

116TH CONGRESS  
1ST SESSION

# S. 1186

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

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## IN THE SENATE OF THE UNITED STATES

APRIL 11, 2019

Mr. CARDIN (for himself, Mr. YOUNG, Mr. DURBIN, Mr. RUBIO, Mr. MERKLEY, Ms. COLLINS, Ms. CANTWELL, Mr. MURPHY, Mr. WYDEN, Mr. CASEY, Mr. MARKEY, Mr. KAINE, Ms. BALDWIN, Mr. SCHATZ, Mr. COONS, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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## A BILL

To promote democracy and human rights 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.**

4 This Act may be cited as the “Burma Human Rights  
5 and Freedom Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The United States policy of principled en-  
9 gagement since 1988 has fostered positive demo-

1        cratic reforms in Burma, but there remain impor-  
2        tant structural, societal, and systemic impediments  
3        to the realization of a fully democratic civilian gov-  
4        ernment.

5            (2) On August 25, 2017, Burmese military  
6        forces initiated a violent crackdown in Burma's  
7        Rakhine state, attacking police posts and inciting  
8        what was, for an extended period of time, the  
9        world's fastest-growing refugee crisis. Refugee flows  
10       have since slowed down significantly, but continue to  
11       this day.

12           (3) More than 727,000 Rohingya have fled to  
13        Bangladesh since August 2017, fearing loss of liveli-  
14        hoods and shelter and disproportionate use of force  
15        by the military of Burma. As of January 2019, over  
16        900,000 Rohingya reside in refugee camps in Ban-  
17        gladesh.

18           (4) In April 2018, the Department of State de-  
19        termined that ethnic cleansing against the Rohingya  
20        minority in Rakhine State occurred during the pre-  
21        vious year, as documented in the annual Country  
22        Report on Human Rights Practices for Burma.

23           (5) On December 21, 2017, and August 17,  
24        2018, using the authority granted by the Global  
25        Magnitsky Human Rights Accountability Act (sub-

1 title F of title XII of Public Law 114–328), the  
2 United States Government imposed sanctions on  
3 Maung Maung Soe and added Lt. General Aung  
4 Kyaw Zaw, Major General Khin Hlaing, Major Gen-  
5 eral Khin Maung Soe, and Brigadier General Thura  
6 San Lwin, as well as the 33rd Light Infantry Divi-  
7 sion and the 99th Light Infantry Division, to the  
8 Specially Designated Nationals (SDN) list.

9 (6) On August 24, 2018, the United Nations  
10 Independent International Fact-Finding Mission on  
11 Myanmar issued a report stating that “there is suf-  
12 ficient information to warrant the investigation and  
13 prosecution of senior officials in the Tatmadaw  
14 chain of command, so that a competent court can  
15 determine their liability for genocide in relation to  
16 the situation in Rakhine State”.

17 (7) On September 24, 2018, the Department of  
18 State released a report that laid out a compelling  
19 case for crimes against humanity committed by the  
20 Burmese military against Burma’s Rohingya popu-  
21 lation in Rakhine state, while stopping short of a  
22 legal determination.

23 (8) On September 28, 2018, the United Na-  
24 tions Human Rights Council approved the establish-  
25 ment of “an independent mechanism to collect and

1 analyze evidence in regard to the serious inter-  
2 national crimes committed in Myanmar against  
3 Rohingya Muslims and other minorities since 2011”.

4 (9) Amnesty International and Human Rights  
5 Watch have reported and documented a campaign of  
6 violence perpetuated by the security forces of Burma  
7 that “may amount to crimes against humanity” and  
8 “ethnic cleansing” and includes indiscriminate at-  
9 tacks on civilians; rape of women and girls; and ar-  
10 bitrary arrest and detention of Rohingya men with-  
11 out charge.

12 (10) The Government of Burma continues to  
13 block access to northern Rakhine State by United  
14 Nations and other humanitarian organizations, pre-  
15 venting hundreds of thousands of vulnerable  
16 Rohingya, Rakhine, and other ethnic groups, includ-  
17 ing children with acute malnutrition, from receiving  
18 humanitarian aid.

19 (11) The people of Burma continue to suffer  
20 from ongoing armed conflict between the military of  
21 Burma, known as the Tatmadaw, the Arakan Army,  
22 and nearly 20 armed ethnic organizations.

23 (12) Corruption and lack of transparency allow  
24 Burma’s military junta to use the trade of Burma’s  
25 natural resources, in particular jade and rubies, to

1       enrich notorious leaders, including former dictator  
2       Than Shwe and United States-sanctioned drug lord  
3       Hsueh Kang Wei. Vested interests in jade and ru-  
4       bies undermine prospects for resolving the most in-  
5       tractable armed conflict in Burma.

6               (13) Any prospects for a full democracy in  
7       Burma are contingent on ending the civil wars and  
8       finding a path toward national reconciliation that  
9       builds respect for the dignity of Burma’s ethnic and  
10      religious minorities.

11 **SEC. 3. DEFINITIONS.**

12      In this Act:

13               (1) APPROPRIATE CONGRESSIONAL COMMIT-  
14      TEES.—The term “appropriate congressional com-  
15      mittees” means—

16                     (A) the Committee on Foreign Relations  
17                     and the Committee on Armed Services of the  
18                     Senate; and

19                     (B) the Committee on Foreign Affairs and  
20                     the Committee on Armed Services of the House  
21                     of Representatives.

22               (2) CRIMES AGAINST HUMANITY.—The term  
23      “crimes against humanity” includes, when com-  
24      mitted as part of a widespread or systematic attack

1 directed against any civilian population, with knowl-  
2 edge of the attack—

3 (A) murder;

4 (B) deportation or forcible transfer of pop-  
5 ulation;

6 (C) torture;

7 (D) rape, sexual slavery, or any other form  
8 of sexual violence of comparable severity;

9 (E) persecution against any identifiable  
10 group or collectivity on political, racial, na-  
11 tional, ethnic, cultural, religious, gender or  
12 other grounds that are universally recognized as  
13 impermissible under international law; and

14 (F) enforced disappearance of persons.

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

18 (4) TRANSITIONAL JUSTICE.—The term “tran-  
19 sitional justice” means the range of judicial, non-  
20 judicial, formal, informal, retributive, and restorative  
21 measures employed by countries transitioning out of  
22 armed conflict or repressive regimes—

23 (A) to redress legacies of atrocities; and

24 (B) to promote long-term, sustainable  
25 peace.

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

4   **SEC. 4. STATEMENT OF POLICY.**

5       It is the policy of the United States that—

6           (1) the pursuit of a calibrated engagement  
7       strategy is essential to support the establishment of  
8       a peaceful, prosperous, and democratic Burma that  
9       includes respect for the human rights of all its peo-  
10      ple regardless of ethnicity and religion; and

11          (2) the guiding principles of such a strategy in-  
12      clude—

13           (A) support for meaningful legal and con-  
14      stitutional reforms that remove remaining re-  
15      strictions on civil and political rights and insti-  
16      tute civilian control of the military, civilian con-  
17      trol of the government, and the constitutional  
18      provision reserving 25 percent of parliamentary  
19      seats for the military, which provides the mili-  
20      tary with veto power over constitutional amend-  
21      ments;

22           (B) the establishment of a fully demo-  
23      cratic, pluralistic, civilian controlled, and rep-  
24      resentative political system that includes regu-

1           larized free and fair elections in which all peo-  
 2           ple of Burma, including the Rohingya, can vote;

3           (C) the promotion of genuine national rec-  
 4           onciliation and conclusion of a credible and sus-  
 5           tainable nationwide ceasefire agreement, polit-  
 6           ical accommodation of the needs of ethnic Shan,  
 7           Kachin, Chin, Karen, and other ethnic groups,  
 8           safe and voluntary return of displaced persons  
 9           to villages of origins, and constitutional change  
 10          allowing inclusive permanent peace;

11          (D) independent and international inves-  
 12          tigations into credible reports of war crimes,  
 13          crimes against humanity, including sexual and  
 14          gender-based violence and genocide, perpetrated  
 15          against ethnic minorities like the Rohingya by  
 16          the government, military, and security forces of  
 17          Burma, violent extremist groups, and other  
 18          combatants involved in the conflict;

19          (E) accountability for determinations of  
 20          war crimes, crimes against humanity, including  
 21          sexual and gender-based violence and genocide  
 22          perpetrated against ethnic minorities like the  
 23          Rohingya by the Government, military, and se-  
 24          curity forces of Burma, violent extremist

1 groups, and other combatants involved in the  
2 conflict;

3 (F) strengthening the government's civilian  
4 institutions, including support for greater trans-  
5 parency and accountability;

6 (G) the establishment of professional and  
7 nonpartisan military, security, and police forces  
8 that operate under civilian control;

9 (H) empowering local communities, civil  
10 society, and independent media;

11 (I) promoting responsible international and  
12 regional engagement;

13 (J) strengthening respect for and protec-  
14 tion of human rights and religious freedom;

15 (K) addressing and ending the humani-  
16 tarian and human rights crises, including by  
17 supporting the return of the displaced Rohingya  
18 to their homes and granting or restoring full  
19 citizenship for the Rohingya population; and

20 (L) promoting broad-based, inclusive eco-  
21 nomic development and fostering healthy and  
22 resilient communities.

1 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR HUMAN-**  
2 **ITARIAN ASSISTANCE AND RECONCILIATION.**

3       There is authorized to be appropriated not less than  
4 \$220,500,000 for fiscal year 2020 for humanitarian as-  
5 sistance and reconciliation activities for ethnic groups and  
6 civil society organizations in Burma, Bangladesh, Thai-  
7 land, and the region. The assistance may include—

8           (1) assistance for the victims of the Burmese  
9 military's crimes against humanity targeting  
10 Rohingya and other ethnic minorities in Rakhine  
11 State, Kachin, and Shan States, including those dis-  
12 placed in Burma, Bangladesh, Thailand, and the re-  
13 gion;

14           (2) support for voluntary resettlement or repa-  
15 triation in Burma, pending a genuine repatriation  
16 agreement that is developed and negotiated with  
17 Rohingya involvement and consultation;

18           (3) assistance to promote ethnic and religious  
19 tolerance, to combat gender-based violence, and to  
20 support victims of violence and destruction in  
21 Rakhine, Kachin, and Shan States, including victims  
22 of gender-based violence and unaccompanied minors;

23           (4) support for formal education for children  
24 currently living in the camps, and opportunities to  
25 access higher education in Bangladesh;

1           (5) support for programs to investigate and  
2       document allegations of war crimes and crimes  
3       against humanity, including sexual and gender-based  
4       violence and genocide committed in Burma;

5           (6) assistance to ethnic groups and civil society  
6       in Burma to help sustain ceasefire agreements and  
7       further prospects for reconciliation and sustainable  
8       peace; and

9           (7) promotion of ethnic minority inclusion and  
10      participation in Burma's political processes.

11 **SEC. 6. MULTILATERAL ASSISTANCE.**

12       The Secretary of the Treasury should instruct the  
13      United States executive director of each international fi-  
14      nancial institution to use the voice and vote of the United  
15      States to support projects in Burma that—

16           (1) provide for accountability and transparency,  
17      including the collection, verification, and publication  
18      of beneficial ownership information related to extrac-  
19      tive industries and on-site monitoring during the life  
20      of the project;

21           (2) will be developed and carried out in accord-  
22      ance with best practices regarding environmental  
23      conservation, cultural protection, and empowerment  
24      of local populations, including free, prior, and in-  
25      formed consent of affected indigenous communities;

1           (3) do not provide incentives for, or facilitate,  
2       forced displacement; and

3           (4) do not partner with or otherwise involve en-  
4       terprises owned or controlled by the armed forces.

5   **SEC. 7. SENSE OF CONGRESS ON RIGHT OF RETURNEES**  
6                           **AND FREEDOM OF MOVEMENT.**

7       (a) RIGHT OF RETURN.—It is the sense of Congress  
8   that the Government of Burma, in collaboration with the  
9   regional and international community, including the  
10   United Nations High Commissioner for Refugees,  
11   should—

12           (1) ensure the dignified, safe, sustainable, and  
13       voluntary return of all those displaced from their  
14       homes, especially from Rakhine State, without an  
15       unduly high burden of proof, and the opportunity to  
16       obtain appropriate compensation to restart their  
17       lives in Burma;

18           (2) ensure that those returning are granted or  
19       restored full citizenship and all the rights that ad-  
20       here to citizenship in Burma;

21           (3) offer to those who do not want to return  
22       meaningful opportunity to obtain appropriate com-  
23       pensation or restitution;

24           (4) not place returning Rohingya in internally  
25       displaced persons camps or “model villages”, but in-

1       stead make efforts to reconstruct Rohingya villages  
2       as and where they were;

3           (5) facilitate the return of any funds collected  
4       by the Government by harvesting the land previously  
5       owned and tended by Rohingya farmers for them  
6       upon their return;

7           (6) fully implement all of the recommendations  
8       of the Advisory Commission on Rakhine State; and

9           (7) ensure there is proper consultation, buy-in,  
10       and confidence building from the Rohingya refugee  
11       community on decisions being made on their behalf.

12       (b) FREEDOM OF MOVEMENT OF REFUGEES AND IN-  
13       TERNALLY DISPLACED PERSONS.—Congress recognizes  
14       that the Government of Bangladesh has provided long-  
15       standing support and hospitality to people fleeing violence  
16       in Burma, and calls on the Government of Bangladesh—

17           (1) to ensure all refugees, including Rohingya  
18       persons living in camps in Bangladesh and in inter-  
19       nally displaced persons camps in Burma, have free-  
20       dom of movement, including outside of the camps,  
21       and under no circumstance are subject to unsafe, in-  
22       voluntary, or uninformed repatriation;

23           (2) to ensure the dignified, safe, sustainable,  
24       and voluntary return of those displaced from their  
25       homes, and offer to those who do not want to return

1 meaningful means to obtain compensation or restitu-  
2 tion; and

3 (3) to ensure the rights of refugees are pro-  
4 tected, including through allowing them to build  
5 more permanent shelters, and ensuring equal access  
6 to healthcare, basic services, education, and work.

7 **SEC. 8. MILITARY COOPERATION.**

8 (a) PROHIBITION.—Except as provided under sub-  
9 section (b), the President may not furnish any security  
10 assistance or engage in any military-to-military programs  
11 with the armed forces of Burma, including training or ob-  
12 servation or participation in regional exercises, until the  
13 Secretary of State, in consultation with the Secretary of  
14 Defense, certifies to the appropriate congressional com-  
15 mittees that the Burmese military has demonstrated sig-  
16 nificant progress in abiding by international human rights  
17 standards and is undertaking meaningful and significant  
18 security sector reform, including transparency and ac-  
19 countability to prevent future abuses, as determined by  
20 applying the following criteria:

21 (1) The military adheres to international  
22 human rights standards and institutes meaningful  
23 internal reforms to stop future human rights viola-  
24 tions.

1           (2) The military supports efforts to carry out  
2       meaningful and comprehensive independent and  
3       international investigations of credible reports of  
4       abuses and is holding accountable those in the Bur-  
5       mese military responsible for human rights viola-  
6       tions.

7           (3) The military supports efforts to carry out  
8       meaningful and comprehensive independent and  
9       international investigations of reports of conflict-re-  
10      lated sexual and gender-based violence and is hold-  
11      ing accountable those in the Burmese military who  
12      failed to prevent, respond to, investigate, and prosec-  
13      cute violence against women, sexual violence, or  
14      other gender-based violence.

15          (4) The Government of Burma, including the  
16      military, allows immediate and unfettered humani-  
17      tarian access to communities in areas affected by  
18      conflict, including Rohingya and other minority com-  
19      munities in Rakhine, Kachin, and Shan States, spe-  
20      cifically to the United Nations High Commissioner  
21      for Refugees and other relevant United Nations  
22      agencies.

23          (5) The Government of Burma, including the  
24      military, cooperates with the United Nations High  
25      Commissioner for Refugees and other relevant

1 United Nations agencies to ensure the protection of  
2 displaced persons and the safe and voluntary return  
3 of Rohingya and other minority refugees and inter-  
4 nally displaced persons.

5 (6) The Government of Burma, including the  
6 military, takes steps toward the implementation of  
7 the recommendations of the Advisory Commission on  
8 Rakhine State.

9 (b) EXCEPTIONS.—

10 (1) CERTAIN EXISTING AUTHORITIES.—The  
11 Department of Defense may continue to conduct  
12 consultations based on the authorities under section  
13 1253 of the Carl Levin and Howard P. “Buck”  
14 McKeon National Defense Authorization Act for  
15 Fiscal Year 2015 (Public Law 113–291; 22 U.S.C.  
16 2151 note).

17 (2) HOSPITALITY.—The United States Agency  
18 for International Development and the Department  
19 of State may provide assistance authorized by part  
20 I of the Foreign Assistance Act of 1961 (22 U.S.C.  
21 2151 et seq.) to support ethnic armed groups and  
22 the Burmese military for the purpose of supporting  
23 research, dialogues, meetings, and other activities re-  
24 lated to the Union Peace Conference, Political Dia-

1 logues, and related processes, in furtherance of in-  
2 clusive, sustainable reconciliation.

3 (c) MILITARY REFORM.—The certification required  
4 under subsection (a) shall include a written justification  
5 in classified and unclassified form describing the Burmese  
6 military's efforts to implement reforms, end impunity for  
7 human rights violations, and increase transparency and  
8 accountability.

9 (d) RULE OF CONSTRUCTION.—Nothing in this Act  
10 shall be construed to authorize Department of Defense as-  
11 sistance to the Government of Burma except as provided  
12 in this section.

13 (e) REPORT.—

14 (1) IN GENERAL.—Not later than 180 days  
15 after the date of the enactment of this Act, and  
16 every 180 days thereafter, the Secretary of State  
17 and the Secretary of Defense shall submit to the ap-  
18 propriate congressional committees a report, in both  
19 classified and unclassified form, on the strategy and  
20 plans for military-to-military engagement between  
21 the United States Armed Forces and the military of  
22 Burma.

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

1 (A) A description and assessment of the  
2 Government of Burma's strategy for—

3 (i) security sector reform, including as  
4 it relates to an end to involvement in the  
5 illicit trade in jade, rubies, and other nat-  
6 ural resources;

7 (ii) reforms to end corruption and il-  
8 licit drug trafficking; and

9 (iii) constitutional reforms to ensure  
10 civilian control of the Government.

11 (B) A list of ongoing military activities  
12 conducted by the United States Government  
13 with the Government of Burma, and a descrip-  
14 tion of the United States strategy for future  
15 military-to-military engagements between the  
16 United States and Burma's military forces, in-  
17 cluding the military of Burma, the Burma Po-  
18 lice Force, and armed ethnic groups.

19 (C) An assessment of the progress of the  
20 military of Burma towards developing a frame-  
21 work to implement human rights reforms, in-  
22 cluding—

23 (i) cooperation with civilian authori-  
24 ties to investigate and prosecute cases of  
25 human rights violations;

1 (ii) steps taken to demonstrate respect  
 2 for internationally recognized human rights  
 3 standards and implementation of and ad-  
 4 herence to the laws of war; and

5 (iii) a description of the elements of  
 6 the military-to-military engagement be-  
 7 tween the United States and Burma that  
 8 promote such implementation.

9 (D) An assessment of progress on the  
 10 peaceful settlement of armed conflicts between  
 11 the Government of Burma and ethnic minority  
 12 groups, including actions taken by the military  
 13 of Burma to adhere to ceasefire agreements,  
 14 allow for safe and voluntary returns of dis-  
 15 placed persons to their villages of origin, and  
 16 withdraw forces from conflict zones.

17 (E) An assessment of the Burmese mili-  
 18 tary recruitment and use of children as soldiers.

19 (F) An assessment of the Burmese mili-  
 20 tary's use of violence against women, sexual vio-  
 21 lence, or other gender-based violence as a tool  
 22 of terror, war, or crimes against humanity.

23 (f) CIVILIAN CHANNELS.—Any program initiated  
 24 under this section shall use appropriate civilian govern-

1 ment channels with the democratically elected Government  
2 of Burma.

3 (g) REGULAR CONSULTATIONS.—Any new program  
4 or activity in Burma initiated under this section shall be  
5 subject to prior consultation with the appropriate congress-  
6 sional committees.

7 **SEC. 9. TRADE RESTRICTIONS.**

8 (a) REINSTATEMENT OF IMPORT RESTRICTIONS ON  
9 JADEITE AND RUBIES FROM BURMA.—

10 (1) IN GENERAL.—Section 3A of the Burmese  
11 Freedom and Democracy Act of 2003 (Public Law  
12 108–61; 50 U.S.C. 1701 note) is amended by adding  
13 at the end the following:

14 “(i) TERMINATION.—Notwithstanding section 9, this  
15 section shall remain in effect until the President deter-  
16 mines and certifies to the appropriate congressional com-  
17 mittees that the Government of Burma has taken meas-  
18 ures to reform the gemstone industry in Burma, including  
19 measures to require—

20 “(1) the disclosure of the ultimate beneficial  
21 ownership of entities in that industry; and

22 “(2) the publication of project revenues, pay-  
23 ments, and contract terms relating to that indus-  
24 try.”.

(2) CONFORMING AMENDMENTS.—Section 3A of the Burmese Freedom and Democracy Act of 2003 is further amended—

(A) in subsection (b)—

(i) in paragraph (1), by striking “until such time” and all that follows through “2008” and inserting “beginning on the date that is 15 days after the date of the enactment of the Burma Human Rights and Freedom Act of 2019”; and

(ii) in paragraph (3), by striking “the date of the enactment of this Act” and inserting “the date of the enactment of the Burma Human Rights and Freedom Act of 2019”; and

(B) in subsection (c)(1), by striking “until such time” and all that follows through “2008” and inserting “beginning on the date that is 15 days after the date of the enactment of the Burma Human Rights and Freedom Act of 2019”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to articles entered, or withdrawn from warehouse for consump-

1       tion, on or after the 15th day after the date of the  
2       enactment of this Act.

3       (b) REVIEW OF ELIGIBILITY FOR GENERALIZED SYS-  
4       TEM OF PREFERENCES.—

5           (1) IN GENERAL.—Not later than one year  
6       after the date of enactment of this Act, the Presi-  
7       dent shall submit to the committees specified in  
8       paragraph (2) a report that includes a detailed re-  
9       view of the eligibility of Burma for preferential duty  
10      treatment under the Generalized System of Pref-  
11      erences under title V of the Trade Act of 1974 (19  
12      U.S.C. 2461 et seq.).

13          (2) COMMITTEES SPECIFIED.—The committees  
14      specified in this paragraph are—

15           (A) the Committee on Appropriations, the  
16           Committee on Finance, and the Committee on  
17           Foreign Relations of the Senate; and

18           (B) the Committee on Appropriations, the  
19           Committee on Foreign Affairs, and the Com-  
20           mittee on Ways and Means of the House of  
21           Representatives.

22      **SEC. 10. VISA BAN AND ECONOMIC SANCTIONS WITH RE-**  
23                      **SPECT TO MILITARY OFFICIALS RESPON-**  
24                      **SIBLE FOR HUMAN RIGHTS VIOLATIONS.**

25      (a) LIST REQUIRED.—

1           (1) IN GENERAL.—Not later than 180 days  
2       after the date of the enactment of this Act, the  
3       President shall submit to the appropriate congres-  
4       sional committees a list of—

5           (A) senior officials of the military and se-  
6       curity forces of Burma that the President de-  
7       termines have knowingly played a direct and  
8       significant role in the commission of gross viola-  
9       tions of human rights, war crimes, or crimes  
10      against humanity (including sexual or gender-  
11      based violence), in Burma, including against the  
12      Rohingya minority population; and

13          (B) entities owned or controlled by officials  
14      described in subparagraph (A).

15          (2) INCLUSIONS.—The list required by para-  
16      graph (1) shall include—

17          (A) each senior official of the military and  
18      security forces of Burma—

19              (i) in charge of a unit that was oper-  
20              ational during the so-called “clearance op-  
21              erations” that began during or after Octo-  
22              ber 2016; and

23              (ii) who—

24                  (I) knew, or should have known,  
25                  that the official’s subordinates were

1 committing gross violations of human  
2 rights, war crimes, or crimes against  
3 humanity (including sexual or gender-  
4 based violence); and

5 (II) failed to take adequate steps  
6 to prevent such violations or crimes or  
7 punish the subordinates responsible  
8 for such violations or crimes; and

9 (B) each entity owned or controlled by an  
10 official described in subparagraph (A).

11 (3) UPDATES.—Not later than one year after  
12 the date of the enactment of this Act, and not less  
13 frequently than every 180 days thereafter, the Presi-  
14 dent shall submit to the appropriate congressional  
15 committees an updated version of the list required  
16 by paragraph (1).

17 (b) SANCTIONS.—

18 (1) VISA BAN.—The Secretary of State shall  
19 deny a visa to, and the Secretary of Homeland Secu-  
20 rity shall exclude from the United States, any indi-  
21 vidual included in the most recent list required by  
22 subsection (a).

23 (2) BLOCKING OF PROPERTY.—

24 (A) IN GENERAL.—The Secretary of the  
25 Treasury shall, pursuant to the International

1           Emergency Economic Powers Act (50 U.S.C.  
2           1701 et seq.), block and prohibit all trans-  
3           actions in all property and interests in property  
4           of a person included in the most recent list re-  
5           quired by subsection (a) if such property and  
6           interests in property are in the United States,  
7           come within the United States, or are or come  
8           within the possession or control of a United  
9           States person.

10           (B) INAPPLICABILITY OF NATIONAL EMER-  
11           GENCY REQUIREMENT.—The requirements of  
12           section 202 of the International Emergency  
13           Economic Powers Act (50 U.S.C. 1701) shall  
14           not apply for purposes of this paragraph.

15           (3) AUTHORITY FOR ADDITIONAL FINANCIAL  
16           SANCTIONS.—The Secretary of the Treasury may, in  
17           consultation with the Secretary of State, prohibit or  
18           impose strict conditions on the opening or maintain-  
19           ing in the United States of a correspondent account  
20           or payable-through account by a foreign financial in-  
21           stitution that the President determines has, on or  
22           after the date of the enactment of this Act, know-  
23           ingly conducted or facilitated a significant trans-  
24           action or transactions on behalf of a person included

1 in the most recent list required by subsection (a) or  
2 included on the SDN list pursuant to subsection (c).

3 (4) RULE OF CONSTRUCTION.—Nothing in this  
4 subsection may be construed to apply with respect to  
5 any transaction with a nongovernmental humani-  
6 tarian organization in Burma.

7 (c) CONSIDERATION OF INCLUSIONS IN SDN LIST.—

8 (1) IN GENERAL.—Not later than 180 days  
9 after the date of the enactment of this Act, the  
10 President shall—

11 (A) determine whether the individuals  
12 specified in paragraph (2) should be included  
13 on the SDN list; and

14 (B) submit to the appropriate congres-  
15 sional committees a report, in classified form if  
16 necessary, on the procedures for including those  
17 individuals on the SDN list under existing au-  
18 thorities of the Department of the Treasury.

19 (2) INDIVIDUALS SPECIFIED.—The individuals  
20 specified in this paragraph are—

21 (A) the head of a unit of the military or  
22 security forces of Burma that was operational  
23 during the so-called “clearance operations” that  
24 began during or after October 2016, includ-  
25 ing—

1 (i) Senior General Min Aung Hlaing;

2 (ii) Deputy Commander-in-Chief and

3 Vice Senior-General Soe Win;

4 (iii) the Commander of the 33rd Light

5 Infantry Division, Brigadier-General Aung

6 Aung; and

7 (iv) the Commander of the 99th Light

8 Infantry Division, Brigadier-General Than

9 Oo; and

10 (B) any senior official of the military or

11 security forces of Burma for which the Presi-

12 dent determines there are credible reports that

13 the official—

14 (i) aided, participated in, or is other-

15 wise implicated in gross violations of

16 human rights, war crimes, or crimes

17 against humanity (including sexual or gen-

18 der-based violence), in Burma;

19 (ii)(I) knew, or should have known,

20 that the official's subordinates were com-

21 mitting such violations or crimes; and

22 (II) failed to take adequate steps to

23 prevent such violations or crimes or punish

24 the subordinates responsible for such viola-

25 tions or crimes; or

1 (iii) took significant steps to impede  
2 the investigation or prosecution of such  
3 violations or crimes.

4 (d) TERMINATION OF SANCTIONS.—The President  
5 may terminate the application of sanctions under this sec-  
6 tion with respect to an individual placed on the list re-  
7 quired by subsection (a) under paragraph (1)(A) of that  
8 subsection, or an entity placed on that list because the  
9 entity is owned or controlled by such an individual, if the  
10 President determines and reports to the appropriate con-  
11 gressional committees not later than 15 days before the  
12 termination of the sanctions that—

13 (1) the individual has—

14 (A) publicly acknowledged the role of the  
15 individual in committing past gross violations of  
16 human rights, war crimes, or crimes against  
17 humanity (including sexual or gender-based vio-  
18 lence);

19 (B) cooperated with independent efforts to  
20 investigate such violations or crimes;

21 (C) been held accountable for such viola-  
22 tions or crimes; and

23 (D) demonstrated substantial progress in  
24 reforming the individual's behavior with respect

1 to the protection of human rights in the con-  
2 duct of civil-military relations; and

3 (2) removing the individual or entity from the  
4 list is in the national interest of the United States.

5 (e) EXCEPTIONS.—

6 (1) HUMANITARIAN ASSISTANCE.—A require-  
7 ment to impose sanctions under this section shall  
8 not apply with respect to the provision of medicine,  
9 medical equipment or supplies, food, or any other  
10 form of humanitarian or human rights-related as-  
11 sistance provided to Burma in response to a humani-  
12 tarian crisis.

13 (2) UNITED NATIONS HEADQUARTERS AGREE-  
14 MENT.—Subsection (b)(1) shall not apply to the ad-  
15 mission of an individual to the United States if such  
16 admission is necessary to comply with United States  
17 obligations under the Agreement between the United  
18 Nations and the United States of America regarding  
19 the Headquarters of the United Nations, signed at  
20 Lake Success June 26, 1947, and entered into force  
21 November 21, 1947, or under the Convention on  
22 Consular Relations, done at Vienna April 24, 1963,  
23 and entered into force March 19, 1967, or other  
24 international obligations of the United States.

1           (3) EXCEPTION RELATING TO IMPORTATION OF  
2       GOODS.—

3           (A) IN GENERAL.—The authority to block  
4           and prohibit all transactions in all property and  
5           interests in property under this section shall not  
6           include the authority to impose sanctions on the  
7           importation of goods.

8           (B) GOOD DEFINED.—In this paragraph,  
9           the term “good” means any article, natural or  
10          man-made substance, material, supply or manu-  
11          factured product, including inspection and test  
12          equipment, and excluding technical data.

13          (f) WAIVER.—The President may waive a require-  
14          ment of this section if the Secretary of State, in consulta-  
15          tion with the Secretary of the Treasury, determines and  
16          reports to the appropriate congressional committees that  
17          the waiver is important to the national security interest  
18          of the United States.

19          (g) IMPLEMENTATION; PENALTIES.—

20               (1) IMPLEMENTATION.—The President may ex-  
21               ercise all authorities provided under sections 203  
22               and 205 of the International Emergency Economic  
23               Powers Act (50 U.S.C. 1702 and 1704) to carry out  
24               this section.

1           (2) PENALTIES.—A person that violates, at-  
 2       tempts to violate, conspires to violate, or causes a  
 3       violation of paragraph (2) or (3) of subsection (b) or  
 4       any regulation, license, or order issued to carry out  
 5       either such paragraph shall be subject to the pen-  
 6       alties set forth in subsections (b) and (c) of section  
 7       206 of the International Emergency Economic Pow-  
 8       ers Act (50 U.S.C. 1705) to the same extent as a  
 9       person that commits an unlawful act described in  
 10      subsection (a) of that section.

11      (h) REPORT TO CONGRESS ON DIPLOMATIC ENGAGE-  
 12      MENT.—Not later than 180 days after the date of the en-  
 13      actment of this Act, and annually thereafter, the President  
 14      shall submit to the appropriate congressional committees  
 15      a report on diplomatic efforts to impose coordinated sanc-  
 16      tions with respect to persons sanctioned under—

17           (1) section 10; or

18           (2) section 1263 of the Global Magnitsky  
 19      Human Rights Accountability Act (subtitle F of title  
 20      XII of Public Law 114–328; 22 U.S.C. 2656 note)  
 21      for activities described in subsection (a) of that sec-  
 22      tion in or with respect to Burma.

23      (i) DEFINITIONS.—In this section:

24           (1) ACCOUNT; CORRESPONDENT ACCOUNT; PAY-  
 25      ABLE-THROUGH ACCOUNT.—The terms “account”,

1 “correspondent account”, and “payable-through ac-  
 2 count” have the meanings given those terms in sec-  
 3 tion 5318A of title 31, United States Code.

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

9 (3) SDN LIST.—The term “SDN list” means  
 10 the list of specially designated nationals and blocked  
 11 persons maintained by the Office of Foreign Assets  
 12 Control of the Department of the Treasury.

13 (4) UNITED STATES PERSON.—The term  
 14 “United States person” has the meaning given that  
 15 term in section 595.315 of title 31, Code of Federal  
 16 Regulations (as in effect on the day before the date  
 17 of the enactment of this Act).

18 **SEC. 11. STRATEGY FOR PROMOTING ECONOMIC DEVELOP-**  
 19 **MENT.**

20 (a) IN GENERAL.—Not later than 180 days after the  
 21 date of the enactment of this Act, the Secretary of State,  
 22 the Secretary of the Treasury, and the Administrator of  
 23 the United States Agency for International Development  
 24 shall jointly submit to the appropriate congressional com-  
 25 mittees a strategy to support sustainable, inclusive, and

1 broad-based economic development, in accordance with the  
2 priorities of disadvantaged communities in Burma and in  
3 consultation with relevant civil society and local stake-  
4 holders, and to improve economic conditions and govern-  
5 ment transparency.

6 (b) ELEMENTS.—The strategy required by subsection  
7 (a) shall include a roadmap—

8 (1) to assess and recommend measures to diver-  
9 sify control over and access to participation in key  
10 industries and sectors, including efforts to remove  
11 barriers and increase competition, access, and oppor-  
12 tunity in sectors dominated by officials of the Bur-  
13 mese military, former military officials, and their  
14 families, and businesspeople connected to the mili-  
15 tary of Burma, with the goal of eliminating the role  
16 of the military in the economy of Burma;

17 (2) to increase transparency disclosure require-  
18 ments in key sectors of the economy of Burma to  
19 promote responsible investment, including through  
20 efforts—

21 (A) to provide technical support to develop  
22 and implement policy reforms related to public  
23 disclosure of the beneficial owners of entities in  
24 key sectors identified by the Government of  
25 Burma, specifically by—

1 (i) working with the Government of  
2 Burma to require—

3 (I) the disclosure of the ultimate  
4 beneficial ownership of entities in the  
5 ruby industry; and

6 (II) the publication of project  
7 revenues, payments, and contract  
8 terms relating to that industry; and

9 (ii) ensuring that reforms complement  
10 disclosures due to be put in place in  
11 Burma as a result of its participation in  
12 the Extractives Industry Transparency Ini-  
13 tiative; and

14 (B) to identify the persons seeking or se-  
15 curing access to the most valuable resources of  
16 Burma; and

17 (3) to promote universal access to reliable, af-  
18 fordable, energy efficient, and sustainable power, in-  
19 cluding leveraging United States assistance to sup-  
20 port reforms in the power sector and electrification  
21 projects that increase energy access, in partnership  
22 with multilateral organizations and the private sec-  
23 tor.

1 **SEC. 12. REPORT ON CRIMES AGAINST HUMANITY AND SE-**  
2 **RIOUS HUMAN RIGHTS ABUSES IN BURMA.**

3 (a) IN GENERAL.—Not later than 90 days after the  
4 date of the enactment of this Act, the Secretary of State  
5 shall submit to the appropriate congressional committees  
6 a report detailing the credible reports of crimes against  
7 humanity and serious human rights abuses committed  
8 against the Rohingya and other ethnic minorities in  
9 Burma, including credible reports of war crimes, crimes  
10 against humanity, and genocide, and on potential  
11 transnational justice mechanisms in Burma.

12 (b) ELEMENTS.—The reports required under sub-  
13 section (a) shall include—

14 (1) a description of credible reports of war  
15 crimes, crimes against humanity, including sexual  
16 and gender-based violence, and genocide perpetrated  
17 against the Rohingya and other ethnic minorities in  
18 Burma, including—

19 (A) incidents that may constitute such  
20 crimes committed by the Burmese military, and  
21 other actors involved in the violence;

22 (B) the role of the civilian government in  
23 the commission of such crimes;

24 (C) incidents that may constitute such  
25 crimes committed by violent extremist groups or  
26 antigovernment forces;

1 (D) any incidents that may violate the  
2 principle of medical neutrality and, if possible,  
3 identification of the individual or individuals  
4 who engaged in or organized such incidents;  
5 and

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

10 (2) a description and assessment by the Depart-  
11 ment of State, the United States Agency for Inter-  
12 national Development, the Department of Justice,  
13 and other appropriate Federal departments and  
14 agencies of programs that the United States Govern-  
15 ment has already or is planning to undertake to en-  
16 sure accountability for credible reports of war  
17 crimes, crimes against humanity, including sexual  
18 and gender-based violence, and genocide perpetrated  
19 against the Rohingya and other ethnic minority  
20 groups by the Government, security forces, and mili-  
21 tary of Burma, violent extremist groups, and other  
22 combatants involved in the conflict, including pro-  
23 grams—

24 (A) to train investigators within and out-  
25 side of Burma and Bangladesh on how to docu-

1           ment, investigate, develop findings of, and iden-  
2           tify and locate alleged perpetrators of such  
3           crimes in Burma;

4           (B) to promote and prepare for a transi-  
5           tional justice process or processes for the per-  
6           petrators of such crimes in Burma; and

7           (C) to document, collect, preserve, and pro-  
8           tect evidence of reports of such crimes in  
9           Burma, including support for Burmese and  
10          Bangladeshi, foreign, and international non-  
11          governmental organizations, the United Nations  
12          Human Rights Council's investigative team,  
13          and other entities; and

14          (3) a detailed study of the feasibility and desir-  
15          ability of potential transitional justice mechanisms  
16          for Burma, including a hybrid or ad hoc tribunal as  
17          well as other international justice and accountability  
18          options. The report should be produced in consulta-  
19          tion with Rohingya representatives and those of  
20          other ethnic minorities who have suffered grave  
21          human rights abuses.

22          (c) PROTECTION OF WITNESSES AND EVIDENCE.—

23          The Secretary shall take due care to ensure that the iden-  
24          tification of witnesses and physical evidence are not pub-  
25          licly disclosed in a manner that might place such persons

1 at risk of harm or encourage the destruction of evidence  
2 by the Government of Burma.

3 **SEC. 13. TECHNICAL ASSISTANCE AUTHORIZED.**

4 (a) IN GENERAL.—The Secretary of State, in con-  
5 sultation with the Department of Justice and other appro-  
6 priate Federal departments and agencies, is authorized to  
7 provide appropriate assistance to support entities that,  
8 with respect to credible reports of war crimes, crimes  
9 against humanity, including sexual and gender-based vio-  
10 lence, and genocide perpetrated by the military, security  
11 forces, and Government of Burma, Buddhist militias, and  
12 all other armed groups fighting in Rakhine State—

13 (1) identify suspected perpetrators of such  
14 crimes;

15 (2) collect, document, and protect evidence of  
16 crimes and preserve the chain of custody for such  
17 evidence;

18 (3) conduct criminal investigations; and

19 (4) support investigations by third-party states,  
20 as appropriate.

21 (b) ADDITIONAL ASSISTANCE.—The Secretary of  
22 State, after consultation with appropriate Federal depart-  
23 ments and agencies and the appropriate congressional  
24 committees, and taking into account the findings of the  
25 transitional justice study required under section 12(b)(3),

1 is authorized to provide assistance to support the creation  
 2 and operation of transitional justice mechanisms for  
 3 Burma.

4 **SEC. 14. SENSE OF CONGRESS ON PRESS FREEDOM.**

5 In order to promote freedom of the press in Burma,  
 6 it is the sense of Congress that—

7 (1) Reuters journalists Wa Lone and Kyaw Soe  
 8 Oo should be immediately released and should have  
 9 access to lawyers and their families; and

10 (2) the Government of Burma should repeal the  
 11 Official Secrets Act, a colonial-era law that was used  
 12 to arrest these journalists, as well as other laws that  
 13 are used to arrest journalists and undermine press  
 14 freedom around the world.

15 **SEC. 15. MEASURES RELATING TO MILITARY COOPERATION**  
 16 **BETWEEN BURMA AND NORTH KOREA.**

17 (a) IMPOSITION OF SANCTIONS.—

18 (1) IN GENERAL.—The President may, with re-  
 19 spect to any person described in paragraph (2)—

20 (A) impose the sanctions described in para-  
 21 graph (1) or (3) of section 10(b); or

22 (B) include that person on the SDN list  
 23 (as defined in section 10(i)).

24 (2) PERSONS DESCRIBED.—A person described  
 25 in this paragraph is an official of the Government of

1 Burma or an individual or entity acting on behalf of  
 2 that Government that the President determines pur-  
 3 chases or otherwise acquires defense articles from  
 4 the Government of North Korea or an individual or  
 5 entity acting on behalf of that Government.

6 (b) RESTRICTION ON FOREIGN ASSISTANCE.—The  
 7 President may terminate or reduce the provision of United  
 8 States foreign assistance to Burma if the President deter-  
 9 mines that the Government of Burma does not verifiably  
 10 and irreversibly eliminate all purchases or other acqui-  
 11 sitions of defense articles by persons described in subsection  
 12 (a)(2) from the Government of North Korea or individuals  
 13 or entities acting on behalf of that Government.

14 (c) DEFENSE ARTICLE DEFINED.—In this section,  
 15 the term “defense article” has the meaning given that  
 16 term in section 47 of the Arms Export Control Act (22  
 17 U.S.C. 2794).

18 **SEC. 16. NO AUTHORIZATION FOR THE USE OF MILITARY**  
 19 **FORCE.**

20 Nothing in this Act shall be construed as an author-  
 21 ization for the use of force.

○