

116TH CONGRESS  
1ST SESSION

# H. R. 3190

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

---

## IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2019

Mr. ENGEL (for himself and Mr. CHABOT) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Armed Services, the Judiciary, Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

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

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

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

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

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

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

#### TITLE I—MATTERS RELATING TO THE CONFLICT IN BURMA

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

#### TITLE II—ASSISTANCE AND SANCTIONS WITH RESPECT TO BURMA

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

#### TITLE III—GOVERNANCE OF THE BURMESE MINING AND GEMSTONE SECTORS

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

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

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

### 1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

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

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

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

9 (A) murder;

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

12 (C) torture;

13 (D) extermination;

14 (E) enslavement;

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

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

22 (H) enforced disappearance of persons.

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

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

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

11 **SEC. 3. FINDINGS.**

12      Congress finds the following:

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

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

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

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

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

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

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

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

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

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

10          (C) Resettlement of displaced populations.

11          (D) Economic development and durable  
12        peace.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 The President shall impose sanctions—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21      (b) EXCEPTIONS; WAIVER.—

22          (1) EXCEPTIONS.—

23              (A) CERTAIN EXISTING AUTHORITIES.—

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

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

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

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

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

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

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

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

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

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

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

7           (B) adhere to international humanitarian  
8           law;

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

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

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

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

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



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

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

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

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

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

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

25 (d) REPORT.—

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

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

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

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

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

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

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

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

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

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

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

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

8 (e) FORM.—

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

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

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

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

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

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

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

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

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

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

22 (4) has knowingly—

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

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

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

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

13 (b) SANCTIONS DESCRIBED; EXCEPTIONS.—

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

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

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

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

6 (i) VISAS, ADMISSION, OR PAROLE.—

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

12 (I) inadmissible to the United  
13 States;

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

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

22 (ii) CURRENT VISAS REVOKED.—

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

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

9 (II) EFFECT OF REVOCATION.—

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

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



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

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

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

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

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

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

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

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

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

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

18 (g) DEFINITIONS.—In this section—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (b) ENTITIES AND CRITERIA DESCRIBED.—

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (1) A description of—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

23 (3) Conducting criminal investigations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ship information related to extractive industries;  
2 and

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

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

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

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

○