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S. 1158

To help prevent acts of genocide and other atrocity crimes, which threaten national and international security, by enhancing United States Government capacities to prevent, mitigate, and respond to such crises.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2017

Mr. CARDIN (for himself, Mr. YOUNG, Mr. TILLIS, Mr. DURBIN, Mr. RUBIO, Mr. MENENDEZ, Ms. MURKOWSKI, Mr. BLUMENTHAL, Ms. WARREN, Mr. WHITEHOUSE, Mrs. GILLIBRAND, Ms. KLOBUCHAR, Mrs. SHELBY, Mr. FRANKEN, Mr. PETERS, Mr. COONS, Ms. STABENOW, Mr. BOOKER, Mr. MARKEY, Mr. BROWN, Ms. BALDWIN, Mr. WYDEN, Mr. MERKLEY, Mr. CASEY, Mr. BENNET, Ms. COLLINS, Mr. VAN HOLLEN, Mrs. FEINSTEIN, Mr. MURPHY, Mr. NELSON, Mr. REED, Mr. KING, and Mr. BOOZMAN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

(legislative day, _____________),

Reported by Mr. CORKER, with an amendment

[Strike out all after the enacting clause and insert the part printed in italics]

A BILL

To help prevent acts of genocide and other atrocity crimes, which threaten national and international security, by enhancing United States Government capacities to prevent, mitigate, and respond to such crises.
Be it enacted by the Senate and House of Representa-
tives 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
"Elie Wiesel Genocide and Atrocities Prevention 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. Definitions.
Sec. 4. Statement of policy regarding genocide and other atrocity crimes pre-
vention.
Sec. 5. Mass Atrocities Task Force.
Sec. 6. Training of Foreign Service officers in conflict and atrocity crimes pre-
vention.
Sec. 7. Report of the Director of National Intelligence.
Sec. 8. Complex Crisis Fund.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The nature of genocide and other atrocity
crimes, including war crimes, crimes against human-
ity, and ethnic cleansing, includes shocking acts of
violence perpetrated by governments and non-state
actors, which have killed millions of civilians and
other innocent individuals.

(2) The commitment to prevent acts of genocide
and other atrocity crimes has been a centerpiece of
policy by consecutive administrations of the United
States Government.
(3) The United States was the first country in the world to sign the Convention on the Prevention and Punishment of the Crime of Genocide, signed at Paris December 9, 1948; and President Ronald Reagan signed implementing legislation allowing the United States to become a party to the Convention on November 25, 1988.

(4) In the 2006 National Security Strategy, President George W. Bush highlighted the "moral imperative that states take action to prevent and punish genocide."

(5) In 2008, the bipartisan Genocide Prevention Task Force, which was co-chaired by former Secretary of Defense William Cohen and former Secretary of State Madeleine Albright—

(A) stated "genocide and mass atrocities also threaten core U.S. national interests"; and

(B) recommended the creation of "a new standing interagency mechanism for analysis of threats of genocide and other mass atrocities and coordination of appropriate preventive action."

(6) In December 2010, the Senate unanimously passed Senate Concurrent Resolution 74, which recognized the United States "national interest in help-
ing to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts.”

(7) In 2012, President Obama, in Presidential Study Directive 40, which ordered the creation of the Atrocities Prevention Board, stated that he would ensure that the United States Government has the required structures, tools, and mechanisms to better prevent and respond to atrocity crimes.

(8) In February 2014, James Clapper, the former Director of National Intelligence, stated in his annual national security threat assessment to Congress:

(A) “The overall risk of mass atrocities worldwide will probably increase in 2014 and beyond.”

(B) “Many countries at risk of mass atrocities will likely be open to influence to prevent or mitigate them.” and

(C) “Much of the world will almost certainly turn to the United States for leadership to prevent and respond to mass atrocities.”
(9) In February 2016, former Director of National Intelligence Clapper stated, in his annual national security threat assessment to Congress, "Risks of atrocities, large-scale violence, and regime-threatening instability will remain elevated in 2016."

(10) The United States can strengthen its atrocity crimes prevention and peacebuilding efforts by—

(A) supporting civil society which serves a central role in promoting nonviolent conflict resolution and supporting early warning;

(B) enhancing cooperation and understanding among ethnic and religious groups, communities, and factions;

(C) working with the international community to ensure shared responsibility by enhancing multilateral and regional mechanisms that seek to prevent genocide and other atrocity crimes;

(D) promoting effective accountability mechanisms to deter individuals and entities that may incite or commit genocide or other atrocity crimes; and
(E) implementing policies that hold accountable individuals and entities that incite or commit genocide or other atrocity crimes.

SEC. 3. DEFINITIONS.

In this Act:

(1) ATROcity CRIMES; MASS ATROCITIES.—The terms "atrocity crimes" and "mass atrocities" mean large scale and deliberate acts of violence against civilians and include genocide, war crimes, crimes against humanity, and ethnic cleansing.

(2) GENOCIDE.—The term "genocide" has the meaning given the term in section 1091(a) of title 18, United States Code.

(3) PEACEBUILDING.—The term "peacebuilding" means nonviolent activities designed to prevent conflict through—

(A) addressing root causes of violence;

(B) promoting sustainable peace;

(C) delegitimizing violence as a dispute resolution strategy;

(D) building capacity within society to peacefully manage disputes, including the capacity of governments to address citizen grievances; and
(E) reducing vulnerability to triggers that may spark violence;

(4) Secretary.—The term "Secretary" means the Secretary of State.

(5) War crimes.—The term "war crime" has the meaning given the term in section 2441(c) of title 18, United States Code.

SEC. 4. STATEMENT OF POLICY REGARDING GENOCIDE AND OTHER ATROCITY CRIMES PREVENTION.

It is the policy of the United States—

(1) to regard the prevention of genocide and other atrocity crimes as a core national security interest and a core moral responsibility;

(2) to mitigate threats to United States security by addressing the root causes of insecurity and violent conflict to prevent—

(A) the mass slaughter of civilians;

(B) conditions that prompt internal displacement and the flow of refugees across borders; and

(C) other violence that wreaks havoc on regional stability and livelihoods;

(3) to enhance our Nation's capacity to identify, prevent, address, and respond to the drivers of
atrocities and violent conflict as part of our
humanitarian, development, and strategic interests;

(a) to pursue a Government-wide strategy to
prevent and respond to the risk of genocide and
other atrocity crimes by—

(A) strengthening the diplomatic, risk
analysis and monitoring, strategic planning,
early warning, and response capacities of the
United States Government;

(B) improving the use of foreign assistance
to respond early, effectively, and urgently in
order to address the root causes and drivers of
violence, systemic patterns of human rights
abuses, and atrocity crimes;

(C) strengthening diplomatic response and
the use of foreign assistance to support transi-
tional justice measures, including criminal ac-
countability, for past atrocity crimes;

(D) supporting international atrocity
crimes prevention, conflict prevention, peace-
keeping, and peacebuilding mechanisms;

(E) supporting and strengthening local
civil society, including human rights defenders
and others working to help prevent and respond
to atrocity crimes, and protecting their ability
to receive support from and partner with civil society at large; and

(E) promoting financial transparency and
enhancing anti-corruption initiatives as part of
addressing a root cause of insecurity; and

(5) to employ a variety of unilateral, bilateral,
and multilateral means to prevent and respond to
conflicts and atrocity crimes by—

(A) placing a high priority on timely, pre-
ventive diplomatic efforts; and

(B) exercising a leadership role in pro-
moting international efforts to end crises peace-
fully.

SEC. 5. MASS ATROCITIES TASK FORCE.

(a) ESTABLISHMENT.—The President shall instruct
the Secretary to establish a Mass Atrocities Task Force
(referred to in this section as the “Task Force”) with the
mandate—

(1) to strengthen the Department of State’s ef-
forts at atrocity prevention and response; and

(2) to assist other departments and agencies in
their efforts to do the same.

(b) LEADERSHIP.—The Under Secretary of State for
Civilian Security, Democracy, and Human Rights, or an-
other position of equivalent rank, shall serve as the Chair
of the Task Force and shall report to the Secretary.

(c) RESPONSIBILITIES.—Under the direction of the
Chair, the Task Force shall—

(1) meet regularly to ensure that atrocity
crimes and the risk of atrocity crimes throughout
the world are adequately considered and addressed;

(2) facilitate the development and execution of
policies and tools to enhance the capacity of the
United States to prevent and respond to atrocity
crimes worldwide;

(3) monitor developments throughout the world
that heighten the risk of atrocity crimes;

(4) analyze and closely review specific atrocity
crimes threats or situations of heightened concern;

(5) identify any gaps in United States foreign
policy concerning regions or particular countries re-
lated to atrocity crimes prevention and response;

(6) incorporate lessons learned from past
United States Government efforts to prevent and re-
spond to atrocity crimes;

(7) provide the Secretary with recommendations
and potential improvements to policies, programs,
resources, and tools related to atrocity crimes pre-
vention and response;
(8) coordinate the Department of State's engagement in interagency processes led by the National Security Council that share the Task Force's objectives;

(9) conduct outreach, including consultations, not less frequently than biannually, with representatives of nongovernmental organizations dedicated to atrocity crimes prevention and response and other appropriate parties—

(A) to receive assistance for the Task Force's efforts to address emerging atrocity crimes threats or situations and develop new or improved policies and tools; and

(B) to provide an appropriate public understanding of the work of the Task Force;

(10) in carrying out paragraphs (4) through (9), focus on particular ways for the United States Government to develop, strengthen, and enhance its capabilities to—

(A) monitor, receive early warning of, and coordinate responses to potential atrocity crimes;

(B) deter and isolate perpetrators of atrocity crimes through all available authorities;
(C) promote criminal accountability and deny impunity for perpetrators of atrocity crimes within the United States and throughout the world;

(D) engage allies and partners, including the United Nations Office on Genocide Prevention and the Responsibility to Protect and other multilateral and regional institutions, to build capacities and mobilize action for preventing and responding to atrocity crimes;

(E) encourage the deployment of civilian advisors to prevent and respond to atrocity crimes;

(F) increase capacity and develop doctrine for the United States foreign service, civil service, armed services, development professionals, and other actors to engage in the full spectrum of atrocity crimes prevention and response activities;

(G) develop and implement tailored foreign assistance programs that address and mitigate the risks of atrocity crimes;

(H) ensure intelligence collection, analysis, and sharing of appropriate information; and
(d) address any other issues that the Task Force determines to be appropriate; and

(11) in carrying out paragraphs (d) through (9), receive support from—

(A) the Bureau of Conflict and Stabilization Operations;

(B) the Office of Global Criminal Justice;

(C) the Bureau of Democracy, Human Rights and Labor;

(D) the Bureau of International Narcotics and Law Enforcement Affairs;

(E) the Bureau of International Organization Affairs; and

(F) other bureaus, and offices of the Department of State, as appropriate.

(d) COMPOSITION.—The Task Force shall—

(1) seek to ensure that its efforts complement and support interagency processes led by the National Security Council that share the Task Force's objectives; and

(2) operate with regular consultation and participation of designated representatives, at the Assistant Secretary level or higher, of—

(A) the Department of State;
(B) the United States Agency for International Development;
(C) the Department of Defense;
(D) the Department of Justice;
(E) the Department of the Treasury;
(F) the Department of Homeland Security;
(G) the Central Intelligence Agency;
(H) the Office of the Director of National Intelligence;
(I) the United States Mission to the United Nations;
(J) the Federal Bureau of Investigation;
(K) the National Security Council; and
(L) such other executive departments, agencies, or offices as the Chair may designate.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, and every 3 years thereafter for the following 6 years, the Secretary, in consultation with the Task Force, shall submit an unclassified report, with a classified annex if necessary, to the Committee on Foreign Relations of the Senate; the Committee on Appropriations of the Senate; the Committee on Foreign Affairs of the House of Representatives; and the Committee on Appropriations of the House of Representatives that includes—
(B) a review, in consultation with the representatives listed in subsection (d), consisting of—

(A) an evaluation of the efficacy of current efforts based on United States and locally identified indicators, including capacities and constraints for Government-wide detection, early warning and response, information-sharing, contingency planning, and coordination of efforts to prevent and respond to situations of atrocity crimes and other mass violence, such as gender-based violence;

(B) an assessment of the funding expended by relevant Federal agencies on atrocity crimes prevention activities, including transitional justice measures and the legal, procedural, and resource constraints faced by the Department of State and the United States Agency for International Development throughout respective budgeting, strategic planning, and management cycles to support conflict and atrocity crimes prevention activities in countries identified to be at risk of atrocity crimes;

(C) current annual global assessments of sources of instability, conflict, and atrocity crimes;
(D) recommendations to further strengthen United States capabilities described in sub-paragraph (A); and

(E) consideration of analysis, reporting, and policy recommendations to prevent and respond to atrocity crimes produced by civil society, academic, and other nongovernmental organizations and institutions;

(2) recommendations to ensure shared responsibility by—

(A) enhancing multilateral mechanisms for preventing atrocity crimes; including strengthening the role of international organizations and international financial institutions in conflict prevention, mitigation, and response; and

(B) strengthening regional organizations; and

(3) the implementation status of the recommendations contained in the review described in paragraph (1).

(4) MATERIALS AND BRIEFINGS.—The Chair and members of the Task Force shall, annually (or more often as appropriate)—

(1) provide briefings to the Committee on Foreign Relations of the Senate and the Committee on
Foreign Affairs of the House of Representatives and
the Committee on Foreign Affairs of the House of
Representatives; and

(2) provide briefings and materials, as appro-
priate, to the relevant congressional committees.

(2) AUTHORIZATION OF APPROPRIATIONS.—There
are authorized to be appropriated such sums as may be
necessary for fiscal years 2018, 2019, and 2020 to carry
out this section:

SEC. 6. TRAINING OF FOREIGN SERVICE OFFICERS IN CON-
FLICT AND ATROCITY CRIMES PREVENTION.

Section 708(a) of the Foreign Service Act of 1980
(22 U.S.C. 4028(a)) is amended—

(1) in paragraph (2), by striking "and" at the
end;

(2) in paragraph (3), by striking the period at
the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) instruction on recognizing patterns of es-
calation and early warning signs of potential atrocity
crimes or violence, including gender-based violence;
and methods of conflict assessment, peacebuilding;
mediation for prevention, early action and response;
and transitional justice measures to address atrocity
crimes.".
SEC. 7. REPORT OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

The Director of National Intelligence is encouraged to include, in his or her annual (or more often as appropriate) unclassified testimony, accompanied by a classified annex, if necessary, to Congress on threats to United States national security—

(1) a review of countries and regions at risk of atrocity crimes; and

(2) whenever possible, specific mention of countries and regions at immediate risk of atrocity crimes; including most likely pathways to violence; specific risk factors; potential groups of perpetrators; and at-risk target groups.

SEC. 8. COMPLEX CRISIS FUND.

(a) Establishment.—There is established in the Treasury of the United States a fund, which shall be known as the “Complex Crises Fund” (referred to in this section as the “Fund”), to enable the Secretary of State and the Administrator of the United States Agency for International Development to support programs and activities to prevent or respond to emerging or unforeseen foreign challenges and complex crises overseas, including potential atrocity crimes.

(b) Purposes of Assistance.—Notwithstanding any other provision of law, except section 620M of the...
Foreign Assistance Act of 1961 (22 U.S.C. 2378d),
amounts in the Fund may be used to carry out the provi-
sions of the Foreign Assistance Act of 1961 (22 U.S.C.
2451 et seq.) to support programs and activities that—
(1) mitigate or respond to emerging or unfore-
seen complex crises, including urgent humanitarian,
political, social, justice, or economic challenges that
threaten stability in any country or region;
(2) prevent, counter, and respond to the rise of
violent conflict and instability, including atrocity
crimes; or
(3) advance the consolidation of peace and de-

cocracy.
(c) LIMITATIONS.—
(1) IN GENERAL.—Amounts in the Fund may
not be expended for lethal assistance or to respond
to natural disasters.
(2) ADMINISTRATIVE EXPENSES.—Not more
than 5 percent of the amounts in the Fund may be
used for administrative expenses.
(4) CONGRESSIONAL NOTIFICATION.—Not later than
5 days before amounts from the Fund are obligated, the
Secretary of State or the Administrator of the United
States Agency for International Development, as appro-
priate, shall submit notification of such obligation to—
(1) the Committee on Foreign Relations of the Senate;
(2) the Committee on Appropriations of the Senate;
(3) the Committee on Foreign Affairs of the House of Representatives; and
(4) the Committee on Appropriations of the House of Representatives.

(e) WAIVER.—The notification requirement under subsection (d) may be waived if—

(1) failure to do so would pose a substantial risk to human health or welfare; and
(2) the congressional committees set forth in subsection (d)—

(A) are notified not later than 3 days after an obligation of funds; and
(B) are provided with an explanation of the emergency circumstances that necessitated the waiver.

SECTION 1. SHORT TITLE.
This Act may be cited as the “Elie Wiesel Genocide and Atrocities Prevention Act of 2018”.

SEC. 2. SENSE OF CONGRESS.
It is the sense of Congress that the United States Government’s efforts at atrocity prevention and response
through interagency coordination, such as the Atrocities Prevention Board (referred to in this Act as the “Board”) or successor entity are critically important, and that appropriate officials of the United States Government should—

(1) meet regularly to monitor developments throughout the world that heighten the risk of atrocities;

(2) identify any gaps in United States foreign policy concerning regions or particular countries related to atrocity prevention and response;

(3) facilitate the development and implementation of policies to enhance the capacity of the United States to prevent and respond to atrocities worldwide;

(4) provide the President with recommendations to improve policies, programs, resources, and tools related to atrocity prevention and response;

(5) conduct outreach, including consultations, not less frequently than biannually, with representatives of nongovernmental organizations and civil society dedicated to atrocity prevention and response;

(6) operate with regular consultation and participation of designated interagency representatives of relevant Federal agencies, executive departments, or offices; and
(7) ensure resources are made available for the policies, programs, and tools related to atrocity prevention and response.

SEC. 3. STATEMENT OF POLICY.

It shall be the policy of the United States to—

(1) regard the prevention of genocide and other atrocities as in its national security interests;

(2) work with partners and allies to address the root causes of insecurity and violent conflict to prevent—

(A) the mass slaughter of civilians;

(B) conditions that prompt internal displacement and the flow of refugees across borders; and

(C) other violence that wreaks havoc on regional stability and civilian populations;

(3) enhance the capacity of the United States to identify, prevent, address, and respond to the drivers of atrocities and violent conflict as part of the United States' humanitarian, development, and strategic interests; and

(4) pursue a Government-wide strategy to prevent and respond to the risk of genocide and other atrocities by—
(A) strengthening the diplomatic, risk analysis and monitoring, strategic planning, early warning, and response capacities of the Government;

(B) improving the use of foreign assistance to respond early, effectively, and urgently in order to address the root causes and drivers of violence, and systemic patterns of human rights abuses and atrocities;

(C) strengthening diplomatic response and the effective use of foreign assistance to support appropriate transitional justice measures, including criminal accountability, for past atrocities;

(D) supporting and strengthening local civil society, including human rights defenders and others working to help prevent and respond to atrocities;

(E) promoting financial transparency and enhancing anti-corruption initiatives as part of addressing a root cause of insecurity; and

(F) employing a variety of unilateral, bilateral, and multilateral means to prevent and respond to conflicts and atrocities by—
(i) placing a high priority on timely, preventive diplomatic efforts; and
(ii) exercising a leadership role in promoting international efforts to end crises and prevent atrocities.

SEC. 4. TRAINING OF FOREIGN SERVICE OFFICERS IN CONFLICT AND ATROCITIES PREVENTION.

Section 708 of the Foreign Service Act of 1980 (22 U.S.C. 4028) is amended in subsection (a)(1)—

(1) in subparagraph (B), by striking “and” at the end;
(2) in subparagraph (C), by striking the period at the end and inserting “; and”; and
(3) by adding at the end the following new subparagraph:

“(D) for Foreign Service Officers who will be assigned to a country experiencing or at risk of mass atrocities, as determined by the Secretary of State, in consultation with the Director of National Intelligence and relevant civil society organizations, instruction on recognizing patterns of escalation and early warning signs of potential atrocities or violence, including gender-based violence, and methods of preventing and responding to atrocities, including conflict as-
session methods, peacebuilding, mediation for
prevention, early action and response, and ap-
propriate transitional justice measures to ad-
dress atrocities.”.

SEC. 5. REPORTS.

(a) In general.—Not later than 180 days after the
date of the enactment of this Act and annually thereafter
for the following six years, the President shall transmit to
the Committee on Foreign Affairs of the House of Represent-
atives and the Committee on Foreign Relations of the Sen-
ate a report, with a classified annex if necessary, that in-
cludes—

(1) a review, in consultation with appropriate
interagency representatives, consisting of a detailed
description of—

(A) current efforts to prevent and respond
to situations of genocide, atrocities, and other
mass violence, such as gender-based violence and
violence against religious and other minorities,
based on United States and locally identified in-
dicators, including an analysis of capacities and
constraints for interagency detection, early
warning and response, information-sharing, con-
tingency planning, and coordination;
(B) recommendations to further strengthen United States capabilities described in subpara-
graph (A);

(C) funding expended by relevant Federal departments and agencies on atrocities prevention activities, including appropriate transitional justice measures and the legal, procedural, and resource constraints faced by the Department of State and the United States Agency for International Development throughout respective budgeting, strategic planning, and management cycles to support conflict and atrocities prevention activities in countries identified to be at risk of atrocities;

(D) a current global assessment of sources of instability, conflict, and atrocities; the outcomes and findings of such assessments and, where relevant, a review of activities, and the efficacy of such activities, that the Board or successor entity undertake to respond to sources of instability, conflict, and atrocities;

(E) countries and regions at risk of atrocities, including a description of most likely pathways to violence, specific risk factors, and at-risk target groups; and
(F) the atrocities prevention training for Foreign Service officers authorized under subparagraph (D) of section 708(a)(1) of the Foreign Service Act of 1980, as added by section 4; (2) recommendations to ensure shared responsibility by——

(A) enhancing multilateral mechanisms for preventing atrocities, including strengthening the role of international organizations and international financial institutions in conflict prevention, mitigation, and response; and

(B) strengthening regional organizations;

(3) the implementation status of the recommendations contained in the previous review required by this section; and

(A) identification of the Federal departments and agencies and civil society, academic, and nongovernmental organizations and institutions consulted for preparation of such report.

(b) CONSIDERATION OF RECOMMENDATIONS.—The preparation of the report required by subsection (a) shall include a consideration of analysis, reporting, and policy recommendations to prevent and respond to atrocities produced by civil society, academic, and other nongovernmental organizations and institutions,
SEC. 6. DEFINITIONS.

In this Act—

(1) the term "genocide" means an offense under subsection (a) of section 1091 of title 18, United States Code;

(2) the term "atrocities" means war crimes, crimes against humanity, or genocide;

(3) the term "transitional justice" means the range of judicial, nonjudicial, formal, informal, retributive, and restorative measures employed by countries transitioning out of armed conflict or repressive regimes to redress legacies of atrocities and to promote long-term, sustainable peace; and

(4) the term "war crime" has the meaning given the term in section 2411(c) of title 18, United States Code.

SEC. 7. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed as authorizing the use of military force.