

115TH CONGRESS
2D SESSION

H. R. 5819

To promote democracy and human rights in Burma, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2018

Mr. ENGEL (for himself, Mr. CHABOT, Mr. CROWLEY, Mr. ROYCE of California, Mr. SHERMAN, Mr. YOHO, Mr. CASTRO of Texas, Mrs. WAGNER, Mr. CICILLINE, Mr. MCCAUL, Mr. SIRES, Mr. SMITH of New Jersey, Mr. COSTA, Mr. DENHAM, Mr. DEUTCH, Mr. POE of Texas, Ms. BASS, Mr. KING of New York, Ms. TITUS, Mr. COOK, Mr. TED LIEU of California, Mr. MEADOWS, Mr. CONNOLLY, Mr. THOMAS J. ROONEY of Florida, Ms. SPEIER, Ms. ROS-LEHTINEN, Mr. COHEN, Mr. SOTO, Ms. JENKINS of Kansas, Mr. MCGOVERN, Mr. GARRETT, Ms. SCHAKOWSKY, Mr. DONOVAN, Mr. JOHNSON of Georgia, Mrs. COMSTOCK, Ms. KUSTER of New Hampshire, Mr. COFFMAN, Ms. LOFGREN, Mr. LANCE, Mr. LOWENTHAL, Mr. COSTELLO of Pennsylvania, Ms. PINGREE, Mr. BILIRAKIS, Mr. BLUMENAUER, Mr. RUTHERFORD, Mr. POCAN, Mr. RUSSELL, Mr. RUSH, Ms. BONAMICI, Mr. CULBERSON, Ms. MCCOLLUM, Ms. NORTON, Mr. DELANEY, Mr. PALLONE, Mr. CARTWRIGHT, Ms. ESTY of Connecticut, Mr. BRADY of Pennsylvania, Ms. ESHOO, Ms. MOORE, Ms. LEE, Mr. MOULTON, Mr. DANNY K. DAVIS of Illinois, Mr. KHANNA, Mr. WELCH, Mrs. CAROLYN B. MALONEY of New York, Mr. HASTINGS, and Mr. BEYER) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on the Judiciary, and Armed Services, 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 promote democracy and human rights in Burma, and
for other purposes.

(a) **SHORT TITLE.**—This Act may be cited as the “Burma Unified through Rigorous Military Accountability Act of 2018” or the “BURMA Act of 2018”.

Sec. 1. Short title; table of contents.
Sec. 2. Appropriate congressional committees defined.

Sec. 101. Findings.

Sec. 102. Statement of policy.

Sec. 103. Sense of Congress with respect to humanitarian assistance, freedom of movement, and rights of returnees.

Sec. 104. Sense of Congress on press freedom.

Sec. 105. Sense of Congress with respect to imposition of sanctions under the Global Magnitsky Human Rights Accountability Act.

Sec. 201. Authorization for humanitarian assistance and reconciliation.

Sec. 202. Limitation on security assistance and military and security sector co-operation.

Sec. 203. Imposition of sanctions with respect to certain foreign persons.

Sec. 204. Forfeiture of property.

Sec. 301. Sense of Congress on the Burmese mining sector and the importation of Burmese gemstones or minerals.

Sec. 302. Responsibility and transparency in the mining sector.

Sec. 401. Determination and report on accountability for ethnic cleansing, crimes against humanity, and genocide in Burma.

Sec. 402. Strategy for promoting economic growth and development.

1 **SEC. 2. APPROPRIATE CONGRESSIONAL COMMITTEES DE-**
2 **FINED.**

3 In this Act, the term “appropriate congressional com-
4 mittees” means—

5 (1) the Committee on Foreign Affairs and the
6 Committee on Armed Services of the House of Rep-
7 resentatives; and

8 (2) the Committee on Foreign Relations and
9 the Committee on Armed Services of the Senate.

10 **TITLE I—MATTERS RELATING**
11 **TO THE CONFLICT IN BURMA**

12 **SEC. 101. FINDINGS.**

13 Congress finds the following:

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

21 (2) Between August 2017 and March 2018, in
22 response to the violence perpetrated by the Burmese
23 military and security forces, the United Nations esti-
24 mates more than 693,000 Rohingya, approximately
25 78 percent of whom are women and children, have

1 fled to Bangladesh, fearing loss of life, livelihoods,
2 and shelter.

3 (3) Despite the steps taken toward democracy
4 in Burma, there exists limited control by the civilian
5 government over civilian agencies and no meaningful
6 civilian control over the military or security forces
7 that carried out the violence in Rakhine State and
8 that continues to engage in grave human rights
9 abuses against ethnic minorities throughout in the
10 country.

11 (4) Both government- and military-initiated in-
12 vestigations into human rights abuses in Burma in-
13 volving violence between ethnic minorities and Bur-
14 mese security forces have failed to yield credible re-
15 sults or meaningfully hold perpetrators accountable.

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

19 (A) Repatriation of those who have crossed
20 over to Bangladesh.

21 (B) Effective provision of humanitarian as-
22 sistance.

23 (C) Resettlement of displaced populations.

24 (D) Economic development and durable
25 peace.

1 (6) Due to restrictions enforced by the Rakhine
2 State government and the military and security
3 forces, there has been little progress made since that
4 time and limited ability for the international commu-
5 nity to meaningfully support, verify, or evaluate the
6 Government of Burma's efforts. There are also cred-
7 ible reports of Burmese military and security forces
8 bulldozing villages where violence occurred, thus de-
9 stroying physical evidence of what may have oc-
10 curred there.

11 (7) Human rights organizations have reported
12 and documented a campaign of violence perpetrated
13 by the security forces of Burma, which indiscrimi-
14 nately fired on and killed civilians, raped women and
15 girls, and arbitrarily arrested Rohingya men without
16 any cause or charges. Satellite images obtained by
17 Amnesty International reveal that, out of the ap-
18 proximately 470 villages in northern Rakhine State,
19 nearly 300 were partially or completely destroyed by
20 fire since August 25, 2017, most of which were com-
21 pletely or partially populated by Rohingya Muslims.

22 (8) On October 10, 2017, at a hearing before
23 the House Foreign Affairs Committee, the Deputy
24 Assistant Secretary of State for Population, Refu-
25 gees, and Migration Mark Storella testified that of

1 the \$434,000,000 required by the United Nations
2 for emergency response in the first 6 months of this
3 crisis, “[i]n fiscal year 2017, the United States con-
4 tributed nearly \$104 million in assistance to the dis-
5 placed populations in Burma for refugees from
6 Burma throughout the region”.

7 (9) The United Nations Joint Response Plan to
8 fund assistance to Rohingya refugees and the host
9 community in Bangladesh through the end of 2018
10 requires almost \$1,000,000,000 in assistance.

11 (10) On November 22, 2017, Secretary of State
12 Rex Tillerson stated that, “After careful and
13 through analysis of available facts, it is clear that
14 the situation in northern Rakhine state constitutes
15 ethnic cleansing against the Rohingya. Those re-
16 sponsible for these atrocities must be held account-
17 able”. He also said the violence “has a number of
18 characteristics of certainly crimes against human-
19 ity”.

20 (11) Yanghee Lee, the United Nations Special
21 Rapporteur on the situation of human rights in
22 Myanmar said, “I am becoming more convinced that
23 the crimes committed following 9 October 2016 and
24 25 August 2017 bear the hallmarks of genocide and

1 call in the strongest possible terms for account-
2 ability.”

3 (12) On December 12, 2017, Wa Lone and
4 Kyaw Soe Oo, two Reuters reporters covering the
5 crisis in Rakhine State, were entrapped, arrested,
6 and charged with violating the Official Secrets Act,
7 continuing a trend of restricting media and free
8 speech and attempting to thwart coverage of the
9 events in Rakhine State.

10 **SEC. 102. STATEMENT OF POLICY.**

11 It shall be the policy of the United States to—

12 (1) support a complete transition to democracy
13 and genuine national reconciliation in Burma which
14 cannot be achieved without appropriate account-
15 ability for the atrocities committed by the Burmese
16 military against the Rohingya population and other
17 ethnic minorities throughout the country;

18 (2) pursue a strategy of calibrated engagement,
19 which is essential to support the establishment of a
20 peaceful, prosperous, and democratic Burma that in-
21 cludes respect for the human rights of all its people
22 regardless of ethnicity and religion; and

23 (3) ensure that the guiding principles of such a
24 strategy include—

1 (A) supporting meaningful legal and con-
2 stitutional reforms that remove remaining re-
3 strictions on civil and political rights and en-
4 sure civilian governance, including reforms to
5 the current constitutional provision reserving 25
6 percent of parliamentary seats for appointments
7 by the military, which provides the military with
8 veto power over constitutional amendments;

9 (B) establishing a fully democratic, plural-
10 istic, and representative political system that in-
11 cludes regularized free and fair elections in
12 which all people of Burma can vote;

13 (C) promoting genuine national reconcili-
14 ation, the conclusion of a credible and sustain-
15 able nationwide cease-fire agreement, including
16 political accommodation of ethnic Shan, Kachin,
17 Chin, Karen, and other ethnic groups, measures
18 to address natural resource governance and rev-
19 enue-sharing, and constitutional change ena-
20 bling inclusive, permanent peace;

21 (D) ensuring accountability for human
22 rights abuses, ethnic cleansing, crimes against
23 humanity, or genocide perpetrated against the
24 Rohingya, Kachin, Shan, Chin, and other ethnic

1 minorities by the military of Burma and other
2 combatants involved in the conflict;

3 (E) strengthening civilian institutions in
4 the government, including support for greater
5 transparency and accountability;

6 (F) establishing professional and non-
7 partisan military, security, and police forces
8 that operate under civilian control, subject to
9 civilian oversight, and are held fully accountable
10 for human rights abuses, corruption, or other
11 abuses of power;

12 (G) combating rampant corruption and il-
13 legal economic activity, including that which in-
14 volves the military and its close allies;

15 (H) empowering local communities, civil
16 society, and independent media;

17 (I) ensuring that the Government of
18 Burma provides full citizenship for the
19 Rohingya population in Burma as well as for
20 those displaced in Bangladesh;

21 (J) promoting responsible international
22 and regional engagement;

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

1 (L) addressing and ending the humani-
2 tarian and human rights crises and supporting
3 the ability of the displaced Rohingya to volun-
4 tarily return to their homes, under safe, dig-
5 nified, and internationally approved conditions.

6 **SEC. 103. SENSE OF CONGRESS WITH RESPECT TO HUMANI-**
7 **TARIAN ASSISTANCE, FREEDOM OF MOVE-**
8 **MENT, AND RIGHTS OF RETURNEES.**

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

11 (1) significant and sustained international sup-
12 port, from both public and private sources, will be
13 necessary to address the medium- and long-term im-
14 pacts of the crisis in Burma and the impact of the
15 crisis on Bangladesh; and

16 (2) the United States should make resolving the
17 Rohingya crisis one of its top priorities in its en-
18 gagement with regional institutions such as the As-
19 sociation of Southeast Asian Nations.

20 (b) RESTORATION OF HUMANITARIAN ACCESS AND
21 ACCOUNTABILITY IN RAKHINE STATE.—Congress calls on
22 the Government of Burma and Burmese security forces
23 to ensure complete and unfettered humanitarian access in
24 the State of Rakhine and to support an independent inter-

1 national fact-finding mission to investigate allegations of
2 ethnic cleansing, crimes against humanity, and genocide.

3 (c) RIGHTS OF REFUGEES, INTERNALLY DISPLACED
4 PERSONS, AND RETURNEES.—Congress calls on the Gov-
5 ernment of Burma to—

6 (1) ensure that Rohingya have freedom of
7 movement and under no circumstances are subject
8 to unsafe, involuntary, or uninformed repatriation;

9 (2) create conditions for return of those dis-
10 placed from their homes by fully implementing the
11 recommendations of the Advisory Commission on
12 Rakhine State and implementing full and equal citi-
13 zenship;

14 (3) to work closely with the international com-
15 munity including the United Nations High Commis-
16 sioner for Refugees to ensure the dignified, safe, and
17 voluntary return of all those displaced from their
18 homes, especially from Rakhine State, without an
19 unduly high burden of proof; and

20 (4) to offer to those refugees who do not want
21 to return a meaningful alternative, including com-
22 pensation or restitution.

23 **SEC. 104. SENSE OF CONGRESS ON PRESS FREEDOM.**

24 It is the sense of Congress that in order to promote
25 the freedom of the press in Burma—

1 (1) Wa Lone and Kyaw Soe Oo should be im-
2 mediately and unconditionally released and should
3 have access to legal counsel and to their families;
4 and

5 (2) the decision to use a colonial-era law to ar-
6 rest these reporters underscores the need for serious
7 legal reform, including reform of the Official Secrets
8 Act, 1923 and the Unlawful Association Act, 1908.

9 **SEC. 105. SENSE OF CONGRESS WITH RESPECT TO IMPOSI-**
10 **TION OF SANCTIONS UNDER THE GLOBAL**
11 **MAGNITSKY HUMAN RIGHTS ACCOUNT-**
12 **ABILITY ACT.**

13 It is the sense of Congress that the President should
14 impose appropriate sanctions under the Global Magnitsky
15 Human Rights Accountability Act (subtitle F of title XII
16 of Public Law 114–328; 130 Stat. 2533; 22 U.S.C. 2656
17 note) against officials and other persons in Burma who
18 are responsible for gross violations of internationally rec-
19 ognized human rights or acts of significant corruption.

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

4 **SEC. 201. AUTHORIZATION FOR HUMANITARIAN ASSIST-**
5 **ANCE AND RECONCILIATION.**

6 There is authorized to be appropriated \$151,600,000
7 for fiscal year 2019 for humanitarian assistance for
8 Burma, Bangladesh, and the surrounding region, includ-
9 ing—

10 (1) assistance for the victims of the Burmese
11 military's ethnic cleansing campaign targeting the
12 Rohingya in Rakhine State, including those dis-
13 placed in Bangladesh, Burma, and the surrounding
14 region;

15 (2) support for voluntary resettlement or repa-
16 triation efforts regionally; and

17 (3) humanitarian assistance to victims of vio-
18 lence and destruction in Rakhine State.

19 **SEC. 202. LIMITATION ON SECURITY ASSISTANCE AND MILI-**
20 **TARY AND SECURITY SECTOR COOPERATION.**

21 (a) LIMITATION ON MILITARY AND SECURITY SEC-
22 TOR COOPERATION.—Except as provided in subsection
23 (b), the United States may not provide any security assist-
24 ance or engage in any military-to-military programs with
25 the military or security forces of Burma, including

1 through training, observation, or participation in regional
2 exercises, until the date on which the Secretary of State,
3 in consultation with the Secretary of Defense, certifies to
4 the appropriate congressional committees that the military
5 and security forces of Burma have demonstrated signifi-
6 cant progress in abiding by international human rights
7 standards and are undertaking meaningful and significant
8 security sector reform, including reforms that enhance
9 transparency and accountability, to prevent future abuses
10 and that each of the following criteria have been met:

11 (1) The Burmese military and security forces
12 adhere to international humanitarian law, dem-
13 onstrate significant progress in abiding by inter-
14 national standards for human rights, and pledge to
15 stop future human rights abuses.

16 (2) The Burmese military and security forces
17 support efforts to carry out meaningful and com-
18 prehensive investigations of alleged abuses and are
19 taking steps to hold accountable those members of
20 such military and security forces responsible for
21 human rights abuses.

22 (3) The Government of Burma, including the
23 military and security forces, allow immediate and
24 unfettered humanitarian access to communities in

1 areas affected by conflict, including Rohingya com-
2 munities in the State of Rakhine.

3 (4) The Government of Burma, including the
4 military and security forces, cooperates with the
5 United Nations High Commissioner for Refugees
6 and organizations affiliated with the United Nations
7 to ensure the protection of displaced persons and the
8 safe, voluntary, and dignified return of refugees and
9 internally displaced persons.

10 (5) The Burmese military and security forces
11 cease their attacks against ethnic minority groups
12 and constructively participate in the conclusion of a
13 credible, nationwide ceasefire agreement, political ac-
14 commodation, and constitutional change, including
15 the restoration of the citizenship of the Rohingya.

16 (6) The Government of Burma, including the
17 military and security forces, defines a transparent
18 plan with a binding timeline for professionalizing the
19 military and security forces and includes a process
20 by which the military withdraws from private-sector
21 business enterprises and ceases involvement in the il-
22 legal trade in natural resources and narcotics.

23 (7) The Government of Burma establishes ef-
24 fective civilian control over the finances of its mili-
25 tary and security forces, including by ensuring that

1 the military does not have access to off-budget in-
2 come and that military expenditures are subject to
3 adequate civilian oversight.

4 (b) EXCEPTIONS.—

5 (1) CERTAIN EXISTING AUTHORITIES.—The
6 Secretary of Defense shall retain the authority to
7 conduct consultations with Burma pursuant to the
8 authorization under section 1253 of the Carl Levin
9 and Howard P. “Buck” McKeon National Defense
10 Authorization Act for Fiscal Year 2015 (22 U.S.C.
11 2151 note).

12 (2) HOSPITALITY.—The Secretary of State and
13 the United States Agency for International Develop-
14 ment may provide assistance authorized under part
15 I of the Foreign Assistance Act of 1961 (22 U.S.C.
16 2151 et seq.) to provide hospitality during research,
17 dialogues, meetings, or other activities by the parties
18 attending the Union Peace Conference 21st Century
19 Paneling or related processes seeking inclusive, sus-
20 tainable reconciliation.

21 (c) MILITARY REFORM.—The certification required
22 under subsection (a) shall include a written justification
23 in unclassified form that may contain a classified annex
24 describing the Burmese military’s efforts to implement re-

1 forms, end impunity for human rights abuses, and in-
2 crease transparency and accountability.

3 (d) RULE OF CONSTRUCTION.—Nothing in this Act
4 may be construed to authorize the Secretary of Defense
5 to provide assistance to the Government of Burma except
6 as provided in this section.

7 (e) REPORT.—

8 (1) IN GENERAL.—Not later than 180 days
9 after the date of the enactment of this Act, and an-
10 nually thereafter, the Secretary of Defense and the
11 Secretary of State shall submit to the appropriate
12 congressional committees a report, in unclassified
13 form with a classified annex, on the strategy and
14 plans for military-to-military engagement between
15 the United States Armed Forces and the military
16 and security forces of Burma.

17 (2) ELEMENTS.—The report required under
18 paragraph (1) shall include the following elements:

19 (A) A description and assessment of the
20 Government of Burma's strategy for security
21 sector reform, including plans to withdraw the
22 military from owning or controlling private-sec-
23 tor business entities and end involvement in the
24 illicit trade in jade and other natural resources,
25 reforms to end corruption and illicit drug traf-

1 ficking, and constitutional reforms to ensure ci-
2 vilian control.

3 (B) A list of ongoing military activities
4 conducted by the United States Government
5 with the Government of Burma, and a descrip-
6 tion of the United States strategy for future
7 military-to-military engagements between the
8 United States and Burma's military and secu-
9 rity forces, including the military of Burma, the
10 Burma Police Force, and armed ethnic groups.

11 (C) An assessment of the progress of the
12 military and security forces of Burma towards
13 developing a framework to implement human
14 right reforms, including—

15 (i) cooperation with civilian authori-
16 ties to investigate and prosecute cases of
17 serious, credible, or gross human rights
18 abuses;

19 (ii) steps taken to demonstrate respect
20 for and implementation of the laws of war;
21 and

22 (iii) a description of the elements of
23 the military-to-military engagement be-
24 tween the United States and Burma that
25 promote such implementation.

1 (D) An assessment of progress on the
2 peaceful settlement of armed conflicts between
3 the Government of Burma and ethnic minority
4 groups, including actions taken by the military
5 of Burma to adhere to cease-fire agreements,
6 allow for safe and voluntary returns of dis-
7 placed persons to their homes, and withdraw
8 forces from conflict zones.

9 (E) An assessment of the Burmese's mili-
10 tary recruitment and use of children as soldiers.

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

15 (f) REGULAR CONSULTATIONS.—Any new program
16 or activity carried out under this section shall be subject
17 to prior consultation with the appropriate congressional
18 committees.

19 **SEC. 203. IMPOSITION OF SANCTIONS WITH RESPECT TO**
20 **CERTAIN FOREIGN PERSONS.**

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

1 (1) is a current or former senior official of the
2 military or security forces of Burma who know-
3 ingly—

4 (A) perpetrated or is responsible for order-
5 ing or otherwise directing serious human rights
6 abuses in Burma; or

7 (B) failed to investigate serious human
8 rights abuses allegedly committed by one or
9 more subordinates of such official, including
10 against the Rohingya community in the state of
11 Rakhine;

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

14 (3) has knowingly provided or received signifi-
15 cant financial, material, or technological support to
16 or from a foreign person, including the immediate
17 family members of such person, described in para-
18 graph (1) for any of the acts described in subpara-
19 graph (A) or (B) of such paragraph.

20 (b) SANCTIONS.—The sanctions described in this sec-
21 tion are the following:

22 (1) ASSET BLOCKING.—Notwithstanding the re-
23 quirements of section 202 of the International
24 Emergency Economic Powers Act (50 U.S.C. 1701),
25 the exercise of all powers granted to the President

1 by such Act to the extent necessary to block and
2 prohibit all transactions in all property and interests
3 in property of a person the President determines
4 meets one or more of the criteria described in sub-
5 section (a) if such property and interests in property
6 are in the United States, come within the United
7 States, or are or come within the possession or con-
8 trol of a United States person.

9 (2) ALIENS INELIGIBLE FOR VISAS, ADMISSION,
10 OR PAROLE.—

11 (A) VISAS, ADMISSION, OR PAROLE.—An
12 alien who the Secretary of State or the Sec-
13 retary of Homeland Security (or a designee of
14 one of such Secretaries) knows, or has reason
15 to believe, meets any of the criteria described in
16 subsection (a) is—

17 (i) inadmissible to the United States;

18 (ii) ineligible to receive a visa or other
19 documentation to enter the United States;
20 and

21 (iii) otherwise ineligible to be admitted
22 or paroled into the United States or to re-
23 ceive any other benefit under the Immigra-
24 tion and Nationality Act (8 U.S.C. 1101 et
25 seq.).

1 (B) CURRENT VISAS REVOKED.—

2 (i) IN GENERAL.—The issuing con-
3 sular officer, the Secretary of State, or the
4 Secretary of Homeland Security (or a des-
5 ignee of one of such Secretaries) shall re-
6 voke any visa or other entry documentation
7 issued to an alien who meets any of the
8 criteria described in subsection (a) regard-
9 less of when issued.

10 (ii) EFFECT OF REVOCATION.—A rev-
11 ocation under clause (i)—

12 (I) shall take effect immediately;

13 and

14 (II) shall automatically cancel
15 any other valid visa or entry docu-
16 mentation that is in the alien's pos-
17 session.

18 (3) EXCEPTION TO COMPLY WITH UNITED NA-
19 TIONS HEADQUARTERS AGREEMENT.—Sanctions
20 under paragraph (2) shall not apply to an alien if
21 admitting the alien into the United States is nec-
22 essary to permit the United States to comply with
23 the Agreement regarding the Headquarters of the
24 United Nations, signed at Lake Success June 26,
25 1947, and entered into force November 21, 1947,

1 between the United Nations and the United States,
2 or other applicable international obligations.

3 (c) PENALTIES.—Any person that violates, attempts
4 to violate, conspires to violate, or causes a violation of this
5 section or any regulation, license, or order issued to carry
6 out subsection (b) shall be subject to the penalties set
7 forth in subsections (b) and (c) of section 206 of the Inter-
8 national Emergency Economic Powers Act (50 U.S.C.
9 1705) to the same extent as a person that commits an
10 unlawful act described in subsection (a) of that section.

11 (d) EXCEPTIONS.—Subsection (b)(2) shall not apply
12 to the admission of an individual to the United States if
13 such admission is necessary to comply with United States
14 obligations under the Agreement between the United Na-
15 tions and the United States of America regarding the
16 Headquarters of the United Nations, signed at Lake Suc-
17 cess June 26, 1947, and entered into force November 21,
18 1947, or under the Convention on Consular Relations,
19 done at Vienna April 24, 1963, and entered into force
20 March 19, 1967, or other international obligations of the
21 United States.

22 (e) IMPLEMENTATION.—The President may exercise
23 the authorities provided under section 203 and 205 of the
24 International Emergency Economic Powers Act (50
25 U.S.C. 1702 and 1704) to carry out this section.

1 (f) WAIVER.—

2 (1) IN GENERAL.—The President may annually
3 waive the application of sanctions required by sub-
4 section (a) with respect to a person if the Presi-
5 dent—

6 (A) determines that such waiver is in the
7 national interest of the United States; and

8 (B) not later than the date on which such
9 waiver will take effect, submits to the congres-
10 sional committees listed in paragraph (2) a no-
11 tice of and justification for such waiver.

12 (2) CONGRESSIONAL COMMITTEES LISTED.—
13 The congressional committees listed in this para-
14 graph are the following:

15 (A) The Committee on Foreign Affairs, the
16 Committee on Appropriations, and the Com-
17 mittee on Financial Services of the House of
18 Representatives.

19 (B) The Committee on Foreign Relations,
20 the Committee on Appropriations, and the
21 Committee on Banking, Housing, and Urban
22 Affairs of the Senate.

23 (g) DEFINITIONS.—In this section:

24 (1) ADMITTED; ALIEN.—The terms “admitted”
25 and “alien” have the meanings given those terms in

1 section 101 of the Immigration and Nationality Act
2 (8 U.S.C. 1001).

3 (2) FOREIGN PERSON.—The term “foreign per-
4 son” means a person that is not a United States
5 person.

6 (3) KNOWINGLY.—The term “knowingly”
7 means, with respect to conduct, a circumstance, or
8 a result, means that a person has actual knowledge,
9 or should have known, of the conduct, the cir-
10 cumstance, or the result.

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

13 (A) a United States citizen, an alien law-
14 fully admitted for permanent residence to the
15 United States, or any other individual subject
16 to the jurisdiction of the United States; or

17 (B) an entity organized under the laws of
18 the United States or of any jurisdiction within
19 the United States, including a foreign branch of
20 such entity.

21 **SEC. 204. FORFEITURE OF PROPERTY.**

22 (a) AMENDMENT TO PROPERTY SUBJECT TO FOR-
23 FEITURE.—Section 981(a)(1) of title 18, United States
24 Code, is amended by adding at the end the following:

1 “(J) Any property, real or personal, that is
 2 involved in a violation or attempted violation of,
 3 or which constitutes or is derived from proceeds
 4 traceable to, a prohibition imposed pursuant to
 5 section 203 of the Burma Unified through Rig-
 6 orous Military Accountability Act of 2018.”.

7 (b) AMENDMENT TO DEFINITION OF CIVIL FOR-
 8 FEITURE.—Section 983(i)(2)(D) of title 18, United States
 9 Code, is amended—

10 (1) by striking “, or the” and inserting “, the”;

11 and

12 (2) by adding at the end before the semicolon
 13 the following: “, or section 203 of the Burma United
 14 through Rigorous Military Accountability Act of
 15 2018”.

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

19 **SEC. 301. SENSE OF CONGRESS ON THE BURMESE MINING** 20 **SECTOR AND THE IMPORTATION OF BUR-** 21 **MESE GEMSTONES OR MINERALS.**

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

23 (1) In 2015, the nongovernmental organization
 24 Global Witness estimated that the value of total pro-
 25 duction of jade in Burma in 2014 was

1 \$31,000,000,000, almost 48 percent of the official
2 gross domestic product of Burma. As much as 80
3 percent of that jade sold is smuggled out of Burma.

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

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

21 (4) The Government of Burma has begun to
22 take steps to reform aspects of the mining sector, in-
23 cluding governance in the gemstone industry by tem-
24 porarily suspending the issuance or renewal of jade
25 and gemstone mining permits; commissioning an en-

1 vironmental management plan for some mining
2 areas; and establishing the multi-stakeholder Jade
3 and Gemstone Support Committee under the Min-
4 istry of Natural Resources and Environmental Con-
5 servation to develop recommendations for a new in-
6 dustry-wide policy and limited gemstone payment
7 disclosures under the Myanmar Extractives Industry
8 transparency Initiative.

9 (5) The lifting in October 2016 of United
10 States sanctions on the importation of jadeite and
11 rubies from Burma allowed such gemstones to le-
12 gally enter the United States market, but some re-
13 tailers have refrained from sourcing gemstones of
14 Burmese origin due to governance and reputational
15 concerns.

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

18 (1) the United States should deepen engage-
19 ment with the Government of Burma with respect to
20 the mining sector and should make available tech-
21 nical, capacity-building and other assistance through
22 the Department of State or the United States Agen-
23 cy for International Development to support the
24 Government of Burma in efforts to reform the gem-
25 stone industry; and

(2) companies that seek to import into the United States gemstones or minerals that may be of Burmese origin or articles of jewelry containing such gemstones should—

(A) obtain such materials exclusively from entities that satisfy the transparency criteria described in section 302(b) or from third parties that can credibly demonstrate that they sourced the materials from entities that meet such criteria; and

(B) undertake robust due diligence procedures in line with the Due Diligence Guidance for Responsible Business Conduct and Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas of the Organization for Economic Cooperation and Development.

SEC. 302. RESPONSIBILITY AND TRANSPARENCY IN THE MINING SECTOR.

(a) LIST OF PARTICIPATING ENTITIES.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, and not less than annually thereafter until the date described in subsection (e), the Secretary of State shall submit to the appropriate congressional committees a list of

1 the entities described in each of subparagraphs (A)
 2 and (B) of paragraph (2) that—

3 (A) participate in Burma’s mining sector;

4 (B) meet the criterion described in sub-
 5 section (b)(1); and

6 (C) meet or have made significant progress
 7 towards meeting the criteria in subsections
 8 (b)(2) through (b)(5).

9 (2) ENTITIES DESCRIBED.—The entities de-
 10 scribed in this paragraph are the following:

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

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

16 (b) CRITERIA DESCRIBED.—The criteria described in
 17 this subsection are the following with respect to an entity:

18 (1) The entity publicly discloses beneficial own-
 19 ership, as such term is defined for purposes of the
 20 Myanmar Extractive Industry Transparency Initia-
 21 tive (Myanmar EITI), and the entity is not owned
 22 or controlled, either directly or indirectly, by the
 23 Burmese military or security forces, any current or
 24 former senior Burmese military officer, or any per-

1 son sanctioned by the United States pursuant to any
2 relevant sanctions authority.

3 (2) The entity publicly discloses any politically
4 exposed persons as defined by the Extractive Indus-
5 try Transparency Initiative who are beneficial own-
6 ers as defined under the Myanmar EITI.

7 (3) The entity publicly discloses valid authoriza-
8 tion, license, or permit to produce, process, sell, or
9 export minerals or gemstones, as applicable.

10 (4) The entity publicly discloses payments to
11 the Government of Burma, including tax and non-
12 tax, license, or royalty payments, and other pay-
13 ments or contract terms as may be required under
14 Myanmar Extractive Industry Transparency Initia-
15 tive standards.

16 (5) The entity undertakes robust due diligence,
17 in line with the OECD Due Diligence Guidance for
18 Responsible Supply Chains of Minerals from Con-
19 flict-Affected and High-Risk Areas, including public
20 reporting.

21 (c) PUBLICATION OF LIST.—The Secretary of State
22 shall publish the list under subsection (a) and shall peri-
23 odically update such list as appropriate.

24 (d) GUIDANCE.—The Secretary of State shall issue
25 guidance to relevant companies regarding supply-chain

1 due diligence best practices applicable to importation of
2 gemstones or minerals that may be of Burmese origin or
3 articles of jewelry containing such gemstones to mitigate
4 the potential risks associated with the importation of such
5 items.

6 (e) TERMINATION.—The requirement under sub-
7 section (a) shall terminate on the date on which the Presi-
8 dent certifies to the appropriate congressional committees
9 that the Government of Burma has taken substantial
10 measures to reform the mining sector in Burma, including
11 the following:

12 (1) Requiring the mandatory disclosure of pay-
13 ments, permit and license allocations, project reve-
14 nues, relevant contract terms, and beneficial owner-
15 ship, including identifying any politically exposed
16 persons who are beneficial owners, consistent with
17 the approach agreed under the Myanmar EITI and
18 with due regard for civil society participation.

19 (2) Separating the commercial, regulatory, and
20 revenue collection responsibilities within the
21 Myanmar Gems Enterprise and other key state-
22 owned enterprises to remove existing conflicts of in-
23 terest.

24 (3) Monitoring and undertaking enforcement
25 actions, as warranted, to ensure that entities fully

1 adhere to environmental and social impact assess-
2 ment and management standards in accordance with
3 international responsible mining practices, the coun-
4 try's environmental conservation law and other ap-
5 plicable laws and regulations, and that they uphold
6 occupational health and safety standards and codes
7 of conduct that are aligned with the core labor
8 standards of the International Labour Organisation
9 and domestic law.

10 (4) Actively seeking a comprehensive peace
11 agreement that addresses the transparent and fair
12 distribution of benefits from natural resources, in-
13 cluding local benefit-sharing, taking into consider-
14 ation proposals on fiscal federalism for new govern-
15 ance arrangements in resource-rich regions.

16 (5) Implementing on a timely basis policy re-
17 forms aligned with the recommendations of the
18 multi-stakeholder Jade and Gemstone Support Com-
19 mittee and reporting regularly on such reforms.

20 (6) Reforming the process for valuation of
21 gemstones at the mine-site, including developing an
22 independent valuation system to prevent undervalu-
23 ation and tax evasion.

24 (7) Requiring companies bidding for jade and
25 ruby permits to be independently audited upon the

1 request of Myanmar Gems Enterprise or the Min-
2 ister of Natural Resources and Environmental Con-
3 servation, and making the results of all such audits
4 public.

5 (8) Establishing a credible and transparent per-
6 mitting process that closely scrutinizes applicants,
7 including based on past performance, and prevents
8 unscrupulous entities from gaining authorized access
9 to concessions or the right to trade in minerals or
10 gemstones.

11 (9) Establishing effective oversight of state-
12 owned enterprises operating in such sector, including
13 through parliamentary oversight or requirements for
14 independent financial auditing.

15 (f) AUTHORIZATION.—The Secretary of State is au-
16 thorized to consult with appropriate officials of the Gov-
17 ernment of Burma to obtain such private-sector informa-
18 tion as may be necessary to carry out this section.

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

5 **SEC. 401. DETERMINATION AND REPORT ON ACCOUNT-**
6 **ABILITY FOR ETHNIC CLEANSING, CRIMES**
7 **AGAINST HUMANITY, AND GENOCIDE IN**
8 **BURMA.**

9 (a) IN GENERAL.—Not later than 180 days after the
10 date of the enactment of this Act, the Secretary of State
11 shall submit to the appropriate congressional committees
12 a report that—

13 (1) describes—

14 (A) allegations of ethnic cleansing, crimes
15 against humanity, and genocide in Burma; and

16 (B) potential transitional justice mecha-
17 nisms in Burma; and

18 (2) includes a determination whether the events
19 that took place in the state of Rakhine in Burma,
20 starting on August 25, 2017, constitute ethnic
21 cleansing, crimes against humanity, or genocide.

22 (b) ELEMENTS.—The report required under sub-
23 section (a) shall include—

24 (1) a description of—

1 (A) incidents that may constitute ethnic
2 cleansing, crimes against humanity, or genocide
3 committed by the Burmese military against the
4 Rohingya minority and the identities of any
5 other actors involved in such incidents;

6 (B) the role of the civilian government in
7 the commission of such incidents;

8 (C) incidents that may constitute ethnic
9 cleansing, crimes against humanity, or genocide
10 committed by violent extremist groups or anti-
11 government forces;

12 (D) incidents that may violate the principle
13 of medical neutrality and, to the extent possible,
14 the identities of any individuals who engaged in
15 or organized such incidents; and

16 (E) to the extent possible, a description of
17 the conventional and unconventional weapons
18 used for such crimes and the sources of such
19 weapons;

20 (2) a description and assessment by the Depart-
21 ment of State, the United States Agency for Inter-
22 national Development, the Department of Justice,
23 and other appropriate Federal departments and
24 agencies of programs that the United States has al-
25 ready undertaken or is planning to undertake to en-

1 sure accountability for ethnic cleansing, crimes
2 against humanity, and genocide perpetrated against
3 the Rohingya by the military and security forces of
4 Burma, the state government of Rakhine, Buddhist
5 militias, and all other armed groups fighting in
6 Rakhine, including programs to—

7 (A) train civilian investigators within and
8 outside of Burma and Bangladesh on how to
9 document, investigate, develop findings of, and
10 identify and locate alleged perpetrators of eth-
11 nic cleansing, crimes against humanity, or
12 genocide in Burma;

13 (B) promote and prepare for a transitional
14 justice process or processes for the perpetrators
15 of ethnic cleansing, crimes against humanity,
16 and genocide occurring in the State of Rakhine
17 in 2017; and

18 (C) document, collect, preserve, and pro-
19 tect evidence of ethnic cleansing, crimes against
20 humanity, and genocide in Burma, including by
21 providing support for Burmese, Bangladeshi,
22 foreign, and international nongovernmental or-
23 ganizations, the United Nations Human Rights
24 Council’s investigative team, and other entities
25 engaged in such investigative activities; and

1 (3) a detailed study of the feasibility and desir-
2 ability of potential transitional justice mechanisms
3 for Burma, including a hybrid tribunal, to address
4 ethnic cleansing, crimes against humanity, and geno-
5 cide perpetrated in Burma, including recommenda-
6 tions on which transitional justice mechanisms the
7 United States should support, why such mechanisms
8 should be supported, and what type of support
9 should be offered.

10 (c) PROTECTION OF WITNESSES AND EVIDENCE.—

11 The Secretary of State shall take due care to ensure that
12 the identification of witnesses and physical evidence are
13 not publicly disclosed in a manner that might place such
14 persons at risk of harm or encourage the destruction of
15 evidence by the Government of Burma.

16 (d) AUTHORIZATION TO PROVIDE TECHNICAL AS-
17 SISTANCE.—

18 (1) IN GENERAL.—The Secretary of State, in
19 consultation with the Attorney General and the
20 heads of other appropriate Federal departments and
21 agencies, is authorized to provide assistance to sup-
22 port appropriate entities that are undertaking the
23 efforts described in paragraph (2) with respect to
24 ethnic cleansing, crimes against humanity, and geno-
25 cide perpetrated by the military and security forces

1 of Burma, the state government of Rakhine, Bud-
2 dhist militias, and all other armed groups fighting in
3 Rakhine State.

4 (2) EFFORTS AGAINST HUMAN RIGHTS
5 ABUSES.—The efforts described in this paragraph
6 are the following:

7 (A) Identifying suspected perpetrators of
8 ethnic cleansing, crimes against humanity, and
9 genocide.

10 (B) Collecting, documenting, and pro-
11 tecting evidence of such crimes and preserve the
12 chain of custody for such evidence.

13 (C) Conducting criminal investigations.

14 (D) Supporting investigations conducted
15 by other countries, as appropriate.

16 (3) ADDITIONAL SUPPORT.—The Secretary of
17 State, in consultation with the heads of other appro-
18 priate Federal departments and agencies and the ap-
19 propriate congressional committees, and taking into
20 account any relevant findings in the report required
21 by subsection (a), is authorized to support the cre-
22 ation and operation of transitional justice mecha-
23 nisms, including a potential hybrid tribunal, to pros-
24 ecute individuals suspected of committing ethnic

1 cleansing, crimes against humanity, or genocide in
2 Burma.

3 **SEC. 402. STRATEGY FOR PROMOTING ECONOMIC GROWTH**
4 **AND DEVELOPMENT.**

5 (a) IN GENERAL.—Not later than 180 days after the
6 date of the enactment of this Act, the Secretary of State,
7 the Secretary of the Treasury, and the Administrator of
8 the United States Agency for International Development
9 shall jointly submit to the appropriate congressional com-
10 mittees a strategy to support inclusive and enduring eco-
11 nomic growth and development, in accordance with the
12 priorities of the Government of Burma to improve eco-
13 nomic conditions.

14 (b) ELEMENTS.—The strategy required by subsection
15 (a) shall include a plan to promote inclusive and enduring
16 economic growth and development, including the following
17 elements:

18 (1) A road map for economic reforms that
19 will—

20 (A) create an enabling environment for
21 economic growth and opportunity;

22 (B) enhance transparency, accountability
23 and good governance;

24 (C) diversify control and create competi-
25 tion in key industries and sectors dominated by

1 the current and former military officials, the
2 family members of such officials, and
3 businesspeople connected to the military;

4 (D) increase transparency disclosure re-
5 quirements in key sectors to promote respon-
6 sible investment;

7 (E) identify needs and opportunities to
8 provide technical assistance to key ministries,
9 institutions, and organizations to enact eco-
10 nomic reforms, including revisions to existing
11 policies on public disclosure of beneficial owner-
12 ship of companies in key sectors that will allow
13 for identification of those seeking or securing
14 access to Burma's most valuable natural re-
15 sources; and

16 (F) promote responsible investment.

17 (2) A work-plan, developed in collaboration with
18 the Government of Burma and the Myanmar Invest-
19 ment Commission to—

20 (A) establish a mechanism and enhance
21 the capacity of the Myanmar Investment Com-
22 mission to identify and exclude investors with a
23 negative track record with respect to corruption
24 or fiscal, social, or environmental harms;

1 (B) enhance transparency and disclosure
2 through the development and enforcement of
3 robust transparency and disclosure measures
4 under domestic law, including through incorpo-
5 ration of necessary elements of the Organiza-
6 tion for Economic Cooperation and Develop-
7 ment's due diligence frameworks into corporate
8 disclosure requirements;

9 (C) build capacity within civilian govern-
10 ment institutions, including to carry out effec-
11 tive oversight over public- and military-owned
12 entities and to appropriately regulate private
13 and public entities with regard to environ-
14 mental, social, financial, and governance issues;

15 (D) support reform of the gemstone indus-
16 try, including through technical, capacity-build-
17 ing, and other assistance, to address serious
18 challenges and help ensure that business activ-
19 ity in this industry benefits the people of
20 Burma;

21 (E) promote universal access to reliable,
22 affordable, and efficient electricity, including by
23 leveraging United States assistance to support
24 reforms in the electricity sector and electrifica-
25 tion projects that increase energy access

1 through partnership with multilateral organiza-
2 tions and the private sector;

3 (F) improve the government of Burma's
4 ranking in the World Bank's "Doing Business"
5 report; and

6 (G) secure private property rights and land
7 tenure.

8 (c) CONSULTATION REQUIRED.—In developing the
9 strategy required by subsection (a), the Secretary of State
10 shall consult with appropriate officials of the Government
11 of Burma.

12 (d) REPORT ON IMPLEMENTATION.—

13 (1) IN GENERAL.—Not later than 180 days
14 after the date of the submission of the strategy re-
15 quired by subsection (a), the Secretary of State, the
16 Secretary of the Treasury, and the Administrator of
17 the United States Agency for International Develop-
18 ment shall jointly submit to the appropriate congres-
19 sional committees a report in unclassified form, that
20 may contain a classified annex, that describes the
21 extent to which United States assistance and the ef-
22 forts of the Government of Burma have promoted
23 inclusive and enduring economic development in ac-
24 cordance with such strategy.

1 (2) ELEMENTS.—The report required by para-
2 graph (1) shall also address the efforts undertaken,
3 progress achieved, and any next steps planned by ei-
4 ther the United States or the Government of Burma
5 with respect to—

6 (A) the elements in section 301(b);

7 (B) the promotion of accountability and
8 transparency, including through the collection,
9 verification, and publication of beneficial owner-
10 ship information related to extractive industries;
11 and

12 (C) the promotion of best practices regard-
13 ing—

14 (i) environmental conservation, man-
15 agement, and planning;

16 (ii) social impact assessments, includ-
17 ing social and cultural protection and free,
18 prior, and informed consent and meaning-
19 ful participation of local populations, par-
20 ticularly minority ethnic nationalities;

21 (iii) avoidance of displacement of local
22 populations without meaningful consulta-
23 tion and consent, harm mitigation, or com-
24 pensation; and

1 (iv) due diligence procedures in ac-
2 cordance with the United Nations Guiding
3 Principles on Business and Human Rights
4 and the Due Diligence Guidance for Re-
5 sponsible Business Conduct and Due Dili-
6 gence Guidance for Responsible Supply
7 Chains of Minerals from Conflict-Affected
8 and High-Risk Areas of the Organization
9 for Economic Cooperation and Develop-
10 ment.

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