



**United States Commission on International Religious Freedom-Tom Lantos
Human Rights Commission Joint Hearing**

Ending Genocide: Accountability for Perpetrators

Wednesday, July 28, 2021

10:30 a.m.

Virtual via Cisco WebEx

Rep. Christopher H. Smith

Excerpt of Remarks

I'd like to begin by thanking the U.S. Commission on International Religious Freedom and Chair Nadine Maenza and Vice Chair Nury Turkel for inviting the Lantos Commission to sponsor jointly today's hearing. I would also like to note for the record how grateful I am to both Commissioners Maenza and Turkey for their past appearances at Lantos Commission hearings, Nadine just earlier this month and Nury last year.

The topic of today's hearing is an issue of great import for survivors of atrocities, their families, and all who are committed to promoting human dignity: accountability for those who commit genocide.

We have seen time and time again the limits to justice that have existed because of the limitations of our existing national and international legal systems and, ultimately, the lack of political will to pursue perpetrators of genocide.

The history of the [20th century](#) was replete with some of the most horrific genocides: Armenia, the Holocaust, Holodomor. The evil ideologies of Communism and Nazism were steeped in blood. Ethnic hatred fueled killings from Bangladesh to Rwanda. And then there was the class-based auto-genocide of deranged leaders like Pol Pot and Mao Tse-tung, inflicted on their own people in Cambodia and China.

And, sadly, this century is no better.

Despite their barbarity and the countless numbers of victims, some of the gravest atrocities have been unacknowledged by the

governments that perpetrated them for decades upon decades, such as the 1915-1923 Genocide of Armenians committed by Turkey. Indeed, our own country has been slow to label the terrible attempted eradication of the Armenian people a genocide. It was not until October of 2019, that Congress passed a resolution condemning the Armenian Genocide, and not until this year that a U.S. Administration formally recognized it.

When governments do not accept responsibility, when the barbarians directly responsible for such atrocities roam free, and when survivors and their families are kept out of sight, the repercussions of genocides linger and true peace has not been achieved.

We are here today because we know that we must do better for those we can still save and honor the memories of those we have lost.

We are here today for the several million Uyghurs who are detained in Xinjiang Province with little hope of seeing their loved ones.

We are here today for the nearly 750,000 Rohingya who have been forcibly [displaced](#) since 2017 and no longer hold any citizenship.

We are here today because of the places that have become flashpoints for potential genocide, such as Nigeria. Genocide Watch has labeled Nigeria a [Genocide Emergency](#), and the reports we are receiving from people on the ground about religious and ethnic-based violence are truly alarming.

Today's witnesses will examine the track record of institutions that hold perpetrators criminally accountable and provide remuneration to victims' families and explore viable alternatives that enable the pursuit of lasting justice.

As several of our witnesses have observed, there are serious shortcomings in the international legal system that make it more difficult to prosecute even the most heinous of crimes, which fall under the categories of genocide and crimes against humanity. RFA Uyghur Service Director Alim Seytoff, one of our witnesses, succinctly explains these shortcomings and the innovative solution of an independent people's tribunal in the context of the Uyghur genocide.

Because of those shortcomings, some have pushed for alternative courts such as regional courts, hybrid courts, and independent tribunals, as I have done. Due to the variety of situations in which countries find themselves and the many crimes under which perpetrators can be prosecuted, there is no one-size-fits-all solution for any given situation, and the lumbering bureaucracy that is the International Criminal Court has demonstrate that it is incapable of achieving widespread, swift accountability. Justice delayed is justice denied, and [since 2002](#), there have only been 10 ICC convictions, at a cost now of over \$176 million a year.

However, much can be done to create an international legal system that is more supportive of victims and their families, and there is much history we can draw from the U.S. and abroad for this project.

In 2018, a bill I authored, the Iraq and Syria Genocide Relief and Accountability Act of 2018, became [law](#), providing a pathway to humanitarian, stabilization, and recovery assistance for Iraq and Syria and prosecution of war criminals. Similar frameworks can potentially be

applied to other beleaguered and endangered ethnic and religious minorities at both the country and international level.

More needs to be done.

As pointed out by the former Ambassador-at-Large of the Office of Global Criminal Justice in the U.S. Department of State, Stephen Rapp, we are not using the full array of tools in our arsenal to prosecute those who commit egregious crimes of global import. The [U.S. Genocide Act](#) and [U.S. War Crimes Act](#) have been gathering dust for decades. It would do for those of us in the Congress to reflect on why that is and make amendments to those provisions of the U.S. Code if deemed necessary.

Another frequent theme is the legal distinction between genocide and crimes against humanity. The former is more difficult to establish in a court of law because intent must be proven on the part of the guilty government. On the other hand, crimes against humanity encompass 12 crimes, including murder, enslavement, and torture, in addition to having a lower evidentiary standard, making conviction more likely.

Perhaps the time has come for America to join its allies in creating a Crimes Against Humanity statute, as Ambassador Rapp suggests.

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, by mixing prosecutors and judges from abroad with domestic ones. I had proposed that in 2013 for Syria.

Before such courts are established, evidence from fragile locales and war zones must be preserved, as attested by Ambassador Rapp and Center for Justice and Accountability Executive Director Carmen K. Cheung in particular. I know that David Crane, the former chief prosecutor for the Special Court for Sierra Leone, has also been active in the collection and preservation of evidence in Syria.

More needs to be done along these lines, but let's remember, this is not the sole domain of professionals. Brave citizen journalists and nonprofit organizations put their lives on the line every day to preserve a record of what happened.

Finally, I close with the eloquent statement of one of our witnesses, Mr. Seytoff, who attests that, “true justice will not be achieved unless there are real consequences for the people who created this 21st century crisis of humanity.”

We must never forget that.

With that, I yield back.