

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 390
OFFERED BY MR. SMITH OF NEW JERSEY**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Iraq and Syria Geno-
3 cide Emergency Relief and Accountability Act of 2017”.

4 SEC. 2. FINDINGS.

5 Congress finds the following:

6 (1) Religious and ethnic minorities in Iraq and
7 Syria are persecuted groups, and the Secretary of
8 State of State declared on March 17, 2016, that
9 Daesh, also known as the Islamic State of Iraq and
10 Syria (ISIS), was responsible for genocide, crimes
11 against humanity, and other atrocity crimes against
12 several of these groups, including Christians and
13 Yezidis.

14 (2) According to the Department of State’s an-
15 nual reports on international religious freedom, the
16 number of Christians living in Iraq has dropped
17 from an estimated 800,000 to 1,400,000 in 2002 to
18 fewer than 250,000 in 2015.

1 (3) The annual reports on international reli-
2 gious freedom further suggest that Christian com-
3 munities living in Syria, which had accounted for be-
4 tween eight and ten percent of Syria’s total popu-
5 lation in 2010, are now “considerably” smaller as a
6 result of the civil war.

7 (4) Local communities and entities have sought
8 to mitigate the impact of violence directed against
9 religious and ethnic minorities in Iraq and Syria, in-
10 cluding the Chaldean Catholic Archdiocese of Erbil
11 (Kurdistan Region of Iraq), which has used private
12 funds to provide assistance to internally displaced
13 Christians, Yezidis, and Muslims throughout the
14 greater Erbil region, while growing needs and dimin-
15 ishing resources have made it increasingly difficult
16 to continue these efforts.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
20 **TEES.**—The term “appropriate congressional com-
21 mittees” means—

22 (A) the Committee on Foreign Affairs, the
23 Committee on the Judiciary, the Committee on
24 Homeland Security, and the Permanent Select

1 Committee on Intelligence of the House of Rep-
2 resentatives; and

3 (B) the Committee on Foreign Relations,
4 the Committee on the Judiciary, the Committee
5 on Homeland Security and Governmental Af-
6 fairs, and the Select Committee on Intelligence
7 of the Senate.

8 (2) FOREIGN TERRORIST ORGANIZATION.—The
9 term “foreign terrorist organization” mean an orga-
10 nization designated by the Secretary of State as a
11 foreign terrorist organization pursuant to section
12 219(a) of the Immigration and Nationality Act (8
13 U.S.C. 1189(a)).

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

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

24 (5) INTERNATIONALIZED DOMESTIC COURT.—
25 The term “internationalized domestic court” means

1 a domestic court with the support of international
2 advisers.

3 **SEC. 4. STATEMENT OF POLICY.**

4 It is the policy of the United States to ensure that
5 assistance for humanitarian, stabilization, and recovery
6 needs is directed toward those individuals and commu-
7 nities with the greatest need, including those individuals
8 from communities of religious and ethnic minorities, and
9 communities of religious and ethnic minorities, that have
10 been identified as being at risk of persecution, forced mi-
11 gration, acts of genocide, crimes against humanity, or war
12 crimes.

13 **SEC. 5. ACTIONS TO PROMOTE ACCOUNTABILITY IN IRAQ**
14 **AND SYRIA FOR ACTS OF GENOCIDE, CRIMES**
15 **AGAINST HUMANITY, AND WAR CRIMES.**

16 (a) ASSISTANCE.—The Secretary of State and the
17 Administrator of the United States Agency for Inter-
18 national Development are authorized to provide assist-
19 ance, including financial and technical assistance, as nec-
20 essary and appropriate to support the efforts of entities,
21 including nongovernmental organizations with expertise in
22 international criminal investigations and law, to undertake
23 the following activities to address crimes of genocide,
24 crimes against humanity, or war crimes, and their con-
25 stituent crimes, in Iraq since January 2014:

1 (1) The conduct of criminal investigations.

2 (2) The development of indigenous investigative
3 and judicial skills, including by partnering, directly
4 mentoring, and providing equipment and infrastruc-
5 ture where necessary, for the purpose of effectively
6 adjudicating cases consistent with due process and
7 respect for the rule of law.

8 (3) The collection and preservation of evidence
9 and the chain of evidence, including for use in pros-
10 ecutions in domestic courts, hybrid courts, and inter-
11 nationalized domestic courts, consistent with the ac-
12 tivities described in subsection (b).

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

19 (1) to include in appropriate security databases
20 and security screening procedures of such countries
21 information to identify individuals who are suspected
22 to have committed crimes of genocide, crimes
23 against humanity, or war crimes, and their con-
24 stituent crimes, in Iraq or Syria, including individ-

1 uals who are suspected to be members of foreign ter-
2 rorist organizations operating in Iraq or Syria; and

3 (2) to prosecute such individuals for acts of
4 genocide, crimes against humanity, or war crimes, as
5 appropriate.

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

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

19 (2) The statutes that are currently in effect
20 that would apply to conduct constituting war crimes
21 or crimes against humanity, whether those statutes
22 provide for extraterritorial jurisdiction, the statute
23 of limitations and the penalties that apply under
24 such statutes, and whether offenders would be sub-

1 ject to extradition or mutual legal assistance trea-
2 ties.

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

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

16 (d) CONSULTATION.—In carrying out subsection (a),
17 the Secretary of State shall consult with and consider
18 credible information from entities described in such sub-
19 section.

20 **SEC. 6. IDENTIFICATION OF AND ASSISTANCE TO ADDRESS**
21 **HUMANITARIAN, STABILIZATION, AND RE-**
22 **COVERY NEEDS OF CERTAIN PERSONS IN**
23 **IRAQ AND SYRIA.**

24 (a) IDENTIFICATION.—The Secretary of State, in
25 consultation with the Secretary of Defense, the Adminis-

1 trator of the United States Agency for International De-
2 velopment, and Director of National Intelligence, shall
3 seek to identify the following:

4 (1) The threats of persecution and other early-
5 warning indicators of genocide, crimes against hu-
6 manity, and war crimes against individuals—

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

14 (B) who are members of other religious or
15 ethnic minority groups in Iraq or Syria and are
16 identified by the Secretary of State as per-
17 secuted groups.

18 (2) The religious and ethnic minority groups in
19 Iraq or Syria identified pursuant to paragraph (1)
20 that are at risk of forced migration, within or across
21 the borders of Iraq, Syria, or a country of first asy-
22 lum, and the primary reasons for such risk.

23 (3) The humanitarian, stabilization, and recov-
24 ery needs of individuals described in paragraphs (1)
25 and (2), including the assistance provided by the

1 United States and by the United Nations, respec-
2 tively, to address the humanitarian, stabilization,
3 and recovery needs, and mitigate the risks of forced
4 migration, of individuals described in paragraphs (1)
5 and (2) and assistance provided through the Fund-
6 ing Facility for Immediate Stabilization and Fund-
7 ing Facility for Expanded Stabilization.

8 (4) To the extent practicable and appropriate,
9 the entities, including faith-based entities, that are
10 providing assistance to address the humanitarian,
11 stabilization, and recovery needs of individuals de-
12 scribed in paragraphs (1) and (2) and the extent to
13 which the United States is providing assistance to or
14 through such entities.

15 (b) ADDITIONAL CONSULTATION.—In carrying out
16 subsection (a), the Secretary of State shall consult with,
17 and consider credible information from, individuals de-
18 scribed in paragraphs (1) and (2) of such subsection and
19 entities described in paragraph (4) of such subsection.

20 (c) ASSISTANCE.—The Secretary of State and the
21 Administrator of the United States Agency for Inter-
22 national Development are authorized to provide assist-
23 ance, including financial and technical assistance as nec-
24 essary and appropriate, to support entities described in
25 subsection (a)(4) that the Secretary and Administrator de-

1 termine have access, and are capable of effectively man-
2 aging and delivering such assistance, to the individuals de-
3 scribed in paragraphs (1) and (2) of such subsection.

4 **SEC. 7. REPORTS.**

5 (a) IMPLEMENTATION REPORT.—Not later than 90
6 days after the date of the enactment of this Act, the Sec-
7 retary 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, to implement the
11 provisions of this Act.

12 (2) An assessment of the feasibility and advis-
13 ability of prosecuting individuals for whom credible
14 evidence exists of having committed acts of genocide,
15 crimes against humanity, or war crimes in Iraq since
16 January 2014 or Syria since March 2011 in domes-
17 tic courts in Iraq, hybrid courts, and international-
18 ized domestic courts, and of the measures needed to
19 ensure effective criminal investigations of such indi-
20 viduals, and to effectively collect and preserve evi-
21 dence, and preserve the chain of evidence, for pros-
22 ecution.

23 (3) The results of the review conducted under
24 section 5(c).

1 (4) Recommendations for legislative remedies
2 and administrative actions to facilitate implementa-
3 tion of this Act.

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

Amend the title so as to read: “A bill to provide emergency relief for victims of genocide, crimes against humanity, and war crimes in Iraq and Syria, for accountability for perpetrators of these crimes, and for other purposes.”.

