

116TH CONGRESS
1ST SESSION

H. R. 3212

To amend the Foreign Assistance Act of 1961 to include in the Annual Country Reports on Human Rights Practices a section on conflict-related sexual and gender-based violence, to amend the Global Magnitsky Human Rights Accountability Act to authorize the President to impose economic sanctions and a visa ban on the leader of an organization that commits sexual or gender-based violence.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2019

Ms. PINGREE (for herself, Ms. SPEIER, Ms. KUSTER of New Hampshire, Ms. OMAR, Ms. MENG, and Ms. FRANKEL) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Foreign Assistance Act of 1961 to include in the Annual Country Reports on Human Rights Practices a section on conflict-related sexual and gender-based violence, to amend the Global Magnitsky Human Rights Accountability Act to authorize the President to impose economic sanctions and a visa ban on the leader of an organization that commits sexual or gender-based violence.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Accountability for Sexual
3 ual and Gender-based Violence as a Tool in Conflict Act
4 of 2019”.

5 **SEC. 2. FINDINGS.**

6 Congress makes the following findings:

7 (1) The United States, as a permanent member
8 of the United Nations Security Council, voted in
9 favor of Security Council Resolutions 1325 (2000);
10 1820 (2008); 1888 (2009); 1960 (2010); 2106
11 (2013); 2242 (2015); and 2331 (2016), which state
12 that acts of sexual violence and human trafficking
13 threaten international peace and security and can
14 constitute war crimes, crimes against humanity, acts
15 of genocide, and terrorism.

16 (2) The United States is a signatory to the G8
17 Declaration on Preventing Sexual Violence in Con-
18 flict, done in London April 11, 2013, and sponsored
19 by the United Kingdom’s Foreign & Commonwealth
20 Office’s Preventing Sexual Violence Initiative. The
21 United States and its allies declared that concerns
22 related to sexual violence in armed conflict must be
23 part of peace and security efforts, post-conflict tran-
24 sition and reform measures, and accountability proc-
25 esses.

1 (3) Despite these advances in normative frame-
2 works, sexual and gender-based violence continues to
3 be pervasive, and the responses from governments
4 and the international community range from insuffi-
5 cient and inadequate to negligent and complicit, as
6 documented in United Nations' reports.

7 (4) Gender-based violence, including sexual vio-
8 lence—

9 (A) is a global pandemic that affects 1 in
10 3 women during their lifetimes; and

11 (B) occurs at higher rates in conflict-af-
12 fected areas.

13 (5) Incidences of domestic violence, child, early,
14 or forced marriages, human trafficking, and other
15 forms of sexual and gender-based violence within
16 displaced or conflict-affected communities—

17 (A) increase during conflict due to exacer-
18 bated social tensions and underlying gender in-
19 equalities that existed in communities prior to
20 such conflict; and

21 (B) occur in parallel to sexual and gender-
22 based violence perpetrated as a weapon of war.

23 (6) Gender-based violence is underreported in
24 all settings. Recorded cases of gender-based violence
25 represent only a small fraction of the overall total.

1 A lack of available data should not be interpreted to
2 mean that gender-based violence is not a major and
3 pressing issue, but should be viewed as an indication
4 of the challenges in gathering information.

5 (7) Rape and sexual assault have been used as
6 tactics of war and terror in conflict zones, including
7 Burma, Central African Republic, Colombia, the
8 Democratic Republic of Congo, Iraq, Mali, Somalia,
9 South Sudan, Sudan, and Syria.

10 (8) Rape, sexual slavery, and other forms of
11 sexual violence have been used by terrorist and ex-
12 tremist groups, such as the so-called Islamic State,
13 Boko Haram, and the Lord's Resistance Army, to
14 intimidate and terrorize communities.

15 (9) Sexual and gender-based violence in recent
16 conflicts has been used in Iraq, Syria, and Burma
17 as a form of ethnic or religious persecution or geno-
18 cide against Yazidis, Christians, Turkmen Shi'a, and
19 Rohingya Muslims.

20 (10) The Secretary-General of the United Na-
21 tions stated that sexual violence in conflict triggers
22 mass migration and forced displacement.

23 (11) Sexual and gender-based violence in con-
24 flict is primarily used against women and girls, but
25 can also be used against men and boys.

1 (12) Sexual and gender-based violence is not in-
2 cidental to conflict and is a weapon of choice for
3 armed actors seeking to destabilize societies, given
4 that its stigma and trauma continue after the con-
5 flict has ended.

6 (13) Existing laws often fail to protect sur-
7 vivors of conflict-related sexual or gender-based vio-
8 lence, especially when the perpetrators are represent-
9 atives of government entities, such as military offi-
10 cers, soldiers, or non-state actors operating in areas
11 where governments have failed to keep the peace.

12 (14) Under the doctrine of military command
13 responsibility, leaders can be prosecuted for war
14 crimes when they—

15 (A) knew or should have known that their
16 subordinates were committing war crimes; and

17 (B) failed to take all necessary and reason-
18 able measures to prevent such crimes or inves-
19 tigate and prosecute those responsible for such
20 crimes.

21 (15) Courts with jurisdiction over war crimes
22 may be nonexistent, may lack capacity, or may be
23 subject to the same political failings that allowed
24 conflict-related sexual or gender-based violence to
25 take place. While the United Nations Security Coun-

1 cil could refer a case to the International Criminal
2 Court, it is constrained by the prospects of a veto.

3 (16) Convicting and imprisoning top military
4 leaders with command or superior responsibility for
5 rape or other forms of sexual and gender-based vio-
6 lence in conflict is essential to deter future crimes of
7 sexual violence. Further support to civil society,
8 grassroots organizations, women-led organizations,
9 and justice actors is necessary to combat sexual vio-
10 lence and provide services and support to survivors.
11 The landmark decision on December 15, 2017, by
12 military justice authorities in the Democratic Repub-
13 lic of the Congo for the conviction of a provincial
14 parliamentarian and members of the “Army of
15 Jesus” militia for the crimes against humanity of
16 rape of dozens of children in Kavumu, Democratic
17 Republic of the Congo is a significant step for end-
18 ing impunity for sexual violence.

19 (17) The United Nations Office of the Special
20 Representative of the Secretary-General on Sexual
21 Violence in Conflict and the United Nations Team of
22 Experts on the Rule of Law and Sexual Violence in
23 Conflict were established by Security Council Reso-
24 lution 1888 (2009) to work toward providing sup-

1 port to survivors of sexual violence in conflict and
2 ending impunity for these heinous crimes.

3 (18) The United Nations Secretary-General's
4 annual report to the United Nations Security Coun-
5 cil on conflict-related sexual violence lists "parties
6 credibly suspected of committing or being respon-
7 sible for patterns of rape or other forms of sexual
8 violence in situations of armed conflict on the agen-
9 da of the Security Council" in its annex. This listing
10 mechanism is an essential tool to promote compli-
11 ance with the provisions of the United Nations Secu-
12 rity Council resolutions referred to in paragraph (1).

13 **SEC. 3. STATEMENT OF POLICY.**

14 It is the policy of the United States—

15 (1) to take effective action to prevent and to re-
16 spond to sexual and gender-based violence around
17 the world, particularly when related to conflict, as a
18 matter of promoting basic human rights;

19 (2) to hold accountable leaders who fail to pre-
20 vent, respond to, investigate, and prosecute sexual
21 and gender-based violence; and

22 (3) to support survivors of conflict-related sex-
23 ual and general based violence.

1 **SEC. 4. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS**
2 **PRACTICES.**

3 (a) SAVINGS PROVISION.—The additional reporting
4 requirements added under sections 116(d) and 502B(h)
5 of the Foreign Assistance Act of 1961 (22 U.S.C.
6 2151n(d) and 2304(h)) should not be considered as a sub-
7 stitute for comprehensive reporting on sexual and gender-
8 based violence in non-conflict settings. Such information
9 should continue to be robustly reported on in the annual
10 Country Reports on Human Rights Practices with any
11 linkages and connections between these areas of reporting
12 drawn through internal references amongst the various
13 sections of each individual Country Report.

14 (b) COUNTRIES RECEIVING ECONOMIC ASSIST-
15 ANCE.—Section 116(d) of the Foreign Assistance Act of
16 1961 (22 U.S.C. 2151n(d)) is amended—

17 (1) by redesignating paragraphs (9), (10), (11),
18 and (12) as paragraphs (10), (11), (12), and (13),
19 respectively; and

20 (2) by inserting after paragraph (8) the fol-
21 lowing:

22 “(9)(A) a description of sexual and gender-
23 based violence, including conflict-related sexual and
24 gender-based violence and sexual assault (as defined
25 in section 40002 of the Violence Against Women Act
26 of 1994 (34 U.S.C. 12291)) or rape (as defined in

1 section 2441 of title 18, United States Code), as a
2 tool of terror or war, in each foreign country;

3 “(B) consolidated information regarding the
4 commission of war crimes, crimes against humanity,
5 and evidence of acts that may constitute genocide
6 (as defined in article 2 of the Convention on the
7 Prevention and Punishment of the Crime of Geno-
8 cide and modified by section 2(a) of the Genocide
9 Convention Implementation Act of 1987 (the Prox-
10 mire Act));

11 “(C) with respect to each country in which
12 there is sexual and gender-based violence, especially
13 as a result of conflict or where rape or sexual vio-
14 lence has been used as a tool of terror or war by
15 state or non-state actors, an assessment of the ef-
16 forts by the government of that country to combat
17 such violence, including an assessment of—

18 “(i) whether governmental authorities in
19 that country participate in, facilitate, or con-
20 done sexual and gender-based violence;

21 “(ii) the steps the government of that
22 country has taken to prohibit government offi-
23 cials, including military officers and non-state
24 actors from participating in, facilitating, or
25 condoning sexual and gender-based violence, in-

cluding the investigation, prosecution, and conviction of such officials;

“(iii) the steps the government of that country has taken to assist survivors of gender or sexual-based violence, including efforts to prevent survivors from being further victimized by perpetrators, government officials, or others, and provision of humanitarian relief, including provision of comprehensive health care services, including mental, sexual, and reproductive health services, and other physical health care and reparation; and

“(iv) whether the government of that country recognizes the rights of survivors of sexual and gender-based violence and ensures their access to justice; and

“(D) such other information relating to sexual and gender-based violence, including conflict-related violence, as the Secretary of State considers appropriate.”.

(c) COUNTRIES RECEIVING SECURITY ASSISTANCE.—Section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304) is amended—

(1) by redesignating the second subsection (i) (relating to child marriage) as subsection (j); and

1 (2) by adding at the end the following:

2 “(k) SEXUAL AND GENDER-BASED VIOLENCE.—

3 Each report required under subsection (b) shall include—

4 “(1) a description of the nature and extent of
5 sexual and gender-based violence, including conflict-
6 related sexual and gender-based violence and sexual
7 assault (as defined in section 40002 of the Violence
8 Against Women Act of 1994 (34 U.S.C. 12291)) or
9 rape (as defined in section 2441 of title 18, United
10 States Code) as a tool or terror or war, in each for-
11 eign country;

12 “(2) consolidated information regarding the
13 commission of war crimes, crimes against humanity,
14 and evidence of acts that may constitute genocide
15 (as defined in article 2 of the Convention on the
16 Prevention and Punishment of the Crime of Geno-
17 cide and modified by section 2(a) of the Genocide
18 Convention Implementation Act of 1987 (the Prox-
19 mire Act));

20 “(3) with respect to each country in which
21 there is sexual and gender-based violence, especially
22 as a result of conflict or where rape or sexual as-
23 sault has been used as a tool of terror or war by
24 state or non-state actors, an assessment of the ef-

1 forts by the government of that country to combat
2 such violence, including an assessment of—

3 “(A) whether governmental authorities in
4 that country participate in, facilitate, or con-
5 done sexual and gender-based violence;

6 “(B) what steps the government of that
7 country has taken to prohibit government offi-
8 cials, including military officers, and non-state
9 actors from participating in, facilitating, or
10 condoning sexual and gender-based violence, in-
11 cluding the investigation, prosecution, and con-
12 viction of such officials;

13 “(C) what steps the government of that
14 country has taken to assist victims of sexual
15 and gender-based violence, including efforts to
16 prevent survivors from being further victimized
17 by perpetrators, government officials, or others,
18 and provision of humanitarian relief, including
19 provision of comprehensive health services, in-
20 cluding mental, sexual, and reproductive health
21 services, and other physical health care and rep-
22 aration; and

23 “(D) whether the government of that coun-
24 try recognizes the rights of survivors of sexual

1 and gender-based violence and ensures their ac-
 2 cess to justice; and

3 “(4) such other information relating to sexual
 4 and gender-based violence, including conflict-related
 5 sexual and gender-based violence, as the Secretary of
 6 State considers appropriate.”.

7 **SEC. 5. ACTIONS AGAINST PERPETRATORS OF CONFLICT-**
 8 **BASED SEXUAL AND GENDER-BASED VIO-**
 9 **LENCE.**

10 (a) **SANCTIONS.**—Section 1263(a)(1) of the Global
 11 Magnitsky Human Rights Accountability Act (22 U.S.C.
 12 2656 note) is amended, in the matter preceding subpara-
 13 graph (A), by inserting “sexual and gender-based vio-
 14 lence,” after “torture,”.

15 (b) **TRAVEL RESTRICTIONS.**—Section 7031(c)(1)(A)
 16 of the Department of State, Foreign Operations, and Re-
 17 lated Programs Appropriations Act, 2019 (division F of
 18 the Consolidated Appropriations Act, 2019; Public Law
 19 116–6) is amended by inserting “, including sexual or gen-
 20 der-based violence,” after “human rights”.

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