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(Original Signature of Member)

115TH CONGRESS

1ST SESSION

H.R. 390

To provide for emergency relief to victims of genocide, crimes against humanity, and war crimes in Iraq and Syria, to provide accountability for perpetrators of these crimes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of New Jersey (for himself and Ms. ESHOO) introduced the following bill; which was referred to the Committee on

A BILL

To provide for emergency relief to victims of genocide, crimes against humanity, and war crimes in Iraq and Syria, to provide accountability for perpetrators of these crimes, 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 “Iraq and Syria Geno-
5 cide Emergency Relief and Accountability Act of 2017”.

1 SEC. 2. FINDINGS.

2 Congress finds the following:

3 (1) On March 17, 2016, Secretary of State
4 John Kerry stated, “in my judgment, Daesh is re-
5 sponsible for genocide against groups in areas under
6 its control, including Yezidis, Christians, and Shia
7 Muslims . . . the United States will strongly support
8 efforts to collect, document, preserve, and analyze
9 the evidence of atrocities, and we will do all we can
10 to see that the perpetrators are held accountable”.

11 (2) Secretary of State Kerry stated in the
12 “Atrocities Prevention Report”, transmitted to Con-
13 gress on March 17, 2016, “The Department of State
14 has a longstanding commitment to providing support
15 for the urgent humanitarian needs of conflict-af-
16 fected populations in Iraq, Syria, and across the
17 world, including but not limited to members of eth-
18 nic and religious minorities.”.

19 (3) The Independent International Commission
20 of Inquiry on the Syrian Arab Republic stated in its
21 February 3, 2016, report, “The Government has
22 committed the crimes against humanity of extermi-
23 nation, murder, rape or other forms of sexual vio-
24 lence, torture, imprisonment, enforced disappearance
25 and other inhuman acts. Based on the same con-
26 duct, war crimes have also been committed. Both

1 Jabhat Al-Nusra and some anti-Government armed
2 groups have committed the war crimes of murder,
3 cruel treatment, and torture.”

4 (4) The International Criminal Investigative
5 Training Assistance Program and the Office of
6 Overseas Prosecutorial Development Assistance and
7 Training of the Department of Justice have provided
8 technical assistance to governmental judicial and law
9 enforcement entities in Iraq, including with funding
10 support from the Department of State.

11 (5) There were an estimated 800,000 to
12 1,400,000 Christians in Iraq in 2002, 500,000 in
13 2013, and less than 250,000 in 2015, according to
14 the annual International Religious Freedom Reports
15 of the Department of State.

16 (6) Although Christians were an estimated
17 eight to 10 percent of the 21,000,000 person popu-
18 lation of Syria in 2010, “media and other reports of
19 Christians fleeing the country as a result of the civil
20 war suggest the Christian population is now consid-
21 erably lower” as of 2015, according to the annual
22 International Religious Freedom Reports of the De-
23 partment of State.

24 (7) The Chaldean Catholic Archdiocese of Erbil
25 (Iraq) is an example of an entity that has not re-

1 ceived funding from any government and has been
2 providing assistance to internally displaced families
3 of Yezidis, Muslims, and Christians, including food,
4 resettlement from tents to permanent housing, and
5 rent for Yezidis, medical care and education for
6 Yezidis and Muslims through clinics, schools, and a
7 university that are open to all, and some form of
8 these types of assistance to all of the estimated
9 10,500 internally displaced Christian families, more
10 than 70,000 people, in the greater Erbil region.

11 (8) In fiscal year 2015, the United States Gov-
12 ernment admitted to the United States through the
13 United States Refugee Admissions Program persons
14 from Priority 2 groups of special humanitarian con-
15 cern, as designated by Congress, including—

16 (A) Jews, Evangelical Christians, Ukrain-
17 ian Catholics, and Ukrainian Orthodox, from
18 the former Soviet Union;

19 (B) Iraqis at risk because they were, or
20 are, employed in Iraq by the United States
21 Government, a media or nongovernmental orga-
22 nization headquartered in the United States, or
23 an organization or entity that received funding
24 from the United States Government, or are re-
25 lated to someone who is, or was, so employed;

1 (C) religious minorities in Iran; and

2 (D) members of other groups designated
3 by the United States Government, including—

4 (i) former political prisoners, active
5 members of persecuted religious minorities,
6 human rights activists, and forced labor
7 conscripts in Cuba;

8 (ii) minors in Honduras, El Salvador,
9 and Guatemala;

10 (iii) ethnic minorities from Burma in
11 Malaysia;

12 (iv) Bhutanese in Nepal; and

13 (v) Congolese in Rwanda.

14 (9) Through the United States Refugee Admis-
15 sions Program, the United States Government—

16 (A) admitted 12,676 Iraqi refugees in fis-
17 cal year 2015, including at least 2,113 Chris-
18 tians and 213 Yezidis;

19 (B) admitted 9,880 Iraqi refugees in fiscal
20 year 2016, including at least 1,524 Christians
21 and 393 Yezidis;

22 (C) admitted 1,682 Syrian refugees in fis-
23 cal year 2015, including at least 30 Christians;
24 and

1 (D) admitted 12,587 Syrian refugees in
2 fiscal year 2016, including at least 64 Chris-
3 tians and 24 Yezidis.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
7 **TEES.**—The term “appropriate congressional com-
8 mittees” means—

9 (A) the Committee on Foreign Affairs, the
10 Committee on the Judiciary, and the Com-
11 mittee on Homeland Security of the House of
12 Representatives; and

13 (B) the Committee on Foreign Relations,
14 the Committee on the Judiciary, and the Com-
15 mittee on Homeland Security and Govern-
16 mental Affairs of the Senate.

17 (2) **CAPACITY-BUILDING.**—The term “capacity-
18 building”, with respect to cases of genocide, crimes
19 against humanity, war crimes, and terrorism in Iraq
20 or Syria, means developing domestic skills to effi-
21 ciently adjudicate such cases, consistent with due
22 process and respect for the rule of law, through the
23 use of experts in international criminal investiga-
24 tions and experts in international criminal law to
25 partner with, mentor, provide technical advice for,

1 formally train, and provide equipment and infra-
2 structure where necessary and appropriate to, inves-
3 tigators and judicial personnel in Iraq, including the
4 Kurdistan region of Iraq, and domestic investigators
5 and lawyers in Syria.

6 (3) FOREIGN TERRORIST ORGANIZATION.—The
7 term “foreign terrorist organization” mean an orga-
8 nization designated by the Secretary of State as a
9 foreign terrorist organization pursuant to section
10 219(a) of the Immigration and Nationality Act (8
11 U.S.C. 1189(a)).

12 (4) HUMANITARIAN, STABILIZATION, AND RE-
13 COVERY NEEDS.—The term “humanitarian, sta-
14 bilization, and recovery needs”, with respect to an
15 individual, includes water, sanitation, hygiene, food
16 security and nutrition, shelter and housing, medical,
17 education, and psychosocial needs.

18 (5) HYBRID COURT.—The term “hybrid court”
19 means a court with a combination of domestic and
20 international lawyers, judges, and personnel.

21 (6) INTERNATIONALIZED DOMESTIC COURT.—
22 The term “internationalized domestic court” means
23 a domestic court with the support of international
24 advisers.

1 SEC. 4. ACTIONS TO PROMOTE ACCOUNTABILITY IN IRAQ
2 AND SYRIA.

3 (a) ASSISTANCE TO SUPPORT CERTAIN ENTITIES.—

4 (1) IN GENERAL.—The Secretary of State, act-
5 ing through the Assistant Secretary for Democracy,
6 Human Rights, and Labor, the Assistant Secretary
7 for International Narcotics and Law Enforcement
8 Affairs, and Administrator of the United States
9 Agency for International Development, shall provide
10 assistance, including financial assistance, to support
11 entities that are taking the actions described in
12 paragraph (2) with respect to individuals who are
13 suspected to have committed genocide, crimes
14 against humanity, or war crimes in Iraq since Janu-
15 ary 2014 or Syria since March 2011.

16 (2) ACTIONS DESCRIBED.—The actions de-
17 scribed in this paragraph are the following:

18 (A) Conducting criminal investigations.

19 (B) Developing investigative and judicial
20 capacities.

21 (C) Collecting evidence.

22 (D) Preserving the chain of evidence for
23 prosecution in domestic courts, hybrid courts,
24 and internationalized domestic courts.

25 (E) Capacity-building.

1 (3) AVAILABILITY OF AMOUNTS.—Amounts au-
2 thorized to be appropriated or otherwise made avail-
3 able for programs, projects, and activities carried
4 out by the Assistant Secretary for Democracy,
5 Human Rights, and Labor and the Assistant Sec-
6 retary for International Narcotics and Law Enforce-
7 ment Affairs are authorized to be made available to
8 carry out this subsection.

9 (b) ACTIONS BY FOREIGN GOVERNMENTS.—The Sec-
10 retary of State, in consultation with the Attorney General,
11 the Secretary of Homeland Security, and the Director of
12 the Federal Bureau of Investigation, shall seek to encour-
13 age governments of foreign countries—

14 (1) to include in appropriate security databases
15 and security screening procedures of such countries
16 information to identify individuals who are suspected
17 to have committed genocide, crimes against human-
18 ity, or war crimes in Iraq since January 2014 or
19 Syria since March 2011, including individuals who
20 are suspected to be members of foreign terrorist or-
21 ganizations operating within Iraq or Syria; and

22 (2) to prosecute such individuals for genocide,
23 crimes against humanity, or war crimes, as appro-
24 priate.

1 (c) REVIEW OF CERTAIN CRIMINAL STATUTES.—The
2 Attorney General, in consultation with the Secretary of
3 State, shall conduct a review of existing criminal statutes
4 concerning genocide, crimes against humanity, and war
5 crimes to determine the following:

6 (1) The extent to which United States courts
7 are currently authorized by statute to exercise juris-
8 diction over such crimes where the direct perpetra-
9 tors, accomplices, or victims are United States na-
10 tionals, United States residents, or persons phys-
11 ically present in the territory of the United States
12 either during the commission of the crime or subse-
13 quent to the commission of the crime.

14 (2) What statutes are currently in effect that
15 would apply to conduct constituting war crimes or
16 crimes against humanity, and whether those statutes
17 provide for extraterritorial jurisdiction, what the
18 statute of limitations for offenses under such stat-
19 utes are, what penalties apply under such statutes,
20 and whether offenders would be subject to extra-
21 dition or mutual legal assistance treaties.

22 (3) The extent to which the absence of criminal
23 statutes defining the crimes, or granting jurisdiction,
24 would impede the prosecution of genocide, crimes
25 against humanity, and war crimes in United States

1 courts, including when United States military forces
2 capture persons outside the United States known to
3 have committed such crimes in a third country that
4 is either unable or unwilling to prosecute the crimes.

5 (4) Whether additional statutory authorities are
6 necessary to prosecute a United States person or a
7 foreign person within the territory of the United
8 States for genocide, crimes against humanity, and
9 war crimes.

10 (d) CONSULTATION.—In carrying out subsection (a),
11 the Secretary of State shall consult with and consider
12 credible information from entities described in paragraph
13 (1) and paragraph (2) of such subsection.

14 (e) SENSE OF CONGRESS.—It is the sense of Con-
15 gress that an appropriate amount of the additional
16 amount made available under the heading “Economic
17 Support Fund” in title II of division B of the Further
18 Continuing and Security Assistance Appropriations Act,
19 2017 (Public Law 114–254) should be made available to
20 carry out subsection (a).

1 SEC. 5. IDENTIFICATION OF AND ASSISTANCE TO ADDRESS
2 HUMANITARIAN, STABILIZATION, AND RE-
3 COVERY NEEDS OF CERTAIN PERSONS IN
4 IRAQ AND SYRIA.

5 (a) IDENTIFICATION.—The Secretary of State, in
6 consultation with the Secretary of Defense, the Amba-
7 sador at Large for International Religious Freedom, the
8 Special Advisor for Religious Minorities in the Near East
9 and South/Central Asia, the Assistant Secretary for Popu-
10 lation, Refugees, and Migration, the Administrator of the
11 United States Agency for International Development, and
12 Director of National Intelligence, shall identify the fol-
13 lowing:

14 (1) The threats of persecution and other warn-
15 ing signs of genocide, crimes against humanity, and
16 war crimes against individuals—

17 (A) who are or were nationals and resi-
18 dents of Iraq or Syria, and are members of the
19 religious or ethnic groups that are minorities in
20 Iraq, or minorities in Syria, and with respect to
21 which the Secretary of State has determined
22 the Islamic State of Iraq and Syria (ISIS) has
23 committed genocide, crimes against humanity,
24 or war crimes in Iraq or Syria since January
25 2014; or

1 (B) who are members of other religious or
2 ethnic groups that are minorities in Iraq, or mi-
3 norities in Syria and are identified by the Sec-
4 retary of State (or the Secretary's designee) as
5 persecuted groups.

6 (2) The humanitarian, stabilization, and recov-
7 ery needs of individuals described in paragraph (1).

8 (3) The religious and ethnic groups that are mi-
9 norities in Iraq, or are minorities in Syria, with re-
10 spect to which the Secretary of State has determined
11 ISIS has committed genocide, crimes against hu-
12 manity, or war crimes in Iraq or Syria since Janu-
13 ary 2014, or are other religious or ethnic groups
14 that are minorities in Iraq, or are minorities in
15 Syria, identified by the Secretary of State (or the
16 Secretary's designee) as a persecuted group, and are
17 at risk of forced migration, within or across the bor-
18 ders of Iraq, or Syria, or a country of first asylum,
19 and the primary reasons for such risk.

20 (4) The assistance provided by the United
21 States to address humanitarian, stabilization, and
22 recovery needs of individuals described in paragraph
23 (1) and groups described in paragraph (3), including
24 assistance to mitigate the risks of forced migration
25 of such persons and groups from Iraq or Syria.

1 (5) The mechanisms of the United States Gov-
2 ernment to identify, assess, and respond to humani-
3 tarian, stabilization, and recovery needs, and risks of
4 forced migration, of individuals described in para-
5 graph (1) and groups described in paragraph (3).

6 (6) The assistance provided by or through the
7 United Nations, including the Funding Facility for
8 Immediate Stabilization and Funding Facility for
9 Expanded Stabilization, to address humanitarian,
10 stabilization, and recovery needs of individuals de-
11 scribed in paragraph (1) and groups described in
12 paragraph (3), including assistance to mitigate the
13 risks of forced migration of such individuals and
14 groups within or across the borders of Iraq, or
15 Syria, or a country of first asylum from Iraq or
16 Syria.

17 (7) The entities, including faith-based entities,
18 that are providing assistance to address humani-
19 tarian, stabilization, and recovery needs of individ-
20 uals described in paragraph (1) and groups de-
21 scribed in paragraph (3).

22 (8) If the United States Government—

23 (A) is funding entities described in para-
24 graph (7) for purposes of providing assistance

1 described in such paragraph, the sources of
2 such funding; and

3 (B) is not funding entities described in
4 paragraph (7) for purposes of providing assist-
5 ance described in such paragraph, a justifica-
6 tion for not funding such entities, including
7 whether funding such entities is prohibited
8 under United States law.

9 (b) ADDITIONAL CONSULTATION.—In carrying out
10 subsection (a), the Secretary of State shall consult with,
11 and consider credible information from, individuals de-
12 scribed in paragraph (1) of subsection (a) and entities de-
13 scribed in paragraph (7) of such subsection.

14 (c) ASSISTANCE.—The Secretary of State and Ad-
15 ministrator of the United States Agency for International
16 Development shall provide assistance, including cash as-
17 sistance, to support entities described in paragraph (7) of
18 subsection (a) that the Secretary and Administrator deter-
19 mine are effectively providing assistance described in such
20 paragraph, including entities that have received funding
21 from the United States Government for such purposes be-
22 fore the date of the enactment of this Act.

23 (d) SENSE OF CONGRESS.—It is the sense of Con-
24 gress that an appropriate amount of the additional
25 amount made available under the heading “Economic

1 Support Fund” in title II of division B of the Further
2 Continuing and Security Assistance Appropriations Act,
3 2017 (Public Law 114–254) should be made available to
4 carry out subsection (c).

5 **SEC. 6. REFUGEE ADMISSIONS OF NATIONALS AND RESI-**
6 **DENTS OF IRAQ OR SYRIA.**

7 (a) IN GENERAL.—Aliens who are, or were, a na-
8 tional and a resident of Iraq or Syria, and who share com-
9 mon characteristics that identify them as targets of perse-
10 cution on account of membership in a religious or ethnic
11 minority in that country, in particular being survivors of
12 genocide, crimes against humanity, or war crimes, or
13 being the surviving spouse or child of an individual who
14 was killed by a perpetrator of such a crime—

15 (1) are deemed to be of special humanitarian
16 concern to the United States; and

17 (2) shall be eligible for Priority 2 processing
18 under the refugee resettlement priority system.

19 (b) IN-COUNTRY AND OUT-OF-COUNTRY PROC-
20 ESSING.—Aliens described in subsection (a) shall be al-
21 lowed to apply, and interview, for admission to the United
22 States through refugee processing mechanisms in coun-
23 tries where aliens may apply, and interview, for admission
24 to the United States as refugees.

1 (c) APPLICABILITY OF OTHER REQUIREMENTS.—
2 Aliens who qualify under this section for Priority 2 proc-
3 essing under the refugee resettlement priority system may
4 only be admitted to the United States after satisfying the
5 requirements of section 207 of the Immigration and Na-
6 tionality Act (8 U.S.C. 1157) and having cleared a back-
7 ground check and appropriate screening, as determined by
8 the Secretary of Homeland Security.

9 (d) WAIVER OF CERTAIN GROUNDS OF INADMIS-
10 SIBILITY.—In the case of an alien described in subsection
11 (a), the Secretary of State, after consultation with the At-
12 torney General and the Secretary of Homeland Security,
13 or the Secretary of Homeland Security, after consultation
14 with the Secretary of State and the Attorney General, may
15 waive, in such Secretary's sole and unreviewable discre-
16 tion, paragraph (3)(B) (other than clause (i)(II)) of sec-
17 tion 212(a) of the Immigration and Nationality Act (8
18 U.S.C. 1182(a)) with respect to activities undertaken by
19 such an alien in the course of avoiding or evading persecu-
20 tion by an organization described in section
21 212(a)(3)(B)(vi) of such Act (8 U.S.C.
22 1182(a)(3)(B)(vi)).

23 (e) CATEGORICAL ELIGIBILITY.—The Foreign Oper-
24 ations, Export Financing, and Related Programs Appro-
25 priations Act, 1990 (Public Law 101–167) is amended—

1 (1) in section 599D (8 U.S.C. 1157 note)—

2 (A) in subsection (b)(3), by striking “and
3 2016” and inserting “2016, 2017, and 2018”;

4 and

5 (B) in subsection (e), by striking “2016.”
6 each place it appears and inserting “2018.”;

7 and

8 (2) in section 599E(b)(2) (8 U.S.C. 1255 note),
9 by striking “2016,” and inserting “2018,”.

10 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
11 tion may be construed to lessen the protections under
12 United States law for bona fide refugees who are not de-
13 scribed in this section.

14 **SEC. 7. REPORTS.**

15 (a) SECTION 4(a) AND (b) REPORT.—Not later than
16 120 days after the date of the enactment of this Act, the
17 Secretary of State shall submit to the appropriate congres-
18 sional committees a report on the following:

19 (1) A detailed description of the efforts taken,
20 and efforts proposed to be taken, by the Secretary
21 of State to implement section 4(a) and section 4(b).

22 (2) An assessment of the feasibility and advis-
23 ability of prosecuting individuals who are suspected
24 to have committed genocide, crimes against human-
25 ity, or war crimes in Iraq since January 2014 or

1 Syria since March 2011 in domestic courts in Iraq,
2 hybrid courts, and internationalized domestic courts,
3 and of the capacity-building, and other measures,
4 needed to ensure effective criminal investigations of
5 such individuals.

6 (b) SECTION 4(c) REPORT.—Not later than 120 days
7 after the date of the enactment of this Act, the Attorney
8 General shall submit to the appropriate congressional
9 committees a report on the following:

10 (1) The results of the review conducted under
11 section 4(c).

12 (2) Such recommendations for legislative and
13 administrative actions to implement the results of
14 the review as the Attorney General determines ap-
15 propriate.

16 (c) SECTIONS 5 AND 6 REPORT.—Not later than 30
17 days after the date of the enactment of this Act, the Sec-
18 retary of State shall submit to the appropriate congres-
19 sional committees a report on the following:

20 (1) A detailed description of the efforts taken,
21 and efforts proposed to be taken, by the Secretary
22 of State to implement section 5.

23 (2) A detailed description of the identifications
24 under section 5(a).

1 (3) A detailed description of the efforts taken,
2 and efforts proposed to be taken, by the Secretary
3 of State and the Secretary of Homeland Security to
4 implement section 6.

5 (d) FORM.—Each report required under this section
6 shall be submitted in unclassified form, but may contain
7 a classified annex if necessary.