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2D SESSION

H. R. 5961

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2016

Mr. SMITH of New Jersey (for himself, Ms. ESHOO, Mr. FRANKS of Arizona, and Mr. FORTENBERRY) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for relief of victims of genocide, crimes against humanity, and war crimes in Iraq and Syria, for 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 Relief and Accountability Act of 2016”.

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. Daesh is genocidal by self-proclamation, by
8 ideology, and by actions—in what it says, what it
9 believes, and what it does. Daesh is also responsible
10 for crimes against humanity and ethnic cleansing di-
11 rected at these same groups and in some cases also
12 against Sunni Muslims, Kurds, and other minorities
13 . . . the full facts must be brought to light by an
14 independent investigation and through formal legal
15 determination made by a competent court or tri-
16 bunal . . . the United States will strongly support
17 efforts to collect, document, preserve, and analyze
18 the evidence of atrocities, and we will do all we can
19 to see that the perpetrators are held accountable
20 . . . the best response to genocide is a reaffirmation
21 of the fundamental right to survive of every group
22 targeted for destruction. What Daesh wants to
23 erase, we must preserve.”.

24 (2) Secretary of State Kerry stated in the
25 “Atrocities Prevention Report”, transmitted to Con-
26 gress on March 17, 2016, “We assess that violent

1 extremists have committed mass atrocities in the
2 Middle East and that Yezidis, Christians, and Shia
3 Muslims and members of other ethnic and religious
4 minority groups are among the victims. It is impor-
5 tant that the international community collectively
6 support the victims of all Da’esh atrocities. We con-
7 tinue to work on responding to the situation on the
8 ground and we continue to investigate and assess all
9 relevant information as it becomes available . . .
10 The United States supports accountability efforts
11 for those responsible for atrocities, human rights
12 violations and abuses and violations of international
13 humanitarian law. The United States strongly sup-
14 ports a comprehensive approach towards transitional
15 justice, including accountability for atrocities, com-
16 pensation and rehabilitation for victims, and steps
17 towards national reconciliation . . . The Depart-
18 ment of State has a longstanding commitment to
19 providing support for the urgent humanitarian needs
20 of conflict-affected populations in Iraq, Syria, and
21 across the world, including but not limited to mem-
22 bers of ethnic and religious minorities.”.

23 (3) The Independent International Commission
24 of Inquiry on the Syrian Arab Republic stated in its
25 February 3, 2016, report, “Detainees held by the

1 Government were beaten to death, or died as a re-
2 sult of injuries sustained due to torture. Others per-
3 ished as a consequence of inhuman living conditions.
4 The Government has committed the crimes against
5 humanity of extermination, murder, rape or other
6 forms of sexual violence, torture, imprisonment, en-
7 forced disappearance and other inhuman acts. Based
8 on the same conduct, war crimes have also been
9 committed . . . Jabhat Al-Nusra has set up deten-
10 tion facilities in Idlib where deaths in detention were
11 documented. The terrorist group also conducted
12 mass executions of captured Government soldiers.
13 Both Jabhat Al-Nusra and some anti-Government
14 armed groups have committed the war crimes of
15 murder, cruel treatment, and torture. ISIS subjected
16 detainees to serious abuses, including torture and
17 summary executions. Detainees were frequently exe-
18 cuted after unauthorised courts issued a death sen-
19 tence. ISIS has committed the crimes against hu-
20 manity of murder and torture, and war crimes.”.

21 (4) The International Criminal Investigative
22 Training Assistance Program and the Office of
23 Overseas Prosecutorial Development Assistance and
24 Training of the Department of Justice have provided
25 technical assistance to governmental judicial and law

1 enforcement entities in Iraq, including with funding
2 support from the Department of State.

3 (5) The Chaldean Catholic Archdiocese of Erbil
4 (Iraq) is an example of an entity that has not re-
5 ceived funding from any government and has been
6 providing assistance to internally displaced families
7 of Yezidis, Muslims, and Christians, including food,
8 resettlement from tents to permanent housing, and
9 rent for Yezidis, medical care and education for
10 Yezidis and Muslims through clinics, schools, and a
11 university that are open to all, and some form of
12 these types of assistance to all of the estimated
13 10,500 internally displaced Christian families in the
14 greater Erbil region.

15 (6) In fiscal year 2015, the United States Gov-
16 ernment admitted to the United States through the
17 U.S. Refugee Admissions Program persons from
18 Priority Two groups of special humanitarian con-
19 cern, as designated by Congress, including—

20 (A) Jews, Evangelical Christians, Ukrain-
21 ian Catholics, and Ukrainian Orthodox, from
22 the former Soviet Union;

23 (B) Iraqis at-risk because they were or are
24 employed in Iraq by the United States Govern-
25 ment, a media or nongovernmental organization

1 headquartered in the United States, or an orga-
2 nization or entity that received funding from
3 the United States Government, or are related to
4 someone who is or was so employed;

5 (C) religious minorities in Iran; or

6 (D) members of other groups as des-
7 ignated by the United States Government, in-
8 cluding former political prisoners, active mem-
9 bers of persecuted religious minorities, human
10 rights activists, and forced labor conscripts in
11 Cuba, minors in Honduras, El Salvador, and
12 Guatemala, ethnic minorities from Burma in
13 Malaysia, Bhutanese in Nepal, and Congolese
14 in Rwanda.

15 (7) Through the U.S. Refugee Admissions Pro-
16 gram, the United States Government—

17 (A) admitted 12,676 Iraqi refugees in fis-
18 cal year 2015, including at least 2,113 Chris-
19 tians, 213 Yezidis, and 4,554 Shia Muslims;

20 (B) admitted 8,313 Iraqi refugees in fiscal
21 year 2016 as of August 31, 2016, including at
22 least 1,173 Christians, 295 Yezidis, and 2,629
23 Shia Muslims;

1 (C) admitted 1,682 Syrian refugees in fis-
2 cal year 2015, including at least 30 Christians
3 and 10 Shia Muslims; and

4 (D) admitted 10,740 Syrian refugees in
5 fiscal year 2016 as of August 31, 2016, includ-
6 ing at least 51 Christians, 17 Yezidis, and 20
7 Shia Muslims.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

10 (1) APPROPRIATE CONGRESSIONAL COMMIT-
11 TEES.—The term “appropriate congressional com-
12 mittees” means—

13 (A) the Committee on Foreign Affairs, the
14 Committee on the Judiciary, and the Com-
15 mittee on Homeland Security of the House of
16 Representatives; and

17 (B) the Committee on Foreign Relations,
18 the Committee on the Judiciary, and the Com-
19 mittee on Homeland Security and Govern-
20 mental Affairs of the Senate.

21 (2) CAPACITY-BUILDING.—The term “capacity-
22 building”, with respect to cases of genocide, crimes
23 against humanity, war crimes, and terrorism in Iraq
24 or Syria, means developing domestic skills to effi-
25 ciently adjudicate such cases, consistent with due

1 process and respect for the rule of law, through the
2 use of experts in international criminal investiga-
3 tions and experts in international criminal law to
4 partner with, mentor, provide technical advice for,
5 formally train, and provide equipment and infra-
6 structure where necessary and appropriate to, inves-
7 tigators and judicial personnel in Iraq, including the
8 Kurdistan region of Iraq, and domestic investigators
9 and lawyers in Syria.

10 (3) FOREIGN TERRORIST ORGANIZATION.—The
11 term “foreign terrorist organization” means an or-
12 ganization designated by the Secretary of State as a
13 foreign terrorist organization pursuant to section
14 219(a) of the Immigration and Nationality Act (8
15 U.S.C. 1189(a)).

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

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

1 (6) INTERNATIONALIZED DOMESTIC COURT.—

2 The term “internationalized domestic court” means
3 a domestic court with the support of international
4 advisers.

5 **SEC. 4. ACTIONS TO PROMOTE ACCOUNTABILITY IN IRAQ**
6 **AND SYRIA.**

7 (a) ASSISTANCE TO SUPPORT CERTAIN ENTITIES.—

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

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

22 (A) Conducting criminal investigations.

23 (B) Developing investigative and judicial
24 capacities.

25 (C) Collecting evidence.

1 (D) Preserving the chain of evidence for
2 prosecution in domestic courts, hybrid courts,
3 and internationalized domestic courts.

4 (E) Capacity-building.

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

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

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

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

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

9 (1) The extent to which United States courts
10 are currently authorized by statute to exercise juris-
11 diction over such crimes where the direct perpetra-
12 tors, accomplices or victims are United States na-
13 tionals, United States residents or persons physically
14 present in a territory of the United States either
15 during the commission of the crime or subsequent to
16 the commission of the crime.

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

1 (3) The extent to which the absence of criminal
2 statutes defining the crimes, or granting jurisdiction,
3 would impede the prosecution of genocide, crimes
4 against humanity, and war crimes in United States
5 courts, including when United States military forces
6 capture persons outside the United States known to
7 have committed such crimes in a third country that
8 is either unable or unwilling to prosecute the crimes.

9 (4) Whether additional statutory authorities are
10 necessary to prosecute a United States person, or a
11 foreign person within the territory of the United
12 States, for genocide, crimes against humanity, and
13 war crimes.

14 **SEC. 5. IDENTIFICATION OF AND ASSISTANCE TO ADDRESS**
15 **HUMANITARIAN, STABILIZATION, AND RE-**
16 **COVERY NEEDS OF CERTAIN PERSONS IN**
17 **IRAQ AND SYRIA.**

18 (a) IDENTIFICATION.—The Secretary of State, in
19 consultation with the Secretary of Defense, the Amba-
20 sador at Large for International Religious Freedom, the
21 Special Advisor for Religious Minorities in the Near East
22 and South/Central Asia, the Assistant Secretary for Popu-
23 lation, Refugees, and Migration, the Administrator of the
24 United States Agency for International Development, and

1 Director of National Intelligence, shall identify the fol-
2 lowing:

3 (1) The threats of persecution and other warn-
4 ing signs of genocide, crimes against humanity, and
5 war crimes against individuals—

6 (A) who are or were nationals and resi-
7 dents of Iraq or Syria and are members of the
8 religious or ethnic groups and with respect to
9 which the Secretary of State has determined
10 the Islamic State of Iraq and Syria (ISIS) has
11 committed genocide, crimes against humanity,
12 or war crimes in Iraq or Syria since January
13 2014; or

14 (B) who are members of other religious or
15 ethnic groups identified by the Secretary of
16 State (or the Secretary's designee) as per-
17 secuted groups.

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

20 (3) The religious and ethnic groups with re-
21 spect to which the Secretary of State has determined
22 ISIS has committed genocide, crimes against hu-
23 manity, or war crimes in Iraq or Syria since Janu-
24 ary 2014, or are other religious or ethnic groups
25 identified by the Secretary of State (or the Sec-

1 retary's designee), as a persecuted group, and are at
2 risk of forced migration, within or across the borders
3 of Iraq, or Syria, or a country of first asylum, and
4 the primary reasons for such risk.

5 (4) The assistance provided by the United
6 States to address humanitarian, stabilization, and
7 recovery needs of individual described in paragraph
8 (1), including assistance to mitigate the risks of
9 forced migration of such persons from Iraq or Syria.

10 (5) The mechanisms of the United States Gov-
11 ernment to identify, assess, and respond to humani-
12 tarian, stabilization, and recovery needs, and risks of
13 forced migration, of individuals described in para-
14 graph (1).

15 (6) The assistance provided by the United Na-
16 tions to address humanitarian, stabilization, and re-
17 covery needs of individuals described in paragraph
18 (1), including assistance to mitigate the risks of
19 forced migration of such individuals within or across
20 the borders of Iraq, or Syria, or a country of first
21 asylum from Iraq or Syria.

22 (7) The entities, including faith-based entities,
23 that are providing assistance to address humani-
24 tarian, stabilization, and recovery needs of individ-
25 uals described in paragraph (1).

1 (8) If the United States Government—

2 (A) is funding entities described in para-
3 graph (7) for purposes of providing assistance
4 described in such paragraph, the sources of
5 such funding; and

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

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

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

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

3 (a) Section 599D of the Foreign Operations, Export
4 Financing, and Related Programs Appropriations Act,
5 1990 (8 U.S.C. 1157 note) is amended as follows:

6 (1) In subsection (b)—

7 (A) in paragraph (1)—

8 (i) in subparagraph (B), by striking
9 “and” at the end;

10 (ii) in subparagraph (C), by redesignig-
11 nating such subparagraph as subparagraph
12 (D); and

13 (iii) by inserting after subparagraph
14 (B) the following:

15 “(C) one or more categories of aliens who
16 are or were nationals and residents of Iraq or
17 Syria and who share common characteristics
18 that identify them as targets of persecution on
19 account of religion or membership in an ethnic
20 minority in such respective foreign state on
21 such an account; and”; and

22 (B) in paragraph (2), by adding at the end
23 the following:

24 “(D) Aliens who are or were nationals and resi-
25 dents of Iraq or Syria and who are members of a
26 religious or ethnic community against which geno-

1 cide has been committed, as determined by the Sec-
2 retary of State, or that has otherwise been identified
3 by the Secretary of State, or the designee of the Sec-
4 retary, as a persecuted group, shall be deemed a cat-
5 egory of alien established under paragraph (1)(C).”.

6 (2) In subsection (e), by striking “October 1,
7 2016” each place such term appears and inserting
8 “October 1, 2017”.

9 (3) By adding at the end the following:

10 “(f) IN-COUNTRY AND OUT-OF-COUNTRY PROC-
11 ESSING.—Aliens described in subsection (b)(2)(D) may
12 apply and interview for admission to the United States,
13 through the same refugee processing mechanisms available
14 to an alien under the Refugee Crisis in Iraq Act of 2007,
15 in Iraq and in other countries wherein aliens described in
16 subsection (b)(2)(D) may apply and interview for admis-
17 sion to the United States as refugees.

18 “(g) APPLICABILITY OF OTHER REQUIREMENTS.—
19 Aliens under this section who qualify for Priority 2 proc-
20 essing under the refugee resettlement priority system may
21 only be admitted to the United States after satisfying the
22 requirements of section 207 of the Immigration and Na-
23 tionality Act (8 U.S.C. 1157) and having cleared a back-
24 ground check and appropriate screening, as determined by
25 the Secretary of Homeland Security.”.

1 (b) Section 599E(b)(2) of such Act (8 U.S.C. 1255
2 note) is amended by striking “September 30, 2016” and
3 inserting “September 30, 2017”.

4 **SEC. 7. REPORTS.**

5 (a) SECTION 4(a) and (b) REPORT.—Not later than
6 120 days after the date of the enactment of this Act, the
7 Secretary of State shall submit to the appropriate congres-
8 sional committees a report on the following:

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

12 (2) An assessment of the feasibility and advis-
13 ability of prosecuting individuals who are suspected
14 to have committed genocide, crimes against human-
15 ity, or war crimes in Iraq since January 2014 or
16 Syria since March 2011 in domestic courts in Iraq,
17 hybrid courts, and internationalized domestic courts,
18 and of the capacity-building, and other measures,
19 needed to ensure effective criminal investigations of
20 such individuals.

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

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

3 (2) Such recommendations for legislative and
4 administrative actions to implement the results of
5 the review as the Attorney General determines ap-
6 propriate.

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

11 (1) A detailed description of the efforts taken,
12 and efforts proposed to be taken, by the Secretary
13 of State to implement section 5 and the amendments
14 made by section 6.

15 (2) A detailed description of the identifications
16 under section 5(a).

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

20 **SEC. 8. PROHIBITION ON ADDITIONAL FUNDING.**

21 No additional funds are authorized to be appro-
22 priated to carry out this Act or the amendments made
23 by this Act.

○