

The Honorable Chuck Schumer
Majority Leader of the Senate
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker of the House of Representatives
1236 Longworth House Office Building
Washington, D.C. 20515

The Honorable Mitch McConnell
Minority Leader of the Senate
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Kevin McCarthy
Minority Leader of the House of Representatives
2468 Rayburn House Office Building
Washington, D.C. 20515

March 28, 2022

Dear Leader Schumer, Leader McConnell, Speaker Pelosi, and Leader McCarthy:

We write as a group of nongovernmental organizations dedicated to the protection of religious freedom worldwide. We work with individuals and religious communities, including religious minority communities, who face some of the worst persecution and human rights abuses imaginable. Because of our firsthand experience with these victims of persecution, we write to make recommendations as Congress looks to reauthorize the Global Magnitsky Human Rights Accountability Act.

Out of our concern for these individuals and communities, and in protection of the fundamental human right of religious freedom, we have strongly supported the Global Magnitsky Human Rights Accountability Act and have welcomed when the worst violators of religious freedom in the world have been sanctioned in accordance with the Act. At the same time, we are concerned that well-intended efforts to expand the Global Magnitsky Act during debates over its reauthorization may have unintended consequences that could harm the very religious communities that we cherish and seek to protect. **For this reason, we strongly support the reauthorization of the Global Magnitsky Act under the current standard of “gross violations of internationally recognized human rights” while retaining the accountability mechanism of a sunset clause. We also support the greater use of the Global Magnitsky Act against violators of religious freedom.**

In 2016, the Global Magnitsky Act passed Congress with wide bipartisan support. The Act allows for targeted financial and visa sanctions against foreign persons and entities, officials and nonstate actors, as well as their agents, who are “responsible for . . . gross violations of internationally recognized human rights” against individuals who are “exercis[ing]” their fundamental human rights and freedoms, including but not limited to rights of religious freedom, freedom of expression, freedom of association and assembly, and others. Gross violations are defined under the Act to include “cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person.”

We know from firsthand experience that individuals and communities are frequently targeted around the world based on their faith, and regularly face torture, unjust and prolonged detentions, kidnappings, murder, and other grave attacks. The Global Magnitsky Act has formed the basis for targeted sanctions against religious freedom violators, and we applaud when that has occurred. Andrew Brunson, an evangelical pastor based in Turkey, was held by Turkish authorities for over a year without charges based on spurious and discriminatory allegations of terrorism. When those officials who were responsible for his detention faced Global Magnitsky sanctions, he was finally released. Architects of the persecution and genocide of Uyghur Muslims and others in China, such as Chen Quanguo, have similarly faced Global Magnitsky sanctions. Nonstate actors have also faced Global Magnitsky sanctions, as in the case of Iraqi militias who faced Global Magnitsky sanctions for atrocities committed against Yazidis, Christians, and other religious minorities, who also were the targets of ISIS’s genocide.

The Global Magnitsky Act’s current standard is not over- narrow and is sufficient to sanction these gross human rights and religious freedom violators as well as others. The text of the Act itself shows not only that these violators were appropriately sanctioned in accordance with the Act, but that the Global Magnitsky Act should be more widely used against gross violators of religious freedom. The Act should be used more frequently to

sanction gross violators of religious freedom, as unfortunately, individuals and communities are coming under *increasing* assaults because of their faith from persecutors around the world.

Because of the Global Magnitsky Act's success and support within the human rights community, many are looking for ways to increase the Act's effectiveness. We agree that the Global Magnitsky Act is a vital tool for targeting human rights abusers and that governments around the world should be working tirelessly to make it as effective as possible. However, a number of proposed changes to the Act would hinder its effectiveness, despite the good intentions behind them.

One proposed change is to alter the statutorily defined and well-established "gross violations of internationally recognized human rights" standard and substitute it with an undefined and inherently unpredictable "serious human rights abuse" standard. The "serious human rights abuse" standard has only previously been used in U.S. legislation in limited, circumstance-specific contexts, not as a standalone standard. The lack of any definition of "serious human rights abuse" is a significant concern. While the "gross violations" standard points to human rights violations that are well-established in the U.S. Constitution and international treaties, the "serious human rights abuse" standard is not so limited. There are many controversial assertions of what constitutes "human rights" that do not have international consensus. Such a vague definition could allow for abuses that end up harming the diverse religious communities that we cherish where their beliefs are disfavored by some international policymakers, as well as harming freedom of expression or other rights through controversial interpretations of "hate speech." The use of a vague and undefined standard could also lead to arbitrary enforcement, undermining the credibility of Global Magnitsky sanctions as a whole. There is a significant difference in the use of the "serious human rights abuse" standard in Executive Order 13818 promulgated per emergency statutes and tethered to clear Congressional intent in the Global Magnitsky Act's "gross violations" standard, and making undefined language permanent in law without the ability to exercise accountability for abuses.

Similarly, the move to make these language changes permanent removes an important accountability mechanism, so that Congress would have far fewer tools at its hands to ensure that abuses in the implementation of sanctions do not occur.

The current Global Magnitsky Act, as well as other sanctions and humanitarian aid tools, continue to be vital as the world addresses the atrocities being committed in Ukraine. Our hearts break for the people of Ukraine, who are facing widespread atrocities from the Russian government and military. Ukraine itself has been an example to the world for the flourishing of religious freedom after the fall of Communism. We have been proud of the incredible way that religious communities in Ukraine have responded to this unjust and destructive war. In so many conflict zones around the world, religious communities have been leaders within their societies to bring hope and secure peace. For these reasons and others, we support efforts to hold those committing gross violations of human rights in Ukraine accountable.

Because of the importance and success of the Global Magnitsky Act, it is vital that Congress takes the time to clearly express itself in order to hold the worst violators of human rights, including the fundamental right to religious freedom, accountable. We strongly support the reauthorization of the Global Magnitsky Act under the current "gross violations of internationally recognized human rights" standard with necessary accountability mechanisms and call for the greater use of the Act against gross violators of religious freedom.

Signed,

21Wilberforce
ADF International
Christian Freedom International
Ethics & Religious Liberty Commission
Family Research Council
Global Peace Foundation

Jubilee Campaign USA
In Defense of Christians
International Christian Concern
International Religious Liberty Association
Open Doors USA
Religious Freedom Institute