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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Rohingya Genocide Determination Act of 2021”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Since August 25, 2017, 740,000 Rohingya have fled northern Rakhine State to neighboring...
Bangladesh to escape a systematic campaign of atrocities by Burma’s military and security forces, and over three years later, conditions are still not conducive to the safe, voluntary, and dignified return of the Rohingya to Burma.

(2) On November 23, 2017, the United States Holocaust Museum and Fortify Rights released a report entitled “They Tried to Kill Us All”, documenting widespread and systematic atrocities committed against Rohingya civilians at the hands of Burmese “security forces, civilian perpetrators, and militants” and highlighting “growing evidence of genocide”.

(3) According to the Department of State’s August 24, 2018, report entitled “Documentation of Atrocities in Northern Rakhine State”, violence committed by the Burmese military against the Rohingya, including from August to October 2017, was not only “extreme, large-scale, widespread, and seemingly geared toward both terrorizing the population and driving out the Rohingya residents,” but also “well-planned and coordinated”.

(4) On August 28, 2018, the United States Ambassador to the United Nations told the United Nations Security Council that the Department of
State report’s findings were “consistent with” those in an August 27, 2018, report by the Independent International Fact-Finding Mission on Myanmar (IIFFMM) which urged that top Burmese military officials be investigated and prosecuted for genocide.

(5) On September 12, 2018, the IIFFMM reported, “The crimes in Rakhine State, and the manner in which they were perpetrated, are similar in nature, gravity and scope to those that have allowed genocidal intent to be established in other contexts.”.

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

(7) According to the PILPG report, “The scale and severity of the attacks and abuses—particularly the mass killings and accompanying brutality against children, women, pregnant women, the elderly, religious leaders, and persons fleeing into Bangladesh—suggest that, in the minds of the perpetra-
tors, the goal was not just to expel, but also to ex-
terminate the Rohingya.”.

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

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

(10) Secretary of State Antony Blinken com-
mitted at his nomination hearing before the Com-
mittee on Foreign Relations of the Senate on Janu-
ary 19, 2021, and in subsequent written responses
to questions for the record, that he will oversee an
interagency review of whether the atrocities com-
mitted against the Rohingya in Burma constitute
genocide.
(11) The Burmese military’s February 1, 2021, coup against the democratically elected government in Burma further underscores the importance of the United States speaking out forcefully against human rights violations when they occur, sending a clear signal to governments and other nongovernmental actors around the world that those responsible for such gross abuses of human rights will always be held accountable.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that the atrocities committed against the Rohingya by the Burmese military and security forces constitute genocide.

SEC. 4. EVALUATION OF ATTACKS AGAINST ROHINGYA IN BURMA.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, after consultation with the heads of other United States Government agencies represented on the Atrocity Early Warning Task Force and representatives of human rights and civil society organizations, as appropriate, shall submit to the appropriate congressional committees a report on the persecution of, including attacks against, the Rohingya in Burma by Burmese military and security forces that determines whether the crimes committed con-
stitute genocide (as defined in section 1091 of title 18, United States Code), and includes—

(1) a description and assessment of what actions the United States Government has undertaken to ensure accountability for war crimes, crimes against humanity, and genocide perpetrated by the Burmese military and security forces against the Rohingya;

(2) a detailed description of any proposed atrocities prevention response recommended by the Atrocity Early Warning Task Force to prevent further perpetration of mass atrocity crimes by Burmese military and security forces against the Rohingya people and other civilians in Burma; and

(3) recommendations on what actions the United States Government will take to hold those responsible for these atrocities accountable, including through international justice mechanisms.

(b) FORM.— The evaluation required under subsection (a) shall be submitted in unclassified form and posted to the Department of State website, but may include a classified annex as necessary.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—
(1) the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate; and

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