

116TH CONGRESS
1ST SESSION

H. R. 3190

To authorize humanitarian assistance and impose sanctions with respect to human rights abuses in Burma, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2019

Mr. ENGEL (for himself and Mr. CHABOT) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Armed Services, the Judiciary, Financial Services, and Ways and Means, 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 authorize humanitarian assistance and impose sanctions with respect to human rights abuses in Burma, 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 “Burma Unified through Rigorous Military Accountability
6 Act of 2019” or the “BURMA Act of 2019”.

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. Definitions.
 Sec. 3. Findings.

TITLE I—MATTERS RELATING TO THE CONFLICT IN BURMA

- Sec. 101. Statement of policy.
 Sec. 102. Sense of Congress with respect to humanitarian assistance, freedom of movement, and rights of returnees.
 Sec. 103. Sense of Congress on freedoms of press and association.
 Sec. 104. Imposition of sanctions for the violation of human rights.

TITLE II—ASSISTANCE AND SANCTIONS WITH RESPECT TO BURMA

- Sec. 201. Authorization to provide humanitarian assistance.
 Sec. 202. Limitation on security assistance and security cooperation.
 Sec. 203. Imposition of sanctions with respect to human rights abuses in Burma.

TITLE III—GOVERNANCE OF THE BURMESE MINING AND GEMSTONE SECTORS

- Sec. 301. Sense of Congress on the mining sector of Burma.
 Sec. 302. Guidance relating to responsibility and transparency in the mining sector of Burma.

TITLE IV—ACCOUNTABILITY FOR HUMAN RIGHTS ABUSES AND STRATEGY FOR ECONOMIC GROWTH

- Sec. 401. Report on accountability for war crimes, crimes against humanity, and genocide in Burma.
 Sec. 402. Authorization to provide technical assistance for efforts against human rights abuses.
 Sec. 403. Strategy for promoting economic development in Burma.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) APPROPRIATE CONGRESSIONAL COMMIT-
 4 TEES.—The term “appropriate congressional com-
 5 mittees” means—

6 (A) the Committee on Foreign Affairs and
 7 the Committee on Armed Services of the House
 8 of Representatives; and

1 (B) the Committee on Foreign Relations
2 and the Committee on Armed Services of the
3 Senate.

4 (2) CRIMES AGAINST HUMANITY.—The term
5 “crimes against humanity” includes, when com-
6 mitted as part of a widespread or systematic attack
7 directed against any civilian population, with knowl-
8 edge of the attack—

9 (A) murder;

10 (B) deportation or forcible transfer of pop-
11 ulation;

12 (C) torture;

13 (D) extermination;

14 (E) enslavement;

15 (F) rape, sexual slavery, or any other form
16 of sexual violence of comparable severity;

17 (G) persecution against any identifiable
18 group or collectivity on political, racial, na-
19 tional, ethnic, cultural, religious, gender, or
20 other grounds that are universally recognized as
21 impermissible under international law; and

22 (H) enforced disappearance of persons.

23 (3) GENOCIDE.—The term “genocide” means
24 any offense described in section 1091(a) of title 18,
25 United States Code.

1 (4) TRANSITIONAL JUSTICE.—The term “tran-
2 sitional justice” means the range of judicial, non-
3 judicial, formal, informal, retributive, and restorative
4 measures employed by countries transitioning out of
5 armed conflict or repressive regimes to redress leg-
6 acies of atrocities and to promote long-term, sustain-
7 able peace.

8 (5) WAR CRIME.—The term “war crime” has
9 the meaning given the term in section 2441(c) of
10 title 18, United States Code.

11 **SEC. 3. FINDINGS.**

12 Congress finds the following:

13 (1) On August 25, 2017, Burmese military and
14 security forces violently and disproportionately re-
15 sponded to an attack on security outposts, resulting
16 in a mass exodus of Rohingya from the Rakhine
17 State of Burma into Bangladesh, which the Inter-
18 national Organization of Migration called “unprece-
19 dented in terms of volume and speed”.

20 (2) Between August 2017 and March 2019, in
21 response to the violence perpetrated by the Burmese
22 military and security forces, the United Nations esti-
23 mates more than 740,000 Rohingya, approximately
24 75 percent of whom are women and children, have
25 fled to Bangladesh, fearing loss of life, livelihoods,

1 and shelter. Rohingya have continued to flee Burma
2 in significant numbers, including in 2019. According
3 to the United Nations High Commissioner for Refu-
4 gees, more than 1,400 Rohingya have arrived in
5 Bangladesh since January 1, 2019.

6 (3) Even after the Burmese military scaled
7 back attacks against Rohingya in late 2017, security
8 forces continued to impose restrictions on the basic
9 freedoms of Rohingya in Rakhine State, including on
10 freedom of movement. In November 2017, Amnesty
11 International determined that Rohingya remaining
12 in Rakhine are “trapped in a vicious system of state-
13 sponsored, institutionalized discrimination that
14 amounts to apartheid”.

15 (4) Despite the steps taken toward democracy
16 in Burma, there exists limited control by the civilian
17 government over civilian agencies as well as military
18 and security forces that carried out the violence in
19 Rakhine State. The military and security forces con-
20 tinue to engage in grave human rights abuses
21 against ethnic minorities throughout in the country.

22 (5) Both government- and military-initiated in-
23 vestigations into human rights abuses in Burma in-
24 volving violence between ethnic minorities and Bur-

1 mese security forces have failed to yield credible re-
2 sults or hold perpetrators accountable.

3 (6) In a public address on October 12, 2017,
4 State Counsellor Aung San Suu Kyi laid out the fol-
5 lowing goals for the State of Rakhine:

6 (A) Repatriation of those who have crossed
7 over to Bangladesh.

8 (B) Effective provision of humanitarian as-
9 sistance.

10 (C) Resettlement of displaced populations.

11 (D) Economic development and durable
12 peace.

13 (7) Due to restrictions enforced by the Rakhine
14 State government and the national military and se-
15 curity forces, there has been little progress made
16 since that time and limited ability for the inter-
17 national community to support, verify, or evaluate
18 the Government of Burma's efforts. There are also
19 credible reports of Burmese military and security
20 forces bulldozing numerous villages where violence
21 occurred, thus destroying physical evidence, and in
22 some cases, constructing new military installations
23 on top of the bulldozed villages.

24 (8) On November 22, 2017, former Secretary of
25 State Rex Tillerson stated that "After a careful and

1 thorough analysis of available facts, it is clear that
2 the situation in northern Rakhine state constitutes
3 ethnic cleansing against the Rohingya. Those re-
4 sponsible for these atrocities must be held account-
5 able”. He also said the violence “has a number of
6 characteristics of certainly crimes against human-
7 ity”. Despite repeated requests from Members of
8 Congress, as well as the result of its own investiga-
9 tion (the executive summary of which was released
10 on September 17, 2018), the Department has de-
11 clined to make a determination if the atrocities in
12 Rakhine State constitute genocide or crimes against
13 humanity.

14 (9) On December 12, 2017, Wa Lone and
15 Kyaw Soe Oo, two Reuters reporters covering the
16 crisis in Rakhine State, were entrapped, arrested,
17 and charged with violating the Official Secrets Act,
18 continuing a trend of restricting media and free
19 speech and attempting to thwart coverage of the
20 events in Rakhine State.

21 (10) Another barrier to the voluntary, safe, dig-
22 nified and sustainable return of the Rohingya to
23 Rakhine State is the refusal of the Government of
24 Burma to reinstate the full citizenship of the
25 Rohingya, as well as the Government’s unwillingness

1 to consider the repeal of or amendments to the Citi-
2 zenship Act of 1982 that stripped the Rohingya of
3 their full citizenship.

4 (11) During 2018, the ongoing conflict in
5 Burma escalated in Kachin and Shan States, re-
6 ignited in Karen (Kayin) State, and spread into
7 Chin and Rakhine States. Along with the increase in
8 fighting between Burma's security forces and several
9 ethnic armed organizations, there was a rise in alle-
10 gations of human rights abuses perpetrated by Bur-
11 mese security forces in these conflict areas.

12 (12) In April 2018, thousands of civilians fled
13 fighting between the military and ethnic armed
14 groups in Kachin State, prompting peaceful dem-
15 onstrations. In December 2018, three prominent ac-
16 tivist in Kachin State, Lum Zawng, Nang Pu and
17 Zau Jet were convicted and sentenced to six months
18 imprisonment for defaming the military.

19 (13) On June 6, 2018, the United Nations Ref-
20 ugee Agency and the United Nations Development
21 Programme signed a tripartite Memorandum of Un-
22 derstanding with Burma. The Office of the United
23 Nations High Commissioner for Refugees and var-
24 ious international human rights and international re-
25 lief agencies agreed that conditions in Rakhine State

1 are not sufficient for the voluntary, safe, dignified,
2 and sustainable return of the Rohingya.

3 (14) The United Nations Independent Inter-
4 national Fact-Finding Mission on Myanmar, the De-
5 partment of State, and more than a dozen human
6 rights organizations have reported and documented
7 a campaign of violence perpetrated by the security
8 forces of Burma, which indiscriminately fired on and
9 killed civilians, raped women and girls, and arrested
10 Rohingya men without any cause or charges. Sat-
11 ellite images obtained by Amnesty International re-
12 veal that, out of the approximately 470 villages in
13 northern Rakhine State, nearly 300 were partially or
14 completely destroyed by fire since August 25, 2017,
15 most of which were completely or partially populated
16 by Rohingya Muslims.

17 (15) In its report of September 17, 2018, the
18 United Nations Independent International Fact-
19 Finding Mission on Myanmar determined that there
20 was sufficient evidence of “genocidal intent” in the
21 attacks against the Rohingya in Rakhine State, and
22 probable “crimes against humanity” and “war
23 crimes” in Burmese security forces assaults on eth-
24 nic minorities in Kachin and Shan States. The Mis-
25 sion recommended that the United Nations Security

1 Council “should ensure accountability for crimes
2 under international law committed in Myanmar,
3 preferably by referring the situation to the Inter-
4 national Criminal Court or alternatively by creating
5 an ad hoc international criminal tribunal”. The Mis-
6 sion also recommended the imposition of targeted
7 economic sanctions, including an arms embargo on
8 Burma.

9 (16) On September 3, 2018, Wa Lone and
10 Kyaw Soe Oo were convicted and sentenced to seven
11 years in prison and released as an act of Presi-
12 dential amnesty on May 6, 2019, after over 500
13 days in jail. Time Magazine included pictures the
14 two reporters on the cover of its “Person of the
15 Year” issue on December 10, 2018, as two of the
16 “Guardians and the War on Truth”.

17 (17) According to the free-speech organization
18 Athan, 44 journalists and 142 activists have faced
19 trial since 2016 charged with colonial-era laws used
20 to stifle dissent, while tightening restrictions on ac-
21 tivist groups.

22 (18) On September 28, 2018, the United Na-
23 tions Human Rights Council passed a resolution
24 that calls for an independent mechanism to collect
25 and analyze evidence in regard to the serious inter-

1 national crimes committed in Burma against
2 Rohingya Muslims and other minorities since 2011.
3 The resolution requests that the independent mecha-
4 nism “prepare files in order to facilitate and expe-
5 dite fair and independent criminal proceedings, in
6 accordance with international law standards, in na-
7 tional, regional or international courts or tribunals
8 that have or may in the future have jurisdiction over
9 these crimes”.

10 (19) On November 15, 2018, the Government
11 of Bangladesh and the Government of Burma aban-
12 doned plans to return more than 2,000 Rohingya to
13 Rakhine State after it was determined that none
14 were willing to voluntarily return given the current
15 conditions in Rakhine State, as well as the Govern-
16 ment of Burma’s failure to ensure the returnees’
17 safety, dignity, or sustainability of their livelihoods.

18 (20) A December 2018 report by the Public
19 Law Interest & Policy group noted that “the de-
20 struction of their villages, crops, and virtually all in-
21 frastructure clearly points to a strategy of ensuring
22 the Rohingya’s permanent removal. The mass
23 killings and accompanying brutality, including
24 against children, women, pregnant women, the elder-
25 ly, and those crossing the border to Bangladesh fur-

1 ther suggest, however, that, at least in the minds of
2 some perpetrators, the goal was not only to expel,
3 but also to exterminate the Rohingya . . .” and that
4 “there are reasonable grounds to believe that crimes
5 against humanity, genocide, and war crimes have
6 been committed against the Rohingya in Myanmar’s
7 northern Rakhine State”.

8 (21) Despite substantial evidence of widespread
9 and systematic atrocities committed by Burmese se-
10 curity forces in Rakhine State, State Counselor
11 Aung San Suu Kyi and Burma’s Commander-in-
12 Chief Senior General Min Aung Hlaing continue to
13 maintain that no such widespread and systematic
14 atrocities occurred.

15 (22) On December 13, 2018, the United States
16 House of Representatives passed House Resolution
17 1091 (115th Congress) which expressed the sense of
18 the House that “the atrocities committed against the
19 Rohingya by the Burmese military and security
20 forces since August 2017 constitute crimes against
21 humanity and genocide” and called upon the Sec-
22 retary of State to review the available evidence and
23 make a similar determination.

24 (23) On December 19, 2018, the United Na-
25 tions Humanitarian Coordinator requested

1 \$202,000,000 for the 2019 Humanitarian Response
2 Plan for Burma.

3 (24) The 2019 Joint Response Plan for the
4 Rohingya Humanitarian Crisis asks the inter-
5 national community to provide \$20,500,000 in as-
6 sistance to meet needs in Bangladesh.

7 (25) On May 14, 2019, the United Nations
8 Fact-Finding Mission on Myanmar urged all coun-
9 tries to cut off economic ties to Burma’s military-
10 owned businesses, stating “. . . due to the gravity
11 of past and continuing violations, attention must be
12 given to the political, economic and financial ties of
13 the Myanmar military . . . so we can cut off the
14 money supply as a means of increasing pressure and
15 reducing the violence.”.

16 **TITLE I—MATTERS RELATING** 17 **TO THE CONFLICT IN BURMA**

18 **SEC. 101. STATEMENT OF POLICY.**

19 It is the policy of the United States as follows:

20 (1) To support a complete transition to democ-
21 racy and genuine national reconciliation in Burma,
22 including accountability for the atrocities committed
23 by the Burmese military against the Rohingya popu-
24 lation and other ethnic minorities throughout the
25 country.

1 (2) To pursue a United States strategy of cali-
2 brated engagement, which is essential to support the
3 establishment of a peaceful, prosperous, and demo-
4 cratic Burma that includes respect for the human
5 rights of all its people regardless of ethnicity and re-
6 ligion.

7 (3) To ensure that the guiding principles of
8 such a strategy include—

9 (A) supporting legal reforms, removing re-
10 maining restrictions on civil and political rights,
11 and ensuring civilian governance, including re-
12 forms to the current constitutional provision re-
13 serving 25 percent of parliamentary seats for
14 appointments by the military, which provides
15 the military with veto power over constitutional
16 amendments;

17 (B) establishing a fully democratic, plural-
18 istic, and representative political system that in-
19 cludes free, fair, and democratic elections in
20 which all people of Burma can vote;

21 (C) promoting national reconciliation and
22 the conclusion of a nationwide cease-fire agree-
23 ment, including the development of a political
24 system that is inclusive of ethnic Rohingya,
25 Shan, Kachin, Chin, Karen, and other ethnic

1 groups, measures to address natural resource
2 governance, revenue-sharing, land rights, and
3 constitutional change enabling inclusive peace;

4 (D) ensuring accountability through inde-
5 pendent international investigations of genocide,
6 war crimes, and crimes against humanity, in-
7 cluding sexual and gender-based violence, per-
8 petrated against the Rohingya and other ethnic
9 minorities by the military and security forces of
10 Burma, violent extremist groups and other com-
11 batants involved in the conflict;

12 (E) strengthening Burma's civilian govern-
13 mental institutions, including support for great-
14 er transparency and accountability;

15 (F) encouraging the establishment of pro-
16 fessional military, security, and police forces
17 that operate under civilian control and are held
18 accountable for human rights abuses, corrup-
19 tion, or other abuses of power;

20 (G) combating corruption and illegal eco-
21 nomic activity, including that which involves the
22 military and its close allies;

23 (H) empowering local communities, civil
24 society, and independent media;

1 (I) encouraging the provision of full citi-
2 zenship for the Rohingya population in Burma,
3 as well as durable solutions for those displaced
4 in Bangladesh;

5 (J) promoting responsible international
6 and regional engagement;

7 (K) strengthening respect for and protec-
8 tion of human rights and religious freedom; and

9 (L) promoting broad-based, inclusive eco-
10 nomic development and fostering healthy and
11 resilient communities.

12 **SEC. 102. SENSE OF CONGRESS WITH RESPECT TO HUMANI-**
13 **TARIAN ASSISTANCE, FREEDOM OF MOVE-**
14 **MENT, AND RIGHTS OF RETURNEES.**

15 (a) SENSE OF CONGRESS.—It is the sense of Con-
16 gress that—

17 (1) significant and sustained international fund-
18 ing, from both public and private sources, is nec-
19 essary to address the medium- and long-term im-
20 pacts of the crisis in Burma and the impact of the
21 crisis on Bangladesh; and

22 (2) the United States should make resolving the
23 Rohingya crisis one of its top priorities in its en-
24 gagement with regional institutions, such as the As-
25 sociation of Southeast Asian Nations.

1 (b) RESTORATION OF HUMANITARIAN ACCESS AND
2 ACCOUNTABILITY IN RAKHINE STATE.—Congress calls on
3 the Government of Burma, including the Burmese military
4 and security forces, to ensure full humanitarian access to
5 the State of Rakhine and to cooperate with the ongoing
6 international mechanism set up by the United Nations
7 Human Rights Council in September 2018 and funded by
8 the United Nations General Assembly to gather evidence
9 and other information pertaining to allegations of crimes
10 against humanity and genocide committed in Burma.

11 (c) RIGHTS OF REFUGEES, INTERNALLY DISPLACED
12 PERSONS, AND RETURNEES.—

13 (1) BURMA.—Congress calls on the Government
14 of Burma to—

15 (A) ensure that Rohinyga in Burma have
16 freedom of movement;

17 (B) create conditions for return of those
18 displaced from their homes and implement the
19 recommendations of the Advisory Commission
20 on Rakhine State, which includes full and equal
21 citizenship;

22 (C) work closely with the international
23 community, including the United Nations High
24 Commissioner for Refugees, to ensure the dig-
25 nified, safe, sustainable and voluntary return of

1 all those displaced from their homes, especially
2 from Rakhine State, without an unduly high
3 burden of proof; and

4 (D) offer compensation or restitution to
5 those refugees who do not want to return to
6 their homes.

7 (2) BANGLADESH.—Congress calls on the Gov-
8 ernment of Bangladesh to—

9 (A) ensure that the rights of refugees are
10 protected, including through allowing them to
11 build more permanent shelters, and ensuring
12 equal access to healthcare, basic services, edu-
13 cation and work;

14 (B) work closely with the international
15 community, including the United Nations High
16 Commissioner for Refugees, to ensure that any
17 repatriation or resettlement of refugees be dig-
18 nified, safe, sustainable and voluntary; and

19 (C) ensure that any relocation or local in-
20 tegration of refugees in Bangladesh be con-
21 sistent with international humanitarian prin-
22 ciples, including freedom of movement, and im-
23 plemented only through voluntary, fully in-
24 formed consent.

1 **SEC. 103. SENSE OF CONGRESS ON FREEDOMS OF PRESS**
2 **AND ASSOCIATION.**

3 It is the sense of Congress that, in order to promote
4 the freedom of the press and speech, the Government of
5 Burma should undertake serious legal reforms including
6 reform of the Official Secrets Act, 1923, the Unlawful As-
7 sociation Act, 1908, and the Penal Code.

8 **SEC. 104. IMPOSITION OF SANCTIONS FOR THE VIOLATION**
9 **OF HUMAN RIGHTS.**

10 The President shall impose sanctions—

11 (1) against officials in Burma, including Com-
12 mander in Chief of the Armed Forces of Myanmar
13 Min Aung Hlaing, under the Global Magnitsky
14 Human Rights Accountability Act (22 U.S.C. 2656
15 note); and

16 (2) against military-owned enterprises, includ-
17 ing the Myanmar Economic Corporation and Union
18 of Myanmar Economic Holding, under the Burmese
19 Freedom and Democracy Act (50 U.S.C. 1701 note),
20 the Tom Lantos Block Burmese JADE (Junta's
21 Anti-Democratic Efforts) Act of 2008 (50 U.S.C.
22 1701 note), and other relevant statutory authorities.

1 **TITLE II—ASSISTANCE AND**
2 **SANCTIONS WITH RESPECT**
3 **TO BURMA**

4 **SEC. 201. AUTHORIZATION TO PROVIDE HUMANITARIAN AS-**
5 **SISTANCE.**

6 There is authorized to be appropriated \$220,500,000
7 for fiscal year 2020 to provide humanitarian assistance
8 for Burma, Bangladesh, and the surrounding region, in-
9 cluding for the following purposes:

10 (1) Assisting the victims of the Burmese mili-
11 tary's crimes against humanity targeting Rohingya
12 and other ethnic minorities in Rakhine, Kachin, and
13 Shan States, including those displaced in Burma,
14 Bangladesh, Thailand, and the surrounding region.

15 (2) Supporting voluntary resettlement or repa-
16 triation of such displaced persons in Burma, upon
17 the conclusion of genuine agreements developed and
18 negotiated with the involvement and consultation of
19 such displaced persons.

20 (3) Assistance to promote ethnic and religious
21 tolerance, combat gender-based violence, and support
22 victims of violence and destruction in Rakhine,
23 Kachin, and Shan States.

24 (4) Supporting programs to investigate and
25 document allegations of war crimes, crimes against

1 humanity, and genocide committed in Burma, in-
2 cluding gender-based violence.

3 (5) Supporting access to education for children
4 currently living in refugee camps in the surrounding
5 region, and access to higher education in Ban-
6 gladesh.

7 (6) Assisting minority ethnic groups and civil
8 society in Burma to help sustain cease-fire agree-
9 ments and further prospects for reconciliation and
10 sustainable peace.

11 (7) Promoting ethnic minority inclusion and
12 participation in Burma's political processes.

13 **SEC. 202. LIMITATION ON SECURITY ASSISTANCE AND SE-**
14 **CURITY COOPERATION.**

15 (a) IN GENERAL.—Except as provided in subsection
16 (b), for the period beginning on the date of the enactment
17 of this Act and ending on the date described in subsection
18 (c), the United States may not provide any security assist-
19 ance or engage in any security cooperation with any of
20 the military or security forces of Burma.

21 (b) EXCEPTIONS; WAIVER.—

22 (1) EXCEPTIONS.—

23 (A) CERTAIN EXISTING AUTHORITIES.—

24 Notwithstanding subsection (a), the Secretary
25 of Defense shall retain the authority granted by

1 section 1253 of the Carl Levin and Howard P.
2 “Buck” McKeon National Defense Authoriza-
3 tion Act for Fiscal Year 2015 (22 U.S.C. 2151
4 note). The limitation in subsection (a) of this
5 section may not be construed to limit the au-
6 thority to provide the Government of Burma
7 with assistance necessary to make available the
8 activities described in subsection (a) of such
9 section 1253.

10 (B) HOSPITALITY.—Notwithstanding sub-
11 section (a), the Secretary of State and the
12 United States Agency for International Devel-
13 opment may provide assistance authorized
14 under part I of the Foreign Assistance Act of
15 1961 (22 U.S.C. 2151 et seq.) to provide hospi-
16 tality during research, dialogues, meetings, or
17 other activities by the parties attending the
18 Union Peace Conference 21st Century
19 Panglong or related processes seeking inclusive,
20 sustainable reconciliation.

21 (2) WAIVER.—The Secretary of State, with re-
22 spect to security assistance, and the Secretary of
23 State in consultation with the Secretary of Defense,
24 with respect to security cooperation programs and
25 activities of the Department of Defense, may waive

1 on a case-by-case basis the limitation under sub-
2 section (a) if the Secretary submits to the appro-
3 priate congressional committees, not later than 30
4 days before such waiver enters into effect—

5 (A) a list of the activities and participants
6 to which such waiver would apply;

7 (B) a certification, including a justifica-
8 tion, that the waiver is in the national security
9 interest of the United States; and

10 (C) a certification that none of the partici-
11 pants included in the list described in subpara-
12 graph (A) have committed any of the acts de-
13 scribed in subparagraph (A) or (B) of section
14 203(a)(1) or committed any other gross viola-
15 tion of human rights, as such term is defined
16 for purposes of section 362 of title 10, United
17 States Code.

18 (c) CERTIFICATION OF SIGNIFICANT PROGRESS.—
19 The date described in this subsection is the earlier of the
20 date that is 8 years after the date of the enactment of
21 this Act or the date on which the Secretary of State cer-
22 tifies to the appropriate congressional committees the fol-
23 lowing:

24 (1) The military and security forces of
25 Burma—

1 (A) have demonstrated significant progress
2 in abiding by international human rights stand-
3 ards and are undertaking meaningful security
4 sector reform, including reforms that enhance
5 transparency and accountability, to prevent fu-
6 ture abuses;

7 (B) adhere to international humanitarian
8 law;

9 (C) pledge to stop future human rights
10 abuses;

11 (D) support efforts to carry out com-
12 prehensive independent investigations of alleged
13 abuses;

14 (E) are taking steps to hold accountable
15 any members of such forces determined to be
16 responsible for human rights abuses; and

17 (F) cease their attacks against ethnic mi-
18 nority groups and participate in the conclusion
19 of a nationwide cease-fire agreement, political
20 accommodation, and constitutional change, in-
21 cluding the provision of citizenship to the
22 Rohingya.

23 (2) The Government of Burma, including the
24 military and security forces—

1 (A) allows full humanitarian access to
2 communities in areas affected by conflict, in-
3 cluding Rohingya communities in Rakhine
4 State;

5 (B) cooperates with the United Nations
6 High Commissioner for Refugees and organiza-
7 tions affiliated with the United Nations to en-
8 sure the protection of displaced persons and the
9 safe, voluntary, sustainable, and dignified re-
10 turn of refugees and internally displaced per-
11 sons;

12 (C) defines a transparent plan that in-
13 cludes—

14 (i) a timeline for professionalizing the
15 military and security forces; and

16 (ii) a process by which the military
17 withdraws from ownership or control of
18 private-sector business enterprises and
19 ceases involvement in the illegal trade in
20 natural resources and narcotics; and

21 (D) establishes civilian control over the fi-
22 nances and assets of its military and security
23 forces, including that military expenditures are
24 subject to civilian oversight.

25 (d) REPORT.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of the enactment of this Act, and an-
3 nually thereafter, the Secretary of Defense and the
4 Secretary of State shall submit to the appropriate
5 congressional committees a report on the strategy
6 and plans for military-to-military engagement be-
7 tween the United States Armed Forces and the mili-
8 tary and security forces of Burma.

9 (2) ELEMENTS REQUIRED.—The report re-
10 quired under paragraph (1) shall include the fol-
11 lowing:

12 (A) A description and assessment of the
13 Government of Burma’s strategy for security
14 sector reform, including any plans to withdraw
15 the military from owning or controlling private-
16 sector business entities and end involvement in
17 the illegal trade in jade and other natural re-
18 sources, reforms to end corruption and illicit
19 drug trafficking, and constitutional reforms to
20 ensure civilian control.

21 (B) A list of ongoing military activities
22 conducted by the United States Government
23 with the Government of Burma, and a descrip-
24 tion of the United States strategy for future
25 military-to-military engagements between the

1 United States and Burma's military and secu-
2 rity forces.

3 (C) An assessment of the progress of the
4 military and security forces of Burma towards
5 developing a framework to implement human
6 right reforms, including—

7 (i) cooperation with civilian authori-
8 ties and independent international inves-
9 tigations to investigate and prosecute cases
10 of human rights abuses;

11 (ii) steps taken to demonstrate respect
12 for and implementation of the laws of war;
13 and

14 (iii) a description of the elements of
15 the military-to-military engagement be-
16 tween the United States and Burma that
17 promote such implementation.

18 (D) An assessment of progress on the
19 peaceful settlement of armed conflicts between
20 the Government of Burma and ethnic minority
21 groups, including actions taken by the military
22 of Burma to adhere to cease-fire agreements,
23 allow for safe, voluntary, sustainable, and dig-
24 nified returns of displaced persons to their
25 homes, and withdraw forces from conflict zones.

1 (E) An assessment of the manner and ex-
2 tent to which the Burmese military recruits and
3 uses children as soldiers.

4 (F) An assessment of the Burmese's mili-
5 tary's use of violence against women, sexual vio-
6 lence, or other gender-based violence as a tool
7 of terror, war, or ethnic cleansing.

8 (e) FORM.—

9 (1) IN GENERAL.—The certification described
10 in subsection (c) and the report required by sub-
11 section (d) shall be submitted in unclassified form
12 but may include a classified annex.

13 (2) CERTIFICATION.—The certification de-
14 scribed in subsection (c) shall be accompanied by a
15 written justification in unclassified form, that may
16 contain a classified annex, describing the Burmese
17 military's efforts to implement reforms, end impu-
18 nity for human rights abuses, and increase trans-
19 parency and accountability.

20 **SEC. 203. IMPOSITION OF SANCTIONS WITH RESPECT TO**
21 **HUMAN RIGHTS ABUSES IN BURMA.**

22 (a) IN GENERAL.—For the 8-year period beginning
23 on the date that is 270 days after the date of the enact-
24 ment of this Act, the President shall impose the sanctions
25 described in subsection (b) with respect to each foreign

1 person that the President determines, based on credible
2 evidence—

3 (1) is a current or former senior official of the
4 military or security forces of Burma who—

5 (A) knowingly perpetrated, ordered, or oth-
6 erwise directed serious human rights abuses in
7 Burma; or

8 (B) has taken significant steps to impede
9 investigations or prosecutions of alleged serious
10 human rights abuses, including against the
11 Rohingya community in Rakhine State;

12 (2) is an entity owned or controlled by any per-
13 son described in paragraph (1);

14 (3) is an entity, such as the Myanmar Eco-
15 nomic Cooperation or the Myanmar Economic Hold-
16 ing Corporation, that is owned or controlled, directly
17 or indirectly, by the military or security forces of
18 Burma, including through collective or cooperative
19 structures, from which one or more persons de-
20 scribed in paragraph (1) derive significant revenue
21 or financial benefit; or

22 (4) has knowingly—

23 (A) provided significant financial, material,
24 or technological support—

1 (i) to a foreign person described in
2 paragraph (1) in furtherance of any of the
3 acts described in subparagraph (A) or (B)
4 of such paragraph; or

5 (ii) to any entity owned or controlled
6 by such person or an immediate family
7 member of such person; or

8 (B) received significant financial, material,
9 or technological support from a foreign person
10 described in paragraph (1) or an entity owned
11 or controlled by such person or an immediate
12 family member of such person.

13 (b) SANCTIONS DESCRIBED; EXCEPTIONS.—

14 (1) SANCTIONS.—The sanctions described in
15 this subsection are the following:

16 (A) ASSET BLOCKING.—Notwithstanding
17 the requirements of section 202 of the Inter-
18 national Emergency Economic Powers Act (50
19 U.S.C. 1701), the exercise of all powers granted
20 to the President by such Act to the extent nec-
21 essary to block and prohibit all transactions in
22 all property and interests in property of a for-
23 eign person the President determines meets one
24 or more of the criteria described in subsection
25 (a) if such property and interests in property

1 are in the United States, come within the
2 United States, or are or come within the pos-
3 session or control of a United States person.

4 (B) ALIENS INADMISSIBLE FOR VISAS, AD-
5 MISSION, OR PAROLE.—

6 (i) VISAS, ADMISSION, OR PAROLE.—

7 An alien who the Secretary of State or the
8 Secretary of Homeland Security (or a des-
9 ignee of one of such Secretaries) knows, or
10 has reason to believe, meets any of the cri-
11 teria described in subsection (a) is—

12 (I) inadmissible to the United
13 States;

14 (II) ineligible to receive a visa or
15 other documentation to enter the
16 United States; and

17 (III) otherwise ineligible to be
18 admitted or paroled into the United
19 States or to receive any other benefit
20 under the Immigration and Nation-
21 ality Act (8 U.S.C. 1101 et seq.).

22 (ii) CURRENT VISAS REVOKED.—

23 (I) IN GENERAL.—The issuing
24 consular officer or the Secretary of
25 State (or a designee of the Secretary

1 of State) shall, in accordance with
2 section 221(i) of the Immigration and
3 Nationality Act (8 U.S.C. 1201(i)),
4 revoke any visa or other entry docu-
5 mentation issued to an alien described
6 in clause (i) regardless of when the
7 visa or other entry documentation is
8 issued.

9 (II) EFFECT OF REVOCATION.—

10 A revocation under subclause (I) shall
11 take effect immediately and shall
12 automatically cancel any other valid
13 visa or entry documentation that is in
14 the alien's possession.

15 (2) EXCEPTION TO COMPLY WITH UNITED NA-
16 TIONS HEADQUARTERS AGREEMENT.—Sanctions
17 under paragraph (1)(B) shall not apply with respect
18 to an alien if admitting or paroling the alien into the
19 United States is necessary to permit the United
20 States to comply with the Agreement regarding the
21 Headquarters of the United Nations, signed at Lake
22 Success June 26, 1947, and entered into force No-
23 vember 21, 1947, between the United Nations and
24 the United States, or other applicable international
25 obligations.

1 (c) PENALTIES.—Any person that violates, attempts
2 to violate, conspires to violate, or causes a violation of this
3 section or any regulation, license, or order issued to carry
4 out subsection (b) shall be subject to the penalties set
5 forth in subsections (b) and (c) of section 206 of the Inter-
6 national Emergency Economic Powers Act (50 U.S.C.
7 1705) to the same extent as a person that commits an
8 unlawful act described in subsection (a) of that section.

9 (d) IMPLEMENTATION.—The President may exercise
10 all authorities provided under sections 203 and 205 of the
11 International Emergency Economic Powers Act (50
12 U.S.C. 1702 and 1704) to carry out this section and shall
13 issue such regulations, licenses, and orders as are nec-
14 essary to carry out this section.

15 (e) EXCEPTION RELATING TO THE IMPORTATION OF
16 GOODS.—

17 (1) IN GENERAL.—The authorities and require-
18 ments to impose sanctions authorized under this Act
19 shall not include the authority or requirement to im-
20 pose sanctions on the importation of goods.

21 (2) GOOD DEFINED.—In this subsection, the
22 term “good” means any article, natural or man-
23 made substance, material, supply or manufactured
24 product, including inspection and test equipment,
25 and excluding technical data.

1 (f) WAIVER.—The President may annually waive the
2 application of sanctions imposed on a foreign person pur-
3 suant to subsection (a) if the President—

4 (1) determines that a waiver with respect to
5 such foreign person is in the national interest of the
6 United States; and

7 (2) not later than the date on which such waiv-
8 er will take effect, submits to the following commit-
9 tees notice of and justification for such waiver:

10 (A) The Committee on Foreign Affairs, the
11 Committee on Appropriations, and the Com-
12 mittee on Financial Services of the House of
13 Representatives.

14 (B) The Committee on Foreign Relations,
15 the Committee on Appropriations, and the
16 Committee on Banking, Housing, and Urban
17 Affairs of the Senate.

18 (g) DEFINITIONS.—In this section—

19 (1) ADMITTED; ALIEN.—The terms “admitted”
20 and “alien” have the meanings given those terms in
21 section 101 of the Immigration and Nationality Act
22 (8 U.S.C. 1001).

23 (2) FOREIGN PERSON.—The term “foreign per-
24 son” means a person that is not a United States
25 person.

1 (3) KNOWINGLY.—The term “knowingly”
2 means, with respect to conduct, a circumstance, or
3 a result, means that a person has actual knowledge,
4 or should have known, of the conduct, the cir-
5 cumstance, or the result.

6 (4) UNITED STATES PERSON.—The term
7 “United States person” means—

8 (A) a United States citizen, an alien law-
9 fully admitted for permanent residence to the
10 United States, or any other individual subject
11 to the jurisdiction of the United States; or

12 (B) an entity organized under the laws of
13 the United States or of any jurisdiction within
14 the United States, including a foreign branch of
15 such entity.

16 **TITLE III—GOVERNANCE OF THE**
17 **BURMESE MINING AND GEM-**
18 **STONE SECTORS**

19 **SEC. 301. SENSE OF CONGRESS ON THE MINING SECTOR OF**
20 **BURMA.**

21 (a) FINDINGS.—Congress finds the following:

22 (1) In 2015, the nongovernmental organization
23 Global Witness estimated that the value of total pro-
24 duction of jade in Burma in 2014 was
25 \$31,000,000,000, almost 48 percent of the official

1 gross domestic product of Burma. As much as 80
2 percent of that jade sold is smuggled out of Burma.

3 (2) Burma's military and associated entities, in-
4 cluding companies owned or controlled by Myanmar
5 Economic Corporation and Myanmar Economic
6 Holding Limited, their affiliated companies, and
7 companies owned or controlled by current and
8 former senior military officers or their family mem-
9 bers, are linked to the mining sector, including the
10 gemstone industry, and benefit financially from
11 widespread illegal smuggling of jade and rubies from
12 Burma.

13 (3) Illegal trafficking in precious and
14 semiprecious stones from Burma, including the trade
15 in high-value jade and rubies, deprives the people of
16 Burma and the civilian government of critical rev-
17 enue and instead benefits military-linked entities,
18 non-state armed groups, and transnational organized
19 criminal networks.

20 (4) In 2016, the Government of Burma began
21 to take steps to reform aspects of the mining sector,
22 including—

23 (A) improving governance in the gemstone
24 industry, by temporarily suspending the

1 issuance or renewal of jade and gemstone min-
2 ing permits;

3 (B) commissioning an environmental man-
4 agement plan for some mining areas; and

5 (C) establishing the multi-stakeholder Jade
6 and Gemstone Support Committee under the
7 Ministry of Natural Resources and Environ-
8 mental Conservation to develop recommenda-
9 tions for a new industry-wide policy and limited
10 gemstone payment disclosures under the
11 Myanmar Extractives Industry Transparency
12 Initiative.

13 (5) In January 2019, the Government of
14 Burma adopted a new Gemstone Law that does not
15 adequately address corruption and tax avoidance,
16 conflicts of interest, or the factors fueling conflict in
17 Kachin State and other gemstone mining areas.

18 (6) The lifting in October 2016 of United
19 States sanctions on the importation of jade and
20 jadeite and rubies from Burma allowed such
21 gemstones to legally enter the United States market,
22 but some retailers have refrained from sourcing
23 gemstones of Burmese origin due to governance and
24 reputational concerns.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that—

3 (1) notwithstanding Burma’s “Trafficking in
4 Persons” ranking, the President should continue to
5 provide assistance to Burma, pursuant to the waiver
6 authority under section 110(d)(4) of the Trafficking
7 Victims Protection Act of 2000 (22 U.S.C.
8 7107(d)(4)), in order to re-engage with the Govern-
9 ment of Burma with respect to the mining sector
10 and should make available technical, capacity-build-
11 ing and other assistance through the Department of
12 State or the United States Agency for International
13 Development to support the Government of Burma
14 in efforts to reform the gemstone industry; and

15 (2) companies that seek to import to the United
16 States gemstones or minerals that may be of Bur-
17 mese origin or articles of jewelry containing such
18 gemstones should—

19 (A) obtain such materials exclusively from
20 entities that satisfy the transparency criteria
21 described in section section 302(b)(2) or from
22 third parties that can demonstrate that they
23 sourced the materials from entities that meet
24 such criteria; and

1 (B) undertake robust due diligence proce-
2 dures in line with the “Due Diligence Guidance
3 for Responsible Business Conduct” and “Due
4 Diligence Guidance for Responsible Supply
5 Chains of Minerals from Conflict-Affected and
6 High-Risk Areas” promulgated by the Organi-
7 zation for Economic Cooperation and Develop-
8 ment.

9 **SEC. 302. GUIDANCE RELATING TO RESPONSIBILITY AND**
10 **TRANSPARENCY IN THE MINING SECTOR OF**
11 **BURMA.**

12 (a) LIST OF PARTICIPATING WHITE-LIST ENTI-
13 TIES.—Not later than 120 days after the date of the en-
14 actment of this Act, and annually thereafter until the date
15 described in subsection (e), the Secretary of State shall
16 submit to the appropriate congressional committees, and
17 publish on a publicly available website, a list of each entity
18 described in subsection (b)(1) that—

- 19 (1) participates in Burma’s mining sector;
- 20 (2) publicly discloses beneficial ownership, as
21 such term is defined for purposes of the Myanmar
22 Extractive Industry Transparency Initiative
23 (“Myanmar EITI”);
- 24 (3) is not owned or controlled, either directly or
25 indirectly, by the Burmese military or security

1 forces, any current or former senior Burmese mili-
2 tary officer, or any person sanctioned by the United
3 States pursuant to any relevant sanctions authority;
4 and

5 (4) is making significant progress toward meet-
6 ing the criteria described in subsection (b)(2).

7 (b) ENTITIES AND CRITERIA DESCRIBED.—

8 (1) ENTITIES DESCRIBED.—The entities de-
9 scribed in this subsection are the following:

10 (A) Entities that produce or process pre-
11 cious and semiprecious gemstones.

12 (B) Entities that sell or export precious
13 and semiprecious gemstones from Burma or ar-
14 ticles of jewelry containing such gemstones.

15 (2) CRITERIA DESCRIBED.—The criteria de-
16 scribed in this subsection are the following:

17 (A) The entity publicly discloses any politi-
18 cally exposed persons, officers, directors or ben-
19 efitial owners, as defined under the Myanmar
20 EITI.

21 (B) The entity publicly discloses valid au-
22 thorization, license, or permit to produce, proc-
23 ess, sell, or export minerals or gemstones, as
24 applicable.

1 (C) The entity publicly discloses payments
2 to the Government of Burma, including tax and
3 non-tax, license, or royalty payments, and other
4 payments or contract terms as may be required
5 under Myanmar EITI standards.

6 (D) The entity undertakes due diligence, in
7 line with the OECD Due Diligence Guidance
8 for Responsible Supply Chains of Minerals from
9 Conflict-Affected and High-Risk Areas, includ-
10 ing public reporting.

11 (e) PERIODIC UPDATING.—The Secretary shall peri-
12 odically update the publicly available version of the list de-
13 scribed in subsection (a) as appropriate.

14 (d) GUIDANCE AND WHITE-LIST ENTITIES.—The
15 Secretary shall issue guidance for entities in the United
16 States private sector with respect to the best practices for
17 supply-chain due diligence that are applicable to importa-
18 tion of gemstones or minerals that may be of Burmese
19 origin or articles of jewelry containing such gemstones, in-
20 cluding with respect to transactions with entities approved
21 for inclusion in the list published pursuant subsection (a),
22 in order to mitigate potential risks and legal liabilities as-
23 sociated with the importation of such items.

24 (e) TERMINATION.—The date described in this sec-
25 tion is the date on which the President certifies to the

1 appropriate congressional committees that the Govern-
2 ment of Burma has taken substantial measures to reform
3 the mining sector in Burma, including the following:

4 (1) Require the mandatory disclosure of pay-
5 ments, permit and license allocations, project reve-
6 nues, contracts, and beneficial ownership, including
7 the identification any politically exposed persons who
8 are beneficial owners, consistent with the approach
9 agreed under the Myanmar EITI and with due re-
10 gard for civil society participation.

11 (2) Separate the commercial, regulatory, and
12 revenue collection responsibilities within the
13 Myanmar Gems Enterprise and other key state-
14 owned enterprises to remove existing conflicts of in-
15 terest.

16 (3) Monitor and undertake enforcement actions,
17 as warranted, to ensure that entities—

18 (A) adhere to environmental and social im-
19 pact assessment and management standards in
20 accordance with international responsible min-
21 ing practices, the country’s environmental con-
22 servation law, and other applicable laws and
23 regulations; and

24 (B) uphold occupational health and safety
25 standards and codes of conduct that are aligned

1 with the core labor standards of the Inter-
2 national Labour Organisation and with domes-
3 tic law.

4 (4) Address the transparent and fair distribu-
5 tion of benefits from natural resources, including
6 through local benefit-sharing.

7 (5) Reform the process for valuation of
8 gemstones at the mine-site, including developing an
9 independent valuation system to prevent undervalu-
10 ation and tax evasion.

11 (6) Require companies bidding for jade and
12 ruby mining, finishing, or export permits to be inde-
13 pendently audited upon the request of the Govern-
14 ment of Burma and making the results of all such
15 audits public.

16 (7) Establish credible and transparent proce-
17 dures for permit allocations that are independent
18 from external influence, including scrutiny of appli-
19 cants that prevents unscrupulous entities from gain-
20 ing access to concessions or the right to trade in
21 minerals or gemstones.

22 (8) Establish effective oversight of state-owned
23 enterprises operating in such sector, including
24 through parliamentary oversight or requirements for
25 independent financial auditing.

1 **TITLE IV—ACCOUNTABILITY**
2 **FOR HUMAN RIGHTS ABUSES**
3 **AND STRATEGY FOR ECO-**
4 **NOMIC GROWTH**

5 **SEC. 401. REPORT ON ACCOUNTABILITY FOR WAR CRIMES,**
6 **CRIMES AGAINST HUMANITY, AND GENOCIDE**
7 **IN BURMA.**

8 (a) IN GENERAL.—Not later than 90 days after the
9 date of the enactment of this Act, the Secretary of State
10 shall submit to the appropriate congressional committees
11 a report that—

12 (1) summarizes credible reports of serious
13 human rights violations, including war crimes, com-
14 mitted against the Rohingya or other ethnic minori-
15 ties in Burma between 2012 and the date of the
16 submission of the report;

17 (2) describes any potential transitional justice
18 mechanisms in Burma;

19 (3) provides an analysis of whether the serious
20 human rights violations summarized pursuant to
21 paragraph (1) amount to war crimes, crimes against
22 humanity, or genocide; and

23 (4) includes a determination of the Secretary
24 whether—

1 (A) the events that took place in the state
2 of Rakhine in Burma, starting on August 25,
3 2017, constitute war crimes, crimes against hu-
4 manity, or genocide; or

5 (B) the situation faced by the Rohingya in
6 Rakhine State, between 2012 and the date of
7 the submission of the report, amounts to or has
8 amounted to the crime of apartheid.

9 (b) ELEMENTS.—The report required by subsection
10 (a) shall also include each of the following:

11 (1) A description of—

12 (A) each incident for which there is cred-
13 ible evidence that the incident may constitute
14 war crimes, crimes against humanity, or geno-
15 cide committed by the Burmese military or se-
16 curity forces against the Rohingya and other
17 ethnic minorities, including the identities of any
18 other actors involved in such incident;

19 (B) the role of the civilian government in
20 the commission of any such incidents;

21 (C) each incident for which there is cred-
22 ible evidence that the incident may constitute
23 war crime, crimes against humanity, or geno-
24 cide committed by violent extremist groups in
25 Burma;

1 (D) each attack on health workers, health
2 facilities, health transport, or patients and, to
3 the extent possible, the identities of any individ-
4 uals who engaged in or organized such incidents
5 in Burma; and

6 (E) to the extent possible, a description of
7 the conventional and unconventional weapons
8 used for any such crimes and the sources of
9 such weapons.

10 (2) A description and assessment, in consulta-
11 tion with the Administrator of the United States
12 Agency for International Development, the Attorney
13 General, and other heads of any other appropriate
14 Federal departments or agencies, of the effectiveness
15 of any programs that the United States has already
16 undertaken to ensure accountability for war crimes,
17 crimes against humanity, and genocide perpetrated
18 against the Rohingya by the military and security
19 forces of Burma, the Rakhine State government,
20 pro-government militias, and all other armed groups
21 operating fighting in Rakhine, including programs
22 to—

23 (A) train civilian investigators within and
24 outside of Burma and Bangladesh on how to
25 document, investigate, develop findings of, iden-

1 tify, and locate alleged perpetrators of war
2 crimes, crimes against humanity, or genocide in
3 Burma;

4 (B) promote and prepare for a transitional
5 justice process or processes for the perpetrators
6 of war crimes, crimes against humanity, and
7 genocide occurring in the State of Rakhine in
8 2017; and

9 (C) document, collect, preserve, and pro-
10 tect evidence of war crimes, crimes against hu-
11 manity, and genocide in Burma, including by
12 providing support for Burmese, Bangladeshi,
13 foreign, and international nongovernmental or-
14 ganizations, the United Nations Human Rights
15 Council’s investigative team, and other entities
16 engaged in such investigative activities.

17 (3) A detailed study of the feasibility and desir-
18 ability of potential transitional justice mechanisms
19 for Burma, such as an international tribunal, a hy-
20 brid tribunal, or other international options, that in-
21 cludes—

22 (A) a discussion of the use of universal ju-
23 risdiction or of legal cases brought against the
24 country of Burma by other sovereign countries
25 at the International Court of Justice to address

1 war crimes, crimes against humanity, and geno-
2 cide perpetrated in Burma;

3 (B) recommendations on which transitional
4 justice mechanisms the United States should
5 support, why such mechanisms should be sup-
6 ported, and what type of support should be of-
7 fered; and

8 (C) close consultation regarding transi-
9 tional justice mechanisms with Rohingya rep-
10 resentatives and those of other ethnic minorities
11 who have suffered grave human rights abuses.

12 (c) PROTECTION OF WITNESSES AND EVIDENCE.—

13 The Secretary of State shall ensure that the identification
14 of witnesses and physical evidence for purposes of the re-
15 port required by subsection (a) are not publicly disclosed
16 in a manner that might place such persons at risk of harm
17 or encourage the destruction of such evidence by the mili-
18 tary or Government of Burma.

19 (d) CRIME OF APARTHEID.—In this section, the term
20 “crime of apartheid” means inhumane acts that—

21 (1) are of a character similar to the acts re-
22 ferred to in subparagraphs (A) through (H) of sec-
23 tion 2(2);

24 (2) are committed in the context of an institu-
25 tionalized regime of systematic oppression and domi-

1 nation by one racial group over any other racial
2 group; and

3 (3) are committed with the intention of main-
4 taining such regime.

5 **SEC. 402. AUTHORIZATION TO PROVIDE TECHNICAL AS-**
6 **SISTANCE FOR EFFORTS AGAINST HUMAN**
7 **RIGHTS ABUSES.**

8 (a) IN GENERAL.—The Secretary of State is author-
9 ized to provide assistance to support appropriate civilian
10 or international entities that are undertaking the efforts
11 described in subsection (b) with respect to war crimes,
12 crimes against humanity, and genocide perpetrated by the
13 military and security forces of Burma, the Rakhine State
14 government, pro-government militias, or any other armed
15 groups fighting in Rakhine State.

16 (b) EFFORTS AGAINST HUMAN RIGHTS ABUSES.—
17 The efforts described in this subsection are the following:

18 (1) Identifying suspected perpetrators of war
19 crimes, crimes against humanity, and genocide.

20 (2) Collecting, documenting, and protecting evi-
21 dence of such crimes and preserve the chain of cus-
22 tody for such evidence.

23 (3) Conducting criminal investigations.

24 (4) Supporting investigations conducted by
25 other countries, as appropriate.

1 (c) AUTHORIZATION FOR TRANSITIONAL JUSTICE
2 MECHANISMS.—The Secretary of State, taking into ac-
3 count any relevant findings in the report required by sec-
4 tion 401(a), is authorized to provide support for the cre-
5 ation and operation of transitional justice mechanisms, in-
6 cluding a potential hybrid tribunal, to prosecute individ-
7 uals suspected of committing war crimes, crimes against
8 humanity, or genocide in Burma.

9 **SEC. 403. STRATEGY FOR PROMOTING ECONOMIC DEVEL-**
10 **OPMENT IN BURMA.**

11 (a) IN GENERAL.—Not later than 180 days after the
12 date of the enactment of this Act, the Secretary of State,
13 the Secretary of the Treasury, and the Administrator of
14 the United States Agency for International Development
15 shall jointly submit to the appropriate congressional com-
16 mittees a strategy to support sustainable, inclusive and
17 broad-based economic development in Burma, in accord-
18 ance with the priorities of disadvantaged communities in
19 Burma and in consultation with relevant civil society and
20 local stakeholders, to improve economic conditions and
21 government transparency.

22 (b) ELEMENTS.—The strategy required by subsection
23 (a) to promote sustainable, inclusive and broad-based eco-
24 nomic development shall include a plan with each of the
25 following elements:

1 (1) Measures to diversify control over and ac-
2 cess to participation in key industries and sectors,
3 including efforts to remove barriers and increase
4 competition, access, and opportunity in sectors domi-
5 nated by officials of the Burmese military, former
6 military officials, and their families, and
7 businesspeople connected to the military of Burma,
8 with the goal of eliminating the role of the military
9 in the economy of Burma.

10 (2) Measures to increase transparency disclo-
11 sure requirements in key sectors of the economy of
12 Burma, to promote responsible investment, including
13 through—

14 (A) efforts to provide technical support to
15 develop and implement policy reforms related to
16 public disclosure of the beneficial owners of en-
17 tities in key sectors identified by the Govern-
18 ment of Burma, specifically by—

19 (i) working with the Government of
20 Burma to require the disclosure of the ulti-
21 mate beneficial ownership of entities in the
22 mining industry and the publication of
23 project revenues, payments, and contract
24 terms relating to that industry; and

1 (ii) ensuring that reforms complement
2 the disclosures required to be put in place
3 in Burma as a result of its participation in
4 the Extractives Industry Transparency Ini-
5 tiative; and

6 (B) efforts to promote universal access to
7 reliable, affordable, energy efficient, and sus-
8 tainable power, including leveraging United
9 States assistance to support reforms in the
10 power sector and electrification projects that in-
11 crease energy access, in partnership with multi-
12 lateral organizations and the private sector.

13 (3) Measures to create an enabling environment
14 for economic growth and opportunity for all ethnic
15 groups residing in Burma, including through ad-
16 dressing issues related to land tenure.

17 (4) An identification of needs and opportunities
18 to provide technical assistance to key ministries, in-
19 stitutions, and organizations to enact economic re-
20 forms, including revisions to existing policies on pub-
21 lic disclosure of beneficial ownership of companies in
22 key sectors that will allow for identification of those
23 seeking or securing access to Burma's most valuable
24 natural resources.

1 (c) CONSULTATION REQUIRED.—In developing the
2 strategy required by subsection (a), the Secretary of State
3 shall consult with appropriate officials of the Government
4 of Burma, ethnic groups and civil society leaders in
5 Burma.

6 (d) REPORT ON IMPLEMENTATION.—Not later than
7 180 days after the date of the submission of the strategy
8 required by subsection (a), the Secretary of State, the Sec-
9 retary of the Treasury, and the Administrator of the
10 United States Agency for International Development shall
11 jointly submit to the appropriate congressional committees
12 a report in unclassified form, that may contain a classified
13 annex, that describes—

14 (1) the extent to which United States assistance
15 and the efforts of the Government of Burma have
16 promoted inclusive and enduring economic develop-
17 ment in accordance with such strategy; and

18 (2) the efforts undertaken, progress achieved,
19 and any next steps planned by either the United
20 States or the Government of Burma with respect
21 to—

22 (A) the elements in section 401(b);

23 (B) the promotion of accountability and
24 transparency, including through the collection,
25 verification, and publication of beneficial owner-

1 ship information related to extractive industries;
2 and

3 (C) the promotion of best practices regard-
4 ing—

5 (i) environmental conservation, man-
6 agement, and planning;

7 (ii) social impact assessments, includ-
8 ing social and cultural protection and free,
9 prior, and informed consent and meaning-
10 ful participation of local populations, par-
11 ticularly minority ethnic nationalities; and

12 (iii) avoidance of displacement of local
13 populations without meaningful consulta-
14 tion and consent, harm mitigation, and
15 compensation.

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