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ATROCITIES IN IRAQ AND SYRIA: RELIEF FOR SURVIVORS AND ACCOUNTABILITY FOR PERPETRATORS

HEARING

BEFORE THE

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

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ATROCITIES IN IRAQ AND SYRIA: RELIEF FOR SURVIVORS AND ACCOUNTABILITY FOR PERPETRATORS

September 22, 2016

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

The hearing was held at 10 a.m. in Room 2200, Rayburn House Office Building, Washington, DC, Hon. Christopher H. Smith, Chairman, Commission on Security and Cooperation in Europe, presiding.

Commissioners present: Hon. Roger F. Wicker, Co-Chairman, Commission on Security and Cooperation in Europe; Hon. Benjamin L. Cardin, Ranking Member, Commission on Security and Cooperation in Europe; Hon. Alan Grayson, Commissioner, Commission on Security and Cooperation in Europe; and Hon. Joseph R. Pitts, Commissioner, Commission on Security and Cooperation in Europe.

Witnesses present: Chris Engels, Deputy Director for Investigations and Operations, the Commission for International Justice and Accountability; David Scheffer, former U.S. Ambassador-at-Large for War Crimes Issues; Stephen M. Rasche, Esq., Legal Counsel and Director of IDP Resettlement Programs, Chaldean Catholic Archdiocese of Erbil, Kurdistan Region, Iraq; William Canny, Executive Director, Migration and Refugee Services, United States Conference of Catholic Bishops; and Carl A. Anderson, Supreme Knight, Knights of Columbus.

HON. CHRISTOPHER H. SMITH, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. 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 af-

firming 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 [International Criminal Court], while it might work, probably was not suited to this activity; it has only had two 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 "After 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 case 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 $64,000 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 it is funding them and 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 Program.

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.

HON. BENJAMIN L. CARDIN, RANKING MEMBER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. 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 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 committing—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 ac-

tively 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 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.

Mr. 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.

HON. ROGER F. WICKER, CO-CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. 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 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.

Mr. 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.

HON. ALAN GRAYSON, COMMISSIONER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. 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 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 on 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.

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

I'd like to yield to Joe Pitts. Joe Pitts, besides being chairman of the Subcommittee on Health and serving on the Energy and Commerce Committee, is the co-chair of the Lantos Human Rights Commission. Joe Pitts.

HON. JOSEPH R. PITTS, COMMISSIONER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. 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, others 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.

Mr. 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.

CHRIS ENGELS, DEPUTY DIRECTOR FOR INVESTIGATIONS AND OPERATIONS, THE COMMISSION FOR INTERNATIONAL JUSTICE AND ACCOUNTABILITY

Mr. 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 efforts 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 under-utilized 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 statutes, 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.

Mr. 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.

DAVID SCHEFFER, FORMER U.S. AMBASSADOR-AT-LARGE FOR WAR CRIMES ISSUES

Amb. 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.

Mr. 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.

STEPHEN M. RASCHE, ESQ., LEGAL COUNSEL AND DIRECTOR OF IDP RESETTLEMENT PROGRAMS, CHALDEAN CATHOLIC ARCHDIOCESE OF ERBIL, KURDISTAN REGION, IRAQ

Mr. 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.

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

I would like to now to turn to Bill Canny.

WILLIAM CANNY, EXECUTIVE DIRECTOR, MIGRATION AND REFUGEE SERVICES, UNITED STATES CONFERENCE OF CATHOLIC BISHOPS

Mr. 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, an 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 twenties 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 or 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.

Mr. 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.

CARL A. ANDERSON, SUPREME KNIGHT, KNIGHTS OF COLUMBUS

Mr. 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 20th 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 16th, 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.

Mr. 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 your 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 bated 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—and 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.

Mr. 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 6 months or 8 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 6 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 is that. 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——

Mr. SMITH. Before we go, in followup——

Mr. RASCHE. Sure.

Mr. 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.

Mr. 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.

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

Mr. 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.

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

Mr. RASCHE. That's right.

Mr. SMITH. Of that 70,000.

Mr. 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 as 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."

Mr. SMITH. Thank you.

Mr. 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—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.

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

Mr. 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 in a more permanent basis.

But maybe you have a comment on that.

Mr. RASCHE. I think that's right, Carl. Again, the numbers that we're proposing right now, understanding the realities of where 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.

Mr. 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.

Mr. 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 a 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 here he is living here and you know, 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.

Amb. 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—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.

Mr. 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 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.

Amb. 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.

Mr. SMITH. I'd like to yield to Commissioner Pitts.

Mr. PITTS. Thank you, Mr. Chairman, for holding this hearing. Thank you, 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 or Syria, and to support the apprehension of the perpetrators?

Mr. 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 atroc-

ities 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.

Mr. 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?

Amb. 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.

Mr. PITTS. Just some of the more egregious examples——

Amb. SCHEFFER. Oh. Well, 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.

Mr. PITTS. All right. Thank you.

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

Mr. 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 stay, 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.

Mr. 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?

Mr. 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.

Mr. 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?

Mr. ANDERSON. No.

Mr. PITTS. Why?

Mr. 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.

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

Mr. RASCHE. That's correct.

Mr. PITTS. Go ahead.

Mr. 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.

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

Mr. 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.

Mr. PITTS. Thank you, Mr. Chairman.

Mr. 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.

Mr. 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.

Mr. 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?

Amb. 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.

Mr. SMITH. Okay. Thank you.

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

Amb. SCHEFFER. Oh.

Mr. SMITH. Yes?

Amb. 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.

Mr. 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 was adjourned.]

A P P E N D I C E S

PREPARED STATEMENTS

PREPARED STATEMENT OF HON. CHRISTOPHER H. SMITH, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Seven months ago, the Independent International Commission of Inquiry on the Syrian Arab Republic reported that "The [Syrian] Government has committed the 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 Kerry declared that ISIS "is responsible for genocide against groups in areas under its control, including Yezidis, Christians, and Shia Muslims." They were acknowledging the facts-on-the-ground and affirming what I and many of you in this room had been saying for years.

The atrocities in Iraq and Syria have been so horrible, for so long, 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 and done the wrong 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, advocating for the formation of an ad hoc tribunal for perpetrators in the Syrian conflict. This has gone nowhere. The Administration has seemed uninterested and has taken no action. This May, I chaired a hearing after the genocide declaration, asking the question "What next?" Half a year later we have the answer from the Administration: Not much. When given the opportunity to speak about the genocide during his recent address to the entire UN General Assembly, President Obama said nothing. How could he be silent about a modern genocide that has been happening on his watch?

Administration officials have stated that it is in the interests of the United States to enable Christians, Yezidis, 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 the Administration is hiding behind misinterpretations of humanitarian principles to avoid supporting entities that are serving these communities.

Shockingly, Steve Rasche, Legal Counsel and Director of IDP Resettlement Programs for the Chaldean Catholic Archdiocese of Erbil in Iraq, will testify that "throughout this entire period of crisis, since August 2014, other than initial supplies of tents and tarps, the Christian community in Iraq has received nothing in aid from any US aid agencies or the UN."

Carl Anderson, Supreme Knight of the Knights of Columbus, who provided a template for our legislation, will also testify that "We know that many Christian and Yazidi victims of genocide do not receive public aid."

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 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. 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 case 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 continues and perpetrators are punished.

When the Executive Branch fails to acts, then 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 my lead cosponsor. She has been a tireless champion for Christians and other religious communities brutalized by ISIS, consistently pushing the Administration to act, and I am grateful for her efforts. Our partnership is evidence that this is not about partisanship.

On accountability, H.R. 5961:

- Requires the Secretary of State and Administrator of the U.S. Agency for International Development, USAID, to support entities that are conducting criminal investigations into perpetrators and building investigative and judicial capacities in Iraq.
- 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.

On assistance for genocide survivors and other Iraqi and Syrian religious and ethnic groups that have been persecuted, H.R. 5961 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 these risks.
- U.S. assistance that has actually reached, and is planned to reach, these communities.
- Entities, including faith-based ones, that are effectively providing assistance on-the-ground to these communities.
- U.S. funding for such entities, if it is funding them, and justification if the Administration is not. The Administration would have to explain whether funding these entities is prohibited under U.S. law.

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, as of "particular humanitarian concern" to the United States. This would create a Priority Two, often know 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 UN, an NGO, or the U.S. government.

Under U.S. law, an Administration can make a P-2 designation anytime without needing additional authorization from Congress. The United States 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 an Administration, like ethnic minorities from Burma in Malaysia.

This bill is clear: They would have to clear the same security screening as other Iraqi and Syrian refugees before they can be admitted to the United States.

One can vote for the SAFE Act, as I did, and support this P-2 provision, as I do. This P-2 designation provides an extra avenue for displaced genocide survivors to get into the U.S. refugee admissions application system. The SAFE Act focuses on security screening and security certification once they are in the system. We can and we must remain vigilant about our security and committed to compassion for refugees.

I ask my fellow Members of Congress, including my fellow Commissioners from the House, to cosponsor H.R. 5961 and help ensure that it is marked up and onto the floor for a vote as soon as possible. I ask those of you in the audience today to urge your Member of Congress to cosponsor this vital legislation and ask people you know to do likewise. Although time is running out for this Congress, there is still time to pass this bill and send it to the President to sign into law.

PREPARED STATEMENT OF HON. ROGER F. WICKER, CO-CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. Chairman, thank you for convening this hearing 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. Hundreds of thousands of them 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 am delighted to see Chris Engels, from the great state of Mississippi, testifying 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 that the U.S. government will support these vital criminal investigations.

I look forward to hearing from our witnesses on this and other key aspects of the proposed legislation. Mr. Chairman, thank you for calling this hearing and for your proposals to help address the ongoing human tragedy in Iraq and Syria.

PREPARED STATEMENT OF HON. BENJAMIN L. CARDIN, RANKING MEMBER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

As the number of conflicts around the world continues to grow, and with so many lives in the balance, it is difficult to imagine a more urgent priority than preventing mass atrocities and genocide.

There is nowhere where this more evident than in Iraq and Syria.

The Assad regime has dropped over 2,000 barrel bombs on its own people—hitting mosques, hospitals, schools, and other civilian infrastructure. The death toll over the course of the conflict has, by some estimates, surpassed 400,000 people. And that figure does not include the tens of thousands of missing Syrians. Bashar Assad and his regime must be held accountable for the systematic murder and torture of an untold number of innocent Syrian men, women and children.

However, the Syrian regime is not the only actor responsible for atrocities. As ISIL expanded beyond Mosul, an estimated 450,000 Yezidis, 300,000 Turkmen, and 125,000 Christians, as well as Iraqi Arabs, Shia Muslims, Sunni Muslims, Shabak and other ethnic and religious groups, were forced from their communities.

On March 17, of this year, Secretary of State John Kerry issued a declaration stating, that in his judgement, ISIL "is responsible for genocide against groups in areas under its control, including Yezidis, Christians, and Shia Muslims," and is "also responsible for crimes against humanity and ethnic cleansing directed at these same groups and in some cases against Sunni Muslims and Kurds and other minorities."

The United States is leading the charge to see justice done for all the victims of ISIL's depravity. U.S. technical assistance in geospatial analysis helps to identify potential mass graves behind ISIL lines.

Soon after the dust settles and ISIL is evicted from towns and territory, U.S. assistance is on the ground helping to excavate and preserve those mass graves and identify victims while supporting those who have survived ISIL atrocities, including the many victims of sexual and gender-based violence.

But more can and should be done.

Ultimately, the full extent of ISIL's crimes must be exposed by an independent investigation and formal legal determination by a competent court or tribunal with international support. It is also important to again note that ISIL is not the only perpetrator of atrocities in Iraq and Syria. It is therefore critical to hold all perpetrators accountable for the atrocities they have committed, regardless of their sect, ethnicity or political affiliation, through fair, credible trials—in Iraq, Syria, and beyond. Absent or arbitrary justice creates the fertile ground in which ISIL, and other extremists, can flourish.

As Ranking Member of the Senate Foreign Relations Committee, I have made the promotion of international human rights and the prevention of atrocities and genocide a central component of my work.

Through the Genocide and Atrocities Prevention Act of 2016, the Global Magnitsky Human Rights Accountability Act and the Syrian War Crimes Accountability Act, I have worked to ensure that, when the warning signs start to point towards possible conflict and atrocities, we have a more nimble, efficient, and effective response so our strategic investments can have a greater impact on promoting stability and security.

The Genocide and Atrocities Prevention Act fleshes out the Atrocity Prevention Board's functions, and, importantly, institutionalizes a mechanism for rapid, flexible funding when a crisis is occurring. The Genocide and Atrocities Prevention Act will ensure that civil society has a say in how the U.S. government conducts its atrocities prevention efforts, and Congress will have a greater oversight role to make sure we are getting it right.

We must also remember that an important component to prevention is accountability; however, this is an area that I think we need to focus more attention to. Accountability must be part and parcel of our atrocity prevention work.

So, the consequences for these types of gross violations of human rights must be substantive and real. This is why I am fighting hard to get my Global Magnitsky Human Rights Accountability Act passed into law. It authorizes the President to impose sanctions on individuals responsible for gross violations of internationally recognized human rights, putting them on notice that they cannot escape the consequences of their actions.

It's also why I've lead a bipartisan effort to hold Bashar Assad and his regime accountable, via the Syrian War Crimes Accountability Act, for the atrocities they have committed. It's why, make no mistake, we will hold ISIL responsible for the genocide it has perpetrated against Muslims, Yezidis, Christians, and other religious and ethnic groups in Syria and Iraq.

I'm speaking about the importance, in other words, of transitional justice. Transitional justice is essential to genocide and atrocity prevention. It is the moral imperative that guides our response to serious human rights violations, because the end of impunity and the promotion of truth and justice are not simply about accountability, but are about helping societies heal after the trauma of conflict.

Transitional justice, in the form of credible and impartial fact-finding, is our best defense against the danger of collective blame because only credible accountability—that in which victims believe—can bring justice, deterrence, and help to break the many recurring cycles of violence around the world.

I thank the Helsinki Commission for putting a spotlight on this important issue and I look forward to the testimony of our witnesses.

PREPARED STATEMENT OF CHRIS ENGELS, DEPUTY DIRECTOR FOR INVESTIGATIONS AND OPERATIONS, COMMISSION FOR INTERNATIONAL JUSTICE AND ACCOUNTABILITY

Please let me begin by thanking you, Chairman Smith, Co-Chairman Wicker, distinguished Commissioners, and the U.S. Helsinki Commission, for your steadfast support over the decades for the establishment of the rule of law and the promotion of human rights around the world. Let me also thank the Chairman and all the members of this Commission for their continued engagement to address the ongoing conflicts in Syria and Iraq, specifically the mass atrocities being inflicted upon the people by their own government as well as by militant extremist groups like the Islamic State. In this regard, I am honored to testify before this august Commission on efforts to combat these mass atrocities through individual criminal accountability.

By way of introduction, my name is Chris Engels and I serve as Deputy Director for Investigations and Operations at the Commission for International Justice and Accountability, or CIJA for short. In my testimony today, I will begin by introducing CIJA, how the organization came about in response to a serious lack of engagement by public institutions, and the intricacies of our atrocity investigative work in Syria and Iraq. Thereafter, I will discuss how CIJA's work relates to the subject of today's hearing, the *Iraq and Syria Genocide Relief and Accountability Act of 2016*, a much-needed, not to mention overdue, piece of legislation sponsored by Chairman Smith, with the co-sponsorship of other distinguished Members of the House of Representatives. Finally, I will conclude by putting forth recommendations for U.S. action that support U.S. interests in Syria and Iraq, namely the cessation of atrocities, the establishment of long-term peace and security, and the eradication of terror being unleashed by the Assad regime, the Islamic State, and other parties to this horrid conflict.

This Commission is already familiar with the extent of the mass atrocities occurring in connection with the Syrian civil war and its spill over into Iraq. Some members of this Commission personally heard testimony from the Assad regime defector, known as "Caesar," who smuggled thousands of images from Syria showing the Assad regime's systematic torture and murder of individuals—deemed "enemies"—in security centers throughout Syria. By passing House Resolutions 75 and 121 so overwhelmingly, Representatives have denounced the horrific war crimes, crimes against humanity, and genocide (collectively called atrocity crimes) being perpetrated by the Islamic State, the Assad regime, and others militant actors in Syria and Iraq.

For years now, human rights groups, as well as the United Nations, have sounded alarm bells in the wake of the blatant disregard for humanity and catastrophic displacement occurring in Syria and Iraq. In addressing the Commission, my role today is not to elaborate on these facts which, unfortunately, are known all too well. Instead, I am here to talk about individual criminal accountability for these terrible crimes and the current, as yet untapped, opportunities for the U.S. government to support organizations working to ensure those responsible see the inside of a courtroom. My role is, further, to highlight the concrete steps being taken, as well as additional steps that can be taken, now to secure justice for the victims of the continuing atrocities in Syria and Iraq. Like CIJA, I am sure this Commission and other members of Congress want to see such discussion take the form of concrete action.

So, what is CIJA? In short, CIJA is a non-governmental organization that carries out criminal investigations of atrocity crimes that adhere to the highest standards found in any international or domestic jurisdiction. Its senior leadership is made up of individuals with many years of experience in international and hybrid courts and tribunals as well as domestic war crimes units. Operating in active conflict zones, CIJA's 130 personnel collect evidence, ensure its safe storage, and undertake legal analysis with a view to preparing trial-ready case files for present-day and future criminal prosecutions in domestic and international jurisdictions. The fact that CIJA does this work as a non-governmental organization, as opposed to a domestic or international legal authority, is truly unprecedented.

With respect to our evidence collection, I would like to emphasize that our analytical interest extends beyond merely documenting the crimes themselves, something the UN Commissions of Inquiry and a number of human rights NGOs already do very well. Rather, CIJA's focus is on collecting, corroborating, and storing "linkage evidence," which is information that "links" superiors, national leaders and remote organizers of atrocities to the atrocity crimes committed on the ground.

This "linkage evidence" is the most pivotal part of an atrocity crimes investigation, and as any good prosecutor or criminal investigator knows, criminal investigations done contemporaneously with the criminal acts are essential to ensuring later

accountability. Otherwise, as we have seen in the past, evidence is lost and those responsible for these mass human rights violations go unpunished, able to commit more crimes and create more instability in the current or future conflicts. Whether in Syria, Iraq or beyond, the goal of this work is to prevent such mistakes from reoccurring once accountability mechanisms are in place—be it in the short term or in the next ten years.

However, it should be made clear that accountability options exist today and they do not require the establishment of an international court or tribunal to have impact. Evidence collected today is key to facilitating present-day accountability efforts in national jurisdictions where perpetrators can be prosecuted without the need for an international justice mechanism. For instance, CIJA currently assists various countries in their domestic prosecutions of regime officials found in their jurisdictions, Islamic State foreign fighters returning home, and other members of extremist groups who have been apprehended.

This assistance takes various forms.

In Syria, CIJA has roughly 40 investigators on the ground, handling multiple operations throughout the country. The primary mission of these investigators is to collect voluminous amounts of evidence on the Assad regime for later exploitation for evidentiary and legal analysis at CIJA's headquarters. To date, this operation has resulted in the accumulation and safe storage of over 600,000 pages of regime documentation, including a significant amount of regime military and security intelligence records, all while ensuring chain of custody to a criminal law standard.

With this wealth of information, CIJA has been able to create a names database of over one million regime officials—including individuals from the highest to lowest levels of its military, security intelligence, and political bodies. This type of database has long-term potential as an information resource for countries, such as the United States, in support of their criminal accountability, immigration, and targeted sanctions efforts as well as future state-building and lustration efforts.

This evidence is the basis for multiple "pre-trial" legal case files, developed by CIJA's legal team, which a domestic or international prosecutor could present to judges before trial. For example, the first three case files contain evidence against twenty-five high-ranking Assad regime officials—including President Assad, himself—establishing the role of these governmental officials in the mass torture, the likes of which the House of Representatives saw in the aforementioned Caesar testimony.

In Iraq, CIJA works according to a memorandum of understanding with the Kurdistan Regional Government that provides us with logistical and security support as well as human resources. Approximately 20 CIJA personnel are currently deployed in Iraq, with teams in three different locations. CIJA's work in Iraq focuses squarely on atrocities perpetuated by the Islamic State, including those against ethnic Yazidis, Christians, and other minority groups in the Ninevah Governorate. In its first Iraq-oriented case file, CIJA identified two dozen suspects involved in orchestrating Islamic State slavery operations that resulted in appalling rates of sexual violence and servitude, primarily against minority women and girls.

Again, the brave victims who have spoken out, as well as the work of NGOs and UN reports, have highlighted the plight of these women and girls. Through our work, we have established the patterns of these crimes and, in turn, have identified a number of responsible individuals. In addition to the abovementioned file, CIJA continues to build a number of legal dossiers against Islamic State fighters and senior leaders behind these atrocities.

In sum, the six case files completed by CIJA to date identify over 60 individual perpetrators, reaching up the hierarchy of the Syrian regime and the Islamic State, who are responsible for a wide array of atrocity crimes. Of course, many more individuals are responsible for crimes in the region, and CIJA continues to investigate and build case files to address ongoing atrocities. However, the number of suspects in our legal briefs is already too high to be addressed by the ICC, even in the case of the referral of both Syria and Iraq. Indeed, prosecuting such cases would keep any future *ad hoc* or hybrid court busy for many years.

I will now refer to a few, key recommendations for incorporating individual criminal accountability within the international, as well as the U.S., agenda on Syria and Iraq.

Recommendation #1—Support atrocity accountability efforts despite the lack of an international court with criminal jurisdiction in Syria or Iraq.

With intervention by the ICC or any other international tribunal for Syrian and Iraqi atrocity crimes still unlikely, many question the point of criminal accountability work today. Examples from the past 25 years demonstrate that even in conflicts where accountability is not addressed during the conflict, discussions often

turn to justice soon after a return to peace. Preparing for that possibility today, before evidence is destroyed or made otherwise unavailable, is key to ensure these future efforts are successful.

There is no need to wait for an international court of tribunal, however. There are criminal accountability options available, which should be utilized today. At CIJA, for example, we receive a dozen requests for assistance each month from war crimes, counter-terrorism, and immigration authorities throughout Europe. While the Syrian conflict continues, these efforts constitute a credible recourse to criminal accountability and, indeed, demonstrate to Syrians and the world that perpetrators found in European and North American jurisdictions will be prosecuted for their crimes.

Recommendation #2—Support the creation of competent local courts to try atrocity crimes based on already collected evidence demonstrating the culpability of individuals for these crimes.

In addition to accountability in European and North American criminal courts, there is an even more immediate road to justice in Iraq. A number of high-ranking IS officials could be put on trial in a specially equipped court in Erbil, the Kurdistan Region of Iraq (KRI). An Iraqi chamber would hear complex cases against members of the Islamic State, applying the 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 trial and due process.

Placing the court in KRI would ensure security guarantees which cannot be currently replicated in Baghdad while at the same time provide an opportunity to hear sexual enslavement of Yazidis cases in the vicinity where those atrocities took place, closer to the victims' home, and where most of the perpetrators are currently held and likely to be in the future. Such a chamber could be established swiftly and efficiently, at minimal cost. What is more, depending on the changing security situation, the court could be replicated in other Iraqi cities.

Based on our experience on the ground, based on interviews with a wide swath of affected groups, the majority want legitimate criminal justice, whether in an international or domestic court, or both. After enduring shocking atrocities, these groups are eager to cooperate and await a judicial forum to do so.

CIJA's proposal has already garnered support from the Kurdistan Regional Government (KRG), and it is possible that similar support may come from Baghdad soon. We are currently engaged in discussions with the KRG on training their judges, prosecutors, attorneys, and other relevant professionals to get this chamber up and running. In sum, all elements are in place to start the prosecution of IS members in a competent court of law.

Recommendation #3—Support criminal investigations to ensure that individual criminal accountability for atrocity crimes and all of its attendant benefits that flow from it can be realized.

Congress's clear intent in the *Iraq and Syria Genocide Relief and Accountability Act of 2016* is to hold individuals, whether from the Assad regime, the Islamic State, or other parties to atrocities in Syria and Iraq, criminally responsible for atrocity crimes. This intent is reflected not only in this bill, but in many resolutions passed over the past five years. Yet, to effectuate this intent, criminal investigations into these atrocity crimes must be supported and bolstered.

The atrocities are unfortunately not waning, but expanding. As Mr. Chairman, Mr. Co-Chairman, and each Commissioner have seen for themselves, before this most recent ceasefire, the Assad regime has continued its use of barrel bombs, and a retreating Islamic State has left behind more mass graves than previously thought. Collecting evidence, storing, analyzing, and preparing it for trial, and doing all of the above to the highest international standard available, is essential to present day and future accountability aspirations.

No matter how critical, the above efforts require further support. Some of the U.S.'s closest allies have helped make these atrocity crime investigations a reality, because they see the present-day and future benefits. Canada and Germany, in particular, were the first to support efforts to ensure accountability for Islamic State crimes in Iraq.

One such tangible benefit is the bolstering of the overall rule of law capacity in Syria and Iraq. Training and mentoring Syrian, Iraqi, and other regional investigators, lawyers, and analysts to do atrocity crime work today will have a significant impact on the quality of justice tomorrow. With a view to a post-conflict scenario, sustained capacity-building support in both countries will not only reinforce the legitimacy and efficacy of whatever existing or new international tribunal is bestowed

jurisdiction, but it will also be an investment in the long-term establishment of the rule of law in a future Syria and Iraq.

Recommendation #4—Unwavering support of individual criminal responsibility for atrocity crimes, regardless of policy complications, is the most proven way of establishing durable peace and security. Otherwise, the risk of future atrocities and destabilization increases greatly.

Why does atrocity accountability and criminal justice in Syria and Iraq matter to the United States and, more importantly, to its interests in the region? As Dr. Martin Luther King, Jr., proclaimed, and is now inscribed in marble just down the street from here at his national memorial, "[t]rue peace is not merely the absence of tension; it is the presence of justice." Dr. King's words echoed those of the American founders who, likewise, knew that a properly developed society does not rest solely on security, but on a rule of law that applies to all equally regardless of stature.

For the violence to end, but more importantly for Syria and Iraq to evolve into stable, peaceful, and just societies, it is simply not enough to broker a political settlement to the Syrian civil war, nor to defeat the Islamic State and reclaim the territory it has taken in Iraq and Syria. Assad regime leaders and Islamic State fundamentalists must face a court of law, confront credible evidence of their criminality, and if proven beyond a reasonable doubt, found guilty. These trials have the power to serve as tangible examples to all in the region that the rule of law is here, and here to stay.

Without actual and symbolic justice, the seeds of future conflict, cataclysmic destabilization, unprecedented human displacement, and militant terrorism lay undisturbed and ready to grow. These considerations may sound like lofty ideals, but the United States serves as the best example that respect for the rule of law and human rights results in a thriving, stable, and just society. The same principles undoubtedly apply elsewhere.

Recommendation #5—Ensuring individual responsibility for atrocity crimes is an untapped resource for Countering Violent Extremism efforts that will help tilt public relations power away from militant extremist groups like the Islamic State.

Holding militant extremists criminally responsible for atrocity crimes is drastically underutilized as a Countering Violent Extremism (CVE) tool, and this Act will help reverse this trend. To explain, for the U.S. and its allies to better serve its interest in stamping out violent extremism—whether in the form of Islamic State or other like groups—governments must broaden their conception and use of the rule of law. Currently, the vast majority of militant radicals are prosecuted under terrorism laws, often for material support to terrorism. An unintended consequence of prosecution under these laws is that it sends the message to vulnerable youth—in particular Muslim males—that the "West" labels them as "terrorists." In turn, fundamentalist enablers are empowered to push the "clash of cultures" narrative.

An alternative to the above is to support and complement anti-terrorism laws with domestic and international mechanisms devised to prosecute members of militant groups, such as the Islamic State, as murders, torturers, rapists, slavers, war criminals, or even *génocidaires*. With these individuals seen as criminals of epic proportion, vulnerable youth will be far less likely to see them as "defenders of the Muslim faith," but rather those who twist Islam for criminal ends. Prosecution of these individuals as atrocity criminals provide fact-based counter-messaging to the "clash of civilizations" narrative that is currently so effective. With access to quality evidence of these specific crimes, such prosecutions before more effective and more likely.

In summation, please let me conclude with the statement that this Act is emblematic of some of the United States' best values: adherence to the rule of law, the protection of human rights, and the delivery of humanitarian assistance. These values underpin a just and peaceful society, especially those trying to transition out of the throes of chaos and tragedy. It is for these and other reasons that CIJA and a broad range of humanitarian organizations, including faith-based groups, support the prompt passage of this legislation. Thank you.

Overview of Support Recieved by CIJA From Individual Donors (2013–2016)

Donor	Activities Financed	Period Financed	Total Financial Support (EUR)	Total Financial Support (USD)
United Kingdom (FCO)	Syria	2013–2017	GBP 4,401,023	USD 6,672,238
European Union	Syria	2013–2017	EUR 4,999,830	USD 5,949,329
Canada	Syria/Iraq	2015–2018	CAD 4,918,104	USD 3,810,918
Denmark	Syria	2014–2016	DKK 10,103,513	USD 1,643,392
Norway	Syria/Iraq	2014–2016	NOK 9,900,000	USD 1,575,258
Germany	Syria/Iraq	2014–2016	EUR 1,130,771	USD 1,355,797
IREX	Syria	2013–2014	USD 777,225	USD 777,226
Switzerland	Syria/Iraq	2014–2016	EUR 286,900	USD 350,521

PREPARED STATEMENT OF AMBASSADOR DAVID SCHEFFER, MAYER BROWN/ROBERT A. HELMAN PROFESSOR OF LAW; DIRECTOR, CENTER FOR INTERNATIONAL HUMAN RIGHTS, NORTHWESTERN UNIVERSITY PRITZKER SCHOOL OF LAW

Mr. Chairman and distinguished members of the Commission on Security and Cooperation in Europe: I am pleased to testify in support of the Iraq and Syria Genocide Relief and Accountability Act of 2016 (H.R. 5961), which Helsinki Commission Chairman Chris Smith has introduced and of which Representatives Anna Eshoo, Trent Franks, and Jeff Fortenberry are original co-sponsors. I do so as a law professor at Northwestern University Pritzker School of Law, as the former U.S. Ambassador at Large for War Crimes Issues (1997–2001), and as the Chair of the American Bar Association Working Group on Crimes Against Humanity, which has been examining options for legislation to incorporate crimes against humanity in the federal criminal code. Since January 2012 I also have been the U.N. Secretary-General's Special Expert on U.N. Assistance to the Khmer Rouge Trials. However, the views I express here today are my personal views and do not necessarily reflect the position of any institution to which I am associated.

H.R. 5961 demonstrates an undeniable logic: The survivors of genocide, crimes against humanity, and war crimes (which many sources, including the United Nations, non-governmental organizations, and I collectively describe as "atrocity crimes") in Iraq and Syria merit the fullest possible assistance of our government, including consideration for admission of victim refugees to the United States. The further logic is that the perpetrators of the atrocity crimes not only in Iraq and Syria but elsewhere in the world should be subject to investigation and prosecution under Title 18 if federal jurisdiction reaches them. The crime of genocide and war crimes already can be prosecuted, under certain conditions, against not only Americans but also aliens. (The War Crimes Act of 1996, as amended, does not cover aliens who commit war crimes outside the United States and where there are no American victims. Thus, such individuals also could find sanctuary in the United States.)

However, much more work is required to modernize the federal criminal code to ensure that perpetrators of *crimes against humanity* do not find sanctuary from prosecution in the United States. Currently, perpetrators of crimes against humanity and war crimes under certain circumstances theoretically can live freely in the United States provided they are admitted on immigrant or non-immigrant visas, either under false representation to immigration authorities or because our law does not yet criminalize their particular atrocity crime and does not even ask relevant questions in immigration procedures. H.R. 5961 would go a long way to address this void in our federal code.

Section 4(c) of the bill requires the Attorney General, in consultation with the Secretary of State, to conduct a review of existing criminal statutes concerning atrocity crimes to determine the extent of federal jurisdiction over perpetrators with at least one of several connections to the United States, to determine what statutes currently provide for extraterritorial jurisdiction of crimes against humanity or war crimes, and to assess how the absence of criminal statutes impede the prosecution of such crimes, including if the perpetrator is captured by U.S. military forces outside the United States and foreign prosecution is unavailable. The Attorney General's review will discover that federal jurisdiction over crimes against humanity and war crimes (under certain circumstances) remains non-existent or very limited.

But H.R. 5961, if enacted, will undertake reviews that confirm the reality of limited federal jurisdiction and lead, I hope, to additional legislation to cover egregious voids and gaps in the federal criminal code. It is a raw fact, for example, that the United States is currently a sanctuary for alien perpetrators of crimes against humanity or certain war crimes who are fleeing the reach of the law overseas but who might be subject, at most, to deportation for immigration fraud in the United States. Even then, such deportation might not be to a foreign court for purposes of prosecution but rather simply to live, prosper, and pose a continuing risk elsewhere and perhaps to the national security of the United States and its interests abroad. I attach to this testimony two lists of cases under federal law that focus on immigration fraud, typically with the penalty of deportation, even though the immigrant was allegedly involved in atrocity crimes or other serious human rights abuses.

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. If they are tracked down, the result should be something more than the possibility of mere deportation. With new statutes criminalizing such conduct, the United States, under the rule of double criminality, would be more easily able to extradite such aliens to foreign jurisdictions that have similar laws and could prosecute them in their own courts. Our mutual legal assistance treaties also would

be more potent instruments of international cooperation. In any event, the United States should deter their arrival in the first place with tough criminal penalties for alien perpetrators of crimes against humanity or certain war crimes who are plotting to arrive in the United States to reside or otherwise take advantage of immigration privileges without fear of prosecution.

H.R. 5961 requires answers as to the state of current federal law; it mandates the Attorney General to determine additional statutory authorities necessary to prosecute a United States person or a foreign person within the territory of the United States for atrocity crimes. Title 18 of the U.S. Code desperately requires such review by the Attorney General, an endeavor that I am confident will recommend a statute to fill the void to cover, at a minimum, crimes against humanity. The critical first step in achieving that end is H.R. 5961.

I recommend, however, that the statute include a defined term of "atrocity crimes" that describes the collective body of genocide, crimes against humanity, and war crimes. This would ease repeated reference to that set of crimes in the statutory language and make the terminology more accessible to the media and the general public.

Finally, there is a focused effort within the Iraq and Syria Genocide Relief and Accountability Act to provide necessary support to track individuals suspected of committing atrocity crimes in Iraq since January 2014 or Syria since March 2011 and to preserve the chain of evidence for prosecution of these individuals in domestic courts, hybrid courts, and internationalized domestic courts. Such judicial endeavors may not materialize for years, but it is imperative now to support current and future efforts to track suspects and gather evidence competently and professionally as it is discovered on the battlefield and elsewhere. The bill also would strengthen the government's efforts to identify and assist members of religious or ethnic groups under threat of atrocity crimes in Iraq or Syria. In this regard, I commend the work of my fellow panelist Chris Engels and that of his colleagues at the Commission for International Justice and Accountability, and urge the U.S. Government to join with them to ensure accountability for atrocity crimes.

These would be major preventive steps, first by supporting criminal investigations to bring war criminals to justice, thus undermining their influence and participation in atrocity crimes, and second by mitigating the risks of forced migration. While we should recognize that the United States and other governments have significantly shared in and continue to undertake the massive challenge of refugee relief, the United States Government would, under the guidance of H.R. 5961, take extraordinary steps to respond to both the refugee and accountability crises presented by the recent situations in Iraq and Syria.

Thank you for this opportunity to testify before the Commission on Security and Cooperation in Europe.

PREPARED STATEMENT OF STEPHEN M. RASCHE, ESQ., LEGAL COUNSEL AND DIRECTOR OF IDP RESETTLEMENT PROGRAMS, CHALDEAN CATHOLIC ARCHDIOCESE OF ERBIL, KURDISTAN REGION, IRAQ

I. Introduction and Background.

Thank you Mr. Chairman and members of the Commission for allowing me to speak to you on behalf of the persecuted Christians of Northern Iraq.

My name is Stephen Rasche, and I presently reside in Erbil, capital of the Kurdistan Region of Iraq, and home to what is presently the last viable Christian community in Iraq. In Erbil I serve on the staff of Chaldean Catholic Archdiocese of Erbil. Within that context I serve as legal counsel for external affairs, Director of IDP Resettlement Programs, and Vice Chancellor of the Catholic University in Erbil.

As brief background, the Christian population of Iraq, over 1.5 million in 2003, now numbers barely over 200,000. Over 100,000 of these live in the greater Erbil region. Of those in the greater Erbil region, some 10,500 families are IDPs (internally displaced persons), numbering approximately 70,000 people.

In August of 2014, when ISIS took control of Nineveh Plain, the IDPs of Nineveh and Mosul largely fled to the Erbil region. This included over 12,000 Christian families. There in Erbil, in the early absence of any meaningful institutional humanitarian aid, the Kurdistan Regional Government assigned overall responsibility for Christian IDPs to the Chaldean Catholic Archdiocese. The reasoning behind this was that the Chaldean Archdiocese was the largest existing Diocese in Erbil for which its leader (Archbishop Bashar Warda) was also based in Erbil, and not an IDP himself, which was the case for the other major Christian churches. A part of this responsibility required that the Chaldean Archdiocese properly coordinated relief efforts with all other Christian Churches.

Having accepted this responsibility, and in coordination with the other Christian churches of the region, the Chaldean Archdiocese set about the immediate development of a humanitarian aid operation using the combined staffs of the churches. This effort relied on the private assistance of Christian aid organizations from around the world, which provided critical support in the immediate aftermath of the crisis, and have continued to do so to this day.

In the following months, IDPs were first placed in tents and unfinished buildings, then into Caravans (construction trailers) in camp settings, and most recently, for some fortunate families, into group homes rented by the Archdiocese through our rental assistance program. Additionally, some families had moved into group homes early on, and these families all received rental assistance from the Archdiocese as well. Also during this time some 13 schools and five medical clinics were established, along with monthly food package programs, all privately funded, to serve the needs of IDPs.

We are serving the various needs of approximately 10,500 Christian IDP families. (Two thousand of the 12,000 Christian IDP families who fled ISIS into Northern Iraq subsequently left the area.) Within this overall number of families of assisted, 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, at a total cost of approximately $80,000 per month inclusive of all medicines.

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

It is noteworthy to point out the coexistence of the Yazidi and Christian IDPs, many of which fled their homes together as groups and have continued to live together in these same groups within the IDP centers. While the management of these IDP centers rests with us as Christians, the care of the Yazidis in our centers is identical to that being provided to the Christians.

All of this has been done exclusively through private aid, which to date totals approximately $26,000,000. Our largest donors include the EU based Aid to the Church in Need, the Knights of Columbus, the US 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 can be found in reports previously submitted to the office of Congressman Smith.

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

We say this because throughout this entire period of crisis, since August 2014, other than initial supplies of tents and tarps, the Christian community in Iraq has received nothing in aid from any US aid agencies or the UN. The reason for this rests in the "Individual Needs" Policy adhered to by the US government and the UN, as well as other US backed aid agencies.

Essentially, when we have approached any of these entities regarding the provision of aid assistance to the Christians of Northern Iraq, we have been told that we have done too well in our private efforts, and that the standards we have provided for our people, bare as they are, exceed the minimum individual needs standards currently existing for those agencies.

Additionally, we are advised that any Christian IDPs who would choose to seek refuge in existing UN camps could receive aid there if they applied. However, even UN representatives themselves privately admit that the Christians would be under real threat of additional violence and persecution within the Muslim majority camps. In any case, given the recent history, there are no Christians who will enter the UN camps for fear of violence against them.

II. Issues for Consideration.

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

1. Standard of Care Requirements in Context. While the standard of care being received by Christians may marginally exceed that being provided elsewhere by the UN and similar organizations, there are no other IDP groups in Iraq that face the immediate existential threat now being faced by the Christians. This level of care, which we have provided exclusively through private funding, is the only thing, other than their deep Christian faith, which has given these IDPs continued hope and incentive to stay in the region until they may eventually return to their original homes, or set up new lives inside the Kurdistan Region. Simply put, absent this minimal care, the few remaining Christians of Iraq would largely scatter into the diaspora and disappear for good from their ancestral homes.

1**2. Adherence to Individual Needs vs. Extinction of a People.** From a moral standpoint, we ask you to consider that the uniquely perilous status of the Christian community requires that they be viewed not as individuals, using the standard "Individual Needs" policy assessment, but rather as a group, threatened with extinction as a people, the victims of genocide and a cycle of historical violence which seeks to remove them permanently from their ancestral homes. While not discounting the very real hardship being faced by other IDP groups, it is the Christians in particular who face the real and immediate threat of extinction in Iraq.

III. Specific Requests.

As we near the beginning of the expected liberation of Mosul and the Nineveh Plain, we request that Commissioners consider supporting the allocation of $9,000,000 in direct aid specifically designated to supporting the existing humanitarian and educational aid programs of the remaining Christians of Northern Iraq. This amount would allow for continuation of the existing housing, medical, food, and educational programs for an additional six months, by which time expected events in the region would allow for an informed reassessment.

While understanding there may be legal constraints of the US Government regarding recipients of US 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 readily be done under proper oversight from an approved distributor of US 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.

Provision of this aid would not completely end the ongoing support from our existing private donors. Rather, with basic needs now being met largely through established governmental aid, it would allow for our decreasing private funds to be utilized for urgently needed reconstruction and rehabilitation efforts. Thus the support of US humanitarian aid would greatly leverage and increase the effectiveness of the remaining private aid.

III. Closing Comments.

Members of the Commission, within our small group in Erbil, every morning we wake up and rob six Peters to pay twelve Pauls. And every night we pray that we will be given the strength and the financial help from somewhere to get us through the next day. We have been doing this for two years now. We are doubtful that we

can sustain things much further under our present limitations. Our private donors are reaching their breaking point, and we feel it, as do the tens of thousands of people who are in our care.

And yet, these next twelve months remain perhaps the most critical of all for us. If the efforts and sacrifices made to remove the evil of ISIS from Northern Iraq are to have a purpose, and if the rightful designation of genocide is to have a purpose as well, it is critical that the remaining Christians receive, and receive now, the direct support necessary to remain in place as a viable community. How utterly tragic would it be, that the established governmental aid community allowed these persecuted people, so vital as bridge builders in any peace and reconciliation process, to disappear just as we reached the time wherein a rebirth was within sight.

I thank you for your time and for your continued efforts.

PREPARED STATEMENT OF WILLIAM CANNY, EXECUTIVE DIRECTOR, U.S. CONFERENCE OF CATHOLIC BISHOPS' MIGRATION AND REFUGEE SERVICES

I am Bill Canny, the Executive Director of the United States Conference of Catholic Bishops' Migration and Refugee Services (USCCB/MRS). I am grateful for this opportunity to testify before the Helsinki Commission—grateful to Representative Christopher H. Smith (R-NJ), Chair, and Senator Roger F. Wicker (R-MS), Co-Chair, and also Ranking Members Representative Alcee L. Hastings (D-FL) and Senator Benjamin L. Cardin (D-MD), and all the Commission members.

USCCB welcomes the introduction of H.R. 5961, the bi-partisan Iraq and Syria Genocide Relief and Accountability Act, sponsored by Chairman Smith. 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 USCCB's Migration and Refugee Services (USCCB/MRS), which is the largest U.S. refugee resettlement agency, resettling about one quarter of the refugees each year. MRS works with over 100 Catholic Charities offices across the United States to welcome and serve not only refugees but also unaccompanied refugee and migrant children, victims of human trafficking, survivors of torture, and other at-risk migrants.

The U.S. Catholic Church also relates closely with the Catholic Church in countries throughout the world, where our worldwide Catholic communion serves the needs of the most marginalized regardless of nationality, ethnicity, race, or religious affiliation. We serve many refugees, internally displaced persons, and many refugee host communities straining under the large numbers of people fleeing persecution and war. The Church's deep experience in combating poverty and forced migration and their root causes in the Middle East and throughout the world also includes the work of, among others, Catholic Relief Services (CRS), the official overseas relief and development agency of the U.S. Catholic bishops, and the Geneva-based, International Catholic Migration Commission (ICMC).

The level of loss, displacement, and human suffering is staggering in this conflict.[1] Over 10.9 million Syrians have been forcibly displaced—6.1 million as internally displaced people (IDPs) inside the country and 4.8 million as refugees who have fled to neighboring countries. Over half of the refugees are under the age of 18 and over 35 percent are under the age of 12. Over 3.5 million Iraqis have been forcibly displaced—3.3 million as IDPs inside the country and a conservative estimate of 233,000 Iraqis as refugees in neighboring countries.

As the March 17, 2016 statement of Secretary of State Kerry detailed and you indicated in the Act's findings, many of the people are forced to flee due to atrocities. This includes ISIS's genocidal actions against Christians, Yazidis, and Shia Muslim, and the crimes against humanity and war crimes perpetrated by ISIS or the Syrian government against the Sunni majority, or the Kurds, and other ethnic minorities. *Genocide Against Christians in the Middle East*, March 16, 2016, coauthored by the Knights of Columbus and In Defense of Christians, details further persecution that Christians have suffered in the region.

USCCB shares this deep concern for Syrian and Iraqi victims of atrocities. USCCB's Committee on International Justice and Peace, and its Committee on Migration have made numerous, recent missions to the region and written two assessment and solidarity reports about the plight of refugees in the region.[2]

In our most recent report in 2015, the delegation described arriving in southern Turkey as some 130,000 Kurds, an ethnic minority in Syria, were forced over the course of a weekend to seek refuge in Turkey as ISIS devastated their city of Kobane.

As the trip continued, the USCCB delegation met a growing number of religious minorities, including Christians, Yazidis, and Shia Muslims. The delegation met a Syrian Christian in his 20s, newly converted to Christianity, who boldly shared his faith with the arriving ISIS fighters to his village. Surprised that they let him go, he went home 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 en masse from ISIS. One of the village

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[1] Statistics in this paragraph are from the following sources: UNOCHA, *Iraq: A Worsening Humanitarian Crisis*, July 31, 2016 (number of Iraqi IDPs); UNHCR, *Iraq: Mosul Situation Flash Update*, July 31, 2016 (number of Iraqi refugees in seven neighboring countries); *UNOCHA, Syrian Arab Republic: An Overview*, September 2016 (number of IDPs, refugees, under 17, under 12).

[2] USCCB/MRS, *Mission to the Middle East: A Report of the U.S. Conference of Catholic Bishops on Syrian Refugees*, 2012; and USCCB/MRS, *Refuge and Hope in the Time of ISIS: The Urgent Need for Protection, Humanitarian Support, and Durable Solutions in Turkey, Bulgaria, and Greece*, 2015.

leaders had stood up to ISIS. 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 help address the root causes of this gruesome conflict, the root causes of the forced migration, and to help build an inclusive society so that those forced to flee, regardless of religion or ethnicity, would be able to make a safe, humane, voluntary return at the end of the conflict, including Christians and other religious and ethnic minorities. At the same time, we urge the United States and international community to continue to protect and support internally displaced people and refugees from Syrian and Iraq, and also to support and keep stable the neighboring countries that host most of them. As is the case for most refugees, such return is the first choice and option most viable for most refugees. Meanwhile, for some refugees—because of their vulnerability, the trauma they experienced, or their need for family reunification—waiting for return is not viable. There are a number of options available to the United States and other nations to help alleviate the suffering of these most vulnerable within already vulnerable refugee populations. One of those options is to offer resettlement in the United States to a relatively small number of them.

Some of the most vulnerable include majority Sunni from Syria, as well as religious minorities in Syria, such as Christians, Shia, Yazidi, and others who are in grave danger there because of their religious beliefs. We have urged the United States and other concerned countries, as well as countries in the region, to do more to protect them and others who are facing persecution at the hands of both state actors and non-state actors.

We are pleased that the United States has resettled more than 10,000 Syrian refugees in the current fiscal year. Indeed, while we are pleased at the increased number of Syrian refugees who have been offered protection in the United States over the last year, we believe that the United States has the capacity to admit and resettle even more than that number in the coming fiscal year, and we stand ready to work with the Administration, Congress, and local communities in achieving that end.

However, we are gravely concerned by the small number of religious minorities who have been resettled in the United States during the current fiscal year. 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. It is unclear at the time of this writing precisely why the percentage of Syrian Christians, who have been registered as refugees or 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. It is clear, however, that Christians and other religious minorities have become a target for brutality at the hands of the non-state actor ISIS, and that they are fleeing for their lives, and that far too few of them have been attaining U.S. resettlement.

We commend H.R. 5961 for recognizing the plight of Christians and other religious minorities and 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 Programs Appropriations Act, 1990 is the right approach and respectfully suggest that creating a new Priority 2 (P-2) classification in the U.S. refugee admissions program's priority system for religious and ethnic minority 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.

In March 2016, you, Chairman Smith, and others were instrumental in ensuring the passage of H. Con. Res. 75, the "Genocide" resolution that drew attention to the atrocities being committed against Christians and other religious and ethnic minorities in the Middle East, especially in Iraq and Syria. Your bipartisan support on this issue complemented Secretary of State John Kerry's March 17 decision to declare that Daesh/ISIS was committing genocide against these groups in areas under its control.

Beyond the resettlement solutions for Christians and other religious and ethnic minorities, we appreciate that this new legislation takes the "Genocide" resolution one step further and seeks to help those who have been harmed and to hold the perpetrators accountable. In particular, it is noteworthy that H.R. 5961 calls for assistance for survivors of genocide and allows faith-based organizations (such as

Catholic Relief Services (CRS) and International Catholic Migration Commission (ICMC)), who already have a record of providing humanitarian assistance to these populations, to be funded for such life-saving work.

USCCB has consistently raised its voice in support of Christians and other religious and ethnic minorities who are facing persecution in the Middle East. USCCB has joined with Pope Francis in condemning the actions of those who would persecute others solely for reasons of their faith and ethnicity. CRS stands ready to provide protection and support in the region to IDPs and refugees from Syria and Iraq. USCCB/MRS and ICMC stand ready to assist in the resettlement of those most vulnerable refugees from Syria and Iraq who are unable to return home, including Christians and other religious or ethnic minorities.

May I again commend you for your efforts to help and support the suffering victims of persecution in Iraq and Syria. USCCB looks forward to working with you as this legislation proceeds to find the most effective way to implement a P-2 and take other measures that assure a greater participation in the U.S. resettlement program by Christians and other religious and ethnic minorities from Syria and Iraq.

Thank you.

PREPARED STATEMENT OF CARL A. ANDERSON, SUPREME KNIGHT, KNIGHTS OF COLUMBUS

Thank you, Mr. Chairman, and members of the Commission, for this opportunity to testify. Congress and the Administration have our appreciation for their declarations of genocide that speak on behalf of victims, who often feel that the world has forgotten them.

Mr. Chairman, you, Ms. Eshoo, Mr. Fortenberry and Mr. Franks are to be commended for your leadership in introducing H.R. 5961, the *Iraq and Syria Genocide Relief and Accountability Act*. In testimony in May, I outlined six principles for averting the extinction of Christians and other minorities in the Middle East.

I am grateful that H.R. 5961 makes progress in all six of these areas. Thank you, and be assured of the full support of the Knights of Columbus in your work to bring this bill to the President's desk with all deliberate speed.

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 the Secretary of State in consultation with Administration officials to prioritize relief particularly for those groups and individuals targeted for genocide, to identify their vulnerabilities, and to work with humanitarian and faith-based organizations to address these needs. It seems that it is more of a mindset than anything else that has resulted in the need for this section.

Our representatives have met with U.S. and U.N. officials in Iraq and in Washington to ask them all the same question: "Why aren't the communities that were victims of this genocide receiving public aid?"

The main answer has been that the current policy prioritizes individual needs but does not consider the needs of vulnerable communities—even when they have been targeted for genocide and risk disappearing altogether.

But regardless of the reason, the outcome is the same. Such a policy increases the likelihood that the complete eradication of these groups from the region—which was the intent of the genocide—will succeed.

We know that many Christian and Yazidi victims of genocide do not receive public aid.

And here we have a fundamental inconsistency in the U.S. stance toward the genocide.

On the one hand we have the unanimous policy of the elected 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 it is in our power to stop it.

Responding to a genocide requires a different approach. Fortunately, the bureaucratic roadblocks are mainly cultural, not statutory.

What the bureaucracy needs is an immediate change of mindset. Legislation—or the threat of legislation—may be helpful in hastening this, but even now, 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 clear and 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 right to survival *as communities*. They are innocent victims of a genocide. If these victim 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, exactly a century ago, during and following World War I, the United States government helped assist Christians in the region with direct aid as they suffered what Pope Francis has called the first genocide of the 20th century.

Chartered by an act of Congress, and recipient of more than $25 million in direct U.S. government "supplies, services and cash," the Near East Relief organization constituted a collaboration of the State Department and American religious entities on the ground 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 humanitarian effort in the 1920s. [1]

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[1] Jay Winter, Ed. America and the Armenian Genocide 195 (2003) at https:// books. google. com/ books? id=pnL SRX AXT fcC &lpg= PA198 &dq= near% 20east %20 relief %2025% 20million &pg =PP1 #v= onepage &q&f =false.

The organization sought to save the Christian populations of Iran, Iraq, Syria and Armenia from "immediate and total destruction." [2]

There is no reason that such a prioritization and partnership—assisted by direct government funding—could not exist today to save Yazidis, Christians and other small vulnerable indigenous groups.

To be clear, we have had the assistance of many people who are working within this system and are trying to help, and many officials are advocating within their entities for a change in the status quo. But they are often limited by a bureaucracy that is resistant to initiative and resists change.

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 that have not prioritized aid to Christians and Yazidi communities need to continue to hear directly from Congress and from the President and from the American people 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 stand-alone emergency appropriations bill to respond to this genocide in an even more direct and comprehensive manner.

It seems that few situations could be as worthy of such a measure as the genocide Congress has declared unanimously to be ongoing.

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 system of religious apartheid there ends. Christians and other religious minorities are entitled to equal rights and the equal protection of the laws as enumerated in the Universal Declaration of Human Rights. 1A[3]

Our tax dollars to governments in the region must not be used to rebuild a discriminatory system that imposes second-class citizenship upon religious minorities. U.S. aid for reconstruction, military and other purposes should be contingent on the application of full and equal rights of citizenship to every citizen of Iraq and other countries in the region, as defined by the Universal Declaration.

This agenda demands from us a new approach to issues of human rights in the region.

When we here speak of human rights, we are referencing those rights enumerated in the Universal Declaration of Human Rights. When governments in Muslim-majority countries speak of human rights, they may be thinking of those rights as defined—or as confined—by *Sharia*. The interests of the region, and our own interests demand that we not mislead ourselves or allow others to mislead us in this regard.

Our own laws, including the International Religious Freedom Act of 1998, [4] recognize these realities, and require our government to act. Christians in the region have a natural and universal right to practice their faith freely and openly. They must receive protection from civil authorities when they do so. They and other minorities must have religious freedom. Without it, pluralism will certainly die, and with it all hope for stability in the region. If civil authorities in the region cannot supply this protection, they are not suitable partners for aid.

Only with such policies will we be able to break the cycle of persecution culminating in 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 this Commission.

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[2] Rev. Joseph Naayem, Shall This Nation Die? xvi (1921) at https://books. google.com /books? id=hok GAQAAIAAJ& lpg= PR16& ots= 1wrLic UlSu &dq =%22 immediate %20and %20total %20destruction %22%20 mesopotamia &pg= PR3#v= onepage &q= %22immediate% 20and %20total %20destruction %22%20 mesopotamia &f= false.

[3] Universal Declaration of Human Rights, G.A. Res. 217A, U.N. GAOR, 3rd Sess., 1st plen. Mtg., U.N. Doc A/810 (Dec.12, 1948).

[4] International Religious Freedom Act of 1998, 22 USCS §§ 6401–6481 (2016).

MATERIAL FOR THE RECORD

Crimes Against Humanity Case Studies

The Department of Homeland Security is currently pursuing more than 1,800 leads involving human rights violators from 97 different countries. These are just the known leads. The actual number may be much higher.

Many of these fugitives have participated in crimes against humanity: acts of murder, rape, torture, enslavement, ethnic cleansing and extermination committed as part of widespread and systematic attacks against civilian populations.

But there is a lethal loophole in U.S. law. Because of gaps in the U.S. penal code, many of these perpetrators cannot be charged for their crimes. Instead, they might be charged with lesser offenses like immigration fraud. Or they might simply be deported. Often, they are sent back to countries that lack the capacity to prosecute them. In the worst cases, deporting them means returning them to the killing fields, where they can terrorize civilians again.

CJA applauds the efforts of immigration authorities. But the U.S. needs all available policy options – including criminal prosecution – to confront crimes against humanity.

The following are just ten examples of the scores of human rights violators who could have been prosecuted if a crimes-against-humanity statute had been in place.

(1) ***Dominic Ongwen*** (Lord's Resistance Army (LRA), Central Africa) – On January 6, 2015, U.S. military advisers supporting the African Union Regional Task Force in the Central African Republic took the LRA commander Dominic Ongwen into custody. Between 2008 and 2012 the LRA was responsible for the killings of some 2,600 civilians and abductions of over 4,000 others in northeastern Congo, Central African Republic, and South Sudan between 2008 and 2012. The LRA has been responsible for numerous atrocities including rape, torture, pillage, enslavement, and child soldier recruitment and use. Despite the fact that Ongwen was in the custody of U.S. Special Forces, the U.S. lacked the requisite legal tools to prosecute him for war crimes or crimes against humanity. Ultimately, U.S. forces handed Ongwen over to Uganda, who in turn handed him to the International Criminal Court for prosecution. In the future, the U.S. cannot and should not be forced to rely on the ICC to bring those who commit crimes against humanity to justice.[1]

(2) ***Marko Boskic*** (Srebrenica Massacre, Bosnia) – In 1995, Boskic was as soldier in Bosnia, where he participated in the execution of 7,000 – 8,000 unarmed men and boys at Srebrenica. In 2004, the United States government learned that Boskic was living in Massachusetts. Rather than standing trial for crimes against humanity, he was only charged with visa fraud. In 2010, he was sentenced to 10 years: the maximum available.[2] The prosecutor's hands were tied. He couldn't be charged with war

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[1] Dixon Osburn, *Letting a war criminal off the hook*, The Hill, 01/14/15 07:40 PM EST, http://thehill.com/opinion/op-ed/229554-letting-a-war-criminal-off-the-hook

[2] Kevin Cullen and Shelley Murphy, *War crimes suspect charged in Boston: Peabody man tied to Bosnian mass execution*, Boston Globe, August 27, 2004, http://www.boston.com/news/local/articles/2004/08/27/war_crimes_suspect_charged_in_boston/?page=full

crimes because our war crimes statute does not apply to foreigners who murder foreign civilians overseas. Fortunately, Boskic was eventually extradited to Bosnia, where he was convicted of crimes against humanity.

There are at least 300 other suspected Bosnian war criminals living in the United States.[3] DHS is investigating these 300 for immigration violations. Under current law, they cannot be charged with crimes against humanity or war crimes in the United States.

(3) ***Jorge Sosa Orantes and Gilberto Jordan*** (Dos Erres Massacre, Guatemala) – Like Boskic, the fugitives Jorge Sosa Orantes and Gilberto Jordan had no fear of being tried for crimes against humanity in the United States. Both men were commanding officers in the Guatemalan Special Forces Unit that murdered more than 250 villagers in the 1982 Dos Erres massacre. Women and girls were raped in front of their families. Infants were pulled from their mother's arms, smashed against rocks, and thrown down a well. The village well overflowed with bodies. Sosa Orantes later moved to California and taught martial arts to children, while Jordan moved to Florida. Gilberto Jordan was found working as a cook in a country club in Boca Raton, Florida. When U.S. authorities eventually arrested them, they could only charge them with naturalization fraud for concealing their roles in the massacre. They received the maximum available sentence of 10 years – a light sentence for hundreds of acts of murder and rape.[4]

(4) ***Colonel Inocente Orlando Montano*** (1989 Jesuits Massacre, El Salvador) – One of the architects of the 1989 Jesuits Massacre in El Salvador found safe haven as well. In 1989, Colonel Inocente Orlando Montano helped plan the execution-style shooting of 6 Jesuit priests, their housekeeper, and her daughter by security forces. In 2013, Montano was eventually convicted in federal court – not for murdering priests and unarmed civilians, but for lying in his immigration application. Spain requested that the U.S. extradite Montano on charges of terrorism and crimes against humanity – charges he could not face in the U.S. because of gaps in our penal code.[5]

(5) ***Eriberto Mederos*** (Castro regime torturer, Cuba) – In Cuba, Mederos was a hospital orderly accused of participating in the systematic torture of political prisoners who were confined to wards run by Cuban state security in Havana's National Psychiatric Hospital during the 1970s. Mederos claimed he was just following orders when he administered electroshock to democracy activists who had not been anesthetized, on a bare floor covered with the "patients" urine and excrement. In 1993, Mederos became a naturalized U.S. citizen. In April 2001, U.S. Representative Ileana Ros-Lehtinen and Lincoln Diaz-Balart called on the Justice Department to revoke his citizenship or prosecute him. In the end, the U.S. only charged Mederos for naturalization fraud: he could not be charged for committing crimes

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[3] Eric Lichtblau, *U.S. Seeks to Deport Bosnians Over War Crimes*, NY Times, Feb. 28, 2015, http://www.nytimes.com/2015/03/01/world/us-seeks-to-deport-bosnians-over-war-crimes.html?_r=0

[4] (1) Gilberto Jordan: *US jails Guatemalan ex-soldier for hiding massacre role*, BBC, 17 September 2010, http://www.bbc.com/news/world-latin-america-11338246, (2) Jorge Sosa Orantes: Sebastian Rotella, *A Commander of the Dos Erres Massacre Squad Gets 10 Years in Prison*, ProPublica, Feb. 10, 2014, http://www.propublica.org/article/a-commander-of-the-dos-erres-massacre-squad-gets-10-years-in-prison.

[5] Michael Doyle, *U.S. wants Salvadoran ex-colonel to face murder charges in '89 deaths*, McClatchy, April 8, 2015, http://www.mcclatchydc.com/2015/04/08/262504/us-wants-salvadoran-ex-colonel.html#storylink=cpy

against humanity on behalf of the Castro regime. Convicted on August 1, 2002, he died on August 24 of that year.

(6) ***General Mohamed Ali Samantar*** (Siad Barre dictatorship massacres, Somalia)- In August 2012, the U.S. District Court for the Eastern District of Virginia found Samantar, former Minister of Defense for Somalia, liable for crimes against humanity and war crimes committed by troops acting under his orders during the Siad Barre dictatorship of the 1980s. Evidence in court revealed that Samantar admitted to giving the final order to attack rival clan members in civilian neighborhoods in the northern city of Hargeisa in 1988; over 5,000 residents were killed. In 2010, the U.S. Supreme Court denied Samantar's claim that he was entitled to immunity. Nonetheless, Samantar still lives outside the nation's capital, in Fairfax, Virginia.[6]

(7) ***Emmanuel "Toto" Constant*** (Death squad leader, Haiti) - In 1993, the Revolutionary Armed Front for the Progress of Haiti ("FRAPH") was established following the coup that removed Haitian president Jean-Bertrand Aristide. Led by "Toto" Constant, FRAPH became the most feared paramilitary group in Haiti. FRAPH has been found responsible for hundreds of killings and acts of rape and torture in 1993 and 1994. As many as 50 pro-democracy activists were slaughtered by FRAPH in the coastal city of Raboteau in 1994. In December 1994, Constant fled a judicial summons in Haiti and moved to New York City. Constant's victims filed a civil suit against him and on August 16, 2006, the U.S. District Court for the Southern District of New York found Constant liable for crimes against humanity, including the armed gang rape of women during midnight raids of poor neighborhoods in Port-au-Prince and other cities. The U.S. government eventually prosecuted Constant, not for crimes against humanity, but for mortgage fraud. In July 2008, Constant was found guilty of six counts of fraud involving mortgage scams in New York. Lacking a crimes against humanity statute, federal prosecutors were unable to charge Constant with the horrific abuses he committed against civilians in Haiti.[7]

(8) ***Alvaro Rafael Saravia Marino*** (Assassin of Archbishop Oscar Romero, El Salvador) - A former Salvadoran army captain, Saravia Marino was one the key planners of the 1980 assassination of Monsignor Oscar Romero, Archbishop of El Salvador. On May 23, 2015, Oscar Romero was beatified by Pope Francis. One of his assassins, Saravia, fled to the United States in the 1980s. He was eventually found working as a used car salesman in California. In September 2004, the U.S. District Court for the Eastern District of California found that Saravia was responsible for the assassination of Archbishop Romero and that the assassination constituted a crime against humanity, since it was committed as part of a widespread and systematic attack on the civilian population. Saravia went into hiding and is believed to have fled the United States. During his 20 years in the U.S., Saravia was never prosecuted for crimes against humanity: the charge did not exist in U.S. law at the time and is missing from Title 18.

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[6] *Ex-Somali PM Samantar ordered to pay torture damages*, BBC, Aug. 29, 2012, http://www.cja.org/downloads/BBCSamantarVictory8.29.12_1.pdf

[7] Scott Shifrel, *Haitian paramilitary leader Emmanuel Constant convicted of fraud*, NY Daily News, July 25, 2008, http://www.nydailynews.com/news/crime/haitian-paramilitary-leader-emmanuel-constant-convicted-fraud-article-1.348667

(9) ***Yusuf Abdi Ali, a.k.a. Tukeh*** (Somali war crimes suspect) – Tukeh was a colonel in the Somali military under Siad Barre's dictatorship in the 1980s. Ali sought asylum in Canada in 1991, but was deported to the U.S. in 1992, after a Canadian documentary called "Crimes Against Humanity" presented testimony that Tukeh ordered the unlawful killing of more than 100 people. In 2004, Tukeh was sued in federal court for crimes against humanity. On July 25, 2014, a federal district court denied Tukeh's claim of immunity. That case is still pending. Evidence shows that Tukeh personally tortured a civilian prisoner, Farhan Warfaa, and then fired five rounds from his pistol into him at point blank range. Tukeh lives in Northern Virginia and has never been prosecuted for his crimes.

(10) ***George Boley*** (former leader of armed group the Liberian Peace Council) – During Liberia's civil war in the 1990s, fighters under Boley's command committed horrific atrocities. In one case, the LPC massacred 27 civilians in a village – ordering them to lie down before they slit their throats with cutlasses and raping the women before killing them. Boley was working as a public school administrator in New York when he was arrested by DHS authorities. Boley was deported back to Liberia in 2012. He was not charged with war crimes or crimes against humanity in the U.S. because of gaps in the penal code. Now CJA has heard reports from Liberia that Boley is a destabilizing factor and has threatened to return to his rebel past.

Boley is not the only Liberian warlord who sought safe haven in the United States.[8] In 2014, ***Jucontee Woewiyu***, former Defense Minister of the National Patriotic Front for Liberia (NPFL) was arrested by immigration authorities in Philadelphia and indicted for lying in his U.S. citizenship application about his close ties to former Liberian President Charles Taylor, who was sentenced to 50 years in prison for crimes against humanity in 2012 by the Special Court for Sierra Leone. Despite his link to Taylor, Woewiyu has not been charged with crimes against humanity; the U.S. lacks the legal authority to do so. Meanwhile, reports indicate that "many more Liberian warlords, foot soldiers, and human rights violators now live in the U.S."[9]

Because the U.S. had not penalized crimes against humanity, we were caught unprepared when atrocities occurred in Rwanda, Liberia, Bosnia, El Salvador, Haiti. We were not able to charge these perpetrators with their actual crimes.
Crimes against humanity are being committed today. ISIS and Boko Haram are committing massacres, sexual slavery, and religious persecution on shocking scales. The military hospitals of Bashar al-Assad's Syria have become wards of industrialized torture and murder.[10]

And crimes against humanity will be committed tomorrow. The United States should be prepared with the legal tools needed to bring perpetrators to justice.

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[8] Jeremy Roebuck, *Former Liberian defense minister arrested in Phila.*, Philadelphia Inquirer, May 15, 2014, http://articles.philly.com/2014-05-15/news/49849558_1_u-s-immigration-war-criminal-defense-minister

[9] Ryan Lovelace, *The Liberian Warlord Next Door*, National Review, Feb. 16, 2015, http://www.nationalreview.com/article/398669/liberian-warlord-next-door-ryan-lovelace

[10] Adam Ciralsky, *Documenting Evil: Inside Assad's Hospitals of Horror*, Vanity Fair, June 11, 2015 12:55 pm, http://www.vanityfair.com/news/2015/06/assad-war-crimes-syria-torture-caesar-hospital

Federal Cases

- United States v. Firishchak, 426 F. Supp. 2d 780 (N.D. Ill. 2005) aff'd, 468 F.3d 1015 (7th Cir. 2006): An immigration judge in Chicago ordered that Osyp Firishchak be removed from the United States for his role in a Ukrainian police unit that assisted in the annihilation of over 100,000 Jews in Nazi-occupied Lvov, Poland, during World War II.
- United States v. Kaymon, No. 04-60003, 2007 WL 1012983, at *1 (E.D. Mich. Mar. 29, 2007) aff'd sub nom. United States v. Kalymon, 541 F.3d 624 (6th Cir. 2008): Defendant's membership in UAP disqualified him from a visa in the U.S. because UAP was Nazi-sponsored and the defendant participated in anti semitism acts.
- U.S. v. Hansl, 2005 WL 803445 (S.D. Iowa 2005): Defendant was stripped of his citizenship because he illegally procured after it was discovered that he illegally procured it. Defendant was a foreign national who had personally advocated or assisted in the persecution of persons because of race, religion, or national origin.
- United States v. Negele, 222 F.3d 443 (8th Cir. 2000): Denaturalization of a former concentration camp guard.
- Radojkovic v. Holder, 599 F. App'x 646, 648 (9th Cir. 2015): Defendant, native and citizen of Bosnia, was removed from the U.S., in part, for having assisted or otherwise participated in extrajudicial killings.

Administrative Cases

- Matter of Mcmullen, 19 I. & N. Dec. 90, 100 (BIA 1984): Defendant's asylum was revoked and he was deported after immigration authorities demonstrated that he had been

a member of the Provisional Irish Republican Army (PIRA) and had committed crimes against humanity.

- In Re: John Demjanjuk A.K.A. John Iwan Demjanjuk: A08 237 417 - CLEV, 2006 WL 3922265, at *1 (DCBABR Dec. 21, 2006): Defendant's citizenship was revoked because he willingly served as an armed Nazi camp guard in Poland and Germany.
- Matter of Vides Casanova, 26 I. & N. Dec. 494, 515 (BIA 2015): Defendant was deported for having participated in acts of torture and extrajudicial killings while being the Director of the Salvadoran National Guard and Minister of Defense.
- In Re: Algimantas Dailide, : A07 412 330 - BRAD, 2003 WL 23216777, at *1 (DCBABR Oct. 7, 2003): defendant was denaturalized for having assisted in the persecution of Lithuanian Jews.
- Matter of D-R-, 25 I. & N. Dec. 445, 450 (BIA 2011): Defendant became removable after an immigration judge found that his deliberate omission from his refugee application that he was a special police officer in the Republic of Srpska during the Bosnian War was a material omission to the refugee application. The court also found that the defendant had participated in extrajudicial killings and was therefore removable.
- In Re: Mykola Wasylyk: A07 167 684 - NEW, 2004 WL 1398643, at *1 (DCBABR Mar. 23, 2004): respondent was removed from the US for having participated in Nazi persecutions.
- 2009 Immig. Rptr. LEXIS 16585: A native from El Salvador was denied Temporary Protected Status because he had ordered, incited, assisted or otherwise participated in the persecution of others.

- 2013 Immig. Rptr. LEXIS 3388: A native from Guatemala was denied a "spouse visa" for having participated in acts of torture or extrajudicial killings.
- 2013 Immig. Rptr. LEXIS 11107: A native from Haiti was denied Temporary Protected Status because it was determined that the applicant must have ordered, incited, assisted or otherwise participated in the persecution of others by virtue of his membership in, and involvement with, the Leopard Corps - a known persecutor group in Haiti.
- 2013 Immig. Rptr. LEXIS 11130: A native from El Salvador was denied Temporary Protected Status because the applicant had ordered, incited, assisted or otherwise participated in the persecution of others.
- 2013 Immig. Rptr. LEXIS 11131: A native from Haiti was denied Temporary Protected Status because it was determined that the applicant ordered, incited, assisted or otherwise participated in the persecution of others.
- 2013 Immig. Rptr. LEXIS 11160: A native from El Salvador was denied Temporary Protected Status because it was determined that the applicant ordered, incited, assisted or otherwise participated in the persecution of others.
- 2010 Immig. Rptr. LEXIS 13853: the applicant served in the El Salvadoran Army as a soldier from May 1986 to May 1988, and he perpetrated numerous human rights violations in San Vicente in the Quinta Brigada de Infanteria.
- 2006 Immig. Rptr. LEXIS 11049: the Immigration Judge denied the respondent's application for deferral of removal under the Convention Against Torture, and ordered him removed from the United States to Ukraine, or in the alternative to Germany or Poland because he assisted in Nazi persecution.

- 2010 Immig. Rptr. LEXIS 13408: A native from El Salvador was denied Temporary Protected Status because according to a database, during the timeframe that the applicant served in the El Salvador's military, the Air Force in the Department of San Salvador perpetrated numerous human right abuses, including captures and extrajudicial killing of civilians. The director determined that in light of the country conditions information provided, it appears highly unlikely that the applicant was not aware of and did not participate in persecution acts from 1987 to 1988.

"LET JUSTICE BE SERVED IN SYRIA AND IRAQ"

BY DAVID SCHEFFER (LOS ANGELES TIMES, JULY 5, 2014)

Justice may appear to be the least likely survivor of the conflicts in Syria and Iraq, but history teaches us that investigations and prosecutions of atrocities like those sweeping through these nations can still be achieved despite political obstacles.

Granted, justice stood still in the U.N. Security Council in late May when Russia and China vetoed a resolution referring to the International Criminal Court the atrocity crimes that have been tearing Syria asunder since March 2011.

But the cruelty in Syria continues to mount. An estimated 160,000 citizens have died and half a million civilians have been wounded, with tens of thousands constantly subjected to shelling and bombings. There are countless torture victims, 2.5 million refugees crowded into neighboring countries and 6.5 million internally displaced people.

In Iraq, the reported summary executions of an estimated 1,700 Iraqi soldiers in Tikrit by rebel forces known as the Islamic State, formerly known as ISIS, and other alleged butchery of Iraqi citizens presages the criminal terror descending there.

These numbers together far exceed those of atrocity crimes in Croatia and Bosnia-Herzegovina in the early 1990s. An international criminal tribunal was created for that conflict long before the final peace settlement. After more than three years of warfare in Syria and that conflict's spillover into Iraq, the aim of achieving peace before justice is bankrupt.

"Three tribunals were created to bring to justice perpetrators of heinous crimes committed in Sierra Leone, Lebanon and Cambodia."

Referral of Syria and Iraq to the International Criminal Court remains preferable, but given that it's unlikely, there are at least three other options. The obvious one, for Syria, is to wait until that nation's political and judicial systems coexist in a democratic society administering fair and equal justice. Experts, including free-minded Syrians, envision such a domestic tribunal, but that day seems increasingly distant following the collapse of the U.N.-brokered peace talks and the staying power of Bashar Assad's autocratic government. The country itself may break apart, as might Iraq, which is too fragile now to hold credible trials.

The second option could be a regional criminal court created by the Arab League, as proposed earlier this year. While attractive, the Arab League approach failed to gain traction.

The third option, proposed here, would require a treaty between the United Nations (acting by General Assembly vote) and a government committed to justice for the victims of these two conflicts. Neighborhood candidates such as Turkey, Jordan and even Lebanon or European nations such as France and Italy come to mind.

The integrity of such an initiative would rest on the United Nations holding firm for an independent court in the negotiations. Any such participating government—in union with the U.N.—essentially would be intervening judicially in Syria and Iraq by establishing an "Extraordinary Tribunal for Syria and Iraq." This year, 58 governments petitioned the Security Council for judicial action on Syria, so there already is strong support.

There also is precedent for such action. Three tribunals were created to bring to justice perpetrators of heinous crimes committed in Sierra Leone, Lebanon and Cambodia.

The Special Court for Sierra Leone, which recently fulfilled its mandate to prosecute crimes committed during its civil war in the 1990s, and the Special Tribunal for Lebanon in The Hague, focusing on the assassination of Lebanese Prime Minister Rafik Hariri in 2005, are international courts created under negotiated treaties between the United Nations and Sierra Leone and Lebanon, respectively.

The Extraordinary Chambers in the Courts of Cambodia is a national court situated in Phnom Penh and governed by a U.N.-Cambodia treaty to prosecute the atrocity crimes of the Pol Pot regime. It has international judges, prosecutors and administrators appointed by the U.N. secretary-general, foreign defense counsel and rules employing international law. All three tribunals have received most of their funding voluntarily from foreign governments, including the United States.

The Lebanon tribunal permits trials in absentia because Lebanese law permits such trials. The first prosecution underway in absentia concerns five Hezbollah defendants who remain indicted fugitives.

After World War II, the Nuremberg tribunal, which permitted in absentia prosecutions, tried and convicted Martin Bormann, a top Nazi official, who has never been captured.

The likely suspects in the atrocity crimes scarring Syria and recently Iraq will resist arrest for years, if not indefinitely. So a practical way forward would be for the U.N. to partner with a government that already embraces in absentia trials under its domestic law. Many European and Arab nations hold such trials (as do Syrian and Iraqi courts), so this would not be a novel procedure.

By ratifying and implementing such a treaty, the participating government would consent to the extraterritorial reach of its own law over the conflicts in Syria and Iraq. The tribunal could be established in the treaty nation or perhaps in The Hague. Faced with international crimes of such magnitude, and threats to regional security, such a government could justify its actions as protecting its national interest and applying conditional universal jurisdiction.

Formal consent from either Syria or Iraq is unlikely, so that would distinguish this effort from the three earlier examples, in which the crime scene governments were the treaty partners with the U.N. But that should not prevent an international effort to achieve justice. The U.N. secretary-general could be tasked to select tribunal personnel from among distinguished global jurists.

Such a tribunal would send a powerful signal that atrocity crimes will not be ignored; indeed, they will be prosecuted and punished, even though the practical penalty may be the ever-present risk of arrest. If an indicted fugitive convicted in absentia one day surrenders or is captured and brought to trial before the tribunal, then he or she would enjoy all due process rights.

The Extraordinary Tribunal on Syria and Iraq would be tough to negotiate, but so too were its predecessors. Ultimately, justice can and must prevail.

David Scheffer is a law professor at Northwestern University and a former U.S. ambassador at large for war crimes issues. He is the author of "All the Missing Souls: A Personal History of the War Crimes Tribunals."

CHRISTIAN IDPs IN IRAQ

QUARTERLY REPORT ON AID AND RECOVERY
January - March 2016

Prepared by:
CHALDEAN CATHOLIC ARCHDIOCESE OF ERBIL

MESSAGE FROM ARCHBISHOP BASHAR M. WARDA, CSsR

On behalf of the Chaldean Catholic Archdiocese of Erbil, and all of our Brother Bishops and Christian religious leaders in Iraq, together with whom we seek to provide comfort and support to the thousands of displaced Christian families under our collective care, I am pleased to provide you with this Quarterly Report on Aid and Recovery. It is our intention going forward to provide this report on a quarterly basis to all of our donors and supporters in order to provide updates on ongoing efforts to save the remaining Christians of Iraq. Included you will find information on recent project accomplishments, donors and funding, and upcoming calls to action. Additionally, in this first report we will be publishing a summary of the work done on behalf of IDPs dating back to August of 2014. We hope that these quarterly reports will help keep you informed on both what has been done, and what remains for us to do.

In Christ,
Bashar M Warda, CSsR
Chaldean Archbishop of Erbil

A History to Date

In the late summer and fall of 2014, the wave of ISIS terror descended upon the city of Mosul and the towns of the Nineveh Plain. In the face of this horror, the thousands of Christian families, which had worshipped as Christians in the region since the first century, were forced to flee to the relative safety of Erbil and the Kurdistan Region. In nearly all cases, these families arrived in the Kurdistan Region with little more than the clothes they were wearing.

Facing an overwhelming refugee and IDP crisis, the government of the Kurdistan Region handed over care of all Christian refugees to the leadership group of the Christian churches of Northern Iraq. As the largest church within the greater Erbil urban area, the Kurdistan Regional Government placed administrative coordination of these efforts with the Chaldean Archdiocese of Erbil.

At the same time, international governmental aid continued to be funneled through a barely functioning central government in which funding for Northern Iraq failed to effectively reach the threatened Christian population. Thus began an unprecedented effort to save an entire displaced population with nearly non-existent international governmental help. Truly, without the private assistance of the groups recognized in this report, Christianity in Northern Iraq may well have perished in this past year and half.

In the following pages you will find some of the most important efforts and events which have taken place.

I. Designation of Genocide

On March 17th, 2016, the US State Department made an official finding of Genocide against the Christians of Iraq. This designation followed on a similar decision weeks earlier by the EU Parliament. Credit for this vital acknowledgement rests with a broad coalition of concerned citizens and organizations around the world. Here in Erbil the Archdiocese and its staff, together with the Catholic University in Erbil, worked closely with the Knights of Columbus in preparing the groundbreaking legal brief which ultimately swayed the decision in the USA, an effort which involved thousands of hours of interviews and collecting of evidence of the horrors which have been inflicted upon the Christians of Iraq. Much work remains to be done if this designation is to have meaning, however, and we look forward to working with the many supporters of this effort in the years to come as we seek the reconciliation which awaits us still. In this effort many difficult questions remain without clear answers, and the continued support and guidance of the universal church and its friends will be called upon in even greater measure. The Catholic University in Erbil looks to play a central role in this effort and is actively seeking funding to sustain its ongoing research and evidentiary efforts.

II. Food Aid

Addressing the need to feed the IDP families, a Food Package program was established in which families would receive a monthly supply of food staple items such as cooking oil, rice, grains, meat and vegetables. For many of these families, this food package represented the difference between basic nourishment and real hunger. The cost of this food package has held steady at $60 per month per family. Over the period a total of over 150,000 food packages have been distributed to Christian IDP families. This program remains ongoing and we are actively seeking support for the remainder of 2016.

III. Housing Rental Program

Housing and shelter remain a critical need as we strive to keep hope alive among the IDPs in our care. While the early provision of tents, and then caravans (trailer units) provided minimum shelter, it became clear that the lack of dignity and minimal privacy inherent in such conditions required a solution. In response a Housing Rental Program was developed which allowed families to move into area homes and live in a safe and sanitary communal setting, generally two or three families per house. The program currently assists over 6,500 families in over 3,000 houses throughout the Kurdistan Region. This program remains ongoing and we are actively seeking support for the remainder of 2016.

IV. Medical Aid

Responding to the medical and health needs of the IDP population, several new health clinics were opened over the past 16 months. Of important note is the St. Joseph's clinic, which provides chronic care treatment and medicine to over 3,000 IDP patients per month. Managed by the Sisters of the Holy Cross and a dedicated team of volunteer local Doctors, the clinic offers services without charge, dispensing $40,000 in prescription medicines per month. This program remains ongoing and we are actively seeking support for the remainder of 2016.

IV. Opening of The Catholic University in Erbil

In December of 2015 the Catholic University in Erbil (CUE) held its inaugural opening. Utilizing a generous grant from the Italian Bishop's Conference, CUE developed land and constructed initial classroom buildings which allowed it to open for its first classes in January 2016. Following in the tradition of Catholic higher education, CUE is open to all faith communities.

CUE has moved quickly to join the community of Catholic colleges and universities throughout the world, entering into cooperative agreements with partner institutions in the USA and Europe. Additionally, CUE has taken steps to directly address the IDP crisis by offering full scholarships to IDP students who have had their university studies disrupted. CUE is presently in a major drive to secure appropriate levels of funding for these scholarships. CUE is also actively seeking grants for IT infrastructure and physical plant equipment.

V. Opening of Schools

Seeking to minimize the disruption of education for the IDP children and youths, the Christian leadership cooperated in the building of 13 new schools in the region, all dedicated to IDPs. While the building needs for these IDP schools are being met, an ongoing need exists for supplies and educational materials, including IT infrastructure.

VI. Summary of Aid Received to Date

The efforts of the Chaldean Archdiocese and its local partners have been made possible only through the existence of generous and merciful donors throughout the world. Truly we have been blessed by the gifts from all of them. The summary below lists our major donors from August 2014 through the first quarter of 2016.

DONATIONS RECEIVED BY THE CHALDEAN ARCHDIOCESE OF ERBIL ON BEHALF OF CHRISTIAN IDPs, August 2014 through March 2016

DONOR	AMOUNT OF DONATION IN USD
AID TO THE CHURCH IN NEED	$9,476,863
ITALIAN EPISCOPAL CONFERENCE	$1,707,389
OTHER DONATIONS FROM 100-95,000	$1,402,423
ST. TOMAS CHALDEAN CATHOLIC CHURCH USA	$1,378,912
CARITAS OF ITALY	$1,161,546
KNIGHTS OF COLUMBUS	$1,015,390
OEUVRE D'ORIENT	$466,367
FONDAZIONE PIME	$391,781
DIOCESE OF ROTENBURG-STUTTGART	$345,898
MISSIO AACHEN	$331,708
CNEWA PONTIFICAL MISSION	$272,689
CHALDEAN DIOCESE OF CAIRO	$245,570
KATOLISCHE ZENTRALST	$241,659
MISEREOR	$228,229
IRAQI CHRISTIANS IN NEED	$227,337
AUSTRALIAN BISHOPS CONFERENCE	$224,575
CUSTODIA DEL SACRO CONVENTO DI ASSISI	$164,274
CARITAS OF GERMANY	$131,654
MALTESER HILFDIENST	$127,771
ST. PETER CHALDEAN CATHOLIC CHURCH USA	$109,555
FONDATION RAOUL FOLLEREAU	$109,120
TOTAL	$19,760,710*

* Detailed financial reports are available upon request to all donors, which cover all receipts and disbursements for the period.

FORWARD NEEDS AND CONCERNS

I. CONTINUATION OF HOUSING RENTAL PROGRAM

An urgent need exists for continued funding of the Housing Rental Program to cover rental assistance costs for the second half of 2016. Details of the existing need are shown in the charts below, which represent two separate sections of the program.

Housing Rental Program Needs Section 1.

Location	Number of Houses	Average Rental Cost per Unit	Monthly Rental Cost	Six Month Total Cost
Ozal City	320	$400	$128,000	$768,000
Canja City	215	$500	$107,500	$645,000
Derwaza City	43	$800	$34,400	$206,400
Erbil/Ankawa	46	$650	$29,900	$179,400
Aqra	17	$270	$4,590	$27,540
TOTAL	**641**		**$304,390**	**$1,826,340**

Housing Rental Program Needs Section 2.

The table below represents additional displaced families of the Nineveh Plain who have benefited from the rental assistance program, and includes all affected denominations (Syriac Orthodox and Syriac Catholic and Chaldean) in the center of Arbil as well as the families located in Aqra, Diana and Shaqlawa. Continuation of this Section of the Program requires a monthly amount of USD $365,000, for a six month total of USD $1,990,000.

Rites	Families	Houses
Syriac Catholic	2,490	1,271
Syriac Orthodox	1,116	750
Chaldean	1,000	841
Shaqlawa (all rites)	73	39
Aqra (all rites)	155	95
Total	**4,834**	**2,996**

II. Continuation of Food Package Program

A total of $720,000 per month to support this project, with a total of $4,320,000 for the entire six month period, is needed urgently to keep this critical program alive. With the continued failure of any meaningful government assistance, the generous help of our donors is essentially all that now stands between these Christian IDPs and the end of any food aid whatsoever for these families, the vast majority of whom are without work or any form of income. As the number of families served may decrease over time, donors can be assured that any decrease in food aid to families over the period will be used to continue the program into future months. Any remainder left at the end of the six-month period will be refunded to the donor or re-allocated as may be agreed upon.

III. Continuation of Medical Clinic Distribution of Medicines

A total of $77,000 per month, with a total of $462,000 for the next six month period is needed to cover the costs of medicines dispensed at the various IDP clinics, including the St. Joseph Clinic.

IV. IDP Scholarships for The Catholic University in Erbil

CUE is presently seeking scholarships to cover the full period of college tuition and expenses for a minimum of 150 IDP students. The cost for the entire 5-year program, including expenses, is USD $15,000 per student. Each scholarship funded gives hope and brings stability not only to the student, but to the student's entire family.

MAKING DONATIONS

As shown above, the need for funds to continue our care of the Christian IDPs of Iraq remains critical. On behalf of these IDPs we extend to you our deepest thanks, and pray that you continue to remember us and our plight as you make decisions on your charitable donations for the coming year. The continued existence of Christianity in Iraq hangs in the balance of your decisions for truly, there is no-one else that has come to our aid. Those wishing to make donations may do so by wire transfer at any of the accounts listed below. God bless you all.

WIRING INSTRUCTIONS

For Donations in EU*:

Beneficiary:	CATHOLIC UNIVERSITY IN ERBIL
Account Number:	0023010840542015
Bank Name:	IBL Bank s.a.l.
Swift Code:	INLELBBE
USD IBAN:	LB20 0052 0067 0025 7608 0039 2012
Corresponding Bank (USD):	The Bank of New York Mellon Or Citi Bank - New York

Beneficiary:	CHALDEAN ARCHDIOCESE OF ERBIL
Account Number:	0850023010857373015
Bank Name:	IBL Bank s.a.l.
Swift Code:	INLELBBE
USD IBAN:	LB20 0052 0067 0025 7608 0039 2012
Corresponding Bank (USD):	Citi Bank - New York

* Please note: Both above accounts are held through the Beirut Office of IBL Bank for forwarding to the Erbil Branch in Iraq. As such both Swift Code and IBAN will show as a Lebanon Account.

For Donations in USA:

Beneficiary: NEAR EAST CHRISTIAN EDUCATION FUND, INCORPORATED
Bank Name: BANK OF AMERICA
Account Number: 004581 0424 02
Routing Number: (PAPER AND ELECTRONIC/ACH): 011200365
Routing Number: (WIRES): 026009593

The Near East Christian Education Fund is formed as of Feb. 9, 2016, as a registered Domestic Non-Profit Corporation under the laws of the State of Vermont as defined by IRS Code 501 (c) (3) for federal tax exemption. As of that date, the Fund also established a Federal Tax ID with the IRS. Formal 501(c) (3) status recognition by the IRS is pending, and expected no later than August 1, 2016. *

*When the IRS approves a timely filed exemption application, exempt status is recognized back to the date the organization was created. Thus, while an application is pending, the organization can treat itself as exempt from federal income tax under section 501(c)(3). For example, it must file Form 990 (instead of an income tax return) while its application is pending. However, contributors to the organization do not have advance assurance of deductibility because the organization's exemption is pending. If the organization ultimately qualifies for exemption for the period in which the contribution is made, the contribution will be tax-deductible by the donor. Alternatively, if the organization ultimately does not qualify for exemption, then the contribution will not be tax deductible. (Source: https://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Contributions-to-Organization-with-IRS-Application-Pending)

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