

115TH CONGRESS
1ST SESSION

S. 1891

To promote peace and justice in Afghanistan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2017

Mr. CARDIN introduced the following bill; which was read twice and referred
to the Committee on Foreign Relations

A BILL

To promote peace and justice in Afghanistan, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Promoting Peace and Justice for the People of Afghani-
6 stan Act of 2017”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Sense of Congress.

Sec. 101. Strategy requirement.

TITLE II—SUPPORTING PEACE AND JUSTICE

Sec. 201. Authorization of Afghanistan Peace and Justice Initiative.

Sec. 202. Report on transitioning to peace and justice in Afghanistan.

TITLE III—SUPPORTING CIVILIAN SECURITY

Sec. 301. Civilian security activities.

Sec. 302. Report on corruption and abuses by civilian security forces.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) As stated by President Donald J. Trump on
4 August 21, 2017, “Military power alone will not
5 bring peace to Afghanistan or stop the terrorist
6 threat arising in that country.”.

7 (2) Secretary of State Rex W. Tillerson noted,
8 on August 22, 2017, that the current fighting in Af-
9 ghanistan will “take everyone nowhere, and it is
10 time to begin a process—it may very well be a
11 lengthy process—of reconciliation and a peace ac-
12 cord.”. He further noted that the United States
13 seeks “to facilitate a reconciliation peace process,”
14 working with other countries in the region.

15 (3) The June 2017 report by the Department
16 of Defense, titled “Enhancing Security and Stability
17 in Afghanistan”, states “The U.S. and Afghan Gov-
18 ernments agree that the best way to ensure lasting
19 peace and security in Afghanistan is through rec-

1 conciliation and a political settlement with the
2 Taliban.”.

3 (4) On June 6, 2017, the Government of the Is-
4 lamic Republic of Afghanistan, with the participa-
5 tion of regional and international partners, launched
6 the Kabul Process for Peace and Security Coopera-
7 tion, which is based on the premise that a stable Af-
8 ghanistan is necessary for a stable region.

9 (5) The Afghanistan High Peace Council was
10 established by the President of the Islamic Republic
11 of Afghanistan on September 5, 2010, within the
12 context of the Afghanistan Peace and Reintegration
13 Program and was tasked with negotiating an end to
14 the Government of the Islamic Republic of Afghani-
15 stan’s conflict with the Taliban in Afghanistan, with
16 input from women and civil society representatives
17 in the country.

18 (6) As noted by the Commander of the United
19 States Central Command, General Joseph Votel, in
20 testimony to the Committee on Armed Services of
21 the Senate on March 9, 2017, corruption remains a
22 significant challenge to the capability of the Afghan
23 National Security Forces.

24 (7) As stated in the report referred to in para-
25 graph (3), the Afghan Ministry of Interior “pos-

1 assesses the basic systems and organizations to inves-
2 tigate and adjudicate” alleged corruption and human
3 rights violations, but “the political will to hold viola-
4 tors, especially senior officers, accountable remains
5 fragile.”. The report further notes that the Afghan
6 Ministry of Interior lags behind the Afghan Ministry
7 of Defense “in its capacity to train personnel and
8 units on rule of law and corruption issues.”.

9 (8) On June 30, 2016, the President of the Is-
10 lamic Republic of Afghanistan established the Anti-
11 Corruption Justice Center (ACJC) under the Attor-
12 ney General’s Office to combat high-level corruption
13 within the Government of Afghanistan. The ACJC
14 has since prosecuted several major corruption cases.
15 The Independent Joint Anti-Corruption Monitoring
16 and Evaluation Committee in Afghanistan noted, in
17 its August 2017 quarterly report, that the ACJC
18 “has continued functioning as an effective judicial
19 device to combat corruption in various government
20 organizations.”.

21 (9) The Afghan Independent Human Rights
22 Commission was established on June 6, 2002, pur-
23 suant to the Agreement on Provisional Arrange-
24 ments in Afghanistan Pending the Re-Establishment
25 of Permanent Government Institutions, done in

1 Bonn, Germany, December 5, 2001 (commonly
2 known as the “Bonn Agreement”), and functions as
3 a national human rights institution working on the
4 protection and promotion of human rights in Af-
5 ghanistan.

6 (10) As stated in the United Nations Assistance
7 Mission to Afghanistan’s (UNAMA) 2016 Annual
8 Report on the Protection of Civilians in Armed Con-
9 flict in Afghanistan, the number of civilian casualties
10 in Afghanistan in 2016 was the highest since
11 UNAMA began counting such casualties in 2009
12 and women and children “continue to be dispropor-
13 tionately affected by the conflict.”. UNAMA also
14 noted, in the 2017 Midyear Report on the Protection
15 of Civilians in Armed Conflict in Afghanistan, that
16 “both child and women casualties rose during the
17 first half of 2017.”.

18 (11) The report referred to in paragraph (3)
19 notes that—

20 (A) “structural barriers, traditional cul-
21 tural norms, and insecurity” contributed to the
22 precarious situation of women in Afghanistan
23 and in the Afghanistan National Defense and
24 Security Forces; and

1 (B) “little progress has been made toward
2 implementation” of the Government of Afghani-
3 stan’s National Action Plan on United Nations
4 Security Council Resolution 1325 on Women,
5 Peace, and Security.

6 (12) The New Development Partnership With
7 Afghanistan was launched by the United States
8 Agency for International Development in March
9 2015 to reinforce the United States “commitment to
10 results and accountability by linking funds to spe-
11 cific reforms in combating corruption, promoting
12 rule of law, strengthening women’s rights, and en-
13 hancing private sector growth.”.

14 (13) The Afghan Compact, which was launched
15 by the President of the Islamic Republic of Afghani-
16 stan in Kabul on August 24, 2017—

17 (A) commits the Government of Afghani-
18 stan to key reforms aimed at improving security
19 and creating a more peaceful, stable, and pros-
20 perous society; and

21 (B) includes benchmarks in the areas of
22 governance, security, peace and reconciliation,
23 and economy, which reflect global standards.

24 (14) The United States has been a leading
25 donor to the Afghanistan Reconstruction Trust

1 Fund, which was established in 2002, to provide a
2 coordinated financing mechanism for the Govern-
3 ment of Afghanistan’s budget and priority national
4 investment projects.

5 **SEC. 3. DEFINITIONS.**

6 In this Act:

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

10 (A) the Committee on Foreign Relations of
11 the Senate;

12 (B) the Committee on Appropriations of
13 the Senate;

14 (C) the Committee on Foreign Affairs of
15 the House of Representatives; and

16 (D) the Committee on Appropriations of
17 the House of Representatives.

18 (2) ATROCITY CRIMES.—The term “atroc-
19 ity crimes” refers to any of the following:

20 (A) “War crimes” as defined in section
21 2441(c) of title 18, United States Code.

22 (B) “Genocide” as defined in section
23 1091(a) of title 18, United States Code.

1 (C) “Crimes against humanity” as defined
 2 in Article 7 of the Rome Statute of the Inter-
 3 national Criminal Court.

4 (3) GROSS VIOLATIONS OF INTERNATIONALLY
 5 RECOGNIZED HUMAN RIGHTS.—The term “gross vio-
 6 lations of internationally recognized human rights”
 7 has the meaning given the term in section
 8 502B(d)(1) of the Foreign Assistance Act of 1961
 9 (22 U.S.C. 2304(d)(1)).

10 (4) TRANSITIONAL JUSTICE.—The term “tran-
 11 sitional justice” means the range of judicial, non-ju-
 12 dicial, formal, informal, retributive, and restorative
 13 measures employed by countries transitioning out of
 14 armed conflict to redress legacies of atrocities and
 15 promote long-term, sustainable peace.

16 **SEC. 4. SENSE OF CONGRESS.**

17 It is the sense of Congress that—

18 (1) it is in the national security interests of the
 19 United States that the Government of the Islamic
 20 Republic of Afghanistan and the Afghan Taliban
 21 conclude, through inclusive negotiations, a political
 22 settlement in which the Taliban—

23 (A) renounces violence;

24 (B) breaks ties to international terrorism;

25 and

1 (C) accepts the Afghan constitution, in-
2 cluding its safeguards to respect human rights,
3 especially of women, girls, and ethnic and reli-
4 gious minorities;

5 (2) the United States Government should urge
6 all regional actors to play a constructive role in sup-
7 porting peace and stability in Afghanistan and the
8 South Asia region, including by—

9 (A) refraining from supporting proxy
10 forces in Afghanistan; and

11 (B) exercising their influence on the Af-
12 ghan Taliban to renounce violence, break ties
13 with international terrorism, and enter into
14 talks with representatives of the Government of
15 Afghanistan without preconditions;

16 (3) the United States Government should bring
17 all the tools at its disposal to bear in seeking a polit-
18 ical settlement to the conflict in Afghanistan, includ-
19 ing the diplomatic and development expertise at the
20 Department of State and United States Agency for
21 International Development;

22 (4) the United States Government should in-
23 crease its bilateral and multilateral engagement by
24 Cabinet members and other high-level officials in
25 support of a negotiated political settlement, includ-

1 ing by continuing to support engagement in the
2 Quadrilateral Coordination Group and other formats
3 for dialogue among regional powers to promote a ne-
4 gotiated settlement to the conflict in Afghanistan;

5 (5) the United States Government should stipu-
6 late clear conditions for the withdrawal of its troops
7 from Afghanistan, including guarantees that Afghan
8 territory will not be used to stage attacks on the
9 United States;

10 (6) combat operations, including offensive ac-
11 tions and combat-enabling support to operations
12 such as close air support, are inherently government
13 functions that cannot be appropriately carried out by
14 private contractors;

15 (7) the United States Government—

16 (A) should not deploy private contractors
17 to undertake combat operations in Afghanistan
18 or embed with the Afghan National Defense
19 and Security Forces; and

20 (B) should respect the sovereignty of the
21 democratically elected Government of the Is-
22 lamic Republic of Afghanistan over Afghan ter-
23 ritory;

1 (8) the United States Government should sup-
2 port democratic, accountable, and inclusive govern-
3 ance in Afghanistan;

4 (9) the President should use the authority of
5 the President to impose sanctions under the Global
6 Magnitsky Human Rights Accountability Act (sub-
7 title F of title XII of Public Law 114–328; 22
8 U.S.C. 2656 note) on officials of the Government of
9 Afghanistan and their associates responsible for
10 gross violations of internationally recognized human
11 rights or acts of significant corruption;

12 (10) the United States Government should use
13 other existing authorities to implement visa bans
14 and asset freezes on Afghan individuals responsible
15 for corruption;

16 (11) it is in the national interests of the United
17 States that the Government of the Islamic Republic
18 of Afghanistan effectively upholds civilian security
19 by enforcing the rule of law and ensuring account-
20 ability for abuses and corruption committed by state
21 actors;

22 (12) approaches, such as the New Development
23 Partnership of the United States Agency for Inter-
24 national Development, which link funds provided to
25 the Government of Afghanistan to specific reforms—

1 (A) are important for incentivizing
2 progress by the Government of Afghanistan, in-
3 cluding the commitments it has made in the Af-
4 ghan Compact, and ensuring the effectiveness
5 and sustainable impact of United States assist-
6 ance; and

7 (B) should be utilized more broadly by the
8 Department of State and the Department of
9 Defense to link funding to specific progress on
10 benchmarks relating to human rights, anti-cor-
11 ruption, and accountable governance, particu-
12 larly with respect to assistance to Afghan secu-
13 rity forces and relevant ministries; and

14 (13) The Government of the Islamic Republic of
15 Afghanistan should—

16 (A) implement laws and policies to govern
17 democratically, including through the conduct
18 of regular, inclusive, credible, and transparent
19 elections, and to protect the rights of individ-
20 uals, civil society, and the media;

21 (B) take consistent steps to protect and
22 advance the rights of women, girls, and ethnic
23 and religious minorities in Afghanistan;

24 (C) effectively implement a whole-of-gov-
25 ernment, anti-corruption strategy that has been

1 endorsed by the High Council on Rule of Law
2 and Anti-Corruption, as agreed to at the Brus-
3 sels Conference on Afghanistan in October
4 2016;

5 (D) prosecute individuals alleged to be in-
6 volved in corrupt or illegal activities in Afghani-
7 stan;

8 (E) take consistent steps to develop a pro-
9 fessional, accountable civilian police force and
10 ensure that its use in counter-insurgency aims
11 does not undermine law enforcement and the
12 rule of law;

13 (F) take consistent steps, through the civil-
14 ian justice system, to investigate and prosecute
15 military and police personnel who are credibly
16 alleged to have violated human rights, and to
17 ensure that the military and the police are co-
18 operating in such cases; and

19 (G) take consistent steps to promote addi-
20 tional transitional justice measures.

21 **TITLE I—STRATEGY**

22 **SEC. 101. STRATEGY REQUIREMENT.**

23 (a) REPORT.—Not later than 60 days after the date
24 of the enactment of this Act, the President shall submit

1 its strategy for United States engagement in Afghanistan
2 to the appropriate congressional committees.

3 (b) ELEMENTS.—The strategy required under sub-
4 section (a) shall include detailed information on specific
5 steps to be taken to support the following objectives:

6 (1) A negotiated political resolution to the con-
7 flict in Afghanistan in which the Taliban renounces
8 violence, breaks ties to international terrorism, and
9 accepts Afghan constitutional provisions, including
10 those which safeguard human rights.

11 (2) Progress toward the withdrawal of United
12 States forces that is based on clearly stipulated con-
13 ditions and an articulation of those conditions.

14 (3) A democratic, accountable, and inclusive
15 Government of the Islamic Republic of Afghanistan
16 chosen in regular, inclusive, credible, and trans-
17 parent electoral processes.

18 (4) Effective, accountable, and sustainable Af-
19 ghan National Security and Defense Forces that are
20 able to disrupt and degrade the activities of al
21 Qa’ida, Islamic State, and other terrorist groups in
22 Afghanistan.

23 (5) Judicial and civilian law enforcement insti-
24 tutions that uphold the rule of law and ensure ac-

1 countability for official acts of corruption and viola-
2 tions of human rights.

3 (6) Regional diplomatic efforts to promote the
4 long-term stabilization of Afghanistan and end safe
5 haven for proxy forces.

6 (c) IMPLEMENTATION.—

7 (1) COMBAT OPERATIONS.—In implementing
8 the strategy required under this section, Federal
9 agencies may not—

10 (A) employ private security contractors to
11 conduct combat operations, including offensive
12 actions and combat-enabling support to oper-
13 ations, inside Afghanistan; or

14 (B) embed such contractors with Afghan
15 military units to engage directly in combat op-
16 erations.

17 (2) CODE OF CONDUCT.—In employing private
18 security contractors for activities other than combat
19 operations, Federal agencies shall ensure that such
20 contractors—

21 (A) act in accordance with principles,
22 standards, and codes of conduct that are based
23 on international law; and

24 (B) participate in oversight and account-
25 ability mechanisms to ensure that their conduct

1 is consistent with such principles, standards,
2 and codes of conduct.

3 **TITLE II—SUPPORTING PEACE**
4 **AND JUSTICE**

5 **SEC. 201. AUTHORIZATION OF AFGHANISTAN PEACE AND**
6 **JUSTICE INITIATIVE.**

7 (a) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated for the Afghanistan
9 Peace and Justice Initiative, for the fiscal years 2018 and
10 2019, such sums as may be necessary to support govern-
11 mental and nongovernmental activities that promote peace
12 and justice.

13 (b) USE OF FUNDS.—Amounts appropriated pursu-
14 ant to subsection (a) shall be used for the following activi-
15 ties:

16 (1) To support governmental and nongovern-
17 mental initiatives to include citizens' input into the
18 work of the Government of Afghanistan's High
19 Peace Council and formal government peace negotia-
20 tions, including activities to incorporate the input of
21 women, ethnic and religious minorities, and other
22 vulnerable groups.

23 (2) To support governmental and nongovern-
24 mental initiatives, including initiatives through the
25 Afghan Independent Human Rights Commission, to

1 promote accountability for atrocity crimes, including
2 acts committed by governmental and nongovern-
3 mental actors.

4 (3) To support governmental and nongovern-
5 mental initiatives, including initiatives through the
6 Afghan Independent Human Rights Commission, to
7 promote peace building, transitional justice, and rec-
8 onciliation, including cross-border and regional pro-
9 gramming.

10 (c) IMPLEMENTATION.—The Secretary of State, in
11 consultation with the Administrator of the United States
12 Agency for International Development, shall coordinate
13 and carry out the activities described in subsection (b).

14 **SEC. 202. REPORT ON TRANSITIONING TO PEACE AND JUS-**
15 **TICE IN AFGHANISTAN.**

16 (a) IN GENERAL.—Not later than 180 days after the
17 date of the enactment of this Act, and annually thereafter,
18 the Secretary of State shall submit to Congress a report
19 describing United States diplomatic engagement and as-
20 sistance, including through the Afghan Peace and Justice
21 Initiative, to support progress on a negotiated peace settle-
22 ment and transitional justice mechanisms to address
23 atrocity crimes in Afghanistan.

24 (b) ELEMENTS.—The report required under sub-
25 section (a) shall include the following elements:

1 (1) An unclassified summary, with classified
2 annex as necessary, of progress toward a negotiated
3 peace settlement and how the United States Govern-
4 ment is supporting such progress through its en-
5 gagement with governments and other actors in the
6 South Asia and Central Asia regions, including by
7 Cabinet members and other high-level officials.

8 (2) A list of officials of the Government of Af-
9 ghanistan and nongovernmental actors credibly al-
10 leged to have committed war crimes, genocide, or
11 crimes against humanity, a description of the alleged
12 crimes, and a description of steps taken to hold
13 these individuals accountable for the alleged crimes.

14 (3) A summary of national-level efforts to pro-
15 mote transitional justice, including forensic efforts
16 and documentation of war crimes, genocide, or
17 crimes against humanity, redress to victims, and rec-
18 onciliation activities.

19 (4) A summary of United States support for
20 Government of Afghanistan and civil society efforts
21 to promote peace and justice at the local level and
22 how these efforts are informing government-level
23 policies and negotiations.

TITLE III—SUPPORTING CIVILIAN SECURITY

SEC. 301. CIVILIAN SECURITY ACTIVITIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the International Narcotics Control and Law Enforcement account and the Economic Support Fund account, for fiscal years 2018 and 2019, such sums as may be necessary to support the civilian security activities described in subsection (b).

(b) USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall be used for the following activities:

(1) To support the strengthening of oversight mechanisms within the Ministry of Interior to identify and address human rights abuses and corruption committed by Ministry of Interior security forces, including units involved in counter-insurgency activities at the local level and holding territory recently reclaimed from insurgents.

(2) To support the efforts of the Office of the Attorney General of Afghanistan, including the Anti-Corruption Justice Center, to strengthen the rule of law and bolster the effectiveness of judicial officials and civilian police forces through investigations and prosecutions of such individuals for human rights

1 abuses or corruption, including through support to
2 protect judicial officials, lawyers, victims, and wit-
3 nesses involved in such investigations and prosecu-
4 tions.

5 (3) To support the Ministry of Interior to oper-
6 ate shelters for women and girls who are victims of
7 human rights abuses and domestic violence and to
8 improve internal investigative mechanisms and gen-
9 der-sensitive policing in order to enable women and
10 girl victims to safely pursue justice for crimes com-
11 mitted against them.

12 (4) To support the work of the Afghan Inde-
13 pendent Human Rights Commission or nongovern-
14 mental organizations to support accountability for
15 human rights abuses and corruption through work
16 with relevant agencies within the Government of Af-
17 ghanistan.

18 **SEC. 302. REPORT ON CORRUPTION AND ABUSES BY CIVIL-**
19 **IAN SECURITY FORCES.**

20 (a) IN GENERAL.—Not later than 180 days after the
21 date of the enactment of this Act, and annually thereafter,
22 the Secretary of State and the Secretary of Defense shall
23 submit a report to Congress that contains—

24 (1) a description of progress made by the Min-
25 istry of Interior and the Office of the Attorney Gen-

1 eral of Afghanistan to address gross violations of
2 internationally recognized human rights committed
3 by civilian security forces and of the budgetary re-
4 sources of the Government of Afghanistan allotted to
5 this effort;

6 (2) a summary of criminal prosecutions under-
7 taken against corrupt or abusive civilian security
8 forces during the reporting period and the disposi-
9 tion of such prosecutions;

10 (3) a summary of—

11 (A) assistance provided by the Department
12 of State and the Department of Defense to sup-
13 port accountability for human rights abuses and
14 corruption by civilian security forces; and

15 (B) measures to mitigate civilian casualties
16 in counterterrorism operations; and

17 (4) a list of benchmarks that are being utilized
18 to incentivize progress on accountability for corrup-
19 tion and gross violations of internationally recog-
20 nized human rights and the release of funds for on-
21 budget support, including through the Afghanistan
22 Reconstruction Trust Fund, to security and other
23 relevant ministries of the Government of Afghani-
24 stan.

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