

**Commission on Security & Cooperation in Europe:  
U.S. Helsinki Commission**

**“Atrocities in Iraq and Syria: Relief for Survivors and Accountability for Perpetrators”**

**Committee Members Present:**

**Representative Christopher Smith (R-NJ), Chairman;  
Senator Roger Wicker (R-MS), Co-Chairman;  
Senator Benjamin Cardin (D-MD);  
Representative Alan Grayson (D-FL);  
Representative Joe Pitts (R-PA)**

**Witnesses:**

**Chris Engels, Deputy Director, Commission for International Justice and  
Accountability;  
David Scheffer, Former U.S. Ambassador-at-Large for War Crimes Issues;  
Steve Rasche, Legal Counsel and Director of Director of Resettlement  
Programs, Archdiocese of Erbil;  
William Canny, Executive Director, Department of Migration and Refugee  
Services, U.S. Catholic Conference of Catholic Bishops;  
Carl Anderson, Supreme Knight, Knights of Columbus**

**The Hearing Was Held From 10:02 a.m. To 11:52 a.m. in Room 2200,  
Rayburn House Office Building, Washington, D.C., Representative  
Christopher Smith (R-NJ), Chairman of the Commission for Security and  
Cooperation in Europe, presiding**

**Date: Thursday, September 22, 2016**

SMITH: The Commission will come to order, and good morning to everybody. Thank you for being here, especially to our very, very distinguished witnesses.

Seven months ago, the Independent International Commission of Inquiry on the Syrian Arab Republic reported that “the Syrian government has committed crimes against humanity of extermination, murder, rape or other forms of sexual violence, torture, imprisonment, enforced disappearance and other inhuman acts.” More than half a year ago, Secretary of State John Kerry declared that ISIS “is responsible for genocide against groups in areas under its control, including Yazidis, Christians and Shia Muslims.” They were acknowledging, in my opinion, the facts on the ground and affirming what I and so many of you in this room have been saying for many years.

The atrocities in Iraq and Syria have been so horrible for so long and with so little action from the administration that it has been difficult to hope. Nevertheless, when the Secretary declared genocide, we dared to hope that finally the administration would hear the voices of the victims and act. Instead, the administration has said the right words; unfortunately, it has not always done the right things.

I have chaired seven hearings focusing on genocide and other atrocities committed in Iraq and Syria. In March, the House passed almost unanimously the resolution that I authored, H.Con.Res.121, which is in the Senate now, advocating for the formation of an ad hoc tribunal for perpetrators of the Syrian conflict. This has gone nowhere. The Administration has seemed uninterested. I have brought this up directly with Secretary Kerry and people right down the chain of command. They always say they’re looking at it, but so far nothing has happened.

We had David Crane and other very distinguished people – he was the chief prosecutor at the Sierra Leone war crimes tribunal – testify, and make very powerful and persuasive arguments that the ad hoc tribunal was the best and most efficacious way to go. The ICC, while it might work, probably was not suited to this activity; it has only had three convictions in about 14 years, and every one of those has been in sub-Saharan Africa. They might still be able to do it. But an ad hoc tribunal will have the flexibility and would give the ownership. But so far that has not happened.

This May I chaired another hearing, and this time it was entitled “The ISIS Genocide Declaration: What Next?” Is it one and done? Is it a declaration that has real follow-up? Half a year later, we have the answer: not much.

When given the opportunity to speak about genocide during his address to the entire U.N. General Assembly, President Obama this week said nothing. How can he be silent about a modern genocide that has been happening right now?

Administration officials have stated that it is in the interests of the United States to enable Christians, Yazidis, and other religious and ethnic communities to remain in their ancient homelands of Iraq and Syria. Yet the Administration has so far refused to identify the humanitarian needs of these communities and provide them with assistance so that they are able

to survive in their home country. Displaced genocide survivors cannot pay for food, medicine or shelter with words from Washington. It is inexcusable that we have not had the kind of help for these individuals that they absolutely require.

Shockingly, Steve Rasche, legal counsel and director of IDP Resettlement Programs for the Chaldean Catholic Archdiocese of Erbil in Iraq, will testify today that “Throughout this entire period of crisis, since August of 2014, other than initial supplies and tents and tarps, the Christian community in Iraq has received nothing in aid from any U.S. aid agencies or from the United Nations.”

Carl Anderson, Supreme Knight of the Knights of Columbus, provided a template for our legislation in his testimony at the “What Next?” hearing, where he laid out a very clear path forward. He will also testify: “We know that many Christian and the Yazidi victims of genocide do not receive public aid.”

And the private aid, at about \$26 million from multiple sources, including the Knights of Columbus, Caritas and others, is running out, if it has not run out already.

When he made his genocide declaration, Secretary Kerry said that “the United States will strongly support efforts to collect, document, preserve, and analyze the evidence of atrocities, and we will do all we can to see that the perpetrators are held accountable.” Yet the Administration has primarily treated the genocide, crimes against humanity, and war crimes in Iraq and Syria as human rights violations that need to be documented.

These crimes are indeed human rights violations. And documentation, like the videos of the Assad regime bombing hospitals and schools, helps raise awareness in real time. Yet, first and foremost, they are crimes committed by perpetrators who need to be investigated and prosecuted. This requires collecting, preserving and preparing evidence that is usable in criminal trials.

And I remember, because I was chair of the Helsinki Commission at the time, and worked on the Yugoslav war crimes tribunal, that while there was documentation, until that tribunal was established there was no enforcement. And a lot of lessons can be learned from that tribunal in terms of speed, which we did not have, and also effective prosecutions.

Private groups like one we will hear from today are doing this work, literally risking their lives, without financial support from the United States. Chris Engels, from the Commission for International Justice and Accountability, will testify that “CIJA’s 130 personnel collect evidence, ensure its safe storage, and undertake legal analysis with a view to preparing trial-ready cases files for present-day and future criminal prosecutions in domestic and international jurisdictions” with funding from governments other than the United States. There is no justification for leaving other countries to ensure this work, so I hope we will get on board and be more supportive of that.

When the Executive Branch fails to act, then the Congress must require it to act. That is why I recently authored and introduced the bipartisan *Iraq and Syria Genocide Relief and*

*Accountability Act of 2016*, H.R. 5961, with Representative Anna Eshoo as our lead cosponsor. She has been a tireless champion for Christians and other religious communities brutalized by ISIS and has consistently pushed the Administration to act. So I'm very grateful for her efforts. Our partnership is evidence that this is not about partisanship. It is about partnership.

I would also point out that with my good friend and colleague Senator Cardin, we have worked, along with Senator Wicker, the Co-Chair, on religious freedom issues for decades. So, again, this is about bipartisanship and an effort to really make a difference on the ground, and not just talk about it.

Very quickly, on accountability, our new bill would require the Secretary of State and the Administrator of the U.S. Agency for International Development to support entities that are conducting criminal investigations into perpetrators and building investigative and judicial capacities in Iraq. It directs the Secretary of State to work with our allies to ensure that identifying information about perpetrators is included in security databases and security screening to enable apprehension and prosecution; requires the Attorney General to review U.S. criminal statutes for gaps in being able to prosecute American perpetrators or foreign perpetrators present in the U.S. And in part of our testimony today that we will hear about how we have people who have committed crimes against humanity walking the streets of the United States because we don't have the sufficient capability in our legal code to prosecute them, including people from Bosnia and elsewhere, Liberia, and many other places, like Haiti. The testimony is overwhelming.

On assistance for genocide survivors and other Iraqi and Syrian religious and ethnic groups who have been persecuted, the bill also requires the Secretary of State to identify threats of persecution and other warning signs of genocide, crimes against humanity or war crimes; which groups of genocide survivors or other persecuted religious or ethnic communities are at risk of forced migration, and the reasons for those risks; U.S. assistance that has actually reached and is planned to reach these communities – the \$64 million question: why isn't our money flowing to these people who are suffering so immensely? – and entities, including faith-based ones, that are effectively providing assistance on the ground to these communities; U.S. funding for such entities, if the funding is funding them; justification if the administration is not. It also requires the Secretary and USAID Administrator to fund such entities.

Finally, H.R.5961 requires the Administration to designate members of the three genocide-surviving groups, as well as members of other persecuted religious and ethnic groups, that are of particular humanitarian concern to the United States. This would create a Priority Two, often known as P-2, category. Individuals who meet the criteria would be able to access the overseas interview process for the U.S. Refugee Admissions Program without needing a referral from the U.N., an NGO or the U.S. government.

Under U.S. law, the Administration can make a P-2 designation anytime – they could do it today – without needing additional authorization from Congress. The U.S. has a long history of P-2 designations – some created and required by Congress, like Jews from the former Soviet Union; and some created by the administration, like ethnic minorities from Burma and in Malaysia.

The bill is clear: they would have to clear the same security screenings as other Iraqi and Syrian refugees before they can be admitted to the U.S. One can vote for the SAFE Act, as I did, but also support the P-2 provision, as I am doing now. This P-2 designation provides an extra avenue for displaced genocide survivors to get into the U.S. Refugee Admissions application process.

I ask my fellow commissioners if they would look at this bill carefully to see if they can support it. Again, when we look at the numbers of how many Syrian Christians are actually being admitted through the admissions process, it is far less than one-half of 1 percent, and that's unconscionable.

I'd like to yield to Ranking Member Ben Cardin. Senator Cardin.

CARDIN: Well, thank you, Chairman Smith. I very much appreciate you calling this hearing. To me, this is one of the most important areas for the Helsinki Commission to be engaged in, dealing with atrocities in Iraq and Syria, relief for survivors, and accountability for perpetrators.

It's also good to be here with my friend and the Senate Co-Chair of the Helsinki Commission, Senator Wicker, who's been one of the champions in the United States Senate on putting spotlights on atrocities and human rights violations wherever it may be anywhere in the world, taking on powerful interests. It's always good to see the leadership that comes out of the Helsinki Commission in working on our other committees, and whether it's the Appropriations Committee or whether it's the Foreign Affairs or Foreign Relations Committee, to carry out these issues.

My staff from the Senate Foreign Relations Committee is here. I mention that because I'm going to have to leave shortly, but **I wanted to everyone to know how critically important this hearing is.** And, Mr. Chairman, I'm going to ask that my full statement be made a part of the record so I can avoid a senatorial-length opening statement and just make some brief comments.

Atrocities really do represent the consequences, the extreme consequences, of the failures of good governance. We see that when you have corrupt regimes and weak democratic institutions, it leads to the failure of government, which leads to the vacuums that create the climate in which atrocities can take place, including genocide, and that we ignore these issues or don't place a high enough priority on these issues at our own risk. So you're going to hear, at least from this senator, that we need to focus our foreign policy on dealing with corruption, on dealing with good governance, on dealing with developing democratic institutions. We need to do that through how we use our foreign assistance budget, and it has to be more focused towards these priorities. We need to do this in our diplomacy, putting a higher priority on these issues. We need to do this through our economic relations, including our trade policies. All of the above. And as Chairman Smith has pointed out, we also need to do this through legislation.

Clearly Syria represents one of the great failures of our time. The Assad regime has clearly put the climate for atrocities that are being committed, has perpetrated atrocities, and as the Chairman pointed out, this amounts to genocide. Two thousand barrel bombs have been dropped – I think over 2,000 now – and then by accounts, there are over 400,000 nonmilitary deaths in Syria.

You put on top of that the tragedy of ISIS, which is also operating in Syria, and the atrocities that they are committed – clearly aimed and targeted both at religious and ethnic minorities. That's genocide. That's what we're trying to deal with.

So let me just lay out four bills that I would just urge the members of the Commission to pay attention to. I think the Congress can play a significant role in helping provide the tools in our country to deal with atrocity prevention and to deal with accountability.

First, we need to deal with the underlying problem of corruption. Chairman Smith and Chairman Wicker have both been very actively engaged with other members, and I'm proud of the role that I've played, in dealing with human trafficking, modern day slavery. And we decided we had to put a real spotlight on it. But more than that, we had to develop the protocols that we expect countries to follow in order to have acceptable conduct. So we have tier ratings. And there are consequences to not having satisfactory progress on dealing with human trafficking. It affects our foreign assistance, it affects our trade policies, it affects U.S. diplomacy.

I think we need a similar effort in regards to corruption. Corruption is a cancer in a country. Recently, I was with the National Security Council members as we talked about the impact that global corruption has on the national security of our country. It is the first sign, it is the climate that produces the failures that lead to atrocities.

Secondly, as the Chairman has mentioned, I think we need to pass and authorize the Genocide and Atrocity Prevention Act. I've introduced similar legislation in the Senate, and it's legislation that we need to get passed. It builds on our current programs, but engages the civil societies working with us so that we can see the first signs of trouble and act before atrocities occur, so that we have warning signs and actions to prevent atrocity.

Third, we have to have accountability. Accountability is a critical component towards preventing future genocides. If world leaders believe that they can commit these atrocities without accountability, the next circumstance will lead to atrocities. We've seen this over and over again. This week, Mr. Chairman, we had a hearing in the Senate Foreign Relations Committee on South Sudan. Just two years – just five years ago, we celebrated the creation of the newest country in the world. A little over a year ago, we celebrated a peace agreement. We saw signs that peace agreement was not working. Today it's in shambles. And the leaders of both factions are openly using civilian targets as part of their military strategy, killing and raping the civilian population. That's occurring as we are having this hearing, in South Sudan. We can mention so many other countries.

We need to have accountability. There's a bill that, I think, is pretty close to the finish line, the Global Magnitsky bill. This Commission was the spark that started the Magnitsky

legislation. We did it for Russia, now we're going to do it globally, to say the perpetrators of these gross violations are not going to get the benefits of our country, and other countries have followed suit. We need to get that to the finish line, and we're very close to getting that.

We need to pass a Syrian War Crimes Accountability Act, just as the chairman said. It's one thing to have documentation. It's another thing to have the mechanism in place that can actually bring about justice. That bill needs to make its way, to be finalized so that the United States takes leadership in establishing the way in which the war criminals in the Syrian atrocities can be held accountable. I think if we were to deal with these legislations, we could really make significant progress.

The bottom line is, as you've mentioned in regards to documentation, documentation is important. What's happening with the Assad regime, what's happening with ISIS, you need to document because you need to have credible and impartial fact-finding. That's part of our justice system for international credibility. But you have to have transitional justice if you're going to ever have peace in a country. You have to have transitional justice. And transitional justice is the best defense against the danger of collective blame, because only credible accountability, that which the victims have confidence in, is bringing closure to an issue. It is the only way that we can prevent the continuing recycling of atrocities that we see too frequently in our own lifetime. This hearing, I hope, will add to our commitment to do everything we can to prevent atrocities; and when we see these types of activities, those who perpetrate it know they're going to be held accountable.

SMITH: Senator Cardin, thank you very much for that very eloquent statement. And I'd like to now yield to our co-chair, Senator Wicker.

WICKER: Thank you. And, Mr. Chairman and witnesses, I will just make a few opening sentences and then we'll try to get to testimony. This is a good hearing to have, and so thank you, Mr. Chairman. Today we hope to shine the light on atrocities in Iraq and Syria.

The oppression of Christians and other religious communities in Syria and Iraq has led to an unspeakable humanitarian crisis. Senator Cardin has described this in depth. Hundreds of thousands have had to flee their homes to seek sanctuary from the Islamic State, whose savage treatment of these people is well documented. The United States has historically protected minorities facing similar circumstances, and we should do so again now. I commend my colleague Senator Cardin for listing several specific acts that we could take.

I also want to say I'm delighted to see my fellow Mississippian Chris Engels on the panel today. He will testify this morning about the heroic and dangerous work he and his colleagues at the Commission for International Justice and Accountability are doing to investigate perpetrators of atrocities in Iraq and Syria. I hope the U.S. government will support these vital criminal investigations.

I look forward to the hearing from our witnesses, like Senator Cardin. There are many demands on our time, and perhaps members of the House and Senate will have to be in and out.

Mr. Chairman, thank you again for calling this hearing and for your proposals to help address the ongoing human tragedy in Iraq and Syria. Thank you, sir, and thank you all.

SMITH: Senator Wicker, thank you again so much for your leadership and your great statement this morning and commitment to this issue. I'd like to now yield to Mr. Grayson, a fellow commissioner.

GRAYSON: Thanks. Twenty-five miles away from here in space and 150 years away from here in time the Battle of Bull Run took place, the first and second battles. Only 25 miles away meant that people from Washington, D.C. – civilians, if you will – noncombatants could go and watch. And in fact, they did. That represented a civilized and simpler time as compared to what we have today. Now I don't want to make it sound that all the course of history has been downhill. In fact, at earlier times the Mongols left piles of skulls outside of the cities that they conquered – all civilians.

But we've seen a struggle all through human history over the question of how are civilians treated during wartime. Are they treated as spectators, as they were in the Battles of Bull Run, or are as they treated as victims or pawns, as they were by the Mongol hordes sweeping across Western Asia and Eastern Europe. The answer still is in flux. We haven't answered that question yet.

And for those who believe that everything is like everything else, we have a counterexample called ISIS. ISIS represents a fundamentally different view of how to conduct warfare than virtually every other organized military effort on Planet Earth. I think you could find a few other analogies – perhaps Boko Haram, maybe. But the fact is that torture as policy, killing as policy, genocide as policy is something that we thought maybe we had swept away from human history and left behind us, and now it turns out that that is not true.

So the purpose of the hearing in part today is to underscore the fact that something very important is in play today all around the world still: the question of whether we conduct our warfare in what amounts to an humane respect for innocent people, or not. And that really gets to the crux of the matter. Why do we call terrorism "terrorism?" In part, because it strikes terror into the hearts of innocent people. It makes innocent people feel fearful. What we've done for the past several centuries is make an effort to draw that line, to keep that line, respect that line, and even fortify that line between the combatants and the innocent. We saw the line crossed and almost destroyed in 9/11. We see the line crossed and destroyed every day in places like Mosul. And it's up to us, the living, the people who represent the better side of humanity, the spirits and good natures of people who want everyone to be able to live in peace – it's up to us to enforce that distinction, and that is in my mind the central purpose of the hearing today: to make sure that people who are in peace can live in peace and to make sure that the lives of noncombatants are respected. Thank you very much.

SMITH: Mr. Grayson, thank you very much. Commissioner Grayson.

I'd like to yield to Joe Pitts. Joe Pitts, besides being chairman of the Health Subcommittee – of the Energy and Commerce Committee, is the C-Chair of the Lantos Human Rights Commission. Joe Pitts.

PITTS: Thank you, Mr. Chairman. Thank you for holding this important timely hearing on fostering relief and accountability amidst the genocide of religious minorities that we're witnessing today. As we all know, the world has been rattled by so-called Islamic State's attempts to eradicate Christians, Yazidis and other religious/ethnic minorities from their territory. In fact, I held my first hearing as co-chair of the Lantos Commission on the ensuing human rights abuses of the Islamic State in an effort to bring greater attention to the depth, breadth and brutality of the terrorist group's abuses.

This hearing builds on the bipartisan efforts of many initiatives, including the passage of resolutions declaring the Islamic State as a perpetrator of genocide, calling for a Syria War Crimes Tribunal. Mr. Chair, Congress has rightly characterized these heinous acts as war crimes, crimes against humanity. The Administration followed suit. The European Union has also designated these abuses as constituting genocide. One international organization that has yet to make this designation is the United Nations. Mr. Chairman, I call on the United Nations to designate these abuses against religious minorities for what they are – genocide – and further call on our administration to use its voice and vote in that body to accomplish that end.

I'd like to take a moment to thank the countless NGOs, human rights monitors, journalists, other outside of government – other(s) outside of government that give us insight into this dangerous situation. The U.S. government cannot be everywhere, and that is why it is so important that we collaborate with outside groups and our allies on how to stop these atrocities. That is why this hearing is so important. Our government needs a concentrated strategy on conducting criminal investigations, developing investigative judicial capacities, evidence collection, and prosecution. And we must augment our coordination with these outside groups to help achieve that.

With that, I'd like to thank our witnesses for their work in this field and look forward to their recommendations on how we can best move forward to confront the aftermath of the abuses that have so vexed the lands of Iraq and Syria. And with that, Mr. Chairman, I yield back.

SMITH: Thank you very much, Mr. Pitts.

I'd like to now introduce our distinguished panel, and they are indeed distinguished, beginning first with Chris Engels, who is a U.S. lawyer with over 10 years of international experience, focusing on international criminal law and criminal justice reform. He's currently Deputy Director for the investigations and operations for the Commission for International Justice and Accountability, or CIJA, a role in which he oversees the organization's criminal investigations in Syria and Iraq. His past posts include head of section for the Justice Sector Support Project Afghanistan, Director of the criminal defense section of the Court of Bosnia-Herzegovina, and acting Deputy Head of the defense section at the Khmer Rouge Tribunal. He was recently Head of rule of law for the OSCE Mission in Bosnia, and worked in the office of the Legal Advisor of the U.S. Mission in Kosovo.

We'll then hear from Ambassador David Scheffer, who was the first U.S. Ambassador-at-Large for War Crimes Issues, serving from 1997 to 2001, during which time he chaired the Atrocities Prevention Interagency Working Group of the U.S. government. He is currently the U.N. Secretary General's special expert on U.N. assistance to the Khmer Rouge trials. In addition, Ambassador Scheffer is the Director of the Center for International Human Rights at Northwestern University, and chairs the Working Group on Crimes against Humanity of the American Bar Association.

We will then hear from Mr. Steve Rasche, who is currently serving as vice-chancellor for the Catholic University in Erbil, Iraq, which held its inaugural opening in December of 2015. Mr. Rasche serves as legal counsel and director of the IDP resettlement for the Chaldean Catholic Archdiocese of Erbil, reporting directly to Archbishop Bashar Warda.

In these roles, he divides his time between the United States and Erbil, in the Kurdistan region of Iraq, where he holds resident status. He has over 30 years of experience in international business, in development projects, including extensive work in Latin America, Asia and the Middle East.

We will then hear from Mr. Bill Canny, who is the Executive Director of the Department of Migration and Refugee Services at the United States Conference of Catholic Bishops. MRS annually resettles more refugees in the United States than any other agency. They resettled 18,114 refugees in fiscal year 2015, including a little over 3,400 Iraqis and 268 Syrians.

Mr. Canny joined MRS in May of 2015. He has served as Secretary General of the International Catholic Migration Commission and in various leadership roles within Catholic Relief Services, including as Director of Emergency Operations for the period including the aftermath of the Haiti earthquake. Most recently, he was Chief Operating Officer of the Papal Foundation, which supports the personal charity initiatives of Pope Francis.

Then we'll hear from Mr. Carl Anderson, who is the Supreme Knight of the Knights of Columbus. They have achieved new charitable records, including raising more than \$11 million for Christians and other persecuted minorities in the Middle East, while also helping to spearhead the effort to have the situation facing them declared a genocide. This included producing, in partnership with In Defense of Christians, a nearly 300-page report on the issue at the request of the U.S. Department of State. And having read that, it was heavily documented and very, very persuasive at that.

A lawyer, a New York Times best-selling author, a current member of several Vatican committees, Carl Anderson served for nearly a decade on the U.S. Commission on Civil Rights. He worked before that as acting director of the White House Office of Public Liaison, and worked as a staffer many decades ago in the United States Senate.

I would point out for the record that regarding H.R. 5961, we're very grateful to him for providing a template for this legislation. He laid out a number of goals for "what next?" And I just want to say how grateful the Commission and my staff and I are for that insight, because it

helped us put together what I think is a path forward, which could be done administratively if there's a will, or, if Congress passes it and then hopefully it's faithfully implemented.

I'd like to now go to Mr. Engels for your testimony.

ENGELS: Please let me begin by thanking Chairman Smith, Co-Chairman Wicker, and the distinguished commissioners of the U.S. Helsinki Commission, for their steadfast support to the establishment of the rule of law and to the promotion of human rights, but more specifically for their continued engagement to address the mass atrocities being committed as part of the ongoing conflicts in Syria and Iraq. I'm honored by the invitation to testify before this Commission on the effects to combat these mass atrocities through individual criminal accountability.

This Commission is already familiar with the devastating humanitarian situation in Syria and Iraq. Some members of the Commission personally heard the testimony from an Assad regime defector known as "Caesar," who smuggled thousands of images from Syria. These images reveal the Assad regime's systematic torture and murder of its opponents in security centers throughout Syria. Survivors of ISIL's horrible sexual enslavement campaign have also testified before Congress.

In addressing the Commission today, my role is not to further elaborate on these crimes, which are, unfortunately, all too well known to us here. Instead, I'm here to speak about establishing individual criminal accountability for the perpetrators of these terrible crimes and the current as-yet-untapped opportunities for the U.S. government to support organizations working to ensure those responsible are brought to justice.

The *Iraq and Syria Genocide Relief and Accountability Act of 2016*, H.R. 5961, certainly recognizes the importance of justice in both these contexts. Evoking the sentiments of the Act, I will narrow my recommendations to four areas for potential future U.S. engagement and support to victims of both of these crises.

First, it is important to support atrocity accountability efforts today, despite the present lack of international criminal jurisdictions over Syria or Iraq. With intervention by the International Criminal Court or by any other international tribunal for Syria and ISIL atrocity crimes still unlikely, many question the point of criminal accountability work today.

Yet for the past 25 years, numerous examples demonstrate that even during conflicts where accountability is not addressed in the course of the war, discussions inevitably turn to justice once peace has been restored. It is without question that a present focus on criminal accountability, amassing evidence before it can be destroyed or otherwise made unavailable, will only serve to strengthen future peace-building efforts in these countries. Moreover, there is no need to wait for an international court or a tribunal where criminal accountability options may be played out in the future. There are options available today.

At CIJA, for example, we receive a dozen requests for assistance per month from war crimes, counterterrorism and immigration authorities. While victims may wait for justice in their

homelands, efforts to gather and corroborate information on perpetrators found in Europe and North America today are a credible recourse to criminal accountability, demonstrating to Syrians, Iraqis and the world that perpetrators will be prosecuted for their crimes.

Second, international support should be directed towards the creation of competent local courts to try atrocity crimes based on already-collected evidence. An even more immediate road to justice in Iraq is in front of us. Specifically, a number of ISIL officials can be put on trial in specially equipped courts in Erbil, where an Iraqi chamber would hear complex cases against ISIL members, applying Iraqi penal code.

With the assistance of international experts and professionals, such a chamber would be mandated to hear those cases in line with the highest international standards of fair trials and due process. It is our experience on the ground, interviewing a wide range of affected groups, that the majority of these victims want criminal justice, true justice, whether it is through international or domestic courts.

Third, promoting the local contribution to criminal investigations through capacity building now will ultimately ensure a place for the rule of law in Syria and Iraq over the long term. Training and mentoring Syrian and Iraqi investigators, lawyers and analysts to conduct atrocity crime work will have a significant impact on the quality of justice tomorrow. In other words, investigative capacity development is critical not only to lay the foundations for a robust domestic engagement and future domestic or international courts, but also as an investment in the long-term enforcement of the rule of law in Syria and Iraq.

And fourth, criminal accountability efforts should be linked to counter-violent extremist initiatives. Holding militant extremists criminally responsible for atrocity crimes is underutilized as a countering violent extremism tool today. Evidence attributing specific crimes to members of militant groups such as ISIL can serve to weaken the group's recruitment narrative, discrediting members not only for providing support to a group, but also as the murderers, torturers, rapists, slavers and war criminals that they are.

If the Attorney General's review of the existing statues, as called for in this legislation, results in the enhancements of statutory provisions related to atrocity crimes, this will strengthen the ability to engage in such prosecutions here at home in the United States.

Let me conclude with the words of Dr. Martin Luther King, Jr., inscribed in marble just down the road: "True peace is not merely the absence of tension; it is the presence of justice." This act embodies Dr. King's words and represents some of the United States' highest values: adherence to the rule of law, the protection of human rights, and the delivery of humanitarian assistance to those much in need.

These values underpin a just and peaceful society and are especially pertinent to those trying to transition out of the throes of chaos and tragedy. It is for these reasons that CIJA supports the prompt passage of this legislation.

Thank you very much, Commissioners, for your hard work.

SMITH: Thank you very much, Mr. Engels. And without objection, your full statement, and that of all of our witnesses, and anything you would like to add in addition to that to the record, will be made a part of the record. Thank you so much.

Ambassador Scheffer.

SCHEFFER: Mr. Chairman and distinguished members of the Helsinki Commission, thank you for this opportunity to appear before you today. I'll be speaking strictly in my personal capacity.

This hearing is really about two unacceptable realities: first, the massive refugee migration out of Iraq and Syria, arising in the latter case from years of atrocity crimes killing more than an estimated 400,000 Syrian citizens and devastating the urban landscape of that country; and second, the inadequacy of U.S. federal law to hold the perpetrators of such atrocity crimes – namely genocide, crimes against humanity and war crimes – accountable if they reach American territory.

My focus today is on the latter reality, for it is simply implausible that the United States remains a safe haven for the war criminals of the Syrian and Iraqi conflicts. Indeed, it is unacceptable that perpetrators of crimes against humanity committed anywhere in the world – such as massive murders, extermination, enslavement, forcible transfers of populations, torture, sexual violence, ethnic or religious cleansing and forced disappearance of persons – that such war criminals could find refuge in the United States because of the void that exists in Title 18 of the U.S. Code.

Fortunately, the *Iraq and Syria Genocide Relief and Accountability Act of 2016* would, if adopted, begin the process of rectifying this deficiency in federal law. The Attorney General, who for years was Special Counsel to the Prosecutor of the International Criminal Tribunal for Rwanda, where atrocity crimes were prosecuted, would be directed to review existing criminal statutes to determine the extent of federal jurisdiction over war criminals and assess how the absence of criminal statutes impede the prosecution of such atrocity crimes.

She would confirm that there is a glaring void in Title 18 when it comes to crimes against humanity. In contrast, most of our allies and many other governments, during the last 20 years, have incorporated crimes against humanity into their national criminal codes. So we are lagging far behind. Following the Attorney General's review, I would hope that further legislation would fill the void.

It remains true that, under current law, foreign perpetrators of crimes against humanity might be subject, at most, to deportation for immigration fraud in the United States. Even then, such deportations might not be to a foreign court for purposes of prosecution, but rather to live, prosper and pose a continuing risk elsewhere, and perhaps to the national security of the United States and its interests abroad.

I have attached to my written testimony lists of cases that focus on immigration fraud, typically with the penalty of deportation or denaturalization even though the immigrant is suspected of atrocity crimes or other serious human rights abuses.

While their total number is unknown, experience dictates that there are individuals who committed atrocity crimes overseas and have yet to be discovered currently residing in the United States. However, the Human Rights Violations and War Crimes Unit of ICE is currently pursuing 1,900 leads and removal cases against suspected human rights violators, including more than 125 active investigations.

One nongovernmental organization, the Center for Justice and Accountability, tries to locate them, and sometimes does, assisting the Justice Department and ICE to pursue these individuals. If they are tracked down, the result should be something more than the possibility of mere deportation. I would argue that they pose a threat to our national security and we should either extradite them to foreign courts that will effectively prosecute them or do the job ourselves.

In any event, the United States should deter their arrival on our shores with tough criminal penalties for those alien perpetrators of crimes against humanity who plot to enter this country in order to reside or otherwise take advantage of immigration privileges without fear of prosecution for their egregious crimes. H.R. 5961 would demonstrate that the United States stands with the victims and against the perpetrators of crimes against humanity and other atrocity crimes.

Thank you, Mr. Chairman.

SMITH: Mr. Ambassador, thank you so very much for your testimony and, again, decades of leadership, and for the insight you've provided to our Commission.

I'd like to now go to Mr. Rasche.

RASCHE: Thank you, Mr. Chairman and distinguished members of the Commission, for allowing me to speak to you today on behalf of the persecuted Christians of Northern Iraq, who as of today number barely 200,000, down from over 1.5 million just 13 years ago.

Again, my name is Stephen Rasche and I serve on the staff of the Chaldean Catholic Archdiocese of Erbil in the Kurdistan region of Northern Iraq. And my intention here this morning is to give you a brief overview of the work we're doing and address our future needs and concerns.

At present, we at the archdiocese are serving the various needs of approximately 10,500 displaced families – IDPs in our language. The majority of these were originally Christian residents of Mosul and the Nineveh Plain. Within this overall number, nearly 6,000 families are presently receiving housing rental assistance at a total cost of approximately \$650,000 per month. Our food package program serves over 10,000 families at a cost of approximately

\$720,000 per month, and our medical clinics serve over 6,000 families per month, at a total cost of about \$80,000 per month, inclusive of all medicines.

While our responsibility at the archdiocese lies primarily with service to the Christian IDPs, we have regularly extended care to non-Christians as well. We do that as part of our mission. Our schools and medical clinics serve the Yazidis and Muslim IDPs, and our food and housing rental programs include many Yazidi families.

All of this work has been done using, exclusively, private aid, which today totals approximately \$26 million since the outset of the recent crisis beginning in August of 2014. Our largest donors include the European-based Aid to the Church in Need, the Knights of Columbus, the U.S.-based Nazarene Fund, the Italian Episcopal Conference, the Chaldean Churches of the USA and Caritas of Italy. There are many other private donors, all of which are included in the detailed reports which we've previously submitted to the Office of the Chairman.

Members of this Commission, it is no exaggeration to say that without these private donors, the situation for Christians in Northern Iraq would have already collapsed and the vast majority of these families would, without question, have already joined the refugee diaspora now destabilizing the Middle East and Europe.

I say this because, throughout this entire period of crisis, other than initial supplies of tents and tarps, the Christian community in Iraq has received no funding from any U.S. aid agencies or the U.N. The reason for this, we are told repeatedly, lies in the Individual Needs policy rigidly – in the present case, we would argue, blindly – adhered to by the U.S. government and the U.N., as well as other U.S.-backed aid agencies.

Specifically, when we've approached any of these agencies regarding the provision of aid funding to the Christians, we've been told that we've done too well in our private efforts, and that the standards we've provided for our people exceed the minimum Individual Needs standards currently within the capabilities of those agencies. Counterarguments from us that the needs of our perishing population require a different standard of evaluation are met with vague sympathy but little else.

With all this as background – and as the time of forced displacement is now over two years – our private donors are running out of the ability to sustain our current level of care. And this brings us to two critical points to share with this Commission this morning.

First, while the standard of care being received by Christians may, in fact, marginally exceed that being provided elsewhere by the U.N. and similar organizations, there are no other groups in Iraq that are facing the existential threat now being faced by the Christians. This enhanced level of care is critical if we are to keep the Christian community viable in Iraq.

Secondly, from a moral standpoint, the uniquely endangered status of the Christian population, in our view, requires that they be viewed not as individuals, using the standard Individual Needs assessment, but rather as a group threatened with extinction as a people, the

victims of genocide and historical violence which seeks to remove them permanently from their ancestral homes.

Given this, as we near the beginning of the expected liberation of Mosul and the Nineveh Plain, we ask that you, in your individual legislative capacities, consider supporting the allocation of \$9 million in direct aid, specifically designated to support the existing humanitarian aid programs of the remaining Christians of Northern Iraq. This amount would allow for a continuation of the existing housing, medical and food programs for an additional six months, by which time expected events in the region would allow for informed reassessment.

While understanding the legal constraints governing the issuing of U.S.-backed aid, we would request that the ultimate use and implementation of any such aid be managed through our existing system, which is already thoroughly integrated into the Christian community. This could be readily done under proper oversight from an approved distributor of U.S.-government aid, and we stand by ready to work in good faith with any such partner. Our existing aid donors regularly audit our use of funds and we are thoroughly familiar and capable in this regard.

Members of the Commission, thank you very much for your time and the good work you do.

SMITH: Oh, thank you for your great work on the ground especially.

I would like to now to turn to Bill Canny.

CANNY: Thank you, Chairman Smith and all the Commission members. I'm grateful, on behalf of the United States Conference of Catholic Bishops, to testify before this Commission.

The bishops welcome the introduction of H.R. 5961, the bipartisan *Iraq and Syria Genocide Relief and Accountability Act* sponsored by Chairman Smith and now with 11 co-sponsors. We appreciate this opportunity to share our thoughts and ideas about the bill, as well as share other recommendations to protect those fleeing atrocities in Syria and Iraq.

The work of the U.S. Catholic Bishops Committee on Migration is carried out by Migration Refugees Services, which is in partnership with Catholic Charities across the country and is the largest U.S. refugee resettlement agency, resettling about a quarter of the refugees that arrive each year. We also serve unaccompanied children, victims of human trafficking and other at-risk migrants.

The U.S. Catholic Church relates closely with the Catholic Church in countries around the world, where our worldwide Catholic Communion serves the needs of the most marginalized, regardless of nationality, ethnicity, race or religious affiliation, as evidenced by Steve's testimony.

We share a deep concern for Syrian and Iraqi victims of atrocities, outlined by Secretary Kerry. The USCCB's Committee on Migration has made missions to the region and written two Assessment and Solidarity reports concerning the plight of refugees in the region. In a recent trip

to the region, a delegation described arriving in Southern Turkey as some 130,000 Kurds and ethnic minority in Syria were forced, over the course of a weekend, to seek refuge in Turkey as ISIS devastated their city of Kobani.

As the trip continued, the delegation met a growing number of religious minorities, including Christians. The delegation met a Syrian Christian in his 20s who boldly shared his faith with the arriving ISIS fighters to his village. Surprised that they let him go, he went to the family home several hours later to find his parents and siblings slaughtered by ISIS. At Sunday Mass in Istanbul, we met with a church full of Iraqi Christian villagers who had fled from ISIS. They told us how one of the village leaders had stood up to ISIS, and that the next morning the villagers found the leader's severed head on his doorstep.

Based on what we continue to see and hear from the region, we are urging the U.S. government and the international community to take a comprehensive approach, including robust aid to private organizations and host governments to this crisis, hoping that it will be possible for a safe, humane, voluntary return for all, including Christians, at the end of the conflict. Meanwhile, for some refugees, because of their vulnerability, waiting for return is not viable. One of the options for these most vulnerable is to offer a U.S. resettlement, albeit to a relatively small number of them.

We are pleased that the United States has resettled more than 10,000 Syrian refugees in the current fiscal year. However, we are gravely concerned by the small number of religious minorities who have been resettled in the United States during this period. For example, only .53 percent of Syrians resettled this year in the United States have been Christians, down from 1.7 percent last year.

Last year's number was close to being in line with the percentage of Christians among all the Syrians registered as refugees, which was around 2 percent. However, it is unclear at the time of this writing precisely why the percentage of Syrian Christians who have been registered as refugees, are resettled in the United States as refugees, is so low. More needs to be done to assess why this is so and then to address it.

We commend H.R. 5961 for recognizing the plight of Christians and other religious minorities and for taking steps to improve their access to the U.S. Refugee Admissions Program. We have some questions about whether the bill's provision amending Section 599D of the *Foreign Operations Export Financing and Related Appropriations Act 1990* is the right approach.

We respectfully suggest that creating a new P-2 classification in the U.S. Refugee Admissions priority system for religious and ethnic minorities and victims of genocide could more effectively achieve the laudable goals of this legislation. We believe that a P-2 designation would increase the access that Christians and other religious minorities have to the U.S. Refugee Admissions Program, and we support the inclusion of this provision in H.R. 5961.

While supporting this effort to increase access for religious and ethnic minorities to resettlement, we also encourage that all the most vulnerable refugees in Syria and Iraq continue

to have access to resettlement as well. The U.S. Conference of Catholic Bishops joins Pope Francis in condemning the actions of those who would persecute others solely for reasons of their faith and ethnicity, and we stand ready to help resettle Christians and all those most in need of this solution. Thank you.

SMITH: Thank you very much, Mr. Canny, and thank you for that very constructive recommendation on how we can make this better.

And I want all of you to know, any thoughts you have on improvements or anything that's in the bill that needs to be rectified, please come forward because we need it.

I'd like to now yield to Mr. Anderson.

ANDERSON: Thank you very much, Mr. Chairman and Commissioners, for this opportunity to testify. Congress and the Administration have our great appreciation for their declarations of genocide on behalf of victims who often feel that the world has forgotten them.

Mr. Chairman, we commend you and your colleagues for your leadership in introducing H.R. 5961, the *Iraq and Syria Genocide Relief and Accountability Act*. Please be assured of the full support of the Knights of Columbus in your work to bring it to the president's desk. I would like to speak to you today about three matters.

First, our government's humanitarian aid bureaucracy is often not making aid available to communities that need it most. Section 5 of the bill directs administration officials to prioritize those targeted for genocide for relief. It seems that it is more of a mindset than anything else and has resulted in the need for this section.

We know that many Christian and Yazidi victims of genocide do not receive public aid. U.S. and U.N. officials have told us that the current policy prioritizes individual needs but does not consider the needs of vulnerable communities. Such a policy increases the likelihood that genocide will succeed.

And here we have a fundamental inconsistency in the U.S. stance toward genocide. On the one hand, we have the unanimous policy of the elective branches of the United States government stating that a genocide is occurring. On the other hand, we have an aid bureaucracy that is allowing the intended consequence of the genocide to continue, even though we can stop it.

We need a different approach. The bureaucracy needs an immediate change of mindset. Legislation may be helpful in hastening this, but it does not have to be this way. As this bill proceeds to a vote, our legislative and executive representatives need to deliver to our diplomatic and aid entities a simple message: In the midst of this genocide, saving Christian and other communities that face extinction in Iraq and Syria is part of your mission. There is nothing unconstitutional, illegal, unethical or unprofessional about prioritizing their need to survival as communities. They are innocent victims of a genocide. If these victimized communities are not receiving aid, you are not fulfilling your mission.

And such action is consistent with the best of American and U.S. State Department tradition. In fact, during and after World War I the United States government assisted Christians in the region with direct aid as they suffered from what Pope Francis has called the first genocide of the 20<sup>th</sup> century. Chartered by Congress and recipient of more than \$25 million in government aid, the Near East Relief Organization constituted a collaboration of the State Department and American individuals and religious entities in the Middle East. It is widely credited with having been key in saving religious pluralism in the region during and following World War I. And I am proud to say that the Knights of Columbus was among the groups that supported this effort.

There is no reason that such a prioritization assisted by direct government funding could not exist today. To be clear, we've had the assistance of many people who are working within this system to help and to change the status quo, but they are often limited by a bureaucracy that resists change. And we call upon the Secretary of State not to wait for Congress to pass H.R. 5961, but to take this action administratively today.

What is lacking may be legislation, but it is also leadership. With this bill, Congress is providing leadership. And it is time for the aid community to respond. If they do not, the officials from the State Department, USAID and their private partners need to continue to hear directly from our elected representatives that public aid needs to flow to these communities now.

Second, on the subject of aid, I would like to reiterate that in addition to the funds provided in this bill, Congress should explore a standalone emergency appropriations bill to respond to this genocide, and the communities affected by it more comprehensively. It seems that few situations could be as worthy of such a measure as an ongoing genocide.

My third point is that the aid we provide must be an investment in a more peaceful future in the region. This cannot happen unless the religious apartheid there ends. Christians and other religious minorities are entitled to equal rights and to equal protection of the law as enumerated in the Universal Declaration of Human Rights. Our tax dollars to governments in the Middle East must not – must not – be used to rebuild a system that imposes second-class citizenship upon religious minorities. U.S. aid should be contingent on the application of full and equal rights of citizenship to every citizen of Iraq and other countries in the region. This agenda demands from us a new approach to our human rights advocacy. When we speak of human rights, we are referring to the Universal Declaration of Human Rights. When governments in the region speak of human rights, they may be thinking of those rights as defined, or as confined by Sharia. We must not mislead ourselves or allow others to mislead us in this regard.

Our own laws, including the *International Religious Freedom Act of 1998*, recognized these realities and require our government to act. Christians and others in the region have a natural and universal right to practice their faith freely and openly, and they must receive protection from civil authorities when they do so. If civil authorities in the region cannot supply this protection, in our opinion they are not suitable partners for our aid. Only with such policies will we be able to break the cycle of persecution and genocide which has afflicted these communities for far too long and which threatens international peace and security.

Mr. Chairman, thank you very much for your leadership and that of the members of the Commission. I would just say in closing, on September 16<sup>th</sup>, the human rights advocate Amal Clooney spoke at an event at the United Nations concerning Middle East genocide of religious minorities, and she said this: “I wish I could say I’m proud to be here, but I am not. I am ashamed, as a supporter of the United Nations, that states are failing to prevent or even punish genocide because they find that their own interests get in the way. I am ashamed as a lawyer that there is no justice being done and barely a complaint is being made about it.”

Mr. Chairman, please, let us not find that in the coming months we will be in the position that distinguished human rights advocates may say the same about the United States. We urge Congress to pass H.R. 5961. Thank you very much.

SMITH: Mr. Anderson, thank you again for your leadership. As I said before, your testimony became the template for our bill. And I want to note for the record and be very clear about this: I want to thank Nathaniel Hurd, our lead staffer, who has done absolute yeoman’s work on this. Thank you, Nathaniel, and Mark Milosch, our chief of staff for the Helsinki Commission, who has also been right there all the way, and other members of the staff. But, Nathaniel, thank you for our work in reaching out to so many very informed people who have helped us cobble together what I think is a transformation bill, if it’s enacted. Although, as you have said, so much of this could be done, if not all of it, administratively if there was a political will to do so.

Let me ask a few questions, and then I’ll yield to my good friend and colleague Commissioner Joe Pitts. How much – and perhaps Mr. Rasche, you might want to speak to this – how much is needed? You did give a number. If that money is not provided to the Christians who are suffering, what will happen in the next week, months?

We had asked Anne Richard and we had asked the Administration if they could provide us with a witness to be here. They are very active at the U.N. today, so I certainly understand that. But we are willing to meet any time, next week, week after week after week, after, right up – maybe not Election Day, but every other day before and after to hear from them, because we want to know what they’re willing to do, what they’re planning on doing on each of these categories.

When it comes to the food side of it and medicines and the like, could you just again highlight the sense of urgency, which I think is missing? I said in my opening how disappointed I was when I watched the president’s speech at the United Nations, and I kept waiting for at least a paragraph, at least a sentence, at least a word about the genocide. And when it was over, I threw my hands up and said, “Not a word!” It was – it was disappointing in the extreme, and I’m sure it disappointed many others, particularly those who are waiting with baited breath to have the president all in.

But this humanitarian need, I can tell you beyond any reasonable doubt that I know our leadership, Speaker Paul Ryan is a great humanitarian and cares deeply. We need to move this bill quickly. I was hoping to do a markup today in my subcommittee. Unfortunately, that got delayed – not by me. We need to move quickly, because time is of the utmost. And we’ve spent

months putting this together to try to leave no stone unturned. We're always open – as Mr. Canny, you recommended some changes. But this urgent need, if you could speak to that, and perhaps, Mr. Anderson, you could.

And Mr. Canny, if you could speak to the issue of the abysmally low number of Christians who are getting referrals, as is pointed out in Mr. Rasche's testimony. We've heard this many times, but you put it very clearly. Even U.S. representatives privately admit that Christians would be under real threat of additional violence and persecution within the Muslim majority camps. But the reactive reflex answer they get from so many is: Just go to the camps. If they go to the camps, they're in peril. That's why this P-2 status and this idea of getting that interview are so extremely important.

We had asked last October at one of my seven hearings on this, Assistant Secretary Richard, said, "On the P-2, the advantage of a P-2 category is that it helps UNHCR—it helps us get referrals. It facilitates that. Since we have 22,000 referrals right now, it's not a problem for us. So it's not something that would benefit us right at the moment. We can always take a fresh look at that." That was a year ago, almost exactly. It's time for that fresh look, because, again, large swaths of people, Christians, Yazidis are being bypassed, and I think that's unconscionable. So if you could speak to that, and any of you who would like to touch on that.

RASCHE: Yes, Mr. Chairman. As I said in my written testimony, the needs that we are meeting are fundamental daily needs: shelter, food, medicine. They're not the type of needs that allow for us to tell people "hold on, it's coming in six months or eight months or 12 months." They're at our door every morning, and our situation is one where we like to say "we wake up every morning and we rob six Peters to pay 12 Pauls." We do that every day and we've been doing it every day for two years. We are responsible for these people, and in the absence of government aid, we won't stop taking care of them. We will do what we need to do to find that aid wherever we need to find it. And if that means prioritizing our relationship with other governments, per se, who are more willing to step into the void, then at a certain point we have to do that.

The people, especially the Christians of the Kurdistan region in northern Iraq, view the Americans at present as their natural partners, and in all frankness, believe that the U.S. has a special moral role to play in this rebuilding. But that being said, the needs are existential needs. They exist every day. So our present need is as I've outlined. \$9 million, we believe, gets us through these next six months with these bare needs. But it is a real issue for us in that our donors are experiencing donor fatigue on their end. There's only so long that you can be asking private aid dollars to take care of these situations.

As far as how quickly removal of this aid would result in trouble for us, I fully expect that we would see riots in 30 to 60 days if this private funding that we're now relying upon was pulled. There are indications that the people are close to that point. The people know that they are not receiving any aid from the U.S. government. The people in the camps, the Christians in the camps, they know that they're not receiving any aid from the United States, and they question why. And these are difficult questions for us to answer. Again, we're not sheltered from

these. People come directly to our faces every day and ask us about that. So the need for us, it's acute.

I'll stop there and let you –

SMITH: Before we go, in follow-up –

RASCHE: Sure.

SMITH: – with the winter approaching, I remember when George Bush, the first George Bush made the statements about the Kurds. We had their backs. Massive numbers fled. Saddam Hussein was in hot pursuit. They got to the border in Turkey. And we had a program called Operation Provide Comfort that sent in Special Forces because people were dying from exposure. I went with a delegation. We saw people who were on the brink, babies who were dying, little children who were dying. And everywhere you went you saw Kurdish men and women with our camouflage jackets just to stay warm because exposure was killing so many. With winter approaching, how much of an additional threat does that pose to – because I've never seen so many people at risk. And if it wasn't for the Special Forces – you know, the NGOs came in a month a later, did a wonderful job, but they were able to put a tourniquet on what would have been a massive loss of life.

RASCHE: It's a good point, Mr. Chairman. You know, I think the – as Americans and the general population as a whole, there's a mistaken belief that it doesn't get cold in Iraq. It snows in Erbil in the winter time. And as we come upon this period of time, it's important to remember, even the people that we've put in shelters and whatnot, it gets incredibly cold for them at night, and so that you have these additional costs for heating oil, for blankets, for these sorts of things. Absolutely that is a concern for us. Our costs will go up.

SMITH: And the number of people we're talking about, just to be as exact as we can? Just a general –

RASCHE: The number of people that we're talking about in the Erbil region for IDPs is for Christian IDPs – I'm not speaking to the Muslim population – about 70,000 people.

SMITH: And you also, as you said in your testimony, take care of the Yazidis?

RASCHE: That's right.

SMITH: Of that 70,000.

RASCHE: We don't take care of all of them. But in many of our camps, there are Yazidis who are fully integrated into the camps. It's a situation where, when they fled from Mosul and Nineveh, the Yazidis and Christians fled together. And when they resettled, they resettled together, and they consider themselves in their resettlement situations as being a village.

To the extent when we talk to them about resettling perhaps one group, when we go to the Christians and say, “we think we have a better place for you to go; are you interested in going?” And their response is “only if the Yazidis come with us.” And we go and speak to the Yazidis and say, “we think we’ve found a better place for you to go. Will you go?” And they say “only if the Christians come with us.”

SMITH: Thank you.

ANDERSON: Thank you, Mr. Chairman.

Let me just reinforce what Steve has said here about what is occurring in Erbil. I would say, having just met with religious leaders from Aleppo several weeks ago, the situation is as bad there, if – perhaps worse, than where it is in Iraq.

But let me just address what Senator Cardin said at the beginning with his opening statement, and that is the question of corruption. I would say that the delivery systems of this neighbor-to-neighbor type of aid through religious communities, religious entities and churches is not only a very effective delivery system – because people know each other, and people are living together with each other, and people who are doing that are the mediators for the aid – it is an effective way. It’s an efficient way. And it is a very low threat of corruption in the delivery of this aid.

And so I would encourage Congress very strongly to think about finding ways in which these religious communities can be the delivery system for this emergency aid, because absolutely it is needed.

SMITH: You know, is 9 million (dollars) the short-term number, or is it higher? This seems a low number for so many people.

ANDERSON: Yes, it’s obviously a low number, but it’s higher than zero. So from that standpoint, it’s good. But it’s for six months. So if one were looking at an annual appropriation, maybe, Steve, of 20 (million) to 25 million (dollars), and then the NGO assistance could be on top of that, building educational systems, housing and putting it more in a more permanent basis.

But maybe you have a comment on that.

RASCHE: I think that’s right, Carl. Again, the numbers that we’re proposing right now, understanding the realities of where your session is, the session is, and the other constraints that we have, this is for those specific critical needs. But the overall situation in terms of rebuilding and rehabilitation – I think Carl’s number is right.

CANNY: Thank you. The Catholic bishops have been very concerned about what has been raised here. That’s keeping Christians in the Middle East and not continuing to deplete their presence. Muslim leaders in the Middle East consider the Christian presence critical, both historically and today.

However, for those who are forced to leave and get out, we've found, again, statistically that they're not registering in the United Nations system for the registration as refugees. We think there are a number of reasons. As indicated in the Knights of Columbus report, the camps they don't feel are safe places. However, 85 percent of refugees are outside the camps.

So how do we get them registered in the system? UNHCR has put up some mobile capacity to go out and register. It has clearly not been successful. Therefore, I think that a P-2 designation is warranted, which, as you said, Chairman, allows them to get into the system quickly and more regularly, and more efforts to get out and reach those Christians and other minorities that are outside of the countries in which they exist originally is critical.

SMITH: You know, just on that point, the President, I thought, used very poorly chosen words, at least, and if this sentiment really is behind it, it is despicable, when he said he didn't want a religious test. I was shocked at it, frankly.

My first trip to the Soviet Union in 1982 was on behalf of the Soviet Jewish Refuseniks who had P-2 category because they were being put into psychiatric prisons, Perm Camp 35 – I actually went there in the mid-1980s – and Christians were also included in that P-2 designation, Ukrainian Catholic and evangelicals. I met the Siberian Seven, who had gotten into our embassy. This is all in 1982.

This is not a religious test, and having the genocide designation says this Administration acknowledges the existential threat they face. So you have to provide additional remedies.

So I do hope that he'll step back from that statement, so that whether he supports this bill or not – again, he can even do it administratively, if he so chose.

Just a couple questions. Then I'll go to my friend Joe Pitts.

Mr. Engels, you talked about the linkage evidence. I thought that was really strong point. We do have study after study saying how bad it is, showing the linkage to personal responsibility. And I thought, Ambassador Scheffer, your points and your case studies about the infirmity of our U.S. law to prosecute people who have committed heinous crimes, crimes against humanity, war crimes – and you went through several – is just absolutely compelling.

And you know, this Commission contemporaneously with the Srebrenica massacre – I've been there, I've been there for reinternments. As you pointed out, one of those who committed those horrible crimes – 8,000 dead Muslim men – in Srebrenica, a U.N. safe haven, and yet he lived in the United States, in Massachusetts, and was only charged with visa fraud. I mean, that's outrageous.

And you went through a whole group of people – Guatemala, El Salvador – Mederos in the Cuban regime, Armando Valladares talked about the very thing he did, urine and excrement, as well as electroshock treatment, and he is living here and you know, that he wasn't prosecuted either. The killer of archbishop – the assassin of Archbishop Romero, now a saint in the Catholic Church, another one.

Then you even talked about George Boley, who committed horrible crimes in Liberia, and he's now a destabilizing factor, apparently, in Liberia again. And we could have prosecuted him. You know, they were able to get Charles Taylor 50 years, but this man was here in the United States and is now back destabilizing Liberia, which is not out of the woods yet.

So thank you for that. My hope is that, again, the Administration, either this Attorney General or the next, even without the law. I will push on this till it's law; I can tell you that every bill I have ever introduced, I don't stop until, God willing, we get it.

And you know, Ben Cardin mentioned the trafficking work. I wrote the Trafficking Victims Protection Act. Took three years to get that passed, had one roadblock after another. Finally, in 2000 it became law. We will push on this until it's law.

But time is of the urgency. You know, there are bad people walking our streets that need to be prosecuted.

So I want to thank you for just highlighting so strongly and, given your credentials, why this needs to be done. So if you want to elaborate on that and, again, on this idea of the linkage, so that we can start prosecuting.

SCHEFFER: Thank you so much, Mr. Chairman, for those kind words. I would simply make a couple of comments.

There is no contradiction between this massive requirement to deal with the victims and also the massive requirement for accountability. The victims are victims because of those who need to be brought to justice. We should be able to walk and chew gum at the same time in our own government and be able to deal with the victims, provide them with assistance, recognize that that they are victims. You know, a large number of Syrians are Syrian Muslims who are victims, and we need to recognize that.

In terms of accountability, the work that Chris's organization is doing – and I know of it quite well – is absolutely invaluable. We know, in the work of the war crimes tribunals that I've focused on for 25 years, that the investigation of these crimes is an incredibly difficult challenge because when you look at atrocity crimes, the number of crime sites, and being able to reach that chain of responsibility up to a leadership level is a very, very difficult evidential challenge. It's not like investigating a single murder. It's investigating 20,000 murders. And courts will demand that a certain amount of evidence be demonstrated in order to bring a leader to justice. And they will have the very best defense counsel you can imagine.

So these are two very complementary aims, and I just think that our government should be able to accept these challenges with coherence and with a sense of mission for the fate of our brothers and sisters overseas.

I just want to make one final comment. You know, when I was Ambassador-at-Large for War Crimes in the late 1990s, I also had the responsibility of literally going to atrocity scenes as

quickly as possible. I sometimes would show up within hours of the massacres, and I would see the victims and all of the carnage.

I want to pay a compliment to my colleagues in the Catholic community. So often when I showed up at a scene in Africa or in the Balkans, the first relief that came on the scene – these – this would be within hours if not a day or so of the atrocity – was Catholic Relief Services. Then the U.N. would get there within a number of hours later, but it was the Catholic Relief Service vehicles that I saw pulling up and immediately dealing with the most urgent concerns that no one else was dealing with yet.

So I think we need to be listening to our colleagues in the Catholic community. They know what they're doing, and they provide that assistance with such critical urgency when it occurs.

ENGELS: Thank you again for the comments. Just to elaborate a bit on the points that you made related to perpetrators and linkage evidence, it is my experience, our experience, that in the past a large amount of the hard work on the ground has taken place only after there was political consensus on what form of tribunal would be established, whether it be an ad hoc, a local court with international support, a hybrid court.

The problem with that model is that, as we know, it takes time to build consensus on whatever that tribunal might look like. If we wait until then to begin investigations, then we've lost a great deal of time, and indeed much evidence can be lost, never to be retrieved again.

But that's only part of the work that we try to do now. The other element to that is in the great hope that whatever the justice mechanism is, it will also include Syrians and Iraqis. What we've also seen in the past is that no work is done to build the capacity of local lawyers, investigators, judges, again, until there is some final decision on what form a court will take. And that then means again we're behind.

So at one instant, a court is established, and then the victims, the people who experienced the crime, want justice at that point. They see momentum. But indeed that's only a beginning if nothing's done in preparation, because you still have to train the individuals that will be there, because of course even if you're an excellent judge or prosecutor, you haven't worked in war crimes before. So it's new – it's new – it's new subject matter. And indeed without the evidence being collected, it means that justice will again be delayed.

So our work is really focused on trying to do what we didn't do before and do it better, and that is prepare for the hopeful one-day international or hybrid mechanism that can prosecute these crimes while at the same time we take advantage of the jurisdictions that are available today.

With the large refugee flows going into Europe, we know that perpetrators are in those flows. And that's why, as I mentioned earlier, we work directly with war crimes prosecutors in Europe and in North America to identify and provide our evidence to those individuals today – evidence that couldn't be attained otherwise, because the conflict is ongoing – to ensure at least

we can demonstrate to the Syrians and to the Iraqis who are in those refugee flows, that when individuals do come within a jurisdiction which does have the rule of law and has the ability to prosecute them, the evidence will be there and will be ready and waiting for them.

SCHEFFER: Just 10 seconds – I just thought I would add that I do not think it’s mission impossible to actually create a tribunal that deals with the Syrian and Iraqi atrocity crimes. The Russian veto has blocked us in the Security Council in terms of referring the situation to the International Criminal Court. But I wrote a couple of years ago an article that perhaps I could submit to the record, if you would permit me to, from *The Los Angeles Times*, in which I proposed a tribunal that would be constituted through a treaty between the U.N. General Assembly and certain key governments in the region who are clearly impacted and thus can claim extraterritorial jurisdictional bases for holding individuals accountable for crimes that are having such an enormous impact on their own territory.

That would require leadership, though, a tremendous amount of political will. But frankly, if you work it through the General Assembly, you can avoid the Russian veto.

SMITH: I’d like to yield to Commissioner Pitts.

PITTS: Thank you, Mr. Chairman, for holding this hearing. Thank you for – all of you, for your efforts, for your testimony. I’ll just go down the line.

Mr. Engels, what’s your understanding of what the U.S. government is doing to support criminal investigations of atrocity crimes committed in Iraq and – or Syria, and to support the apprehension of the perpetrators?

ENGELS: I think that the focus thus far has been on another key element of transitional justice, and that is on documentation – supporting NGOs and other groups that are documenting crimes, the crimes that are being committed, and supporting advocacy NGOs that are making sure that the public is aware of the atrocities that are being committed today and have been being committed for years. And that is a great and very important focus.

It is of course my position, because of the work that I do and my narrow focus in the bigger picture of transitional justice, that it would be of great help and assistance if – not only financially but also giving the backing of the U.S. government, if more work was done to support NGOs who are also working on the criminal justice side to ensure that these individuals do come to justice one day.

PITTS: Thank you.

Ambassador Scheffer, you said in your written testimony that “while their number is unknown, there probably are individuals who committed atrocity crimes overseas and have yet to be discovered currently residing in the United States.” In fact, you mentioned the word “safe haven.” How many such perpetrators might be in the U.S. now, and what are the most egregious examples of the perpetrators currently living in the U.S. without being prosecuted?

SCHEFFER: Congressman, I'm always careful not to throw numbers out that I can't substantiate, obviously, but we do know from our end – that's why I added to my oral testimony that the Human Rights Violations and War Crimes Unit of ICE in the Department of Justice actually does have numbers of individuals – 1,900 leads on investigations right now for individuals in the United States, and 125 active investigations. Since 2004, 780 individuals have been removed through this process. We don't know if that's the tip of the iceberg or whether that's the iceberg. But I think when you're talking about many hundreds of individuals who range in character from those who perpetrate massive crimes against humanity to even single human rights violations or single instances of tortures of various victims, it's still a matter of considerable concern.

So we continue to search and we continue to find that even as Chairman Smith mentioned earlier, suddenly we discover that there are individuals from the Bosnian conflict, from the Somalian conflict, from conflicts of 20, 30 years ago who are discovered here, just as we continue to find rather elderly individuals from Nazi Germany who suddenly pop up on our screens in this country. And of course the Justice Department has a lot of those who committed immigration fraud to secure their presence in the United States 40, 50 years ago.

You had a second question for me, Congressman, beyond that.

PITTS: Just some of the more egregious examples –

SCHEFFER: Oh. Well, could I – could I point you to the attachments that I have to my written testimony, which truly do I think offer you a number of examples. They are compiled by the Center for Justice and Accountability, and also at my law school, and I think we've mentioned some of those. I can go into more detail if you wish, but there are attachments to my written testimony.

PITTS: All right. Thank you.

Mr. Rasche, if Christian IDP families leave Iraq, how likely are they ever to return?

RASCHE: Highly unlikely. It's important to understand that the people that are there now, the families that are still in Iraq – they're the last survivors. And if they're forced to take this next step, which would be to flee into the emigrant diaspora in Europe and other places, that's a one-way door for them. They will not come back. And I can say this from personal experience because we've lost families and people that we invested time in that we had hoped would say, and when we speak to them about their views on things, they've just made it clear that once they go, they're on their way.

PITTS: Thank you.

Mr. Canny, you mentioned the small number of Christians among the refugees resettling in the U.S. Why is the number so small? Would you elaborate?

CANNY: Well, one of the reasons is it's hard to put together the full picture because they're on the move, of course, they're in many different areas, they often aren't coming out due to their own fears. But they're not in camps where traditionally we find people to resettle, so they're in urban areas. Therefore special measures have to be made to go out and find them and get them to register by the United Nations. They're not as adept at doing that as perhaps we would want them to be. You have to be encouraging them to do that.

Other reasons include – many of them we think are in Lebanon. We've been slow to register people in Lebanon, particularly the U.S. government, due to security reasons for our own personnel. So we have a unit there now, the government does, but it's registering people slowly related to personal security.

Those are a couple of the reasons for this. Those who have left we don't think will go back, as Steve mentioned, and so we need to provide them an easier access to being resettled.

PITTS: Mr. Anderson, when you have asked U.S. or U.N. officials the question you shared in your written testimony – why aren't the communities that are victims of this genocide receiving public aid? – and I think you said no U.S. aid as well – have they ever shown openness to reevaluating how they deliver aid so that it reaches genocide survivors?

ANDERSON: No.

PITTS: Why?

ANDERSON: I think the point Steve made gave us some insight on that in the sense that they are looking at individuals and many of the non-Christians individually are worse off because they have not been taken in by their neighbors in the same way that the Christian communities have reached out to their neighbors in need and brought them in. So it's possible to look at the individual level, and there are many Muslim IDPs who are in worse shape than the Christian IDPs. But that doesn't account for, as I said, the survivability of these individuals as a community, which is the long-term test of their survivability.

PITTS: But, you said no U.S. aid has gotten to these communities. Is that correct?

RASCHE: That's correct.

PITTS: Go ahead.

RASCHE: That's correct. Just to reiterate what Carl has said, it's not that the people we have spoken to within the established aid community don't understand the argument that we're making. They understand it. Their response is, we have an individual needs policy which doesn't allow for us to deviate and address your particular situation, and that's the way it is. And we've found this time after time after time.

One other thing I'd like to briefly clarify regarding the potential return of Christians to Iraq – I don't mean to preclude that there is no situation in some future stable regime that they

would not consider returning. What I'm speaking to is within the foreseeable future with the issues that they're all facing. Once they enter that exit stream, they'll continue going until they reach some other destination.

PITTS: So, would this P-2 classification that Mr. Canny mentioned overcome this?

RASCHE: Well, you know, the P-2 classification I think would provide for great help to the people that have already made that step to enter into the emigration stream at great personal risk to themselves. I've spoken this morning about the Christians in and around Erbil. But many of their family members are now in Lebanon, in Turkey, in Jordan and in other places, and in really dire and hopeless situations, and this P-2 designation would certainly assist them and assist them greatly.

PITTS: Thank you, Mr. Chairman.

SMITH: Thank you very much.

Just a couple of final questions. One of the lessons learned from Bosnia was that so many of those who were encouraged to return – one, they weren't returning to all that much, whether in the Republika Srpska or Bosnia. But when they did return, their next-door neighbor or someone on the street was someone who committed atrocities and there was never any kind of accountability. So prosecution and convictions – making facilitation of return more probable, if you might want to speak to that, because I think that is a huge issue. At the right moment they can flare up and do it again. Plus, you're buying a loaf of bread – the guy right next to you just killed five people in your family.

Secondly, if I could ask Mr. Engels – you have 40 people in Syria, 20 in Iraq, 130 that work in your organization. I was just in South Sudan and was struck by how many humanitarian aid workers and human rights monitors had been targeted by both sides, by Salva Kiir's government as well as by the newer vice president who is now out of the picture, because they see them as spies. They were blaming the United States, humanitarian aid workers, and it was Salva Kiir's people. There's an investigation in there. But how many – have there been any fatalities, casualties among your 40 in Syria or 20 in Iraq? That is very, very difficult.

And while you're answering, I noticed you attached in your testimony where you get your money from – the U.K., European Union, Canada, Denmark, Norway, Germany, Iraq and Switzerland – but I don't see the United States. Have they turned you down or they just are not interested? It seems to me this is an endeavor that we ought to be backing.

ENGELS: First, on the question of the risk to our people working in that area, I think it's an incredibly important question and it's something that we of course take very seriously. Because of the work that we do, we have very serious security protocols and we don't take risks lightly.

Given the work that's going on and the individuals that we have in the field, I think there are two levels of risk that need to be addressed. One is the general risk to anyone who chooses to

stay and work in Syria and Iraq, rather than leave. That risk is there no matter if you wear a white helmet running into a building that's just been attacked, trying to save civilian lives, or you're working in a hospital trying to do the best you can to mend the damage that's been done by those who are attacking civilian objects, or if you're a journalist, or if you're an investigator. So that level of risk is there for anyone who chooses to stay and operate in what is indeed a serious conflict.

The individuals that we have working for us have chosen to take that risk. They mostly come from legal backgrounds and they see that this is the thing that they can do for a future and peaceful Syria and Iraq. And indeed it is that belief that you just mentioned, that justice and accountability will be key for them to later on having a sustainable peace. And that's the reason that they stay.

The second tier I think of risk is that which might be specific to the job that they do, and that is of course something we focus on every day. We make sure that our people aren't in harm's way. If there's the possibility that moving documents across lines would incur additional risk, then we ask them not to do it. We ask them to put the documents somewhere else and wait for another day, because we know that while justice is important, there is a balance, and today we don't want our people being injured or hurt in the furtherance of what we hope to be successful prosecutions later down the road.

And to the second part, on U.S. funding, no, we haven't. We have asked. We haven't found the right pot of money or the right avenue to pursue. We've done a lot of asking and attempted to figure out where we fit, and I think that that is something that hopefully this type of legislation will improve for not only us but other organizations doing this work, because we are doing something that's not in a traditional funding stream, which makes it potentially more difficult. So indeed, no, we have not found that stream yet.

SMITH: And, Ambassador Scheffer, while you're answering that, you point out that H.R. 5961 requires answers at the current state of our federal law. Could you tell us, do other countries have a law like we would like to ultimately have, and do they prosecute people who commit war crimes who are then residing within their boundaries? Do you have any idea which countries those might be?

SCHEFFER: On your first question, yes, there are many other countries. There are 72 countries that have crimes against humanity laws on the books. What I do not have for you is empirically how often are those laws actually activated to prosecute individuals. What they do – and would love to see that – I would love to see that data created someday by researchers that I could gather for that.

But the reality is that those countries that have the crimes against humanity laws on the books – and they include all of our major allies – they are able to demonstrate to the world and of course to the International Criminal Court under complementarity principles, that they're able to do this job themselves. They don't have to rely on another jurisdiction or the International Criminal Court to actually pursue these prosecutions.

Also, it helps them tremendously in extradition treaties because under the double criminality rule, if we have crimes against humanity laws, someone else does, it's a much easier extradition procedure to ensure prosecution in the appropriate jurisdiction – perhaps where the crime scene is, et cetera. So it just makes extradition practice much, much more fluid and doable to be able to have similar criminal statutes in the two jurisdictions.

But no, I just don't have the empirical data on how many have actually been prosecuted, but it has occurred.

I was just going to further elaborate on something, Chris, that you were saying, and I've lost my train of thought answering the first question, so I apologize.

That's fine. I've finished.

SMITH: Okay. Thank you.

SCHEFFER: Yeah.

SMITH: Before we conclude, does anybody else have anything else they would like to add?

SCHEFFER: Oh.

SMITH: Yes?

SCHEFFER: It has occurred to me what I was going to say about Chris's testimony.

You know, when we created the Office of War Crimes Issues in the State Department in the late 1990s, we had no budget. I had to scrape my budget together for my staff literally from other parts of the department, from other agencies, through secondments, et cetera. And I didn't have any funds to actually launch initiatives like this whereby we would find an investigative capacity elsewhere and we'd like to be able to provide funding to it to assist our government, to supplement our government's work, et cetera. And it seems – I may be misinformed these days, but I have the impression that that situation has persisted, that probably the Office of Global Criminal Justice, which is the successor name in the State Department, probably does not have any kind of significant budget to actually administer for these purposes. That's why I think Chris is saying where do we find this particular pot of funding within the U.S. government. It's a very difficult exercise to try to find it.

SMITH: Thank you all for your testimony, and we will reconvene shortly when we hear from the administration. There's a standing invitation there. I hope they come soon. I just mentioned to my staff, any day but Election Day – (laughs) – but we stand ready. And a trip to Erbil – we'll put together a CODEL to again try to bring additional word back to our colleagues about the urgency of the situation.

So, thank you so very, very much for your extraordinary work. The hearing is adjourned.

[Whereupon, at 11:52 a.m., the hearing ended.]