



## UNITED STATES COMMISSION *on* INTERNATIONAL RELIGIOUS FREEDOM

USCIRF HEARING SUMMARY:

September 2021

# ENDING GENOCIDE: ACCOUNTABILITY FOR PERPETRATORS

Nadine Maenza  
*Chair*

Nury Turkel  
*Vice Chair*

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### USCIRF's Mission

*To advance international freedom of religion or belief, by independently assessing and unflinchingly confronting threats to this fundamental right.*

On July 28, 2021, the U.S. Commission on International Religious Freedom (USCIRF) co-hosted a joint virtual hearing with the Tom Lantos Human Rights Commission (TLHRC) on [Ending Genocide: Accountability for Perpetrators](#). This joint hearing examined how the international community can hold perpetrators of mass atrocities, both state and non-state actors, accountable for international crimes, including genocide.



USCIRF Chair [Nadine Maenza](#) led the hearing, convening [five witnesses](#) with a variety of perspectives. She opened the hearing stating, “criminal prosecutions deter serious human rights abuses, provide reparations for devastated communities, restore the dignity of survivors, and support broader transitional justice processes that deal with the legacy of conflict.”



TLHRC Co-Chair Rep. [Jim McGovern](#) welcomed the discussion on how to ensure accountability for perpetrators of genocide and other grave human rights violations. Rep. McGovern stated, “I have met many survivors and descendants of victims of grave human rights abuses...what I have seen is that their search for justice and accountability is unceasing.”



TLHRC Co-Chair Rep. [Chris Smith](#) lamented the shortcomings of the international legal system that make it difficult to prosecute even the most heinous crimes and its lack support for victims and their families. “We have seen special courts for Rwanda, Sierra Leone, and former Yugoslavia, to name a few. Going forward, we need to consider how such courts can help achieve justice, and in the process build up legal systems,” he added.



USCIRF Vice Chair [Nury Turkel](#) highlighted developments in prosecuting genocide perpetrators in the international legal system. In November 2019, The Gambia, on behalf of the Organization of Islamic Cooperation (OIC), initiated proceedings against Burma for its alleged genocide against the Rohingya community at the International Court of Justice (ICJ). Civil society launched the Uyghur Tribunal as an independent investigation of China's crimes against humanity and genocide against Uyghurs and other Turkic Muslims. “While the Tribunal's efforts are not state-sanctioned, its work is providing a voice for survivors and creating a collection of evidence,” Vice Chair Turkel stated.



[Stephen Rapp](#), former Ambassador to the Office of Global Criminal Justice, discussed how the U.S. government can hold perpetrators of mass atrocities accountable:

- Contemporaneous documentation is the key to opening the door to justice and convicting high-level perpetrators once there is a court with jurisdiction. Courts need probative evidence that links high-level perpetrators to the crimes committed on the ground.
- The U.S. government should join enact a domestic crimes against humanity statute, which is important to allow prosecutions in U.S. courts of crimes committed as part of a widespread or systematic attack against a civilian population.
- The U.S. government should join efforts to create an international crimes against humanity convention, which would mean the International Court of Justice (ICJ) could hear cases not only for state responsibility as to genocide, but also for crimes against humanity.
- U.S. statutes should be amended to provide for the exercise of recognized forms of extraterritorial criminal jurisdiction. This would include jurisdiction over perpetrators residing in the United States.
- A coalition of countries should pool their jurisdiction and personnel into an agreement-based court, as permitted by international law, in order to investigate, prosecute, and try the perpetrators of the worst crimes known to humankind where there is no other path to justice.



[Jonathan Agar](#), Legal Officer for the United Nations Investigative Team to Promote Accountability for Crimes Committed by Daesh/Islamic State of Iraq and the Levant (ISIL) (UNITAD), provided an overview of UNITAD’s investigation of the crimes ISIL

committed against the Yazidis. Through intentional cooperation built with Iraqi authorities and local communities, UNITAD has built its evidence base significantly, creating the possibility for potential prosecutions.

- UNITAD assisted Iraqi authorities with the collection of DNA samples, so they can be matched with those found in the crime scenes, and the storage of forensic evidence.

- Digital evidence—particularly recordkeeping from ISIL’s internal administrative systems—detail payments made to foreign terrorist fighters, the number of slaves and “wives” that ISIS fighters owned, medical records, and the immigration system of movement from Iraq into Syria.
- UNITAD uses machine learning and artificial intelligence to analyze ISIL videos, extract all facial images, and place them in a central database. Over 250,000 facial images have been extracted from ISIL’s own propaganda videos and can be used to identify perpetrators.
- ISIL documents can be translated into English using machine learning, to allow for more effective research.



[Carmen Cheung](#), Executive Director of the Center for Justice and Accountability (CJA), said “prolonged impunity for human rights abuses takes a devastating toll on societies and creates risk for international security and stability.” In her remarks,

she examined the barriers to legal accountability:

- A key barrier to accountability is insufficient support to local civil society, who are first on the scene to document atrocities since immediate access may be difficult for professional investigators and international organizations.
- Accountability for genocide requires long-term sustained support as legal cases can take years to build and generating political will for prosecutions may take even longer.
- Women and religious, ethnic, and sexual minorities are often excluded from decision-making involving accountability, ultimately impacting which atrocities get investigated and how mass graves are exhumed. Inclusivity means ensuring that legal accountability reflects the full scope of the perpetrators’ wrongdoings.
- Legal accountability is only possible with the right framework. Judicial erosion of the Alien Tort Statute (ATS) has radically narrowed the range of human rights claims that can be heard in U.S. courts. The Torture Victim Protection Act can hold perpetrators of torture and extrajudicial killings civilly liable, but there is no equivalent statute for genocide or crimes against humanity.

- CJA joins Ambassador Rapp's call for domestic legislation on crimes against humanity and recommends that Congress amend the ATS to make its extraterritorial application explicit and codify a civil cause of action for genocide and crimes against humanity.



[Alim Seytoff](#), Director of Radio Free Asia (RFA) Uyghur Service, emphasized the critical role RFA's journalists play in documenting China's atrocities against the Uyghurs, and provided recommendations for the U.S. government:

- RFA journalists documented that Chinese authorities in internment camps were using forced labor and detainees were being transferred outside of the Uyghur region to work in factories. They learned about detainees' deaths due to inadequate medical care and abuse and spoke with former detainees who detailed the horrors of torture, gang rape, and forced sterilizations.
- The World Uyghur Congress officially decided to request the formation of an independent Uyghur Tribunal because there was no clear path for the International Criminal Court (ICC) or the International Court of Justice (ICJ) to take up the case of Uyghur genocide.
- Mr. Seytoff called on the U.S. government to:
  - Pass legislation to grant Uyghur refugees a special status for protection and create grants and scholarships specifically for Uyghur students;
  - Establish institutions to preserve the Uyghur language, culture, history, heritage, and traditions; and
  - In partnership with allies, further sanction Chinese, American, and European companies that are implicated in Uyghur genocide and the use of forced labor.



[M. Arsalan Suleman](#), the former Acting Special Envoy to the Organization of Islamic Cooperation (OIC) in the U.S. Department of State, began his testimony by expressing his deepest respect and solidarity with all victims of genocide. Mr. Suleman

focused on lessons from the international accountability effort on behalf of the Rohingya Muslims from Burma:

- The impact of genocide and crimes against humanity reverberates through time, scarring generations. Governments, including the United States, must make a genocide determination regarding the Rohingya.

- When used effectively, international mechanisms work. Through its credible reporting, the United Nations International Fact-Finding Mission on Myanmar informed the international community about the evidence that supports a finding of genocidal intent.
- The Gambia's example of leadership was critical in the case of the Rohingya. There are instruments that can be used to respond to other genocides like the Uyghur genocide if states take the step to invoke them.
- National security priorities must include justice and accountability. Decades of impunity for human rights violations and atrocities ensures that such violent and destabilizing actions will occur in the future.

USCIRF Chair Maenza closed the hearing by thanking the witnesses for their testimonies and the Tom Lantos Human Rights Commission Co-Chairs Reps. McGovern and Smith for their leadership.

USCIRF's [2021 Annual Report](#) includes several recommendations related to justice and accountability, including that the U.S. Government:

- Actively support efforts to hold Burmese officials accountable through the international legal system, including assisting and strengthening the documentation of mass atrocities and pressuring American companies that have facilitated the sharing of hateful content targeting religious minorities to share information with investigative and judicial authorities;
- Urge like-minded countries to independently investigate and formally determine whether the abuses in Xinjiang meet the definitions of genocide and/or crimes against humanity under international law, and work together to take measures to hold China accountable; and
- Continue to assist Iraqi religious and ethnic minorities to rebuild communities devastated by ISIS and to advocate for their own interests, including opening a broad discussion on governance to hold fair and free local and regional elections to select their own representatives.

In addition, USCIRF recommends that the U.S. government:

- Ensure that the United States' legal framework supports the prosecution of international crimes, including genocide, crimes against and humanity, and war crimes.



## UNITED STATES COMMISSION *on* INTERNATIONAL RELIGIOUS FREEDOM

The Commissioners listed below were present at the hearing.



*Chair*  
*Nadine Maenza*



*Vice Chair*  
*Nury Turkel*



*Commissioner*  
*Anurima Bhargava*

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The U.S. Commission on International Religious Freedom (USCIRF) is an independent, bipartisan federal government entity established by the U.S. Congress to monitor, analyze, and report on religious freedom abroad. USCIRF makes foreign policy recommendations to the President, the Secretary of State, and Congress intended to deter religious persecution and promote freedom of religion and belief.