

115TH CONGRESS
1ST SESSION

S. 905

To require a report on, and to authorize technical assistance for, accountability for war crimes, crimes against humanity, and genocide in Syria, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2017

Mr. CARDIN (for himself, Mr. RUBIO, Mr. CORKER, Mrs. SHAHEEN, Mr. MENENDEZ, and Mr. YOUNG) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To require a report on, and to authorize technical assistance for, accountability for war crimes, crimes against humanity, and genocide in Syria, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Syrian War Crimes Accountability Act of 2017”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Sense of Congress.

Sec. 4. Definitions.

Sec. 5. Report on accountability for war crimes, crimes against humanity, and genocide in Syria.

Sec. 6. Transitional justice study.

Sec. 7. Technical assistance authorized.

Sec. 8. State Department Rewards for Justice Program.

Sec. 9. Independent International Commission of Inquiry on the Syrian Arab Republic.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) March 2017 marks the sixth year of the on-
4 going conflict in Syria.

5 (2) As of February 2017—

6 (A) more than 600,000 people are living
7 under siege in Syria;

8 (B) approximately 6,300,000 people are
9 displaced from their homes inside Syria; and

10 (C) approximately 4,900,000 Syrians have
11 fled to neighboring countries as refugees.

12 (3) Since the conflict in Syria began, the
13 United States has provided more than
14 \$5,900,000,000 to meet humanitarian needs in
15 Syria, making the United States the world's single
16 largest donor by far to the Syrian humanitarian re-
17 sponse.

18 (4) In response to growing concerns over sys-
19 temic human rights violations in Syria, the Inde-
20 pendent International Commission of Inquiry on the
21 Syrian Arab Republic (referred to in this section as

1 “COI”) was established on August 22, 2011. The
2 purpose of COI is to “investigate all alleged viola-
3 tions of international human rights law since March
4 2011 in the Syrian Arab Republic, to establish the
5 facts and circumstances that may amount to such
6 violations and of the crimes perpetrated and, where
7 possible, to identify those responsible with a view to
8 ensuring that perpetrators of violations, including
9 those that may constitute crimes against humanity,
10 are held accountable”.

11 (5) On December 21, 2016, the United Nations
12 General Assembly adopted a resolution to establish
13 the International, Impartial and Independent Mech-
14 anism to Assist in the Investigation and Prosecution
15 of Those Responsible for the Most Serious Crimes
16 under International Law Committed in the Syrian
17 Arab Republic since March 2011.

18 (6) The 2016 United States Commission on
19 International Religious Freedom Annual Report
20 states that in Syria “[r]eports have emerged from
21 all groups, including Muslims, Christians, Ismailis,
22 and others, of gross human rights violations, includ-
23 ing beheading, rape, murder, torture of civilians and
24 religious figures, and the destruction of mosques and
25 churches.”.

1 (7) On February 7, 2017, Amnesty Inter-
2 national reported that between 5,000 and 13,000
3 people were extrajudicially executed in the Saydnaya
4 Military Prison between September 2011 and De-
5 cember 2015.

6 (8) In February 2017, COI released a report—

7 (A) stating that a joint United Nations-
8 Syrian Arab Red Crescent convoy in Orum al-
9 Kubra, Syria, was attacked by air on Sep-
10 tember 19, 2016;

11 (B) explaining that the attack killed at
12 least 14 civilian aid workers, injured at least 15
13 others, and destroyed trucks, food, medicine,
14 clothes, and other supplies; and

15 (C) concluding that “the attack was me-
16 ticulously planned and ruthlessly carried out by
17 the Syrian air force to purposefully hinder the
18 delivery of humanitarian aid and target aid
19 workers, constituting the war crimes of delib-
20 erately attacking humanitarian relief personnel,
21 denial of humanitarian aid and targeting civil-
22 ians.”.

23 (9) On October 21, 2016, the Organization for
24 the Prohibition of Chemical Weapons-United Na-
25 tions Joint Investigative Mechanism transmitted its

1 fourth report, which concluded that the Syrian Arab
2 Armed Forces and the Islamic State in Iraq and
3 Syria (ISIS) have both used chemical weapons
4 against villages in Syria.

5 (10) On August 11, 2016, COI released a re-
6 port stating that certain offenses, including delib-
7 erately attacking hospitals, executions without due
8 process, and the massive and systematized nature of
9 deaths in state-controlled detention facilities in
10 Syria, constitute war crimes and crimes against hu-
11 manity.

12 (11) Physicians for Human Rights reported
13 that, between March 2011 and the end of July
14 2016, Syrian government and allied forces—

15 (A) had committed 362 attacks on medical
16 facilities (including through the use of indis-
17 criminate barrel bombs on at least 74 occa-
18 sions); and

19 (B) had killed 768 medical personnel.

20 (12) The Department of State’s 2016 Country
21 Reports on Human Rights Practices—

22 (A) details President Bashar al-Assad’s
23 use of “indiscriminate and deadly force against
24 civilians, conducting air and ground-based mili-

1 tary assaults on cities, residential areas, and ci-
2 vilian infrastructure”;

3 (B) explains that “these attacks included
4 bombardment with improvised explosive devices,
5 commonly referred to as ‘barrel bombs’”;
6 and

7 (C) reports that “[t]he government [of
8 Syria] continued the use of torture and rape,
9 including of children”.

10 (13) On March 17, 2016, Secretary of State
11 John Kerry stated: “In my judgment, Daesh is re-
12 sponsible for genocide against groups in areas under
13 its control, including Yezidis, Christians, and Shia
14 Muslims. . . . The United States will strongly sup-
15 port efforts to collect, document, preserve, and ana-
16 lyze the evidence of atrocities, and we will do all we
17 can to see that the perpetrators are held account-
18 able.”.

19 (14) In February 2016, COI reported that—

20 (A) “crimes against humanity continue to
21 be committed by [Syrian] Government forces
22 and by ISIS”;

23 (B) the Syrian government has “com-
24 mitted the crimes against humanity of extermi-
25 nation, murder, rape or other forms of sexual

1 violence, torture, imprisonment, enforce dis-
2 appearance and other inhuman acts”; and

3 (C) “[a]ccountability for these and other
4 crimes must form part of any political solu-
5 tion”.

6 (15) Credible civil society organizations col-
7 lecting evidence of war crimes, crimes against hu-
8 manity, and genocide in Syria report that at least 12
9 countries in western Europe and North America
10 have requested assistance on investigating such
11 crimes.

12 **SEC. 3. SENSE OF CONGRESS.**

13 Congress—

14 (1) strongly condemns—

15 (A) the ongoing violence, use of chemical
16 weapons, targeting of civilian populations with
17 barrel, incendiary, and cluster bombs and
18 SCUD missiles, and systematic gross human
19 rights violations carried out by the Government
20 of Syria and pro-government forces under the
21 direction of President Bashar al-Assad; and

22 (B) all abuses committed by violent ex-
23 tremist groups and other combatants involved
24 in the civil war in Syria;

1 (2) expresses its support for the people of Syria
2 seeking democratic change;

3 (3) urges all parties to the conflict—

4 (A) to immediately halt indiscriminate at-
5 tacks on civilians;

6 (B) to allow for the delivery of humani-
7 tarian and medical assistance; and

8 (C) to end sieges of civilian populations;

9 (4) calls on the President to support efforts in
10 Syria, and on the part of the international commu-
11 nity, to ensure accountability for war crimes, crimes
12 against humanity, and genocide committed during
13 the conflict; and

14 (5) supports the request in United Nations Se-
15 curity Council Resolutions 2139 (2014), 2165
16 (2014), and 2191 (2014) for the Secretary-General
17 to regularly report to the Security Council on imple-
18 mentation on the resolutions, including of paragraph
19 2 of Resolution 2139, which “demands that all par-
20 ties immediately put an end to all forms of violence
21 [and] cease and desist from all violations of inter-
22 national humanitarian law and violations and abuses
23 of human rights”.

24 **SEC. 4. DEFINITIONS.**

25 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Foreign Relations of
5 the Senate; and

6 (B) the Committee on Foreign Affairs of
7 the House of Representatives.

8 (2) GENOCIDE.—The term “genocide” means
9 any offense described in section 1091(a) of title 18,
10 United States Code.

11 (3) HYBRID TRIBUNAL.—The term “hybrid tri-
12 bunal” means a temporary criminal tribunal that in-
13 volves a combination of domestic and international
14 lawyers, judges, and other professionals to prosecute
15 individuals suspected of committing war crimes,
16 crimes against humanity, or genocide.

17 (4) TRANSITIONAL JUSTICE.—The term “tran-
18 sitional justice” means the range of judicial, non-
19 judicial, formal, informal, retributive, and restorative
20 measures employed by countries transitioning out of
21 armed conflict or repressive regimes—

22 (A) to redress legacies of atrocities; and

23 (B) to promote long-term, sustainable
24 peace.

1 (5) WAR CRIME.—The term “war crime” has
2 the meaning given the term in section 2441(c) of
3 title 18, United States Code.

4 **SEC. 5. REPORT ON ACCOUNTABILITY FOR WAR CRIMES,**
5 **CRIMES AGAINST HUMANITY, AND GENOCIDE**
6 **IN SYRIA.**

7 (a) IN GENERAL.—The Secretary of State shall sub-
8 mit a report on war crimes, crimes against humanity, and
9 genocide in Syria to the appropriate congressional commit-
10 tees not later than 90 days after the date of the enactment
11 of this Act and another such report not later than 180
12 days after the Secretary of State determines that the vio-
13 lence in Syria has ceased.

14 (b) ELEMENTS.—The reports required under sub-
15 section (a) shall include—

16 (1) a description of alleged war crimes, crimes
17 against humanity, and genocide perpetrated during
18 the civil war in Syria, including—

19 (A) incidents that may constitute war
20 crimes, crimes against humanity, or genocide
21 committed by the regime of President Bashar
22 al-Assad and all forces fighting on its behalf;

23 (B) incidents that may constitute war
24 crimes, crimes against humanity, or genocide
25 committed by violent extremist groups, anti-

1 government forces, and any other combatants in
2 the conflict;

3 (C) any incidents that may violate the
4 principle of medical neutrality and, if possible,
5 the identification of the individual or individuals
6 who engaged in or organized such incidents;
7 and

8 (D) if possible, a description of the conven-
9 tional and unconventional weapons used for
10 such crimes and the origins of such weapons;
11 and

12 (2) a description and assessment by the Depart-
13 ment of State Office of Global Criminal Justice, the
14 United States Agency for International Develop-
15 ment, the Department of Justice, and other appro-
16 priate agencies of programs that the United States
17 Government has undertaken to ensure accountability
18 for war crimes, crimes against humanity, and geno-
19 cide perpetrated against the people of Syria by the
20 regime of President Bashar al-Assad, violent extrem-
21 ist groups, and other combatants involved in the
22 conflict, including programs—

23 (A) to train investigators within and out-
24 side of Syria on how to document, investigate,
25 develop findings of, and identify and locate al-

1 leged perpetrators of war crimes, crimes against
2 humanity, or genocide, including—

3 (i) the number of United States Gov-
4 ernment or contract personnel currently
5 designated to work full-time on these
6 issues; and

7 (ii) the identification of the authori-
8 ties and appropriations being used to sup-
9 port such training efforts;

10 (B) to promote and prepare for a transi-
11 tional justice process or processes for the per-
12 petrators of war crimes, crimes against human-
13 ity, and genocide in Syria beginning in March
14 2011;

15 (C) to document, collect, preserve, and pro-
16 tect evidence of war crimes, crimes against hu-
17 manity, and genocide in Syria, including sup-
18 port for Syrian, foreign, and international non-
19 governmental organizations, and other entities,
20 including the International, Impartial and Inde-
21 pendent Mechanism to Assist in the Investiga-
22 tion and Prosecution of Persons Responsible for
23 the Most Serious Crimes under International
24 Law Committed in the Syrian Arab Republic
25 since March 2011 and the Independent Inter-

1 national Commission of Inquiry on the Syrian
2 Arab Republic; and

3 (D) to assess the influence of account-
4 ability measures on efforts to reach a nego-
5 tiated settlement to the Syrian conflict during
6 the reporting period.

7 (c) FORM.—The report required under subsection (a)
8 may be submitted in unclassified or classified form, but
9 shall include a publicly available annex.

10 (d) PROTECTION OF WITNESSES AND EVIDENCE.—
11 The Secretary shall take due care to ensure that the iden-
12 tification of witnesses and physical evidence are not pub-
13 licly disclosed in a manner that might place such persons
14 at risk of harm or encourage the destruction of evidence
15 by the Government of Syria, violent extremist groups,
16 anti-government forces, or any other combatants or par-
17 ticipants in the conflict.

18 **SEC. 6. TRANSITIONAL JUSTICE STUDY.**

19 Not later than 180 days after the date of the enact-
20 ment of this Act, the Secretary of State (acting through
21 appropriate officials and offices, which may include the
22 Office of Global Criminal Justice), after consultation with
23 the Department of Justice, the United States Agency for
24 International Development, and other appropriate Federal
25 agencies, shall—

1 (1) complete a study of the feasibility and desir-
2 ability of potential transitional justice mechanisms
3 for Syria, including a hybrid tribunal, to address
4 war crimes, crimes against humanity, and genocide
5 perpetrated in Syria beginning in March 2011; and

6 (2) submit a detailed report of the results of
7 the study conducted under paragraph (1), including
8 recommendations on which transitional justice mech-
9 anisms the United States Government should sup-
10 port, why such mechanisms should be supported,
11 and what type of support should be offered, to—

12 (A) the Committee on Foreign Relations of
13 the Senate;

14 (B) the Committee on Foreign Affairs of
15 the House of Representatives;

16 (C) the Committee on Appropriations of
17 the Senate; and

18 (D) the Committee on Appropriations of
19 the House of Representatives.

20 **SEC. 7. TECHNICAL ASSISTANCE AUTHORIZED.**

21 (a) IN GENERAL.—The Secretary of State (acting
22 through appropriate officials and offices, which may in-
23 clude the Office of Global Criminal Justice), after con-
24 sultation with the Department of Justice and other appro-
25 priate Federal agencies, is authorized to provide appro-

1 puate assistance to support entities that, with respect to
2 war crimes, crimes against humanity, and genocide per-
3 petrated by the regime of President Bashar al-Assad, all
4 forces fighting on its behalf, and violent extremist groups
5 in Syria beginning in March 2011—

6 (1) identify suspected perpetrators of war
7 crimes, crimes against humanity, and genocide;

8 (2) collect, document, and protect evidence of
9 crimes and preserve the chain of custody for such
10 evidence;

11 (3) conduct criminal investigations;

12 (4) build Syria’s investigative and judicial ca-
13 pacities and support prosecutions in the domestic
14 courts of Syria, provided that President Bashar al-
15 Assad is no longer in power;

16 (5) support investigations by third-party states,
17 as appropriate; or

18 (6) protect witnesses that may be helpful to
19 prosecutions or other transitional justice mecha-
20 nisms.

21 (b) ADDITIONAL ASSISTANCE.—The Secretary of
22 State, after consultation with appropriate Federal agen-
23 cies and the appropriate congressional committees, and
24 taking into account the findings of the transitional justice
25 study required under section 6, is authorized to provide

1 assistance to support the creation and operation of transi-
2 tional justice mechanisms, including a potential hybrid tri-
3 bunal, to prosecute individuals suspected of committing
4 war crimes, crimes against humanity, or genocide in Syria
5 beginning in March 2011.

6 (c) BRIEFING.—The Secretary of State shall provide
7 detailed, biannual briefings to the appropriate congres-
8 sional committees describing the assistance provided to en-
9 tities described in subsection (a).

10 **SEC. 8. STATE DEPARTMENT REWARDS FOR JUSTICE PRO-**
11 **GRAM.**

12 Section 36(b)(10) of the State Department Basic Au-
13 thorities Act of 1956 (22 U.S.C. 2708(b)(10)) is amended
14 by inserting “(including war crimes, crimes against hu-
15 manity, or genocide committed in Syria beginning in
16 March 2011)” after “genocide”.

17 **SEC. 9. INDEPENDENT INTERNATIONAL COMMISSION OF**
18 **INQUIRY ON THE SYRIAN ARAB REPUBLIC.**

19 The Secretary of State, acting through the United
20 States Permanent Representative to the United Nations,
21 should use the voice, vote, and influence of the United
22 States at the United Nations to advocate that the United
23 Nations Human Rights Council, while the United States
24 remains a member, annually extend the mandate of the
25 Independent International Commission of Inquiry on the

- 1 Syrian Arab Republic until the Commission has completed
- 2 its investigation of all alleged violations of international
- 3 human rights laws beginning in March 2011 in the Syrian
- 4 Arab Republic.

