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(Original Signature of Member)

115TH CONGRESS  
2D SESSION

# H. R. 5819

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

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## IN THE HOUSE OF REPRESENTATIVES

Mr. ENGEL introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_

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## A BILL

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

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

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

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

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. Appropriate congressional committees defined.

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

- Sec. 101. Findings.  
Sec. 102. Statement of policy.  
Sec. 103. Sense of Congress with respect to humanitarian assistance, freedom of movement, and rights of returnees.  
Sec. 104. Sense of Congress on press freedom.  
Sec. 105. Sense of Congress with respect to imposition of sanctions under the Global Magnitsky Human Rights Accountability Act.

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

- Sec. 201. Authorization for humanitarian assistance and reconciliation.  
Sec. 202. Limitation on security assistance and military and security sector cooperation.  
Sec. 203. Imposition of sanctions with respect to certain foreign persons.  
Sec. 204. Forfeiture of property.

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

- Sec. 301. Sense of Congress on the Burmese mining sector and the importation of Burmese gemstones or minerals.  
Sec. 302. Responsibility and transparency in the mining sector.

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

- Sec. 401. Determination and report on accountability for ethnic cleansing, crimes against humanity, and genocide in Burma.  
Sec. 402. Strategy for promoting economic growth and development.

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

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

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

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

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

3     **SEC. 101. FINDINGS.**

4         Congress finds the following:

5             (1) On August 25, 2017, Burmese military and  
6         security forces violently and disproportionately re-  
7         sponded to an attack on security outposts, resulting  
8         in a mass exodus of Rohingya from the Rakhine  
9         State of Burma into Bangladesh, which the Inter-  
10        national Organization of Migration called “unprece-  
11        dented in terms of volume and speed”.

12            (2) Between August 2017 and March 2018, in  
13        response to the violence perpetrated by the Burmese  
14        military and security forces, the United Nations esti-  
15        mates more than 693,000 Rohingya, approximately  
16        78 percent of whom are women and children, have  
17        fled to Bangladesh, fearing loss of life, livelihoods,  
18        and shelter.

19            (3) Despite the steps taken toward democracy  
20        in Burma, there exists limited control by the civilian  
21        government over civilian agencies and no meaningful  
22        civilian control over the military or security forces  
23        that carried out the violence in Rakhine State and  
24        that continues to engage in grave human rights

1 abuses against ethnic minorities throughout in the  
2 country.

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

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

11 (A) Repatriation of those who have crossed  
12 over to Bangladesh.

13 (B) Effective provision of humanitarian as-  
14 sistance.

15 (C) Resettlement of displaced populations.

16 (D) Economic development and durable  
17 peace.

18 (6) Due to restrictions enforced by the Rakhine  
19 State government and the military and security  
20 forces, there has been little progress made since that  
21 time and limited ability for the international commu-  
22 nity to meaningfully support, verify, or evaluate the  
23 Government of Burma's efforts. There are also cred-  
24 ible reports of Burmese military and security forces  
25 bulldozing villages where violence occurred, thus de-

1       stroying physical evidence of what may have oc-  
2       curred there.

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

14           (8) On October 10, 2017, at a hearing before  
15      the House Foreign Affairs Committee, the Deputy  
16      Assistant Secretary of State for Population, Refu-  
17      gees, and Migration Mark Storella testified that of  
18      the \$434,000,000 required by the United Nations  
19      for emergency response in the first 6 months of this  
20      crisis, “[i]n fiscal year 2017, the United States con-  
21      tributed nearly \$104 million in assistance to the dis-  
22      placed populations in Burma for refugees from  
23      Burma throughout the region”.

24           (9) The United Nations Joint Response Plan to  
25      fund assistance to Rohinyga refugees and the host

1 community in Bangladesh through the end of 2018  
2 requires almost \$1,000,000,000 in assistance.

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

12 (11) Yanghee Lee, the United Nations Special  
13 Rapporteur on the situation of human rights in  
14 Myanmar said, “I am becoming more convinced that  
15 the crimes committed following 9 October 2016 and  
16 25 August 2017 bear the hallmarks of genocide and  
17 call in the strongest possible terms for account-  
18 ability.”

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

1 **SEC. 102. STATEMENT OF POLICY.**

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

3 (1) support a complete transition to democracy  
4 and genuine national reconciliation in Burma which  
5 cannot be achieved without appropriate account-  
6 ability for the atrocities committed by the Burmese  
7 military against the Rohingya population and other  
8 ethnic minorities throughout the country;

9 (2) pursue a strategy of calibrated engagement,  
10 which is essential to support the establishment of a  
11 peaceful, prosperous, and democratic Burma that in-  
12 cludes respect for the human rights of all its people  
13 regardless of ethnicity and religion; and

14 (3) ensure that the guiding principles of such a  
15 strategy include—

16 (A) supporting meaningful legal and con-  
17 stitutional reforms that remove remaining re-  
18 strictions on civil and political rights and en-  
19 sure civilian governance, including reforms to  
20 the current constitutional provision reserving 25  
21 percent of parliamentary seats for appointments  
22 by the military, which provides the military with  
23 veto power over constitutional amendments;

24 (B) establishing a fully democratic, plural-  
25 istic, and representative political system that in-

1 cludes regularized free and fair elections in  
2 which all people of Burma can vote;

3 (C) promoting genuine national reconcili-  
4 ation, the conclusion of a credible and sustain-  
5 able nationwide cease-fire agreement, including  
6 political accommodation of ethnic Shan, Kachin,  
7 Chin, Karen, and other ethnic groups, measures  
8 to address natural resource governance and rev-  
9 enue-sharing, and constitutional change ena-  
10 bling inclusive, permanent peace;

11 (D) ensuring accountability for human  
12 rights abuses, ethnic cleansing, crimes against  
13 humanity, or genocide perpetrated against the  
14 Rohingya, Kachin, Shan, Chin, and other ethnic  
15 minorities by the military of Burma and other  
16 combatants involved in the conflict;

17 (E) strengthening civilian institutions in  
18 the government, including support for greater  
19 transparency and accountability;

20 (F) establishing professional and non-  
21 partisan military, security, and police forces  
22 that operate under civilian control, subject to  
23 civilian oversight, and are held fully accountable  
24 for human rights abuses, corruption, or other  
25 abuses of power;



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

4 (H) empowering local communities, civil  
5 society, and independent media;

6 (I) ensuring that the Government of  
7 Burma provides full citizenship for the  
8 Rohingya population in Burma as well as for  
9 those displaced in Bangladesh;

10 (J) promoting responsible international  
11 and regional engagement;

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

14 (L) addressing and ending the humani-  
15 tarian and human rights crises and supporting  
16 the ability of the displaced Rohingya to volun-  
17 tarily return to their homes, under safe, dig-  
18 nified, and internationally approved conditions.

19 **SEC. 103. SENSE OF CONGRESS WITH RESPECT TO HUMANI-**  
20 **TARIAN ASSISTANCE, FREEDOM OF MOVE-**  
21 **MENT, AND RIGHTS OF RETURNEES.**

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

24 (1) significant and sustained international sup-  
25 port, from both public and private sources, will be

1       necessary to address the medium- and long-term im-  
2       pacts of the crisis in Burma and the impact of the  
3       crisis on Bangladesh; and

4               (2) the United States should make resolving the  
5       Rohingya crisis one of its top priorities in its en-  
6       gagement with regional institutions such as the As-  
7       sociation of Southeast Asian Nations.

8       (b) RESTORATION OF HUMANITARIAN ACCESS AND  
9       ACCOUNTABILITY IN RAKHINE STATE.—Congress calls on  
10      the Government of Burma and Burmese security forces  
11      to ensure complete and unfettered humanitarian access in  
12      the State of Rakhine and to support an independent inter-  
13      national fact-finding mission to investigate allegations of  
14      ethnic cleansing, crimes against humanity, and genocide.

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

18              (1) ensure that Rohinyga have freedom of  
19      movement and under no circumstances are subject  
20      to unsafe, involuntary, or uninformed repatriation;

21              (2) create conditions for return of those dis-  
22      placed from their homes by fully implementing the  
23      recommendations of the Advisory Commission on  
24      Rakhine State and implementing full and equal citi-  
25      zenship;

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

7           (4) to offer to those refugees who do not want  
8           to return a meaningful alternative, including com-  
9           pensation or restitution.

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

11       It is the sense of Congress that in order to promote  
12 the freedom of the press in Burma—

13           (1) Wa Lone and Kyaw Soe Oo should be im-  
14           mediately and unconditionally released and should  
15           have access to legal counsel and to their families;  
16           and

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

1 **SEC. 105. SENSE OF CONGRESS WITH RESPECT TO IMPOSI-**  
2 **TION OF SANCTIONS UNDER THE GLOBAL**  
3 **MAGNITSKY HUMAN RIGHTS ACCOUNT-**  
4 **ABILITY ACT.**

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

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

15 **SEC. 201. AUTHORIZATION FOR HUMANITARIAN ASSIST-**  
16 **ANCE AND RECONCILIATION.**

17 There is authorized to be appropriated \$151,600,000  
18 for fiscal year 2019 for humanitarian assistance for  
19 Burma, Bangladesh, and the surrounding region, includ-  
20 ing—

21 (1) assistance for the victims of the Burmese  
22 military's ethnic cleansing campaign targeting the  
23 Rohingya in Rakhine State, including those dis-  
24 placed in Bangladesh, Burma, and the surrounding  
25 region;

- 1           (2) support for voluntary resettlement or repa-  
2       triation efforts regionally; and
- 3           (3) humanitarian assistance to victims of vio-  
4       lence and destruction in Rakhine State.

5   **SEC. 202. LIMITATION ON SECURITY ASSISTANCE AND MILI-**  
6                   **TARY AND SECURITY SECTOR COOPERATION.**

7       (a) LIMITATION ON MILITARY AND SECURITY SEC-  
8   TOR COOPERATION.—Except as provided in subsection  
9   (b), the United States may not provide any security assist-  
10   ance or engage in any military-to-military programs with  
11   the military or security forces of Burma, including  
12   through training, observation, or participation in regional  
13   exercises, until the date on which the Secretary of State,  
14   in consultation with the Secretary of Defense, certifies to  
15   the appropriate congressional committees that the military  
16   and security forces of Burma have demonstrated signifi-  
17   cant progress in abiding by international human rights  
18   standards and are undertaking meaningful and significant  
19   security sector reform, including reforms that enhance  
20   transparency and accountability, to prevent future abuses  
21   and that each of the following criteria have been met:

- 22           (1) The Burmese military and security forces  
23       adhere to international humanitarian law, dem-  
24       onstrate significant progress in abiding by inter-

1 national standards for human rights, and pledge to  
2 stop future human rights abuses.

3 (2) The Burmese military and security forces  
4 support efforts to carry out meaningful and com-  
5 prehensive investigations of alleged abuses and are  
6 taking steps to hold accountable those members of  
7 such military and security forces responsible for  
8 human rights abuses.

9 (3) The Government of Burma, including the  
10 military and security forces, allow immediate and  
11 unfettered humanitarian access to communities in  
12 areas affected by conflict, including Rohingya com-  
13 munities in the State of Rakhine.

14 (4) The Government of Burma, including the  
15 military and security forces, cooperates with the  
16 United Nations High Commissioner for Refugees  
17 and organizations affiliated with the United Nations  
18 to ensure the protection of displaced persons and the  
19 safe, voluntary, and dignified return of refugees and  
20 internally displaced persons.

21 (5) The Burmese military and security forces  
22 cease their attacks against ethnic minority groups  
23 and constructively participate in the conclusion of a  
24 credible, nationwide ceasefire agreement, political ac-

1       commodation, and constitutional change, including  
2       the restoration of the citizenship of the Rohingya.

3           (6) The Government of Burma, including the  
4       military and security forces, defines a transparent  
5       plan with a binding timeline for professionalizing the  
6       military and security forces and includes a process  
7       by which the military withdraws from private-sector  
8       business enterprises and ceases involvement in the il-  
9       legal trade in natural resources and narcotics.

10          (7) The Government of Burma establishes ef-  
11       fective civilian control over the finances of its mili-  
12       tary and security forces, including by ensuring that  
13       the military does not have access to off-budget in-  
14       come and that military expenditures are subject to  
15       adequate civilian oversight.

16       (b) EXCEPTIONS.—

17           (1) CERTAIN EXISTING AUTHORITIES.—The  
18       Secretary of Defense shall retain the authority to  
19       conduct consultations with Burma pursuant to the  
20       authorization under section 1253 of the Carl Levin  
21       and Howard P. “Buck” McKeon National Defense  
22       Authorization Act for Fiscal Year 2015 (22 U.S.C.  
23       2151 note).

24           (2) HOSPITALITY.—The Secretary of State and  
25       the United States Agency for International Develop-

1       ment may provide assistance authorized under part  
2       I of the Foreign Assistance Act of 1961 (22 U.S.C.  
3       2151 et seq.) to provide hospitality during research,  
4       dialogues, meetings, or other activities by the parties  
5       attending the Union Peace Conference 21st Century  
6       Paneling or related processes seeking inclusive, sus-  
7       tainable reconciliation.

8       (c) MILITARY REFORM.—The certification required  
9       under subsection (a) shall include a written justification  
10      in unclassified form that may contain a classified annex  
11      describing the Burmese military’s efforts to implement re-  
12      forms, end impunity for human rights abuses, and in-  
13      crease transparency and accountability.

14      (d) RULE OF CONSTRUCTION.—Nothing in this Act  
15      may be construed to authorize the Secretary of Defense  
16      to provide assistance to the Government of Burma except  
17      as provided in this section.

18      (e) REPORT.—

19           (1) IN GENERAL.—Not later than 180 days  
20      after the date of the enactment of this Act, and an-  
21      nually thereafter, the Secretary of Defense and the  
22      Secretary of State shall submit to the appropriate  
23      congressional committees a report, in unclassified  
24      form with a classified annex, on the strategy and  
25      plans for military-to-military engagement between



1 the United States Armed Forces and the military  
2 and security forces of Burma.

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

5 (A) A description and assessment of the  
6 Government of Burma's strategy for security  
7 sector reform, including plans to withdraw the  
8 military from owning or controlling private-sec-  
9 tor business entities and end involvement in the  
10 illicit trade in jade and other natural resources,  
11 reforms to end corruption and illicit drug traf-  
12 ficking, and constitutional reforms to ensure ci-  
13 vilian control.

14 (B) A list of ongoing military activities  
15 conducted by the United States Government  
16 with the Government of Burma, and a descrip-  
17 tion of the United States strategy for future  
18 military-military engagements between the  
19 United States and Burma's military and secu-  
20 rity forces, including the military of Burma, the  
21 Burma Police Force, and armed ethnic groups.

22 (C) An assessment of the progress of the  
23 military and security forces of Burma towards  
24 developing a framework to implement human  
25 right reforms, including—

1 (i) cooperation with civilian authori-  
2 ties to investigate and prosecute cases of  
3 serious, credible, or gross human rights  
4 abuses;

5 (ii) steps taken to demonstrate respect  
6 for and implementation of the laws of war;  
7 and

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

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

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

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

1 (f) REGULAR CONSULTATIONS.—Any new program  
2 or activity carried out under this section shall be subject  
3 to prior consultation with the appropriate congressional  
4 committees.

5 **SEC. 203. IMPOSITION OF SANCTIONS WITH RESPECT TO**  
6 **CERTAIN FOREIGN PERSONS.**

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

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

15 (A) perpetrated or is responsible for order-  
16 ing or otherwise directing serious human rights  
17 abuses in Burma; or

18 (B) failed to investigate serious human  
19 rights abuses allegedly committed by one or  
20 more subordinates of such official, including  
21 against the Rohingya community in the state of  
22 Rakhine;

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

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

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

9           (1) ASSET BLOCKING.—Notwithstanding the re-  
10          quirements of section 202 of the International  
11          Emergency Economic Powers Act (50 U.S.C. 1701),  
12          the exercise of all powers granted to the President  
13          by such Act to the extent necessary to block and  
14          prohibit all transactions in all property and interests  
15          in property of a person the President determines  
16          meets one or more of the criteria described in sub-  
17          section (a) if such property and interests in property  
18          are in the United States, come within the United  
19          States, or are or come within the possession or con-  
20          trol of a United States person..

21          (2) ALIENS INELIGIBLE FOR VISAS, ADMISSION,  
22          OR PAROLE.—

23                 (A) VISAS, ADMISSION, OR PAROLE.—An  
24                 alien who the Secretary of State or the Sec-  
25                 retary of Homeland Security (or a designee of

1           one of such Secretaries) knows, or has reason  
2           to believe, meets any of the criteria described in  
3           subsection (a) is—

4                   (i) inadmissible to the United States;

5                   (ii) ineligible to receive a visa or other  
6           documentation to enter the United States;

7           and

8                   (iii) otherwise ineligible to be admitted  
9           or paroled into the United States or to re-  
10          ceive any other benefit under the Immigra-  
11          tion and Nationality Act (8 U.S.C. 1101 et  
12          seq.).

13          (B) CURRENT VISAS REVOKED.—

14                   (i) IN GENERAL.—The issuing con-  
15          sular officer, the Secretary of State, or the  
16          Secretary of Homeland Security (or a des-  
17          ignee of one of such Secretaries) shall re-  
18          voke any visa or other entry documentation  
19          issued to an alien who meets any of the  
20          criteria described in subsection (a) regard-  
21          less of when issued.

22                   (ii) EFFECT OF REVOCATION.—A rev-  
23          ocation under clause (i)—

24                           (I) shall take effect immediately;

25                   and

1 (II) shall automatically cancel  
2 any other valid visa or entry docu-  
3 mentation that is in the alien's pos-  
4 session.

5 (3) EXCEPTION TO COMPLY WITH UNITED NA-  
6 TIONS HEADQUARTERS AGREEMENT.—Sanctions  
7 under paragraph (2) shall not apply to an alien if  
8 admitting the alien into the United States is nec-  
9 essary to permit the United States to comply with  
10 the Agreement regarding the Headquarters of the  
11 United Nations, signed at Lake Success June 26,  
12 1947, and entered into force November 21, 1947,  
13 between the United Nations and the United States,  
14 or other applicable international obligations.

15 (c) PENALTIES.—Any person that violates, attempts  
16 to violate, conspires to violate, or causes a violation of this  
17 section or any regulation, license, or order issued to carry  
18 out subsection (b) shall be subject to the penalties set  
19 forth in subsections (b) and (c) of section 206 of the Inter-  
20 national Emergency Economic Powers Act (50 U.S.C.  
21 1705) to the same extent as a person that commits an  
22 unlawful act described in subsection (a) of that section.

23 (d) EXCEPTIONS.—Subsection (b)(2) shall not apply  
24 to the admission of an individual to the United States if  
25 such admission is necessary to comply with United States

1 obligations under the Agreement between the United Na-  
2 tions and the United States of America regarding the  
3 Headquarters of the United Nations, signed at Lake Suc-  
4 cess June 26, 1947, and entered into force November 21,  
5 1947, or under the Convention on Consular Relations,  
6 done at Vienna April 24, 1963, and entered into force  
7 March 19, 1967, or other international obligations of the  
8 United States.

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

13 (f) WAIVER.—

14 (1) IN GENERAL.—The President may annually  
15 waive the application of sanctions required by sub-  
16 section (a) with respect to a person if the Presi-  
17 dent—

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

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

1           (2) CONGRESSIONAL COMMITTEES LISTED.—

2       The congressional committees listed in this para-  
3       graph are the following:

4           (A) The Committee on Foreign Affairs, the  
5       Committee on Appropriations, and the Com-  
6       mittee on Financial Services of the House of  
7       Representatives.

8           (B) The Committee on Foreign Relations,  
9       the Committee on Appropriations, and the  
10      Committee on Banking, Housing, and Urban  
11      Affairs of the Senate.

12       (g) DEFINITIONS.—In this section:

13           (1) ADMITTED; ALIEN.—The terms “admitted”  
14      and “alien” have the meanings given those terms in  
15      section 101 of the Immigration and Nationality Act  
16      (8 U.S.C. 1001).

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

20           (3) KNOWINGLY.—The term “knowingly”  
21      means, with respect to conduct, a circumstance, or  
22      a result, means that a person has actual knowledge,  
23      or should have known, of the conduct, the cir-  
24      cumstance, or the result.



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

3 (A) a United States citizen, an alien law-  
4 fully admitted for permanent residence to the  
5 United States, or any other individual subject  
6 to the jurisdiction of the United States; or

7 (B) an entity organized under the laws of  
8 the United States or of any jurisdiction within  
9 the United States, including a foreign branch of  
10 such entity.

11 **SEC. 204. FORFEITURE OF PROPERTY.**

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

15 “(J) Any property, real or personal, that is  
16 involved in a violation or attempted violation of,  
17 or which constitutes or is derived from proceeds  
18 traceable to, a prohibition imposed pursuant to  
19 section 203 of the Burma Unified through Rig-  
20 orous Military Accountability Act of 2018.”.

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

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

1           (2) by adding at the end before the semicolon  
2           the following: “, or section 203 of the Burma United  
3           through Rigorous Military Accountability Act of  
4           2018”.

5   **TITLE III—GOVERNANCE OF THE**  
6       **BURMESE MINING AND GEM-**  
7       **STONE SECTOR**

8   **SEC. 301. SENSE OF CONGRESS ON THE BURMESE MINING**  
9               **SECTOR AND THE IMPORTATION OF BUR-**  
10              **MESE GEMSTONES OR MINERALS.**

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

12           (1) In 2015, the nongovernmental organization  
13       Global Witness estimated that the value of total pro-  
14       duction of jade in Burma in 2014 was  
15       \$31,000,000,000, almost 48 percent of the official  
16       gross domestic product of Burma. As much as 80  
17       percent of that jade sold is smuggled out of Burma.

18           (2) Burma’s military and associated entities, in-  
19       cluding companies owned or controlled by Myanmar  
20       Economic Corporation and Myanmar Economic  
21       Holding Limited, their affiliated companies and  
22       companies owned or controlled by current and  
23       former senior military officers or their family mem-  
24       bers, are deeply embedded in the mining sector, in-  
25       cluding the gemstone industry, and benefit finan-

1 cially from widespread illicit smuggling of jade and  
2 rubies from Burma.

3 (3) Illegal trafficking in precious and  
4 semiprecious stones from Burma, including the lu-  
5 crative trade in high-value jade and rubies, deprives  
6 the people of Burma and the civilian government of  
7 critical revenue and instead benefits military-linked  
8 entities, non-state armed groups, and transnational  
9 organized criminal networks.

10 (4) The Government of Burma has begun to  
11 take steps to reform aspects of the mining sector, in-  
12 cluding governance in the gemstone industry by tem-  
13 porarily suspending the issuance or renewal of jade  
14 and gemstone mining permits; commissioning an en-  
15 vironmental management plan for some mining  
16 areas; and establishing the multi-stakeholder Jade  
17 and Gemstone Support Committee under the Min-  
18 istry of Natural Resources and Environmental Con-  
19 servation to develop recommendations for a new in-  
20 dustry-wide policy and limited gemstone payment  
21 disclosures under the Myanmar Extractives Industry  
22 transparency Initiative.

23 (5) The lifting in October 2016 of United  
24 States sanctions on the importation of jadeite and  
25 rubies from Burma allowed such gemstones to le-

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

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

7 (1) the United States should deepen engage-  
8 ment with the Government of Burma with respect to  
9 the mining sector and should make available tech-  
10 nical, capacity-building and other assistance through  
11 the Department of State or the United States Agen-  
12 cy for International Development to support the  
13 Government of Burma in efforts to reform the gem-  
14 stone industry; and

15 (2) companies that seek to import into the  
16 United States gemstones or minerals that may be of  
17 Burmese 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 302(b) or from third par-  
22 ties that can credibly demonstrate that they  
23 sourced the materials from entities that meet  
24 such criteria;

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 of the Organization for Eco-  
7 nomic Cooperation and Development.

8 **SEC. 302. RESPONSIBILITY AND TRANSPARENCY IN THE**  
9 **MINING SECTOR.**

10 (a) LIST OF PARTICIPATING ENTITIES.—

11 (1) IN GENERAL.—Not later than 120 days  
12 after the date of the enactment of this Act, and not  
13 less than annually thereafter until the date described  
14 in subsection (e), the Secretary of State shall submit  
15 to the appropriate congressional committees a list of  
16 the entities described in each of subparagraphs (A)  
17 and (B) of paragraph (2) that—

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

19 (B) meet the criterion described in sub-  
20 section (b)(1); and

21 (C) meet or have made significant progress  
22 towards meeting the criteria in subsections  
23 (b)(2) through (b)(5).

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

1 (A) Entities that produce or process pre-  
2 cious and semiprecious gemstones.

3 (B) Entities that sell or export precious  
4 and semiprecious gemstones from Burma or ar-  
5 ticles of jewelry containing such gemstones.

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

8 (1) The entity publicly discloses beneficial own-  
9 ership, as such term is defined for purposes of the  
10 Myanmar Extractive Industry Transparency Initia-  
11 tive (Myanmar EITI), and the entity is not owned  
12 or controlled, either directly or indirectly, by the  
13 Burmese military or security forces, any current or  
14 former senior Burmese military officer, or any per-  
15 son sanctioned by the United States pursuant to any  
16 relevant sanctions authority.

17 (2) The entity publicly discloses any politically  
18 exposed persons as defined by the Extractive Indus-  
19 try Transparency Initiative who are beneficial own-  
20 ers as defined under the Myanmar EITI.

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

24 (4) The entity publicly discloses payments to  
25 the Government of Burma, including tax and non-

1 tax, license, or royalty payments, and other pay-  
2 ments or contract terms as may be required under  
3 Myanmar Extractive Industry Transparency Initia-  
4 tive standards.

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

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

13 (d) GUIDANCE.—The Secretary of State shall issue  
14 guidance to relevant companies regarding supply-chain  
15 due diligence best practices applicable to importation of  
16 gemstones or minerals that may be of Burmese origin or  
17 articles of jewelry containing such gemstones to mitigate  
18 the potential risks associated with the importation of such  
19 items.

20 (e) TERMINATION.—The requirement under sub-  
21 section (a) shall terminate on the date on which the Presi-  
22 dent certifies to the appropriate congressional committees  
23 that the Government of Burma has taken substantial  
24 measures to reform the mining sector in Burma, including  
25 the following:

1           (1) Requiring the mandatory disclosure of pay-  
2           ments, permit and license allocations, project reve-  
3           nues, relevant contract terms, and beneficial owner-  
4           ship, including identifying any politically exposed  
5           persons who are beneficial owners, consistent with  
6           the approach agreed under the Myanmar EITI and  
7           with due regard for civil society participation.

8           (2) Separating the commercial, regulatory, and  
9           revenue collection responsibilities within the  
10          Myanmar Gems Enterprise and other key state-  
11          owned enterprises to remove existing conflicts of in-  
12          terest.

13          (3) Monitoring and undertaking enforcement  
14          actions, as warranted, to ensure that entities fully  
15          adhere to environmental and social impact assess-  
16          ment and management standards in accordance with  
17          international responsible mining practices, the coun-  
18          try's environmental conservation law and other ap-  
19          plicable laws and regulations, and that they uphold  
20          occupational health and safety standards and codes  
21          of conduct that are aligned with the core labor  
22          standards of the International Labour Organisation  
23          and domestic law.

24          (4) Actively seeking a comprehensive peace  
25          agreement that addresses the transparent and fair



1 distribution of benefits from natural resources, in-  
2 cluding local benefit-sharing, taking into consider-  
3 ation proposals on fiscal federalism for new govern-  
4 ance arrangements in resource-rich regions.

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

9 (6) Reforming the process for valuation of  
10 gemstones at the mine-site, including developing an  
11 independent valuation system to prevent undervalu-  
12 ation and tax evasion.

13 (7) Requiring companies bidding for jade and  
14 ruby permits to be independently audited upon the  
15 request of Myanmar Gems Enterprise or the Min-  
16 ister of Natural Resources and Environmental Con-  
17 servation, and making the results of all such audits  
18 public.

19 (8) Establishing a credible and transparent per-  
20 mitting process that closely scrutinizes applicants,  
21 including based on past performance, and prevents  
22 unscrupulous entities from gaining authorized access  
23 to concessions or the right to trade in minerals or  
24 gemstones.

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

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

9       **TITLE           IV—ACCOUNTABILITY**  
10       **FOR HUMAN RIGHTS ABUSES**  
11       **AND STRATEGY FOR ECO-**  
12       **NOMIC GROWTH**

13       **SEC. 401. DETERMINATION AND REPORT ON ACCOUNT-**  
14               **ABILITY FOR ETHNIC CLEANSING, CRIMES**  
15               **AGAINST HUMANITY, AND GENOCIDE IN**  
16               **BURMA.**

17           (a) IN GENERAL.—Not later than 180 days after the  
18           date of the enactment of this Act, the Secretary of State  
19           shall submit to the appropriate congressional committees  
20           a report that—

21               (1) describes—

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

24                       (B) potential transitional justice mecha-  
25                       nisms in Burma; and

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

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

7           (1) a description of—

8                   (A) incidents that may constitute ethnic  
9                   cleansing, crimes against humanity, or genocide  
10                  committed by the Burmese military against the  
11                  Rohingya minority and the identities of any  
12                  other actors involved in such incidents;

13                  (B) the role of the civilian government in  
14                  the commission of such incidents;

15                  (C) incidents that may constitute ethnic  
16                  cleansing, crimes against humanity, or genocide  
17                  committed by violent extremist groups or anti-  
18                  government forces;

19                  (D) incidents that may violate the principle  
20                  of medical neutrality and, to the extent possible,  
21                  the identities of any individuals who engaged in  
22                  or organized such incidents; and

23                  (E) to the extent possible, a description of  
24                  the conventional and unconventional weapons

1           used for such crimes and the sources of such  
2           weapons;

3           (2) a description and assessment by the Depart-  
4           ment of State, the United States Agency for Inter-  
5           national Development, the Department of Justice,  
6           and other appropriate Federal departments and  
7           agencies of programs that the United States has al-  
8           ready undertaken or is planning to undertake to en-  
9           sure accountability for ethnic cleansing, crimes  
10          against humanity, and genocide perpetrated against  
11          the Rohingya by the military and security forces of  
12          Burma, the state government of Rakhine, Buddhist  
13          militias, and all other armed groups fighting in  
14          Rakhine, including programs to—

15                (A) train civilian investigators within and  
16                outside of Burma and Bangladesh on how to  
17                document, investigate, develop findings of, and  
18                identify and locate alleged perpetrators of eth-  
19                nic cleansing, crimes against humanity, or  
20                genocide in Burma;

21                (B) promote and prepare for a transitional  
22                justice process or processes for the perpetrators  
23                of ethnic cleansing, crimes against humanity,  
24                and genocide occurring in the State of Rakhine  
25                in 2017; and

1 (C) document, collect, preserve, and pro-  
2 tect evidence of ethnic cleansing, crimes against  
3 humanity, and genocide in Burma, including by  
4 providing support for Burmese, Bangladeshi,  
5 foreign, and international nongovernmental or-  
6 ganizations, the United Nations Human Rights  
7 Council's investigative team, and other entities  
8 engaged in such investigative activities; and

9 (3) a detailed study of the feasibility and desir-  
10 ability of potential transitional justice mechanisms  
11 for Burma, including a hybrid tribunal, to address  
12 ethnic cleansing, crimes against humanity, and geno-  
13 cide perpetrated in Burma, including recommenda-  
14 tions on which transitional justice mechanisms the  
15 United States should support, why such mechanisms  
16 should be supported, and what type of support  
17 should be offered.

18 (c) PROTECTION OF WITNESSES AND EVIDENCE.—  
19 The Secretary of State shall take due care to ensure that  
20 the identification of witnesses and physical evidence are  
21 not publicly disclosed in a manner that might place such  
22 persons at risk of harm or encourage the destruction of  
23 evidence by the Government of Burma.

24 (d) AUTHORIZATION TO PROVIDE TECHNICAL AS-  
25 SISTANCE.—

1           (1) IN GENERAL.—The Secretary of State, in  
2       consultation with the Attorney General and the  
3       heads of other appropriate Federal departments and  
4       agencies, is authorized to provide assistance to sup-  
5       port appropriate entities that are undertaking the  
6       efforts described in paragraph (2) with respect to  
7       ethnic cleansing, crimes against humanity, and geno-  
8       cide perpetrated by the military and security forces  
9       of Burma, the state government of Rakhine, Bud-  
10      dhist militias, and all other armed groups fighting in  
11      Rakhine State.

12           (2) EFFORTS AGAINST HUMAN RIGHTS  
13      ABUSES.—The efforts described in this paragraph  
14      are the following:

15           (A) Identifying suspected perpetrators of  
16           ethnic cleansing, crimes against humanity, and  
17           genocide.

18           (B) Collecting, documenting, and pro-  
19           tecting evidence of such crimes and preserve the  
20           chain of custody for such evidence.

21           (C) Conducting criminal investigations.

22           (D) Supporting investigations conducted  
23           by other countries, as appropriate.

24           (3) ADDITIONAL SUPPORT.—The Secretary of  
25      State, in consultation with the heads of other appro-

1        appropriate Federal departments and agencies and the ap-  
2        propriate congressional committees, and taking into  
3        account any relevant findings in the report required  
4        by subsection (a), is authorized to support the cre-  
5        ation and operation of transitional justice mecha-  
6        nisms, including a potential hybrid tribunal, to pros-  
7        ecute individuals suspected of committing ethnic  
8        cleansing, crimes against humanity, or genocide in  
9        Burma.

10    **SEC. 402. STRATEGY FOR PROMOTING ECONOMIC GROWTH**  
11                            **AND DEVELOPMENT.**

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

21        (b) ELEMENTS.—The strategy required by subsection  
22        (a) shall include a plan to promote inclusive and enduring  
23        economic growth and development, including the following  
24        elements:

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

3                   (A) create and enabling environment for  
4       economic growth and opportunity;

5                   (B) enhance transparency, accountability  
6       and good governance;

7                   (C) diversify control and create competi-  
8       tion in key industries and sectors dominated by  
9       the current and former military officials, the  
10      family members of such officials, and  
11      businesspeople connected to the military.

12                  (D) increase transparency disclosure re-  
13      quirements in key sectors to promote respon-  
14      sible investment;

15                  (E) identify needs and opportunities to  
16      provide technical assistance to key ministries,  
17      institutions, and organizations to enact eco-  
18      nomic reforms, including revisions to existing  
19      policies on public disclosure of beneficial owner-  
20      ship of companies in key sectors that will allow  
21      for identification of those seeking or securing  
22      access to Burma's most valuable natural re-  
23      sources; and

24                  (F) promote responsible investment.



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

4                 (A) establish a mechanism and enhance  
5                 the capacity of the Myanmar Investment Com-  
6                 mission to identify and exclude investors with a  
7                 negative track record with respect to corruption  
8                 or fiscal, social, or environmental harms;

9                 (B) enhance transparency and disclosure  
10                through the development and enforcement of  
11                robust transparency and disclosure measures  
12                under domestic law, including through incorpo-  
13                ration of necessary elements of the Organiza-  
14                tion for Economic Cooperation and Develop-  
15                ment's due diligence frameworks into corporate  
16                disclosure requirements;

17                (C) build capacity within civilian govern-  
18                ment institutions, including to carry out effec-  
19                tive oversight over public- and military-owned  
20                entities and to appropriately regulate private  
21                and public entities with regard to environ-  
22                mental, social, financial, and governance issues;

23                (D) support reform of the gemstone indus-  
24                try, including through technical, capacity-build-  
25                ing, and other assistance, to address serious

1 challenges and help ensure that business activ-  
2 ity in this industry benefits the people of  
3 Burma;

4 (E) promote universal access to reliable,  
5 affordable, and efficient electricity, including by  
6 leveraging United States assistance to support  
7 reforms in the electricity sector and electrifica-  
8 tion projects that increase energy access  
9 through partnership with multilateral organiza-  
10 tions and the private sector;

11 (F) improve the government of Burma's  
12 ranking in the World Bank's "Doing Business"  
13 report; and

14 (G) secure private property rights and land  
15 tenure.

16 (c) CONSULTATION REQUIRED.—In developing the  
17 strategy required by subsection (a), the Secretary of State  
18 shall consult with appropriate officials of the Government  
19 of Burma.

20 (d) REPORT ON IMPLEMENTATION.—

21 (1) IN GENERAL.—Not later than 180 days  
22 after the date of the submission of the strategy re-  
23 quired by subsection (a), the Secretary of State, the  
24 Secretary of the Treasury, and the Administrator of  
25 the United States Agency for International Develop-

1       ment shall jointly submit to the appropriate congres-  
2       sional committees a report in unclassified form, that  
3       may contain a classified annex, that describes the  
4       extent to which United States assistance and the ef-  
5       forts of the Government of Burma have promoted  
6       inclusive and enduring economic development in ac-  
7       cordance with such strategy.

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

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

14                   (B) the promotion of accountability and  
15      transparency, including through the collection,  
16      verification, and publication of beneficial owner-  
17      ship information related to extractive industries;  
18      and

19                   (C) the promotion of best practices regard-  
20      ing—

21                           (i) environmental conservation, man-  
22      agement, and planning;

23                           (ii) social impact assessments, includ-  
24      ing social and cultural protection and free,  
25      prior, and informed consent and meaning-

1           ful participation of local populations, par-  
2           ticularly minority ethnic nationalities;

3           (iii) avoidance of displacement of local  
4           populations without meaningful consulta-  
5           tion and consent, harm mitigation, or com-  
6           pensation; and

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