

112TH CONGRESS
2^D SESSION

H. R. 4344

To authorize the Secretary of State to assist the International Commission on Missing Persons to establish a permanent and international legal status with the immunities required for operations globally, to continue the financial support of the United States of the ICMP in their work to assist governments and other authorities in locating and identifying persons missing as a result of conflicts or natural or man-made disasters, to support the investigation of genocide and mass atrocities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2012

Mr. SMITH of New Jersey (for himself, Mr. TURNER of Ohio, Mr. MCINTYRE, and Mr. MORAN) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To authorize the Secretary of State to assist the International Commission on Missing Persons to establish a permanent and international legal status with the immunities required for operations globally, to continue the financial support of the United States of the ICMP in their work to assist governments and other authorities in locating and identifying persons missing as a result of conflicts or natural or man-made disasters, to support the investigation of genocide and mass atrocities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “International Commis-
5 sion on Missing Persons Assistance Act of 2012”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The issue of persons missing from war, vio-
9 lations of human rights, natural disasters, and other
10 involuntary reasons represents a global challenge
11 that affects the United States. Every year an esti-
12 mated 150,000 persons go missing from natural dis-
13 asters alone, and globally there are currently over a
14 million reported cases of persons missing from wars
15 and violations of human rights. In addition there are
16 thousands of reported cases a year of persons miss-
17 ing from trafficking, drug related violence, and other
18 causes.

19 (2) There continues to be a need, therefore, for
20 an organization with a global reach to assist govern-
21 ments in locating persons who are missing for a
22 myriad of involuntary reasons. The International
23 Commission on Missing Persons (ICMP) is the only
24 organization in the world that has been developed to
25 meet this global need. It has 15 years of experience

1 in assisting governments locate persons missing from
2 wars, human rights abuses, and natural disasters,
3 and there is an increasing demand for ICMP to as-
4 sist in other missing persons' scenarios, such as, for
5 example, trafficking and drug related violence.

6 (3) Since the ICMP was created at the initia-
7 tive of the United States in 1996 at a G-7 Summit
8 to address the issue of persons missing from the
9 conflicts of the 1990s in the former Yugoslavia, the
10 ICMP has developed a unique, DNA led process that
11 has led to the identification of over 18,000 individ-
12 uals.

13 (4) At the ICMP's founding, the Department of
14 State facilitated obtaining a headquarters' agree-
15 ment with Bosnia and Herzegovina that provided
16 ICMP with privileges and immunities so that it
17 could carry out its work, which was to secure the co-
18 operation of governments in locating and identifying
19 missing persons from the conflicts. In its head-
20 quarters' agreement, ICMP is recognized as an orga-
21 nization equivalent to an inter-governmental organi-
22 zation.

23 (5) ICMP's model requires governments to take
24 responsibility for clarifying the fate of missing per-
25 sons via governmental and rule of law mechanisms.

1 In doing so, governments build public trust in rule
2 of law institutions, seek to account for all regardless
3 of their status or role in conflicts, and fulfill their
4 obligations to surviving families of the missing.

5 (6) ICMP works closely with associations of
6 families of missing persons, developing their capacity
7 to take an active role in the missing persons' proc-
8 ess, including holding governments to account and
9 encouraging cooperation across ethnic or sectarian
10 divisions.

11 (7) ICMP's work in post-conflict societies sup-
12 ports efforts to prevent future conflict and directly
13 contributes to truth and reconciliation. ICMP also
14 provides evidence including testimony in courts pros-
15 ecuting war crimes.

16 (8) ICMP also assists countries facing large
17 scale loss of life following natural or manmade disas-
18 ters. With the highest throughput identification lab-
19 oratory system in the world and unparalleled experi-
20 ence in the management of mortal remains, ICMP
21 has become INTERPOL's primary partner in Dis-
22 aster Victim Identification (DVI).

23 (9) ICMP's operational success has exceeded all
24 expectations and its law-based approach that in-
25 cludes the judiciary and affiliated domestic legal

1 services has been extended to Colombia and Iraq.
2 ICMP has also provided technical assistance to Chile
3 and South Africa on conflict and human rights'
4 cases and the United States, Thailand, and the Phil-
5ippines following natural disasters, such as Hurri-
6cane Katrina.

7 (10) In the intervening years there has also
8 been increased demand for ICMP's work to address
9 other cases of missing persons, including persons
10 missing from trafficking, drug related violence and
11 to other missing persons' scenarios.

12 (11) Currently ICMP, through an agreement
13 facilitated by the Department of State in 1997, has
14 such a status in Bosnia and Herzegovina, thus, for
15 example, allowing it to maintain and protect a data-
16base that contains 150,000 genetic profiles. In two
17 years' time, ICMP will experience a situation of di-
18minishing resources on its assistance in the Balkans,
19 which could have continued political consequences on
20 its work if it maintains its headquarters and capac-
21ities in that region. However, moving ICMP's head-
22quarters and technical capacities from Bosnia and
23 Herzegovina would have immediate consequences on
24 ICMP's ability to maintain some of its current core
25 technical activities.

1 (12) ICMP is not incorporated under the do-
2 mestic law of any country, and is by implication not
3 a nongovernmental organization. In order to carry
4 out its work, ICMP has been granted the status of
5 a quasi-international organization with international
6 legal capacities in Bosnia, Croatia, Macedonia, and
7 Serbia. However, that status is not universally rec-
8 ognized, which has led to an unclear legal situation
9 outside these countries.

10 (13) Certain immunities are required for oper-
11 ations considering that ICMP operates on sovereign
12 territory in crime scenes (such as mass graves) and
13 holds considerable quantities of confidential genetic
14 information relating to victims of human rights'
15 abuses and their surviving relatives.

16 (14) A series of meetings convened by the
17 ICMP during 2002 and 2004, with government rep-
18 resentatives from the United States, Denmark, the
19 Netherlands, and the United Kingdom, reviewed the
20 ICMP's work and its need for a permanent and
21 internationally recognized legal status. The rep-
22 resentatives produced a draft framework agreement,
23 which remains unratified, but the government rep-
24 resentatives did agree to expand ICMP's work, thus
25 allowing it to work globally in assisting governments,

1 and the representatives also stipulated that ICMP
2 should extend its activities to include assistance to
3 governments in locating persons missing from nat-
4 ural disasters, as well as from wars and violations of
5 human rights.

6 **SEC. 3. STATEMENT OF POLICY.**

7 It is the sense of Congress that—

8 (1) the United States should continue to sup-
9 port the work of the International Commission on
10 Missing Persons (ICMP) to—

11 (A) clarify the fate of persons missing as
12 a result of conflict and natural and man-made
13 disasters; and

14 (B) collect and maintain sensitive genetic
15 information for victim identification;

16 (2) the United States should continue to sup-
17 port the expansion of the ICMP's mandate to in-
18 clude assistance to governments in locating all per-
19 sons missing for involuntary reasons;

20 (3) the President should enunciate a clear pol-
21 icy of assisting the ICMP in establishing a perma-
22 nent and internationally recognized legal status to
23 carry out its mandate globally; and

24 (4) the Secretary of State shall make every ef-
25 fort to advance this proposal at the United Nations.

1 **SEC. 4. REPORT.**

2 Not later than one year after the date of the enact-
3 ment of this Act, the Secretary of State shall submit to
4 Congress a report on the activities carried out in accord-
5 ance with section 3.

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