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

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

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Syrian War Crimes Accountability Act of 2017”.

(b) Table of Contents.—The table of contents for 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. 2. FINDINGS.

Congress makes the following findings:

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

(2) As of February 2017—

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

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

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

(3) Since the conflict in Syria began, the United States has provided more than $5,900,000,000 to meet humanitarian needs in Syria, making the United States the world’s single largest donor by far to the Syrian humanitarian response.

(4) In response to growing concerns over systemic human rights violations in Syria, the Independent International Commission of Inquiry on the Syrian Arab Republic (referred to in this section as
“COI”) was established on August 22, 2011. The purpose of COI is to “investigate all alleged violations of international human rights law since March 2011 in the Syrian Arab Republic, to establish the facts and circumstances that may amount to such violations and of the crimes perpetrated and, where possible, to identify those responsible with a view to ensuring that perpetrators of violations, including those that may constitute crimes against humanity, are held accountable”.


(6) The 2016 United States Commission on International Religious Freedom Annual Report states that in Syria “[r]eports have emerged from all groups, including Muslims, Christians, Ismailis, and others, of gross human rights violations, including beheading, rape, murder, torture of civilians and religious figures, and the destruction of mosques and churches.”
(7) On February 7, 2017, Amnesty International reported that between 5,000 and 13,000 people were extrajudicially executed in the Saydnaya Military Prison between September 2011 and December 2015.

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

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

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

(C) concluding that “the attack was meticulously planned and ruthlessly carried out by the Syrian air force to purposefully hinder the delivery of humanitarian aid and target aid workers, constituting the war crimes of deliberately 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 re-
port stating that certain offenses, including delib-
erately 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 hu-
manity.

(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 indis-
erminate barrel bombs on at least 74 occa-
sions); and

(B) had killed 768 medical personnel.

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

(A) details President Bashar al Assad’s
use of “indiscriminate and deadly force against
civilians, conducting air and ground-based mili-
tary assaults on cities, residential areas, and civil-

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

and

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

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

(14) In February 2016, COI reported that—

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

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

(C) “[a]ccountability for these and other crimes must form part of any political solution”.

(15) Credible civil society organizations collecting evidence of war crimes, crimes against humanity, and genocide in Syria report that at least 12 countries in western Europe and North America have requested assistance on investigating such crimes.

SEC. 3. SENSE OF CONGRESS.

Congress—

(1) strongly condemns—

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

(B) all abuses committed by violent extremist groups and other combatants involved in the civil war in Syria;
(2) expresses its support for the people of Syria seeking democratic change;

(3) urges all parties to the conflict—

(A) to immediately halt indiscriminate attacks on civilians;

(B) to allow for the delivery of humanitarian and medical assistance; and

(C) to end sieges of civilian populations;

(4) calls on the President to support efforts in Syria, and on the part of the international community, to ensure accountability for war crimes, crimes against humanity, and genocide committed during the conflict; and

(5) supports the request in United Nations Security Council Resolutions 2139 (2014), 2165 (2014), and 2191 (2014) for the Secretary-General to regularly report to the Security Council on implementation on the resolutions, including of paragraph 2 of Resolution 2139, which “demands that all parties immediately put an end to all forms of violence [and] cease and desist from all violations of international humanitarian law and violations and abuses of human rights”.

SEC. 4. DEFINITIONS.

In this Act:
(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

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

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

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

(3) HYBRID TRIBUNAL.—The term “hybrid tribunal” means a temporary criminal tribunal that involves a combination of domestic and international lawyers, judges, and other professionals to prosecute individuals suspected of committing war crimes, crimes against humanity, or genocide.

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

(A) to redress legacies of atrocities; and

(B) to promote long-term, sustainable peace.
(5) War crime.—The term “war crime” has the meaning given the term in section 2441(e) of title 18, United States Code.

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

(a) IN GENERAL.—The Secretary of State shall submit a report on war crimes, crimes against humanity, and genocide in Syria to the appropriate congressional committees not later than 90 days after the date of the enactment of this Act and another such report not later than 180 days after the Secretary of State determines that the violence in Syria has ceased.

(b) ELEMENTS.—The reports required under subsection (a) shall include—

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

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

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

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

(D) if possible, a description of the conventional and unconventional weapons used for such crimes and the origins of such weapons; and

(2) a description and assessment by the Department of State Office of Global Criminal Justice, the United States Agency for International Development, the Department of Justice, and other appropriate agencies of programs that the United States Government has undertaken to ensure accountability for war crimes, crimes against humanity, and genocide perpetrated against the people of Syria by the regime of President Bashar al-Assad, violent extremist groups, and other combatants involved in the conflict, including programs—

(A) to train investigators within and outside of Syria on how to document, investigate, develop findings of, and identity and locate al-
leged perpetrators of war crimes, crimes against humanity, or genocide, including—

(i) the number of United States Government or contract personnel currently designated to work full-time on these issues; and

(ii) the identification of the authorities and appropriations being used to support such training efforts;

(B) to promote and prepare for a transitional justice process or processes for the perpetrators of war crimes, crimes against humanity, and genocide in Syria beginning in March 2011;

(C) to document, collect, preserve, and protect evidence of war crimes, crimes against humanity, and genocide in Syria, including support for Syrian, foreign, and international nongovernmental organizations, and other entities, including the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011 and the Independent Inter-
national Commission of Inquiry on the Syrian Arab Republic; and

(D) to assess the influence of accountability measures on efforts to reach a negotiated settlement to the Syrian conflict during the reporting period.

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

(d) PROTECTION OF WITNESSES AND EVIDENCE.—The Secretary shall take due care to ensure that the identification of witnesses and physical evidence are not publicly disclosed in a manner that might place such persons at risk of harm or encourage the destruction of evidence by the Government of Syria, violent extremist groups, anti-government forces, or any other combatants or participants in the conflict.

SEC. 6. TRANSITIONAL JUSTICE STUDY.

Not later than 180 days after the date of the enactment of this Act, the Secretary of State (acting through appropriate officials and offices, which may include the Office of Global Criminal Justice), after consultation with the Department of Justice, the United States Agency for International Development, and other appropriate Federal agencies, shall—
(1) complete a study of the feasibility and desirability of potential transitional justice mechanisms for Syria, including a hybrid tribunal, to address war crimes, crimes against humanity, and genocide perpetrated in Syria beginning in March 2011; and

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

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

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

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

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

SEC. 7. TECHNICAL ASSISTANCE AUTHORIZED.

(a) In general.—The Secretary of State (acting through appropriate officials and offices, which may include the Office of Global Criminal Justice), after consultation with the Department of Justice and other appropriate Federal agencies, is authorized to provide appro-
appropriate assistance to support entities that, with respect to
war crimes, crimes against humanity, and genocide perpetuated by the regime of President Bashar al-Assad, all
forces fighting on its behalf, and violent extremist groups
in Syria beginning in March 2011—

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

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

(3) conduct criminal investigations;

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

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

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

(b) ADDITIONAL ASSISTANCE.—The Secretary of
State, after consultation with appropriate Federal agen-
cies and the appropriate congressional committees, and
taking into account the findings of the transitional justice
study required under section 6, is authorized to provide
assistance to support the creation and operation of transitional justice mechanisms, including a potential hybrid tribunal, to prosecute individuals suspected of committing war crimes, crimes against humanity, or genocide in Syria beginning in March 2011.

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

SEC. 8. STATE DEPARTMENT REWARDS FOR JUSTICE PROGRAM.

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

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

The Secretary of State, acting through the United States Permanent Representative to the United Nations, should use the voice, vote, and influence of the United States at the United Nations to advocate that the United Nations Human Rights Council, while the United States remains a member, annually extend the mandate of the 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.