



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 114th CONGRESS, SECOND SESSION

Vol. 162

WASHINGTON, MONDAY, MARCH 14, 2016

No. 40

House of Representatives

Establish Syrian War Crimes Tribunal

Mr. SMITH of New Jersey. Mr. Speaker, the U.N. Security Council should move immediately to establish a Syrian war crimes tribunal. H. Con. Res. 121, which I introduced, is a bipartisan piece of legislation backed by Chairman ROYCE as well as by ELIOT ENGEL and others, calling upon the administration to pursue this policy goal, including using our voice and vote at the United Nations.

Mr. Speaker, past ad hoc/regional war crimes tribunals, including courts for Sierra Leone, Rwanda, and the former Yugoslavia, have made a significant difference, holding some of the worst mass murderers to account with successful prosecutions followed by long jail sentences.

Who can forget the picture of the infamous former President of Liberia, Charles Taylor, with his head bowed, incredulous that the Special Court for Sierra Leone in 2012 meted out a 50- year jail term for his crimes against humanity and war crimes.

According to the Syrian Center for Policy Research, approximately 5 years of wanton bloodshed in Syria has killed either directly

or indirectly an estimated 470,000 people. Other estimates put the death toll at a quarter of a million.

While the United Nations long ago abandoned estimating the death toll due to its inability to verify the veracity of the numbers, the war in Syria has caused a massive loss of life, including genocide against Christians, Yazidis, and other religious minorities, especially women and children.

The International Syria Support Group, co-chaired by the United States and Russia, as we all know, brokered a cessation of hostilities that kicked in on February 27 that applies to all parties except ISIS and al-Nusra.

While we all hope and pray the ceasefire holds as it goes into the third week and humanitarian groups gain access to sick, frail, and at-risk people, the atrocities committed against Syria's population demand accountability and justice.

There have been—I think I should point this out because many people who are following the news know this—numerous

violations of the cease-fire by Assad and his forces.

In an opinion piece in Newsweek a few hours ago, it was noted that “regime forces are openly bombing and, in some cases, launching ground operations to capture key rebel territory without making any pretense of attacking the Nusra Front.”

Further, the Syria Ceasefire Monitor “reports 111 violations as of March 9—almost all perpetrated by the Assad regime or Russian forces.”

A Syrian court is needed for all the past, present, and—God forbid—likely future atrocities being committed in Syria.

Rigorous investigations by a new Syrian court, followed by prosecutions, convictions, and serious jail time for perpetrators of crime on all sides will not only hold those responsible for war crimes accountable, but will send a clear message that such barbaric behavior has dire personal consequences.

The victims and their loved ones, Mr. Speaker, deserve no less.

Can a U.N. Security Council resolution establishing a Syrian war crimes tribunal prevail? Yes, I believe. With a serious and sustained diplomatic push by the United States and other interested parties, past success in creating war crimes tribunals can, indeed, be prologue.

Notwithstanding Russia’s solidarity with Serbia during the Balkan war, especially with Slobodan Milosevic, the International Criminal Court Tribunal for the former Yugoslavia was unanimously approved. Ditto for the special court in Sierra Leone in 2002. The Rwanda tribunal was created in

1994, with China choosing to abstain rather than to veto that court.

At a Syrian war crimes court, no one on any side who commits genocide, war crimes, or crimes against humanity would be precluded from prosecution.

As I said, in the early 1990s, the Russians knew that the Yugoslav court was designed to hold all transgressors liable, whether they be Bosnian or Croats and not just Serbians and, again, they didn’t veto that particular court as it was established.

I believe the Russians and the Chinese can be persuaded to support or at least abstain from blocking establishment of such a court.

An ad hoc or a regional court has significant advantages over the International Criminal Court, or the ICC, as a venue for justice. For starters, neither Syria nor the United States is a member of the ICC, although mechanisms exist to push prosecutions there.

The ICC, however, has operated since 2002, and only boasts of only two, two, just two, convictions. By way of contrast, the Yugoslav court convicted 80 people; Rwanda, 61; and Sierra Leone, 9. Moreover, a singularly focused Syrian tribunal that provides Syrians with a degree of ownership could significantly enhance its effectiveness.

I chaired a Congressional hearing on establishing a Syrian war crimes tribunal back in 2013, and included such great leaders as David Crane, the former prosecutor for the Special Court for Sierra Leone, and founder and chairman of the Syria Accountability Project.

Mr. Crane testified that the Syria Accountability Project has collected data “and built a framework by which President Assad and his henchmen”— this is his quote—“along with members of the opposition can be prosecuted openly and fairly.”

He and his team have “developed a crime base matrix which catalogs most of the incidents chronologically and highlights the violations of the Rome Statute, the Geneva Conventions, as well as domestic Syrian criminal law.”

Significantly, with respect to the ICC, Mr. Crane testified that “it lacks the capability and the political and diplomatic sophistication to handle such a mandate.”

Indeed, I would like to relay some words that I had with David Crane just a few hours ago; and he reminded us that it is important that the Congress continue the quest to seek justice for the oppressed and work on justice for the Syrian people, in particular, as we recall the fifth anniversary of the beginning of the civil war in that country. Tomorrow, March 15, marks the fifth anniversary of this horrific conflict.

Finally, Mr. Speaker, accountability that is aggressive, predictable, transparent, and applicable to all perpetrators of genocide and crimes against humanity on all sides of the divide must be pursued now.

I reserve the balance of my time.