



UNITED STATES COMMISSION *on* INTERNATIONAL RELIGIOUS FREEDOM

USCIRF HEARING SUMMARY:

July 2021

U.S. GENOCIDE DETERMINATIONS AND NEXT STEPS

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Anurima Bhargava

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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.

Ending Genocide: U.S. Government Genocide Determinations and Next Steps

On May 12, 2021, the U.S. Commission on International Religious Freedom (USCIRF) held a virtual hearing on [*Ending Genocide: U.S. Government Genocide Determinations and Next Steps*](#). This hearing examined how the U.S. government makes a genocide determination when mass atrocities are committed against religious groups.



Then-Chair [*Anurima Bhargava*](#) led the hearing, convening five witnesses from a variety of perspectives. In her opening remarks, she emphasized that religious groups remain active targets of genocide and mass atrocities, including the Yazidis, Uyghurs, and Rohingya. Since the United States ratified the United Nations Convention on the Prevention and Punishment of Genocide in 1988, the United States has determined that genocide occurred in Bosnia, Rwanda, Iraq, Darfur, areas under control of the Islamic State of Iraq and Syria (ISIS), China, and Armenia.



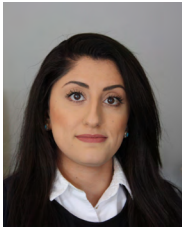
Then-Vice Chair [*Tony Perkins*](#) reiterated USCIRF's support for the current and previous administration designating China's treatment of Uyghurs and other Turkic Muslims as genocide and crimes against humanity. Now the "U.S. government and the international community must urgently do more in holding China accountable to end this genocide," he stated.



[*Todd Buchwald*](#), former Ambassador-at-Large for Global Criminal Justice, outlined the legal definition of genocide and how the U.S. government makes the genocide determination:

- In order to qualify as genocide under the Genocide Convention, the perpetrators must have acted, "with intent to destroy in whole or in part a national, ethnical, racial or religious group as such."
- While there are different interpretations among technical experts of this definition, the predominant view has been that this requires the perpetrator to have intended to destroy the relevant group in a biological or physical sense. In other words, the perpetrator makes it impossible for the members of the group to survive.

- There is no formal policy governing how a genocide determination is made. Generally, a decision is made by the Secretary of State, based on information marshaled and analyzed by the State Department policy bureaus.
- Ambassador Buchwald emphasized that determining a genocide has occurred—or any other mass atrocity—should be secondary to stopping or preventing it. The perpetration of atrocities should entail policy consequences regardless of whether the atrocities are named.



[Pari Ibrahim](#), Executive Director of the Free Yazidi Foundation, empathized with the Uyghur and Rohingya communities and expressed gratitude for the U.S. government’s genocide determination for the atrocities committed against

the Yazidis:

- In March 2016, the United States recognized the crimes committed by ISIS against the Yazidis as genocide, which is the first step towards justice.
- The genocide determination rallied attention to the Yazidi cause, underscored the need to provide resources to the community, and created additional urgency resulting in an international coalition to counter ISIS.
- The Yazidis, who have long suffered discrimination for their faith, struggle to survive and escape poverty. Ms. Ibrahim called on the United States and the international community to highlight the importance of accountability and to provide smart, targeted assistance so communities can rebuild.



[Beth Van Schaack](#), the former Deputy to the Ambassador-at-Large for Global Criminal Justice, stated that once the U.S. government determines genocide is underway, U.S. policy toward the responsible state cannot remain business as usual. She made the

following recommendations:

- Develop strategic messaging and diplomatic outreach to demand a cessation of abuses.
- Deploy targeted sanctions against perpetrators under the Global Magnitsky Act, the International Religious Freedom Act of 1998, or other available authorities.
- Impose trade restrictions, such as supply chain limits and export controls to prevent goods that are produced in connection with violations from entering the U.S. markets.

- Provide humanitarian assistance, fund psycho-social rehabilitation, and offer immigration relief to survivors and their communities.
- Expand legal authorities to enable U.S. prosecutions of all atrocity crimes by drafting a Crimes Against Humanity Statute.
- Invoke multinational fora, such as the Human Rights Council, to scrutinize state policy and organize mechanisms to document, prevent, and respond to atrocities.



[Daniel Fullerton](#), former Counsel at Public International Law & Policy Group (PILPG), described the investigation effort supported by the U.S. Department of State to determine whether the atrocities committed against the Rohingya were genocide.

In early 2018, 18 international investigators collected more than 1,024 interviews across all the refugee camps and settlement areas in Eastern Bangladesh. The collected data revealed years-long patterns of violence and widespread abuses against the Rohingya, including large-scale ground assaults, killings, and destruction of villages. Religious leaders were typically the first to be attacked in a village. Although difficult to prove, the totality of the facts and circumstances in this case provides sufficient circumstantial evidence to establish genocidal intent, especially considering how the attacks systematically targeted the Rohingya, and the particularly brutal attacks against religious leaders and symbols. Despite this intensive investigation, the U.S. government has yet to publicly determine whether these crimes meet the legal definitions of genocide or crimes against humanity.



[Wai Wai Nu](#), Founder and Executive Director of the Women’s Peace Network, shared how the Rohingya community has undergone a process of increasing dehumanization, discrimination, and disenfranchisement throughout

her lifetime:

- Propaganda has portrayed the Rohingya as a threat to national security, when in reality they have been denied birth citizenship and subjected to arbitrary detentions, torture, and killings.

- Since 2012, the military limited humanitarian access, expelled international non-governmental organizations, removed fencing and even kitchen knives from Rohingya households, in tandem with social media propaganda campaigns.
- The 2017 clearance operation torched nearly 400 villages, and resulted in the killings, torture, and rape in the communities in Rakhine State, and forced more than 800,000 people to flee barefoot through jungles and rivers to reach refuge in Bangladesh.

“The genocide determination is the single most crucial step to end the suffering of our people, to feel supported, to heal our pain, and restore our human dignity,” Ms. Nu stated. “It is not enough to say ‘atrocities,’ ‘human rights violations,’ or even ‘crimes against humanity.’ What is happening and what has happened to the Rohingya must be named for what it is – genocide.”

Then Chair Bhargava concluded the hearing by thanking the witnesses for sharing their experiences and wisdom on behalf of the victims of mass atrocities and genocide.

USCIRF’s *2021 Annual Report includes* several recommendations related to genocide determinations and responses to ensure consequences for perpetrators and support for impacted communities following a genocide determination, including that the U.S. Government:

- Definitively and publicly conclude whether the ongoing and severe atrocities committed by the Burmese military meet the legal definition of crimes against humanity and/or genocide;
- 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.



UNITED STATES COMMISSION *on* INTERNATIONAL RELIGIOUS FREEDOM

The Commissioners listed below were present at the hearing.



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Nadine Maenza



Vice Chair
Nury Turkel



Commissioner
Anurima Bhargava



Then-Commissioner
Gary Bauer



Commissioner
James W. Carr



Commissioner
Frederick A. Davie



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Kurt Werthmuller

Supervisory Policy Analyst

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