

Calendar No. 134

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, Mr. YOUNG, Mr. MERKLEY, Mr. COONS, Mr. KAINE, Ms. WARREN, Ms. KLOBUCHAR, Mr. PETERS, Mr. BLUMENTHAL, Mr. BOOKER, Mrs. FEINSTEIN, Mr. MARKEY, Mrs. GILLIBRAND, Mr. BENNET, Mr. BROWN, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

JUNE 12, 2017

Reported by Mr. CORKER, with amendments

[Omit the part struck through and insert the part printed in *italic*]

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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

4 (b) TABLE OF CONTENTS.—The table of contents for
5 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.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

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

10 (2) As of February 2017—

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

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

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

17 (3) Since the conflict in Syria began, the
18 United States has provided more than
19 \$5,900,000,000 to meet humanitarian needs in
20 Syria, making the United States the world’s single

1 largest donor by far to the Syrian humanitarian re-
2 sponse.

3 (4) In response to growing concerns over sys-
4 temic human rights violations in Syria, the Inde-
5 pendent International Commission of Inquiry on the
6 Syrian Arab Republic (referred to in this section as
7 “COI”) was established on August 22, 2011. The
8 purpose of COI is to “investigate all alleged viola-
9 tions of international human rights law since March
10 2011 in the Syrian Arab Republic, to establish the
11 facts and circumstances that may amount to such
12 violations and of the crimes perpetrated and, where
13 possible, to identify those responsible with a view to
14 ensuring that perpetrators of violations, including
15 those that may constitute crimes against humanity,
16 are held accountable”.

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

24 (6) The 2016 United States Commission on
25 International Religious Freedom Annual Report

1 states that in Syria “[r]eports have emerged from
2 all groups, including Muslims, Christians, Ismailis,
3 and others, of gross human rights violations, includ-
4 ing beheading, rape, murder, torture of civilians and
5 religious figures, and the destruction of mosques and
6 churches.”.

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

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

13 (A) stating that a joint United Nations-
14 Syrian Arab Red Crescent convoy in Orum al-
15 Kubra, Syria, was attacked by air on Sep-
16 tember 19, 2016;

17 (B) explaining that the attack killed at
18 least 14 civilian aid workers, injured at least 15
19 others, and destroyed trucks, food, medicine,
20 clothes, and other supplies; and

21 (C) concluding that “the attack was me-
22 ticulously planned and ruthlessly carried out by
23 the Syrian air force to purposefully hinder the
24 delivery of humanitarian aid and target aid
25 workers, constituting the war crimes of delib-

erately attacking humanitarian relief personnel,
denial of humanitarian aid and targeting civilians.”.

(9) On October 21, 2016, the Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism transmitted its fourth report, which concluded that the Syrian Arab Armed Forces and the Islamic State in Iraq and Syria (ISIS) have both used chemical weapons against villages in Syria.

(10) On August 11, 2016, COI released a report stating that certain offenses, including deliberately attacking hospitals, executions without due process, and the massive and systematized nature of deaths in state-controlled detention facilities in Syria, constitute war crimes and crimes against humanity.

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

~~(A) had committed 362 attacks on medical facilities (including through the use of indiscriminate barrel bombs on at least 74 occasions); and~~

~~(B) had killed 768 medical personnel.~~

1 (11) *Physicians for Human Rights* reported that,
2 *between March 2011 and the end of December 2016,*
3 *Syrian government and allied forces—*

4 (A) *had committed 412 attacks on medical*
5 *facilities (including through the use of indis-*
6 *criminate barrel bombs on at least 80 occasions);*
7 *and*

8 (B) *had killed 735 medical personnel.*

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

11 (A) details President Bashar al-Assad’s
12 use of “indiscriminate and deadly force against
13 civilians, conducting air and ground-based mili-
14 tary assaults on cities, residential areas, and ci-
15 vilian infrastructure”;

16 (B) explains that “these attacks included
17 bombardment with improvised explosive devices,
18 commonly referred to as ‘barrel bombs’ . . .”;
19 and

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

23 (13) On March 17, 2016, Secretary of State
24 John Kerry stated: “In my judgment, Daesh is re-
25 sponsible for genocide against groups in areas under

1 its control, including Yezidis, Christians, and Shia
2 Muslims. . . . The United States will strongly sup-
3 port efforts to collect, document, preserve, and ana-
4 lyze the evidence of atrocities, and we will do all we
5 can to see that the perpetrators are held account-
6 able.”.

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

8 (A) “crimes against humanity continue to
9 be committed by [Syrian] Government forces
10 and by ISIS”;

11 (B) the Syrian government has “com-
12 mitted the crimes against humanity of extermi-
13 nation, murder, rape or other forms of sexual
14 violence, torture, imprisonment, enforce dis-
15 appearance and other inhuman acts”; and

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

19 (15) Credible civil society organizations col-
20 lecting evidence of war crimes, crimes against hu-
21 manity, and genocide in Syria report that at least 12
22 countries in western Europe and North America
23 have requested assistance on investigating such
24 crimes.

1 **SEC. 3. SENSE OF CONGRESS.**

2 Congress—

3 (1) strongly condemns—

4 (A) the ongoing violence, use of chemical
5 weapons, targeting of civilian populations with
6 barrel, incendiary, and cluster bombs and
7 SCUD missiles, and systematic gross human
8 rights violations carried out by the Government
9 of Syria and pro-government forces under the
10 direction of President Bashar al-Assad; and

11 (B) all abuses committed by violent ex-
12 tremist groups and other combatants involved
13 in the civil war in Syria;

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

16 (3) urges all parties to the conflict—

17 (A) to immediately halt indiscriminate at-
18 tacks on civilians;

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

21 (C) to end sieges of civilian populations;

22 (4) calls on the President to support efforts in
23 Syria, and on the part of the international commu-
24 nity, to ensure accountability for war crimes, crimes
25 against humanity, and genocide committed during
26 the conflict; and

1 (5) supports the request in United Nations Se-
 2 curity Council Resolutions 2139 (2014), 2165
 3 (2014), and 2191 (2014) for the Secretary-General
 4 to regularly report to the Security Council on imple-
 5 mentation on the resolutions, including of paragraph
 6 2 of Resolution 2139, which “demands that all par-
 7 ties immediately put an end to all forms of violence
 8 [and] cease and desist from all violations of inter-
 9 national humanitarian law and violations and abuses
 10 of human rights”.

11 **SEC. 4. DEFINITIONS.**

12 In this Act:

13 (1) APPROPRIATE CONGRESSIONAL COMMIT-
 14 TEES.—The term “appropriate congressional com-
 15 mittees” means—

16 (A) the Committee on Foreign Relations of
 17 the Senate; ~~and~~

18 ~~(B) the Committee on Foreign Affairs of~~
 19 ~~the House of Representatives.~~

20 (B) *the Committee on Armed Services of the*
 21 *Senate;*

22 (C) *the Committee on Foreign Affairs of the*
 23 *House of Representatives; and*

24 (D) *the Committee on Armed Services of the*
 25 *House of Representatives.*

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

4 (3) HYBRID TRIBUNAL.—The term “hybrid tri-
5 bunal” means a temporary criminal tribunal that in-
6 volves a combination of domestic and international
7 lawyers, judges, and other professionals to prosecute
8 individuals suspected of committing war crimes,
9 crimes against humanity, or genocide.

10 (4) TRANSITIONAL JUSTICE.—The term “tran-
11 sitional justice” means the range of judicial, non-
12 judicial, formal, informal, retributive, and restorative
13 measures employed by countries transitioning out of
14 armed conflict or repressive regimes—

15 (A) to redress legacies of atrocities; and

16 (B) to promote long-term, sustainable
17 peace.

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

21 **SEC. 5. REPORT ON ACCOUNTABILITY FOR WAR CRIMES,**
22 **CRIMES AGAINST HUMANITY, AND GENOCIDE**
23 **IN SYRIA.**

24 (a) IN GENERAL.—The Secretary of State shall sub-
25 mit a report on war crimes, crimes against humanity, and

1 genocide in Syria to the appropriate congressional commit-
2 tees not later than 90 days after the date of the enactment
3 of this Act and another such report not later than 180
4 days after the Secretary of State determines that the vio-
5 lence in Syria has ceased.

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

8 (1) a description of alleged war crimes, crimes
9 against humanity, and genocide perpetrated during
10 the civil war in Syria, including—

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

15 (B) incidents that may constitute war
16 crimes, crimes against humanity, or genocide
17 committed by violent extremist groups, anti-
18 government forces, and any other combatants in
19 the conflict;

20 (C) any incidents that may violate the
21 principle of medical neutrality and, if possible,
22 the identification of the individual or individuals
23 who engaged in or organized such incidents;
24 and

1 (D) if possible, a description of the conven-
2 tional and unconventional weapons used for
3 such crimes and the origins of such weapons;
4 and

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

16 (A) to train investigators within and out-
17 side of Syria on how to document, investigate,
18 develop findings of, and identify and locate al-
19 leged perpetrators of war crimes, crimes against
20 humanity, or genocide, including—

21 (i) the number of United States Gov-
22 ernment or contract personnel currently
23 designated to work full-time on these
24 issues; and

1 (ii) the identification of the authori-
2 ties and appropriations being used to sup-
3 port such training efforts;

4 (B) to promote and prepare for a transi-
5 tional justice process or processes for the per-
6 petrators of war crimes, crimes against human-
7 ity, and genocide in Syria beginning in March
8 2011;

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

22 (D) to assess the influence of account-
23 ability measures on efforts to reach a nego-
24 tiated settlement to the Syrian conflict during
25 the reporting period.

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

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

12 **SEC. 6. TRANSITIONAL JUSTICE STUDY.**

13 Not later than 180 days after the date of the enact-
 14 ment of this Act, the Secretary of State (acting through
 15 appropriate officials and offices, which may include the
 16 Office of Global Criminal Justice), after consultation with
 17 the Department of Justice, the United States Agency for
 18 International Development, and other appropriate Federal
 19 agencies, shall—

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

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

7 (A) the Committee on Foreign Relations of
 8 the Senate;

9 (B) the Committee on Foreign Affairs of
 10 the House of Representatives;

11 (C) the Committee on Appropriations of
 12 the Senate; and

13 (D) the Committee on Appropriations of
 14 the House of Representatives.

15 **SEC. 7. TECHNICAL ASSISTANCE AUTHORIZED.**

16 (a) IN GENERAL.—The Secretary of State (acting
 17 through appropriate officials and offices, which may in-
 18 clude the Office of Global Criminal Justice), after con-
 19 sultation with the Department of Justice and other appro-
 20 priate Federal agencies, is authorized to provide appro-
 21 priate assistance to support entities that, with respect to
 22 war crimes, crimes against humanity, and genocide per-
 23 petrated by the regime of President Bashar al-Assad, all
 24 forces fighting on its behalf, and *all non-state armed*

1 *groups fighting in the country, including violent extremist*
2 *groups in Syria beginning in March 2011—*

3 (1) identify suspected perpetrators of war
4 crimes, crimes against humanity, and genocide;

5 (2) collect, document, and protect evidence of
6 crimes and preserve the chain of custody for such
7 evidence;

8 (3) conduct criminal investigations;

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

13 (5) support investigations by third-party states,
14 as appropriate; or

15 (6) protect witnesses that may be helpful to
16 prosecutions or other transitional justice mecha-
17 nisms.

18 (b) **ADDITIONAL ASSISTANCE.**—The Secretary of
19 State, after consultation with appropriate Federal agen-
20 cies and the appropriate congressional committees, and
21 taking into account the findings of the transitional justice
22 study required under section 6, is authorized to provide
23 assistance to support the creation and operation of transi-
24 tional justice mechanisms, including a potential hybrid tri-
25 bunal, to prosecute individuals suspected of committing

1 war crimes, crimes against humanity, or genocide in Syria
2 beginning in March 2011.

3 (c) BRIEFING.—The Secretary of State shall provide
4 detailed, biannual briefings to the appropriate congressional
5 committees describing the assistance provided to entities
6 described in subsection (a).

7 **SEC. 8. STATE DEPARTMENT REWARDS FOR JUSTICE PROGRAM.**
8

9 Section 36(b)(10) of the State Department Basic Authorities
10 Act of 1956 (22 U.S.C. 2708(b)(10)) is amended
11 by inserting “(including war crimes, crimes against humanity,
12 or genocide committed in Syria beginning in
13 March 2011)” after “genocide”.

14 **SEC. 9. INDEPENDENT INTERNATIONAL COMMISSION OF INQUIRY ON THE SYRIAN ARAB REPUBLIC.**
15

16 The Secretary of State, acting through the United
17 States Permanent Representative to the United Nations,
18 should use the voice, vote, and influence of the United
19 States at the United Nations to advocate that the United
20 Nations Human Rights Council, while the United States
21 remains a member, annually extend the mandate of the
22 Independent International Commission of Inquiry on the
23 Syrian Arab Republic until the Commission has completed
24 its investigation of all alleged violations of international

- 1 human rights laws beginning in March 2011 in the Syrian
- 2 Arab Republic.

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