

117TH CONGRESS
1ST SESSION

S. _____

To require a determination as to whether crimes committed against the
Rohingya in Burma amount to genocide.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY (for himself, Mr. MERKLEY, Mr. CARDIN, Mr. DURBIN, Ms.
BALDWIN, Mr. BROWN, Mr. REED, Mr. BOOKER, Mr. COONS, and Mr.
CASEY) introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To require a determination as to whether crimes committed
against the Rohingya in Burma amount to genocide.

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 “Rohingya Genocide
5 Determination Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Since August 25, 2017, 740,000 Rohingya
9 have fled northern Rakhine State to neighboring

1 Bangladesh to escape a systematic campaign of
2 atrocities by Burma's military and security forces,
3 and over three years later, conditions are still not
4 conducive to the safe, voluntary, and dignified re-
5 turn of the Rohingya to Burma.

6 (2) On November 23, 2017, the United States
7 Holocaust Museum and Fortify Rights released a re-
8 port entitled "They Tried to Kill Us All", docu-
9 menting widespread and systematic atrocities com-
10 mitted against Rohingya civilians at the hands of
11 Burmese "security forces, civilian perpetrators, and
12 militants" and highlighting "growing evidence of
13 genocide".

14 (3) According to the Department of State's Au-
15 gust 24, 2018, report entitled "Documentation of
16 Atrocities in Northern Rakhine State", violence com-
17 mitted by the Burmese military against the
18 Rohingya, including from August to October 2017,
19 was not only "extreme, large-scale, widespread, and
20 seemingly geared toward both terrorizing the popu-
21 lation and driving out the Rohingya residents," but
22 also "well-planned and coordinated".

23 (4) On August 28, 2018, the United States
24 Ambassador to the United Nations told the United
25 Nations Security Council that the Department of

1 State report’s findings were “consistent with” those
2 in an August 27, 2018, report by the Independent
3 International Fact-Finding Mission on Myanmar
4 (IIFMM) which urged that top Burmese military
5 officials be investigated and prosecuted for genocide.

6 (5) On September 12, 2018, the IIFMM re-
7 ported, “The crimes in Rakhine State, and the man-
8 ner in which they were perpetrated, are similar in
9 nature, gravity and scope to those that have allowed
10 genocidal intent to be established in other con-
11 texts.”.

12 (6) The Public International Law & Policy
13 Group (PILPG), whose investigation informed the
14 Department of State’s August 2018 report, pub-
15 lished in December 2018 its Factual Findings &
16 Legal Analysis Report, which concluded that “there
17 are reasonable grounds to believe that genocide was
18 committed against the Rohingya in Myanmar’s
19 northern Rakhine State”.

20 (7) According to the PILPG report, “The scale
21 and severity of the attacks and abuses—particularly
22 the mass killings and accompanying brutality
23 against children, women, pregnant women, the elder-
24 ly, religious leaders, and persons fleeing into Ban-
25 gladesh—suggest that, in the minds of the perpetra-

1 tors, the goal was not just to expel, but also to ex-
2 terminate the Rohingya.”.

3 (8) On September 16, 2019, the IIFFMM re-
4 ported that it “has reasonable grounds to conclude
5 that the evidence that infers genocidal intent on the
6 part of the State, identified in its last report, has
7 strengthened that there is a serious risk that geno-
8 cidal actions may occur or recur”.

9 (9) The IIFFMM also recognized in its Sep-
10 tember 16, 2019, report that Burma’s military and
11 security forces have committed abuses against mi-
12 nority groups other than the Rohingya: “All the eth-
13 nic minority communities that the Mission inves-
14 tigated,” including ethnic groups in Rakhine, Chin,
15 Kayin, Kachin, and Shan States, “have been de-
16 prived of justice for the serious human rights viola-
17 tions perpetrated against them.”.

18 (10) Secretary of State Antony Blinken com-
19 mitted at his nomination hearing before the Com-
20 mittee on Foreign Relations of the Senate on Janu-
21 ary 19, 2021, and in subsequent written responses
22 to questions for the record, that he will oversee an
23 interagency review of whether the atrocities com-
24 mitted against the Rohingya in Burma constitute
25 genocide.

1 stitute genocide (as defined in section 1091 of title 18,
2 United States Code), and includes—

3 (1) a description and assessment of what ac-
4 tions the United States Government has undertaken
5 to ensure accountability for war crimes, crimes
6 against humanity, and genocide perpetrated by the
7 Burmese military and security forces against the
8 Rohingya;

9 (2) a detailed description of any proposed atroc-
10 ities prevention response recommended by the Atroc-
11 ity Early Warning Task Force to prevent further
12 perpetration of mass atrocity crimes by Burmese
13 military and security forces against the Rohingya
14 people and other civilians in Burma; and

15 (3) recommendations on what actions the
16 United States Government will take to hold those re-
17 sponsible for these atrocities accountable, including
18 through international justice mechanisms.

19 (b) FORM.— The evaluation required under sub-
20 section (a) shall be submitted in unclassified form and
21 posted to the Department of State website, but may in-
22 clude a classified annex as necessary.

23 (c) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
24 FINED.—In this section, the term “appropriate congres-
25 sional committees” means—

1 (1) the Committee on Foreign Relations, the
2 Committee on Armed Services, and the Committee
3 on Appropriations of the Senate; and

4 (2) and the Committee on Foreign Affairs, the
5 Committee on Armed Services, and the Committee
6 on Appropriations of the House of Representatives.