

116TH CONGRESS
1ST SESSION

H. R. 3190

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2019

Received; read twice and referred to the Committee on Foreign Relations

AN ACT

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

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Burma Unified through Rigorous Military Accountability
 4 Act of 2019” or the “BURMA Act of 2019”.

5 (b) TABLE OF CONTENTS.—The table of contents for
 6 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Definitions.
 Sec. 3. Findings.

TITLE I—MATTERS RELATING TO THE CONFLICT IN BURMA

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

TITLE II—ASSISTANCE AND SANCTIONS WITH RESPECT TO
 BURMA

Sec. 201. Authorization to provide humanitarian assistance.
 Sec. 202. Imposition of sanctions with respect to human rights abuses in
 Burma.

TITLE III—GOVERNANCE OF THE BURMESE MINING AND
 GEMSTONE SECTORS

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

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

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

TITLE V—DETERMINATION OF BUDGETARY EFFECTS

Sec. 501. Determination of budgetary effects.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

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

4 (A) the Committee on Foreign Affairs, the
5 Committee on Financial Services, and the Com-
6 mittee on Armed Services of the House of Rep-
7 resentatives; and

8 (B) the Committee on Foreign Relations,
9 the Committee on Banking, and the Committee
10 on Armed Services of the Senate.

11 (2) CRIMES AGAINST HUMANITY.—The term
12 “crimes against humanity” includes, when com-
13 mitted as part of a widespread or systematic attack
14 directed against any civilian population, with knowl-
15 edge of the attack—

16 (A) murder;

17 (B) deportation or forcible transfer of pop-
18 ulation;

19 (C) torture;

20 (D) extermination;

21 (E) enslavement;

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

24 (G) persecution against any identifiable
25 group or collectivity on political, racial, na-

1 tional, ethnic, cultural, religious, gender, or
2 other grounds that are universally recognized as
3 impermissible under international law; and

4 (H) enforced disappearance of persons.

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

8 (4) TRANSITIONAL JUSTICE.—The term “tran-
9 sitional justice” means the range of judicial, non-
10 judicial, formal, informal, retributive, and restorative
11 measures employed by countries transitioning out of
12 armed conflict or repressive regimes to redress leg-
13 acies of atrocities and to promote long-term, sustain-
14 able peace.

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

18 **SEC. 3. FINDINGS.**

19 Congress finds the following:

20 (1) On August 25, 2017, Burmese military and
21 security forces violently and disproportionately re-
22 sponded to an attack on security outposts, resulting
23 in a mass exodus of Rohingya from the Rakhine
24 State of Burma into Bangladesh, which the Inter-

1 national Organization of Migration called “unprece-
2 dented in terms of volume and speed”.

3 (2) Between August 2017 and March 2019, in
4 response to the violence perpetrated by the Burmese
5 military and security forces, the United Nations esti-
6 mates more than 740,000 Rohingya, approximately
7 75 percent of whom are women and children, have
8 fled to Bangladesh, fearing loss of life, livelihoods,
9 and shelter. Rohingya have continued to flee Burma
10 in significant numbers, including in 2019. According
11 to the United Nations High Commissioner for Refu-
12 gees, more than 1,400 Rohingya have arrived in
13 Bangladesh since January 1, 2019.

14 (3) Even after the Burmese military scaled
15 back attacks against Rohingya in late 2017, security
16 forces continued to impose restrictions on the basic
17 freedoms of Rohingya in Rakhine State, including on
18 freedom of movement. In November 2017, Amnesty
19 International determined that Rohingya remaining
20 in Rakhine are “trapped in a vicious system of state-
21 sponsored, institutionalized discrimination that
22 amounts to apartheid”.

23 (4) Despite the steps taken toward democracy
24 in Burma, there exists limited control by the civilian
25 government over civilian agencies as well as military

1 and security forces that carried out the violence in
2 Rakhine State. The military and security forces con-
3 tinue to engage in grave human rights abuses
4 against ethnic minorities throughout in the country.

5 (5) Both government- and military-initiated in-
6 vestigations into human rights abuses in Burma in-
7 volving violence between ethnic minorities and Bur-
8 mese security forces have failed to yield credible re-
9 sults or hold perpetrators accountable.

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

13 (A) Repatriation of those who have crossed
14 over to Bangladesh.

15 (B) Effective provision of humanitarian as-
16 sistance.

17 (C) Resettlement of displaced populations.

18 (D) Economic development and durable
19 peace.

20 (7) Due to restrictions enforced by the Rakhine
21 State government and the national military and se-
22 curity forces, there has been little progress made
23 since that time and limited ability for the inter-
24 national community to support, verify, or evaluate
25 the Government of Burma's efforts. There are also

1 credible reports of Burmese military and security
2 forces bulldozing numerous villages where violence
3 occurred, thus destroying physical evidence, and in
4 some cases, constructing new military installations
5 on top of the bulldozed villages.

6 (8) On November 22, 2017, former Secretary of
7 State Rex Tillerson stated that “After a careful and
8 thorough analysis of available facts, it is clear that
9 the situation in northern Rakhine state constitutes
10 ethnic cleansing against the Rohingya. Those re-
11 sponsible for these atrocities must be held account-
12 able”. He also said the violence “has a number of
13 characteristics of certainly crimes against human-
14 ity”. Despite repeated requests from Members of
15 Congress, as well as the result of its own investiga-
16 tion (the executive summary of which was released
17 on September 17, 2018), the Department has de-
18 clined to make a determination if the atrocities in
19 Rakhine State constitute genocide or crimes against
20 humanity.

21 (9) On December 12, 2017, Wa Lone and
22 Kyaw Soe Oo, two Reuters reporters covering the
23 crisis in Rakhine State, were entrapped, arrested,
24 and charged with violating the Official Secrets Act,
25 continuing a trend of restricting media and free

1 speech and attempting to thwart coverage of the
2 events in Rakhine State.

3 (10) Another barrier to the voluntary, safe, dig-
4 nified and sustainable return of the Rohingya to
5 Rakhine State is the refusal of the Government of
6 Burma to reinstate the full citizenship of the
7 Rohingya, as well as the Government's unwillingness
8 to consider the repeal of or amendments to the Citi-
9 zenship Act of 1982 that stripped the Rohingya of
10 their full citizenship.

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

19 (12) In April 2018, thousands of civilians fled
20 fighting between the military and ethnic armed
21 groups in Kachin State, prompting peaceful dem-
22 onstrations. In December 2018, three prominent ac-
23 tivist in Kachin State, Lum Zawng, Nang Pu and
24 Zau Jet were convicted and sentenced to 6 months
25 imprisonment for defaming the military.

1 (13) On June 6, 2018, the United Nations Ref-
2 ugee Agency and the United Nations Development
3 Programme signed a tripartite Memorandum of Un-
4 derstanding with Burma. The Office of the United
5 Nations High Commissioner for Refugees and var-
6 ious international human rights and international re-
7 lief agencies agreed that conditions in Rakhine State
8 are not sufficient for the voluntary, safe, dignified,
9 and sustainable return of the Rohingya.

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

24 (15) In its report of September 17, 2018, the
25 United Nations Independent International Fact-

1 Finding Mission on Myanmar determined that there
2 was sufficient evidence of “genocidal intent” in the
3 attacks against the Rohingya in Rakhine State, and
4 probable “crimes against humanity” and “war
5 crimes” in Burmese security forces assaults on eth-
6 nic minorities in Kachin and Shan States. The Mis-
7 sion recommended that the United Nations Security
8 Council “should ensure accountability for crimes
9 under international law committed in Myanmar,
10 preferably by referring the situation to the Inter-
11 national Criminal Court or alternatively by creating
12 an ad hoc international criminal tribunal”. The Mis-
13 sion also recommended the imposition of targeted
14 economic sanctions, including an arms embargo on
15 Burma.

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

24 (17) According to the free-speech organization
25 Athan, 44 journalists and 142 activists have faced

1 trial since 2016 charged with colonial-era laws used
2 to stifle dissent, while tightening restrictions on ac-
3 tivist groups.

4 (18) On September 28, 2018, the United Na-
5 tions Human Rights Council passed a resolution
6 that calls for an independent mechanism to collect
7 and analyze evidence in regard to the serious inter-
8 national crimes committed in Burma against
9 Rohingya Muslims and other minorities since 2011.
10 The resolution requests that the independent mecha-
11 nism “prepare files in order to facilitate and expe-
12 dite fair and independent criminal proceedings, in
13 accordance with international law standards, in na-
14 tional, regional or international courts or tribunals
15 that have or may in the future have jurisdiction over
16 these crimes”.

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

1 (20) A December 2018 report by the Public
2 Law Interest & Policy group noted that “the de-
3 struction of their villages, crops, and virtually all in-
4 frastructure clearly points to a strategy of ensuring
5 the Rohingya’s permanent removal. The mass
6 killings and accompanying brutality, including
7 against children, women, pregnant women, the elder-
8 ly, and those crossing the border to Bangladesh fur-
9 ther suggest, however, that, at least in the minds of
10 some perpetrators, the goal was not only to expel,
11 but also to exterminate the Rohingya * * *” and
12 that “there are reasonable grounds to believe that
13 crimes against humanity, genocide, and war crimes
14 have been committed against the Rohingya in
15 Myanmar’s northern Rakhine State”.

16 (21) Despite substantial evidence of widespread
17 and systematic atrocities committed by Burmese se-
18 curity forces in Rakhine State, State Counselor
19 Aung San Suu Kyi and Burma’s Commander-in-
20 Chief Senior General Min Aung Hlaing continue to
21 maintain that no such widespread and systematic
22 atrocities occurred.

23 (22) On December 13, 2018, the United States
24 House of Representatives passed House Resolution
25 1091 (115th Congress) which expressed the sense of

1 the House that “the atrocities committed against the
2 Rohingya by the Burmese military and security
3 forces since August 2017 constitute crimes against
4 humanity and genocide” and called upon the Sec-
5 retary of State to review the available evidence and
6 make a similar determination.

7 (23) On December 19, 2018, the United Na-
8 tions Humanitarian Coordinator requested
9 \$202,000,000 for the 2019 Humanitarian Response
10 Plan for Burma.

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

15 (25) On May 14, 2019, the United Nations
16 Fact-Finding Mission on Myanmar urged all coun-
17 tries to cut off economic ties to Burma’s military-
18 owned businesses, stating “* * * due to the gravity
19 of past and continuing violations, attention must be
20 given to the political, economic and financial ties of
21 the Myanmar military * * * so we can cut off the
22 money supply as a means of increasing pressure and
23 reducing the violence.”.

1 **TITLE I—MATTERS RELATING**
2 **TO THE CONFLICT IN BURMA**

3 **SEC. 101. STATEMENT OF POLICY.**

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

5 (1) To support a complete transition to democ-
6 racy and genuine national reconciliation in Burma,
7 including accountability for the atrocities committed
8 by the Burmese military against the Rohingya popu-
9 lation and other ethnic minorities throughout the
10 country.

11 (2) To pursue a United States strategy of cali-
12 brated engagement, which is essential to support the
13 establishment of a peaceful, prosperous, and demo-
14 cratic Burma that includes respect for the human
15 rights of all its people regardless of ethnicity and re-
16 ligion.

17 (3) To ensure that the guiding principles of
18 such a strategy include—

19 (A) supporting legal reforms, removing re-
20 maining restrictions on civil and political rights,
21 and ensuring civilian governance, including re-
22 forms to the current constitutional provision re-
23 serving 25 percent of parliamentary seats for
24 appointments by the military, which provides

1 the military with veto power over constitutional
2 amendments;

3 (B) establishing a fully democratic, plural-
4 istic, and representative political system that in-
5 cludes free, fair, and democratic elections in
6 which all people of Burma can vote;

7 (C) promoting national reconciliation and
8 the conclusion of a nationwide cease-fire agree-
9 ment, including the development of a political
10 system that is inclusive of ethnic Rohingya,
11 Shan, Kachin, Chin, Karen, and other ethnic
12 groups, measures to address natural resource
13 governance, revenue-sharing, land rights, and
14 constitutional change enabling inclusive peace;

15 (D) ensuring accountability through inde-
16 pendent international investigations of genocide,
17 war crimes, and crimes against humanity, in-
18 cluding sexual and gender-based violence, per-
19 petrated against the Rohingya and other ethnic
20 minorities by the military and security forces of
21 Burma, violent extremist groups and other com-
22 batants involved in the conflict;

23 (E) strengthening Burma's civilian govern-
24 mental institutions, including support for great-
25 er transparency and accountability;

1 (F) encouraging the establishment of pro-
2 fessional military, security, and police forces
3 that operate under civilian control and are held
4 accountable for human rights abuses, corrup-
5 tion, or other abuses of power;

6 (G) combating corruption and illegal eco-
7 nomic activity, including that which involves the
8 military and its close allies;

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

11 (I) encouraging the provision of full citi-
12 zenship for the Rohingya population in Burma,
13 as well as durable solutions for those displaced
14 in Bangladesh;

15 (J) promoting responsible international
16 and regional engagement;

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

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

1 **SEC. 102. SENSE OF CONGRESS WITH RESPECT TO HUMANI-**
2 **TARIAN ASSISTANCE, FREEDOM OF MOVE-**
3 **MENT, AND RIGHTS OF RETURNEES.**

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

6 (1) significant and sustained international fund-
7 ing, from both public and private sources, is nec-
8 essary to address the medium- and long-term im-
9 pacts of the crisis in Burma and the impact of the
10 crisis on Bangladesh; and

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

15 (b) RESTORATION OF HUMANITARIAN ACCESS AND
16 ACCOUNTABILITY IN RAKHINE STATE.—Congress calls on
17 the Government of Burma, including the Burmese military
18 and security forces, to ensure full and secure humani-
19 tarian access to the State of Rakhine and to cooperate
20 with the ongoing international mechanism set up by the
21 United Nations Human Rights Council in September
22 2018 and funded by the United Nations General Assembly
23 to gather evidence and other information pertaining to al-
24 legations of crimes against humanity and genocide com-
25 mitted in Burma.

1 (c) RIGHTS OF REFUGEES, INTERNALLY DISPLACED
2 PERSONS, AND RETURNEES.—

3 (1) BURMA.—Congress calls on the Government
4 of Burma to—

5 (A) ensure that Rohingya in Burma have
6 freedom of movement;

7 (B) create conditions for return of those
8 displaced from their homes and implement the
9 recommendations of the Advisory Commission
10 on Rakhine State, which includes full and equal
11 citizenship;

12 (C) work closely with the international
13 community, including the United Nations High
14 Commissioner for Refugees, to ensure the dig-
15 nified, safe, sustainable and voluntary return of
16 all those displaced from their homes, especially
17 from Rakhine State, without an unduly high
18 burden of proof; and

19 (D) offer compensation or restitution to
20 those refugees who do not want to return to
21 their homes.

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

24 (A) ensure that the rights of refugees are
25 protected, including through allowing them to

1 build more permanent shelters, and ensuring
2 equal access to healthcare, basic services, edu-
3 cation and work;

4 (B) work closely with the international
5 community, including the United Nations High
6 Commissioner for Refugees, to ensure that any
7 repatriation or resettlement of refugees be dig-
8 nified, safe, sustainable and voluntary; and

9 (C) ensure that any relocation or local in-
10 tegration of refugees in Bangladesh be con-
11 sistent with international humanitarian prin-
12 ciples, including freedom of movement, and im-
13 plemented only through voluntary, fully in-
14 formed consent.

15 **SEC. 103. SENSE OF CONGRESS ON FREEDOMS OF PRESS**
16 **AND ASSOCIATION.**

17 It is the sense of Congress that, in order to promote
18 the freedom of the press and speech, the Government of
19 Burma should undertake serious legal reforms including
20 reform of the Official Secrets Act, 1923, the Unlawful As-
21 sociation Act, 1908, and the Penal Code.

22 **SEC. 104. IMPOSITION OF SANCTIONS FOR THE VIOLATION**
23 **OF HUMAN RIGHTS.**

24 The President shall impose sanctions—

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

6 (2) against military-owned enterprises, includ-
7 ing the Myanmar Economic Corporation and Union
8 of Myanmar Economic Holding, under the Burmese
9 Freedom and Democracy Act (50 U.S.C. 1701 note),
10 the Tom Lantos Block Burmese JADE (Junta's
11 Anti-Democratic Efforts) Act of 2008 (50 U.S.C.
12 1701 note), and other relevant statutory authorities.

13 **TITLE II—ASSISTANCE AND**
14 **SANCTIONS WITH RESPECT**
15 **TO BURMA**

16 **SEC. 201. AUTHORIZATION TO PROVIDE HUMANITARIAN AS-**
17 **SISTANCE.**

18 There is authorized to be appropriated \$220,500,000
19 for fiscal year 2020 to provide humanitarian assistance
20 for Burma, Bangladesh, and the surrounding region, in-
21 cluding for the following purposes:

22 (1) Assisting the victims of the Burmese mili-
23 tary's crimes against humanity targeting Rohingya
24 and other ethnic minorities in Rakhine, Kachin, and

1 Shan States, including those displaced in Burma,
2 Bangladesh, Thailand, and the surrounding region.

3 (2) Supporting voluntary resettlement or repa-
4 triation of such displaced persons in Burma, upon
5 the conclusion of genuine agreements developed and
6 negotiated with the involvement and consultation of
7 such displaced persons.

8 (3) Assistance to promote ethnic and religious
9 tolerance, combat gender-based violence, and support
10 victims of violence and destruction in Rakhine,
11 Kachin, and Shan States.

12 (4) Supporting programs to investigate and
13 document allegations of war crimes, crimes against
14 humanity, and genocide committed in Burma, in-
15 cluding gender-based violence.

16 (5) Supporting access to education for children
17 currently living in refugee camps in the surrounding
18 region, and access to higher education in Ban-
19 gladesh.

20 (6) Assisting minority ethnic groups and civil
21 society in Burma to help sustain cease-fire agree-
22 ments and further prospects for reconciliation and
23 sustainable peace.

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

1 **SEC. 202. IMPOSITION OF SANCTIONS WITH RESPECT TO**
2 **HUMAN RIGHTS ABUSES IN BURMA.**

3 (a) IN GENERAL.—For the 8-year period beginning
4 on the date that is 270 days after the date of the enact-
5 ment of this Act, the President shall impose the sanctions
6 described in subsection (b) with respect to each foreign
7 person that the President determines, based on credible
8 evidence—

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

11 (A) knowingly perpetrated, ordered, or oth-
12 erwise directed serious human rights abuses in
13 Burma; or

14 (B) has taken significant steps to impede
15 investigations or prosecutions of alleged serious
16 human rights abuses, including against the
17 Rohingya community in Rakhine State;

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

20 (3) is an entity, such as the Myanmar Eco-
21 nomic Cooperation or the Myanmar Economic Hold-
22 ing Corporation, that is owned or controlled, directly
23 or indirectly, by the military or security forces of
24 Burma, including through collective or cooperative
25 structures, from which one or more persons de-

scribed in paragraph (1) derive significant revenue
or financial benefit; or

(4) has knowingly—

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

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

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

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

(b) SANCTIONS DESCRIBED; EXCEPTIONS.—

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

(A) ASSET BLOCKING.—Notwithstanding
the requirements of section 202 of the Inter-
national Emergency Economic Powers Act (50
U.S.C. 1701), the exercise of all powers granted
to the President by such Act to the extent nec-

1 essary to block and prohibit all transactions in
2 all property and interests in property of a for-
3 eign person the President determines meets one
4 or more of the criteria described in subsection
5 (a) if such property and interests in property
6 are in the United States, come within the
7 United States, or are or come within the pos-
8 session or control of a United States person.

9 (B) ALIENS INADMISSIBLE FOR VISAS, AD-
10 MISSION, OR PAROLE.—

11 (i) VISAS, ADMISSION, OR PAROLE.—A
12 foreign person described in subsection (a)
13 is—

14 (I) inadmissible to the United
15 States;

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

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

1 (ii) CURRENT VISAS REVOKED.—A
2 foreign person described in subsection (a)
3 is subject to the following:

4 (I) Revocation of any visa or
5 other entry documentation regardless
6 of when the visa or other entry docu-
7 mentation is or was issued.

8 (II) A revocation under subclause
9 (I) shall—

10 (aa) take effect immediately;

11 and

12 (bb) automatically cancel
13 any other valid visa or entry docu-
14 mentation that is in the foreign
15 person's possession.

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

1 the United States, or other applicable international
2 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) IMPLEMENTATION.—The President may exercise
12 all authorities provided under sections 203 and 205 of the
13 International Emergency Economic Powers Act (50
14 U.S.C. 1702 and 1704) to carry out this section and shall
15 issue such regulations, licenses, and orders as are nec-
16 essary to carry out this section.

17 (e) EXCEPTION RELATING TO THE IMPORTATION OF
18 GOODS.—

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

23 (2) GOOD DEFINED.—In this subsection, the
24 term “good” means any article, natural or man-
25 made substance, material, supply or manufactured

1 product, including inspection and test equipment,
2 and excluding technical data.

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

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

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

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

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

20 (g) DEFINITIONS.—In this section—

21 (1) ADMITTED; ALIEN.—The terms “admitted”
22 and “alien” have the meanings given those terms in
23 section 101 of the Immigration and Nationality Act
24 (8 U.S.C. 1001).

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

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

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

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

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

19 **TITLE III—GOVERNANCE OF THE**
 20 **BURMESE MINING AND GEM-**
 21 **STONE SECTORS**

22 **SEC. 301. SENSE OF CONGRESS ON THE MINING SECTOR OF**
 23 **BURMA.**

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

1 (1) In 2015, the nongovernmental organization
2 Global Witness estimated that the value of total pro-
3 duction of jade in Burma in 2014 was
4 \$31,000,000,000, almost 48 percent of the official
5 gross domestic product of Burma. As much as 80
6 percent of that jade sold is smuggled out of Burma.

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

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

1 (4) In 2016, the Government of Burma began
2 to take steps to reform aspects of the mining sector,
3 including—

4 (A) improving governance in the gemstone
5 industry, by temporarily suspending the
6 issuance or renewal of jade and gemstone min-
7 ing permits;

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

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

18 (5) In January 2019, the Government of
19 Burma adopted a new Gemstone Law that does not
20 adequately address corruption and tax avoidance,
21 conflicts of interest, or the factors fueling conflict in
22 Kachin State and other gemstone mining areas.

23 (6) The lifting in October 2016 of United
24 States sanctions on the importation of jade and
25 jadeite and rubies from Burma allowed such

1 gemstones to legally enter the United States market,
2 but some retailers have refrained from sourcing
3 gemstones of Burmese origin due to governance and
4 reputational concerns.

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

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

19 (2) companies that seek to import to the United
20 States gemstones or minerals that may be of Bur-
21 mese origin or articles of jewelry containing such
22 gemstones should—

23 (A) obtain such materials exclusively from
24 entities that satisfy the transparency criteria
25 described in section section 302(b)(2) or from

third parties that can 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” promulgated by the Organization for Economic Cooperation and Development.

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

(a) LIST OF PARTICIPATING WHITE-LIST ENTITIES.—Not later than 120 days after the date of the enactment of this Act, and annually thereafter until the date described in subsection (e), the Secretary of State shall submit to the appropriate congressional committees, and publish on a publicly available website, a list of each entity described in subsection (b)(1) that—

(1) participates in Burma’s mining sector;

(2) publicly discloses beneficial ownership, as

such term is defined for purposes of the Myanmar

1 Extractive Industry Transparency Initiative
 2 (“Myanmar EITI”);

3 (3) is not owned or controlled, either directly or
 4 indirectly, by the Burmese military or security
 5 forces, any current or former senior Burmese mili-
 6 tary officer, or any person sanctioned by the United
 7 States pursuant to any relevant sanctions authority;
 8 and

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

11 (b) ENTITIES AND CRITERIA DESCRIBED.—

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

14 (A) Entities that produce or process pre-
 15 cious and semiprecious gemstones.

16 (B) Entities that sell or export precious
 17 and semiprecious gemstones from Burma or ar-
 18 ticles of jewelry containing such gemstones.

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

21 (A) The entity publicly discloses any politi-
 22 cally exposed persons, officers, directors or ben-
 23 efcial owners, as defined under the Myanmar
 24 EITI.

1 (B) The entity publicly discloses valid au-
2 thorization, license, or permit to produce, proc-
3 ess, sell, or export minerals or gemstones, as
4 applicable.

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

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

15 (c) PERIODIC UPDATING.—The Secretary shall peri-
16 odically update the publicly available version of the list de-
17 scribed in subsection (a) as appropriate.

18 (d) GUIDANCE AND WHITE-LIST ENTITIES.—The
19 Secretary shall issue guidance for entities in the United
20 States private sector with respect to the best practices for
21 supply-chain due diligence that are applicable to importa-
22 tion of gemstones or minerals that may be of Burmese
23 origin or articles of jewelry containing such gemstones, in-
24 cluding with respect to transactions with entities approved
25 for inclusion in the list published pursuant subsection (a),

1 in order to mitigate potential risks and legal liabilities as-
2 sociated with the importation of such items.

3 (e) TERMINATION.—The date described in this sec-
4 tion is the date on which the President certifies to the
5 appropriate congressional committees that the Govern-
6 ment of Burma has taken substantial measures to reform
7 the mining sector in Burma, including the following:

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

15 (2) Separate the commercial, regulatory, and
16 revenue collection responsibilities within the
17 Myanmar Gems Enterprise and other key state-
18 owned enterprises to remove existing conflicts of in-
19 terest.

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

22 (A) adhere to environmental and social im-
23 pact assessment and management standards in
24 accordance with international responsible min-
25 ing practices, the country's environmental con-

1 servation law, and other applicable laws and
2 regulations; and

3 (B) uphold occupational health and safety
4 standards and codes of conduct that are aligned
5 with the core labor standards of the Inter-
6 national Labour Organisation and with domes-
7 tic law.

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

11 (5) Reform the process for valuation of
12 gemstones at the mine-site, including developing an
13 independent valuation system to prevent undervalu-
14 ation and tax evasion.

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

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

1 (8) Establish effective oversight of state-owned
2 enterprises operating in such sector, including
3 through parliamentary oversight or requirements for
4 independent financial auditing.

5 **TITLE IV—ACCOUNTABILITY**
6 **FOR HUMAN RIGHTS ABUSES**
7 **AND STRATEGY FOR ECO-**
8 **NOMIC GROWTH**

9 **SEC. 401. REPORT ON ACCOUNTABILITY FOR WAR CRIMES,**
10 **CRIMES AGAINST HUMANITY, AND GENOCIDE**
11 **IN BURMA.**

12 (a) IN GENERAL.—Not later than 90 days after the
13 date of the enactment of this Act, the Secretary of State
14 shall submit to the appropriate congressional committees
15 a report that—

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

21 (2) describes any potential transitional justice
22 mechanisms in Burma;

23 (3) provides an analysis of whether the serious
24 human rights violations summarized pursuant to

1 paragraph (1) amount to war crimes, crimes against
2 humanity, or genocide; and

3 (4) includes a determination of the Secretary
4 whether—

5 (A) the events that took place in the state
6 of Rakhine in Burma, starting on August 25,
7 2017, constitute war crimes, crimes against hu-
8 manity, or genocide; or

9 (B) the situation faced by the Rohingya in
10 Rakhine State, between 2012 and the date of
11 the submission of the report, amounts to or has
12 amounted to the crime of apartheid.

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

15 (1) A description of—

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

23 (B) the role of the civilian government in
24 the commission of any such incidents;

1 (C) each incident for which there is cred-
2 ible evidence that the incident may constitute
3 war crime, crimes against humanity, or geno-
4 cide committed by violent extremist groups in
5 Burma;

6 (D) each attack on health workers, health
7 facilities, health transport, or patients and, to
8 the extent possible, the identities of any individ-
9 uals who engaged in or organized such incidents
10 in Burma; and

11 (E) to the extent possible, a description of
12 the conventional and unconventional weapons
13 used for any such crimes and the sources of
14 such weapons.

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

operating fighting in Rakhine, including programs
to—

(A) train civilian investigators within and
outside of Burma and Bangladesh on how to
document, investigate, develop findings of, identify,
and locate alleged perpetrators of war
crimes, crimes against humanity, or genocide in
Burma;

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

(C) document, collect, preserve, and protect
evidence of war crimes, crimes against humanity,
and genocide in Burma, including by
providing support for Burmese, Bangladeshi,
foreign, and international nongovernmental organizations,
the United Nations Human Rights Council's investigative team,
and other entities engaged in such investigative activities.

(3) A detailed study of the feasibility and desirability
of potential transitional justice mechanisms
for Burma, such as an international tribunal, a hy-

1 brid tribunal, or other international options, that in-
2 cludes—

3 (A) a discussion of the use of universal ju-
4 risdiction or of legal cases brought against the
5 country of Burma by other sovereign countries
6 at the International Court of Justice to address
7 war crimes, crimes against humanity, and geno-
8 cide perpetrated in Burma;

9 (B) recommendations on which transitional
10 justice mechanisms the United States should
11 support, why such mechanisms should be sup-
12 ported, and what type of support should be of-
13 fered; and

14 (C) close consultation regarding transi-
15 tional justice mechanisms with Rohingya rep-
16 resentatives and those of other ethnic minorities
17 who have suffered grave human rights abuses.

18 (c) PROTECTION OF WITNESSES AND EVIDENCE.—
19 The Secretary of State shall ensure that the identification
20 of witnesses and physical evidence for purposes of the re-
21 port required by subsection (a) are not publicly disclosed
22 in a manner that might place such persons at risk of harm
23 or encourage the destruction of such evidence by the mili-
24 tary or Government of Burma.

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

3 (1) are of a character similar to the acts re-
 4 ferred to in subparagraphs (A) through (H) of sec-
 5 tion 2(2);

6 (2) are committed in the context of an institu-
 7 tionalized regime of systematic oppression and domi-
 8 nation by one racial group over any other racial
 9 group; and

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

12 **SEC. 402. AUTHORIZATION TO PROVIDE TECHNICAL AS-**
 13 **SISTANCE FOR EFFORTS AGAINST HUMAN**
 14 **RIGHTS ABUSES.**

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

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

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

3 (2) Collecting, documenting, and protecting evi-
4 dence of such crimes and preserve the chain of cus-
5 tody for such evidence.

6 (3) Conducting criminal investigations.

7 (4) Supporting investigations conducted by
8 other countries, as appropriate.

9 (c) **AUTHORIZATION FOR TRANSITIONAL JUSTICE**
10 **MECHANISMS.**—The Secretary of State, taking into ac-
11 count any relevant findings in the report required by sec-
12 tion 401(a), is authorized to provide support for the cre-
13 ation and operation of transitional justice mechanisms, in-
14 cluding a potential hybrid tribunal, to prosecute individ-
15 uals suspected of committing war crimes, crimes against
16 humanity, or genocide in Burma.

17 **SEC. 403. STRATEGY FOR PROMOTING ECONOMIC DEVEL-**
18 **OPMENT IN BURMA.**

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

1 ance with the priorities of disadvantaged communities in
2 Burma and in consultation with relevant civil society and
3 local stakeholders, to improve economic conditions and
4 government transparency.

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

9 (1) Measures to diversify control over and ac-
10 cess to participation in key industries and sectors,
11 including efforts to remove barriers and increase
12 competition, access, and opportunity in sectors domi-
13 nated by officials of the Burmese military, former
14 military officials, and their families, and
15 businesspeople connected to the military of Burma,
16 with the goal of eliminating the role of the military
17 in the economy of Burma.

18 (2) Measures to increase transparency disclo-
19 sure requirements in key sectors of the economy of
20 Burma, to promote responsible investment, including
21 through—

22 (A) efforts to provide technical support to
23 develop and implement policy reforms related to
24 public disclosure of the beneficial owners of en-

1 tities in key sectors identified by the Govern-
2 ment of Burma, specifically by—

3 (i) working with the Government of
4 Burma to require the disclosure of the ulti-
5 mate beneficial ownership of entities in the
6 mining industry and the publication of
7 project revenues, payments, and contract
8 terms relating to that industry; and

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

14 (B) efforts to promote universal access to
15 reliable, affordable, energy efficient, and sus-
16 tainable power, including leveraging United
17 States assistance to support reforms in the
18 power sector and electrification projects that in-
19 crease energy access, in partnership with multi-
20 lateral organizations and the private sector.

21 (3) Measures to create an enabling environment
22 for economic growth and opportunity for all ethnic
23 groups residing in Burma, including through ad-
24 dressing issues related to land tenure.

1 (4) An identification of needs and opportunities
2 to provide technical assistance to key ministries, in-
3 stitutions, and organizations to enact economic re-
4 forms, including revisions to existing policies on pub-
5 lic disclosure of beneficial ownership of companies in
6 key sectors that will allow for identification of those
7 seeking or securing access to Burma's most valuable
8 natural resources.

9 (c) CONSULTATION REQUIRED.—In developing the
10 strategy required by subsection (a), the Secretary of State
11 shall consult with appropriate officials of the Government
12 of Burma, ethnic groups and civil society leaders in
13 Burma.

14 (d) REPORT ON IMPLEMENTATION.—Not later than
15 180 days after the date of the submission of the strategy
16 required by subsection (a), the Secretary of State, the Sec-
17 retary of the Treasury, and the Administrator of the
18 United States Agency for International Development shall
19 jointly submit to the appropriate congressional committees
20 a report in unclassified form, that may contain a classified
21 annex, that describes—

22 (1) the extent to which United States assistance
23 and the efforts of the Government of Burma have
24 promoted inclusive and enduring economic develop-
25 ment in accordance with such strategy; and

1 (2) the efforts undertaken, progress achieved,
2 and any next steps planned by either the United
3 States or the Government of Burma with respect
4 to—

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

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

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

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

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

20 (iii) avoidance of displacement of local
21 populations without meaningful consulta-
22 tion and consent, harm mitigation, and
23 compensation.

4 The budgetary effects of this Act, for the purpose of
5 complying with the Statutory Pay-As-You-Go Act of 2010,
6 shall be determined by reference to the latest statement
7 titled “Budgetary Effects of PAYGO Legislation” for this
8 Act, submitted for printing in the Congressional Record
9 by the Chairman of the Committee on the Budget of the
10 House of Representatives, provided that such statement
11 has been submitted prior to the vote on passage.

Attest: **CHERYL L. JOHNSON,**
Clerk.