyond merely “expressing concern” and hold their Egyptian counterparts accountable for their failures and direct violations of religious freedom
- the U.S. must address the rising influence of the Muslim Brotherhood and uphold democracy not as an end to itself but as a means to promote and protect fundamental human rights

4. Recommendations for U.S. Foreign Policy in Iraq

- the U.S. must actively hold the Iraqi government accountable for its failure to protect religious minorities and ensure that reforms are enacted to end systemic impunity
- religious freedom must be prioritized in the new U.S. bilateral relationship with Iraq following the withdrawal of U.S. forces
 - religious freedom (and human rights more generally) must receive greater emphasis in existing agreements such as the *Strategic Framework Agreement*
- U.S. aid to Iraq (especially \$2 billion of security sector aid) must be conditional on significant progress toward the protection of religious freedom
- the U.S. must act decisively to prevent Iran from stepping into the void left by the departure of U.S. forces, to ensure that American blood was not spilled in vain