

115TH CONGRESS
1ST SESSION

S. 2060

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

IN THE SENATE OF THE UNITED STATES

NOVEMBER 2, 2017

Mr. MCCAIN (for himself, Mr. CARDIN, Mr. DURBIN, Mr. YOUNG, Mr. MARKEY, Mr. RUBIO, Mr. MERKLEY, Mrs. FEINSTEIN, Mr. SCHATZ, Mr. KAINE, Mr. VAN HOLLEN, Ms. BALDWIN, Mr. BOOKER, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Burma Human Rights
5 and Freedom Act of 2017”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

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

1 cratic reforms in Burma, which have led to signifi-
 2 cant milestones on the path to full democracy.

3 (2) On November 8, 2015, Burma held historic
 4 elections in which the National League for Democ-
 5 racy won a supermajority of seats in the combined
 6 national parliament. On March 30, 2016, Htin
 7 Kyaw was inaugurated as the President of Burma,
 8 the country's first civilian President in more than 50
 9 years. Aung San Suu Kyi, President of the National
 10 League for Democracy, was barred from becoming
 11 President due to the provisions of section 59(f) of
 12 the 2008 Constitution, and therefore assumed the
 13 office of State Counsellor, a position created for her
 14 that made her the country's de facto leader.

15 (3) Aung San Suu Kyi's first acts as State
 16 Counsellor after her National League for Democracy
 17 party took office included releasing more than 100
 18 political prisoners, including well-known journalists
 19 and student activists held on politically motivated
 20 charges. However, as of September 2017, there are
 21 220 political prisoners in Burma, 42 of which are
 22 currently serving prison sentences, 51 of which are
 23 awaiting trial inside prison, and 127 of which are
 24 awaiting trial outside prison, according to the Assist-
 25 ance Association for Political Prisoners.

1 (4) The Government of Burma also continues
 2 to systematically discriminate against the Rohingya
 3 people. Burma's 1982 citizenship law stripped
 4 Rohingya Burmese of their Burmese citizenship,
 5 rendering them stateless, and the Government con-
 6 tinues to restrict Rohingya births, deny them free-
 7 dom of movement, access to healthcare, land, edu-
 8 cation, voting, political participation, and marriage.

9 (5) Despite the meaningful steps taken toward
 10 democracy in Burma, there still remain important
 11 structural and systemic impediments to the realiza-
 12 tion of a fully democratic civilian government, in-
 13 cluding—

14 (A) reform of the 2008 Constitution;

15 (B) the disfranchisement of groups of peo-
 16 ple who voted in previous elections;

17 (C) social, political, and economic condi-
 18 tions in Rakhine State, particularly those faced
 19 by the Rohingya population; and

20 (D) addressing and ending the current hu-
 21 manitarian and human rights crisis affecting
 22 Burma's Rohingya population and residents of
 23 the Rakhine, Kachin, and Shan states, includ-
 24 ing ethnic cleansing, extrajudicial killings, sex-

1 ual and gender-based violence, and forced dis-
2 placement.

3 (6) Actions of the military of Burma, known as
4 the Tatmadaw, including continuing assaults on per-
5 sonnel and territory controlled by armed ethnic orga-
6 nizations, military offenses immediately preceding
7 the peace conference in Naypyitaw, and human
8 rights abuses against noncombatant civilians in con-
9 flict areas, undermine confidence in establishing a
10 credible nationwide cease-fire agreement to end Bur-
11 ma's civil war.

12 (7) The people of Burma continue to suffer
13 from an ongoing civil war between the Tatmadaw
14 and nearly 20 armed ethnic organizations. Any pros-
15 pects for a full democracy in Burma are contingent
16 on ending the civil war and finding a path toward
17 national reconciliation between Burma's Bamar ma-
18 jority and its various ethnic minorities.

19 (8) Since 2011, over 98,000 people have been
20 displaced in Kachin and northern Shan State over
21 the escalating violence and instability, resulting in
22 continued massive internal displacement, causing a
23 massive humanitarian crisis, and continuing to un-
24 dermine the trust necessary to achieve a durable,
25 lasting peace, and disproportionately affecting the

1 lives of innocent civilians and the thousands of inter-
2 nally displaced persons forced from their homes. Ac-
3 cording to the United Nations Office for the Coordi-
4 nation of Humanitarian Affairs, some 50 percent of
5 these displaced persons are staying in areas beyond
6 Government control where humanitarian access is
7 limited.

8 (9) In 2015, the nongovernmental campaign
9 Global Witness found that, in 2014, the estimated
10 value of official production of jade equated up to 48
11 percent of the official gross domestic product of
12 Burma. However, because of corruption and a lack
13 of transparency the economic gains of Burma are
14 being pocketed by notorious leaders from the mili-
15 tary junta, including former dictator Than Shwe and
16 United States-sanctioned drug lord Wei Hsueh
17 Kang, and vested interests in jade are undermining
18 prospects for resolving the most intractable armed
19 conflict in Burma.

20 (10) On August 31, 2016, State Counsellor
21 Aung San Suu Kyi and the Government of Burma
22 initiated the Union Peace Conference 21st Century
23 Panglong, where more than 1,400 representatives of
24 various concerned parties attended a peace con-
25 ference in Naypyitaw in an effort to begin the proc-

1 ess of ending Burma’s civil war and discuss options
2 in forming a democratic state of Burma. On May
3 24, 2017, the Government of Burma held a second
4 Panglong Peace Conference, with mixed results.

5 (11) On October 31, 2016, the Department of
6 State determined that Burma remains designated as
7 a country of particular concern for religious freedom
8 under section 402(b) of the International Religious
9 Freedom Act (22 U.S.C. 6442(b)), and that “mem-
10 bers of the Rohingya community in particular face
11 abuses by the Government of Burma, including
12 those involving torture, unlawful arrest and deten-
13 tion, restricted movement, restrictions on religious
14 practices, discrimination in employment, and access
15 to social services”.

16 (12) The February 2017 panels set up by the
17 Burmese army and the Home Affairs Ministry are
18 widely perceived to lack independence and impar-
19 tiality. The December 2016 commission established
20 by Burma’s President Htin Kyaw to investigate the
21 October 2016 attacks dismissed claims of mis-
22 conduct by security forces due to “insufficient evi-
23 dence”. The 2012 commission government estab-
24 lished to investigate violence in Rakhine State that
25 year never held anyone accountable.

1 (13) In a public address on October 12, 2017,
2 State Counsellor Aung San Suu Kyi laid out 3 goals
3 for Rakhine State:

4 (A) Repatriation of those who have crossed
5 over to Bangladesh and the effective provision
6 of humanitarian assistance.

7 (B) Resettlement of displaced populations.

8 (C) Economic development and durable
9 peace.

10 (14) According to the Bangladesh Foreign Min-
11 istry, at least 3,000 Rohingya have been killed and
12 over an estimated 600,000 Rohingya have fled to
13 Bangladesh since August 2017 for fear of loss of
14 livelihoods, shelter, and disproportionate use of force
15 by the military of Burma. Congress recognizes the
16 longstanding support and hospitality of the Govern-
17 ment and the people of Bangladesh; however, it is
18 important that people fleeing violence in Burma are
19 not deported or turned back.

20 (15) On October 23, 2017, the Department of
21 State said, “We express our gravest concern with re-
22 cent events in Rakhine State and the violent, trau-
23 matic abuses Rohingya and other communities have
24 endured. It is imperative that any individuals or en-

1 tities responsible for atrocities, including non-state
2 actors and vigilantes, be held accountable.”.

3 (16) At a Senate Foreign Relations Committee
4 hearing on October 24, 2017, the Department of
5 State indicated that “refugees continue to cross into
6 Bangladesh, and we continue to receive credible re-
7 ports of sporadic violence in northern Rakhine
8 State”.

9 (17) Amnesty International and Human Rights
10 Watch have reported and documented a campaign of
11 violence perpetuated by the security forces of
12 Burma, which have indiscriminately fired on and
13 killed civilians, raped women and girls, and arbi-
14 trarily arrested Rohingya men without any informa-
15 tion about their whereabouts or charges which “may
16 amount to crimes against humanity” and “ethnic
17 cleansing”. Satellite images reveal that, out of the
18 approximately 470 villages in northern Rakhine
19 State, nearly 300 were partially or completely de-
20 stroyed by fire since August 25, 2017, most of them
21 completely or partially populated with Rohingya
22 Muslims.

23 (18) The Government of Burma has continued
24 to block access to northern Rakhine State by United
25 Nations and other humanitarian groups. For much

1 of the last three months, hundreds of thousands of
2 vulnerable people in Rakhine State who needed hu-
3 manitarian aid, both Rohingya, Rakhine, and other
4 groups and including children with acute malnutri-
5 tion, were being blocked from receiving such aid,
6 and aid groups now expect that levels of malnutri-
7 tion and even starvation have dramatically increased.

8 (19) In response to previous violence between
9 the Burmese military and the ethnic Rohingya peo-
10 ple in 2016, Aung San Suu Kyi established the Ad-
11 visory Commission on Rakhine State headed by
12 former United Nations Secretary-General Kofi
13 Annan to address tensions in Northern Rakhine. She
14 has since also endorsed the Commission’s rec-
15 ommendations and established a group to move for-
16 ward with implementation.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) APPROPRIATE CONGRESSIONAL COMMIT-
20 TEES.—The term “appropriate congressional com-
21 mittees” means—

22 (A) the Committee on Foreign Relations
23 and the Committee on Armed Services of the
24 Senate; and

1 (B) the Committee on Foreign Affairs and
2 the Committee on Armed Services of the House
3 of Representatives.

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) rape, sexual slavery, or any other form
14 of sexual violence of comparable gravity;

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

20 (F) enforced disappearance of persons;

21 (G) the crime of apartheid; and

22 (H) other inhumane acts of a similar char-
23 acter intentionally causing great suffering, or
24 serious injury to body or to mental or physical
25 health.

1 (3) ETHNIC CLEANSING.—The term “ethnic
2 cleansing” means a purposeful policy designed by
3 one ethnic or religious group to remove by violent
4 and terror-inspiring means the civilian population of
5 another ethnic or religious group from certain geo-
6 graphic areas.

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

10 (5) HYBRID TRIBUNAL.—The term “hybrid tri-
11 bunal” means a temporary criminal tribunal that in-
12 volves a combination of domestic and international
13 lawyers, judges, and other professionals to prosecute
14 individuals suspected of committing war crimes,
15 crimes against humanity, or genocide.

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

21 (A) to redress legacies of atrocities; and

22 (B) to promote long-term, sustainable
23 peace.

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

4 **SEC. 4. STATEMENT OF POLICY.**

5 It is the policy of the United States that—

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

11 (2) the guiding principles of such a strategy to
 12 support and complete the transition to democracy
 13 and genuine national reconciliation include—

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

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

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

3 (C) the promotion of genuine national rec-
4 onciliation and conclusion of a credible and sus-
5 tainable nationwide cease-fire agreement, polit-
6 ical accommodation of the needs of ethnic Shan,
7 Kachin, Chin, Karen, and other ethnic groups,
8 and constitutional change allowing inclusive
9 permanent peace;

10 (D) accountability for ethnic cleansing,
11 crimes against humanity, and genocide per-
12 petrated against ethnic minorities like the
13 Rohingya by the Government, military, and se-
14 curity forces of Burma, violent extremist
15 groups, and other combatants involved in the
16 conflict;

17 (E) strengthening the government's civilian
18 institutions, including support for greater trans-
19 parency and accountability;

20 (F) the establishment of professional and
21 nonpartisan military, security, and police forces
22 that operate under civilian control;

23 (G) empowering local communities, civil so-
24 ciety, and independent media;

1 (H) promoting responsible international
2 and regional engagement;

3 (I) strengthening respect for and protec-
4 tion of human rights and religious freedom; and

5 (J) addressing and ending the humani-
6 tarian and human rights crisis, including by
7 supporting the return of the displaced Rohingya
8 to their homes and providing equal access to
9 full restoration of full citizenship for the
10 Rohingya population.

11 **SEC. 5. HUMANITARIAN ASSISTANCE.**

12 (a) IN GENERAL.—There is authorized to be appro-
13 priated \$104,000,000 for assistance to the victims of the
14 Burmese military’s ethnic cleansing campaign targeting
15 Rohingya in Rakhine State, including those displaced in
16 Bangladesh, Burma, and the region, support for voluntary
17 resettlement or repatriation efforts regionally, and for rec-
18 onciliation programs in Rakhine State, including support
19 for credible, independent humanitarian organizations,
20 United Nations agencies, and nongovernmental organiza-
21 tions supporting the implementation of the recommenda-
22 tions of the Advisory Commission on Rakhine State or
23 otherwise seeking to provide humanitarian assistance to
24 victims of violence and destruction in Rakhine State, in-
25 cluding victims of gender-based violence and unaccom-

1 panied minors. Additional significant and sustained fund-
2 ing will be necessary to address the medium and long-term
3 impacts of this crisis.

4 (b) FREEDOM OF MOVEMENT OF REFUGEES AND IN-
5 TERNALLY DISPLACED PERSONS.—Congress calls on the
6 Government of Bangladesh to ensure all refugees have
7 freedom of movement and under no circumstances are
8 subject to unsafe, involuntary, or uninformed repatriation.
9 Congress also calls on the Government of Burma to ensure
10 the dignified, safe, and voluntary return of those displaced
11 from their homes, and offer to those who do not want to
12 return meaningful means to obtain compensation or res-
13 titution.

14 **SEC. 6. MULTILATERAL ASSISTANCE.**

15 (a) RESTRICTIONS.—Except as provided under sub-
16 section (b), the Secretary of the Treasury should instruct
17 the United States executive director of each international
18 financial institution to use the voice and vote of the United
19 States to support a project in Burma only if the project
20 does not partner with, contract or subcontract with, or
21 otherwise involve or benefit enterprises owned or directly
22 or indirectly controlled by the military of Burma, the Min-
23 istry of Defense, members of the Burmese military or se-
24 curity forces, or related entities.

1 (b) EXCEPTION.—The Secretary of the Treasury may
2 approve projects otherwise restricted under this section
3 if—

4 (1) senior Burmese military officials have—

5 (A) publicly acknowledged their role in
6 committing past human rights abuses;

7 (B) cooperated with independent efforts to
8 investigate such abuses;

9 (C) been held accountable for such abuses;

10 (D) demonstrated substantial progress in
11 reforming their behavior with respect to the
12 protection of human rights in the conduct of
13 civil-military relations;

14 (E) demonstrably and verifiably indicated
15 their support for extending civil and political
16 rights, including citizenship and access to the
17 rule of law, to all the people of Burma con-
18 sistent with international standard including
19 the Rohingya; and

20 (F) are cooperating with efforts to secure
21 a credible cease-fire agreement, political accom-
22 modation, and constitutional change allowing
23 inclusive permanent peace; and

24 (2) doing so is in the vital interest of the
25 United States.

1 **SEC. 7. SENSE OF CONGRESS ON RIGHT OF RETURNEES.**

2 It is the sense of Congress that the Government of
3 Burma, in collaboration with the regional and inter-
4 national community, including the United Nations High
5 Commissioner for Refugees—

6 (1) should ensure the dignified, safe, and vol-
7 untary return of all those displaced from their
8 homes, especially from Rakhine State, without an
9 unduly high burden of proof; and

10 (2) should fully implement all of the rec-
11 ommendations of the Advisory Commission on
12 Rakhine State.

13 **SEC. 8. MILITARY COOPERATION.**

14 (a) PROHIBITION.—Except as provided under sub-
15 section (b), the United States Government may not supply
16 any security assistance or engage in any military-to-mili-
17 tary programs with the armed forces of Burma, including
18 training or observation or participation in regional exer-
19 cises, until the Secretary of Defense, in consultation with
20 the Secretary of State, can certify to the appropriate con-
21 gressional committees that the Burmese military has dem-
22 onstrated significant progress in abiding by international
23 human rights standards and is undertaking meaningful
24 and significant security sector reform, including trans-
25 parency and accountability to prevent future abuses, as
26 determined by applying the following criteria:

1 (1) The military adheres to international
2 human rights standards and pledges to stop future
3 human rights abuses.

4 (2) The military supports efforts to carry out
5 meaningful and comprehensive investigations of re-
6 cent abuses and is taking steps to hold accountable
7 those in the Burmese military responsible for human
8 rights violations.

9 (3) The Government of Burma, including the
10 military, allows immediate and unfettered humani-
11 tarian access to communities in areas affected by
12 conflict, including Rohingya communities in Rakhine
13 State.

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

20 (5) The Government of Burma, including the
21 military, takes steps toward the implementation of
22 the recommendations of the Advisory Commission on
23 Rakhine State.

24 (b) EXCEPTIONS.—

1 (1) CERTAIN EXISTING AUTHORITIES.—The
2 Department of Defense may continue to conduct
3 consultations based on the authorities under section
4 1253 of the Carl Levin and Howard P. “Buck”
5 McKeon National Defense Authorization Act for
6 Fiscal Year 2015 (Public Law 113–291; 22 U.S.C.
7 2151 note).

8 (2) HOSPITALITY.—The Department of State
9 and the United States Agency for International De-
10 velopment may meet related-hospitality requirements
11 with respect to the 21st Century Panglong Union
12 Peace Conference.

13 (c) MILITARY REFORM.—The certification required
14 under subsection (a) shall include a written justification
15 in classified and unclassified form describing the Burmese
16 military’s efforts to implement reforms, end impunity for
17 human rights abuses, and increase transparency and ac-
18 countability.

19 (d) RULE OF CONSTRUCTION.—Nothing in this Act
20 shall be construed to authorize Department of Defense as-
21 sistance to the Government of Burma except as provided
22 in this section.

23 (e) REPORT.—

24 (1) IN GENERAL.—Not later than 180 days
25 after the date of the enactment of this Act, and

1 every 180 days thereafter, the Secretary of Defense,
2 in concurrence with the Secretary of State, shall
3 submit to the appropriate congressional committees
4 a report, in both classified and unclassified form, on
5 the strategy and plans for military-to-military en-
6 gagement between the United States Armed Forces
7 and the military of Burma.

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

10 (A) A description and assessment of the
11 Government of Burma's strategy for security
12 sector reform, including as it relates to an end
13 to involvement in the illicit trade in jade and
14 other natural resources, reforms to end corrup-
15 tion and illicit drug trafficking, and constitu-
16 tional reforms to ensure civilian control.

17 (B) A list of ongoing military activities
18 conducted by the United States Government
19 with the Government of Burma, and a descrip-
20 tion of the United States strategy for future
21 military-military engagements between the
22 United States and Burma's military forces, in-
23 cluding the military of Burma, the Burma Po-
24 lice Force, and armed ethnic groups.

1 (C) An assessment of the progress of the
2 military of Burma towards developing a frame-
3 work to implement human right reforms, in-
4 cluding—

5 (i) cooperation with civilian authori-
6 ties to investigate and prosecute cases of
7 gross human rights violations;

8 (ii) steps taken to demonstrate respect
9 for and implementation of the laws of war
10 and international human rights law; and

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

15 (D) An assessment of progress on the
16 peaceful settlement of armed conflicts between
17 the Government of Burma and ethnic minority
18 groups, including actions taken by the military
19 of Burma to adhere to cease-fire agreements
20 and withdraw forces from conflict zones.

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

23 (F) An assessment of the Burmese's mili-
24 tary's use of violence against women, sexual vio-

1 lence, or other gender-based violence as a tool
2 of terror, war, or ethnic cleansing.

3 (f) CIVILIAN CHANNELS.—Any program initiated
4 under this section shall use appropriate civilian govern-
5 ment channels with the democratically elected Government
6 of Burma.

7 (g) REGULAR CONSULTATIONS.—Any new program
8 or activity in Burma initiated under this section shall be
9 subject to prior consultation with the appropriate congres-
10 sional committees.

11 **SEC. 9. TRADE RESTRICTIONS.**

12 (a) REINSTATEMENT OF IMPORT RESTRICTIONS ON
13 JADEITE AND RUBIES FROM BURMA.—

14 (1) IN GENERAL.—Section 3A of the Burmese
15 Freedom and Democracy Act of 2003 (Public Law
16 108–61; 50 U.S.C. 1701 note) is amended by adding
17 at the end the following:

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

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

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

4 (2) CONFORMING AMENDMENTS.—Section 3A
 5 of the Burmese Freedom and Democracy Act of
 6 2003 is further amended—

7 (A) in subsection (b)—

8 (i) in paragraph (1), by striking
 9 “until such time” and all that follows
 10 through “2008” and inserting “beginning
 11 on the date that is 15 days after the date
 12 of the enactment of the Burma Human
 13 Rights and Freedom Act of 2017”; and

14 (ii) in paragraph (3), by striking “the
 15 date of the enactment of this Act” and in-
 16 serting “the date of the enactment of the
 17 Burma Human Rights and Freedom Act of
 18 2017”; and

19 (B) in subsection (c)(1), by striking “until
 20 such time” and all that follows through “2008”
 21 and inserting “beginning on the date that is 15
 22 days after the date of the enactment of the
 23 Burma Human Rights and Freedom Act of
 24 2017”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply with respect to articles
3 entered, or withdrawn from warehouse for consump-
4 tion, on or after the 15th day after the date of the
5 enactment of this Act.

6 (b) REVIEW OF ELIGIBILITY FOR GENERALIZED SYS-
7 TEM OF PREFERENCES.—

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

16 (2) COMMITTEES SPECIFIED.—The committees
17 specified in this paragraph are—

18 (A) the Committee on Appropriations, the
19 Committee on Finance, and the Committee on
20 Foreign Relations of the Senate; and

21 (B) the Committee on Appropriations, the
22 Committee on Foreign Affairs, and the Com-
23 mittee on Ways and Means of the House of
24 Representatives.

1 **SEC. 10. VISA BAN AND ECONOMIC SANCTIONS WITH RE-**
2 **SPECT TO MILITARY OFFICIALS RESPON-**
3 **SIBLE FOR HUMAN RIGHTS ABUSES.**

4 (a) LIST REQUIRED.—

5 (1) IN GENERAL.—Not later than 30 days after
6 the date of the enactment of this Act, the President
7 shall submit to the appropriate congressional com-
8 mittees a list of senior officials of the military and
9 security forces of Burma that the President deter-
10 mines have played a direct and substantial role in
11 the commission of human rights abuses in Burma,
12 including against the Rohingya minority population.

13 (2) INCLUSIONS.—The list required by para-
14 graph (1) shall include all of the senior officials of
15 the military and security forces of Burma in charge
16 of each unit that was operational during the so-
17 called “clearance operations” that began in October
18 2016 and are ongoing as of the date of the enact-
19 ment of this Act.

20 (3) UPDATES.—Not less frequently than every
21 180 days, the President shall submit to the appro-
22 priate congressional committees an updated version
23 of the list required by paragraph (1).

24 (b) SANCTIONS.—

25 (1) VISA BAN.—The Secretary of State shall
26 deny a visa to, and the Secretary of Homeland Secu-

1 rity to exclude from the United States, any indi-
2 vidual on the list required by subsection (a)(1).

3 (2) LIST OF SPECIALLY DESIGNATED NATION-
4 ALS AND BLOCKED PERSONS.—

5 (A) IN GENERAL.—Not later than 90 days
6 after the date of the enactment of this Act, the
7 President shall—

8 (i) determine whether the individuals
9 specified in subparagraph (B) should be
10 included on the SDN list; and

11 (ii) submit to the appropriate congres-
12 sional committees a report on that deter-
13 mination that includes, with respect to any
14 such individual not included on the SDN
15 list, the reason for not including that indi-
16 vidual on that list.

17 (B) INDIVIDUALS SPECIFIED.—The indi-
18 viduals specified in this subparagraph are—

19 (i) the head of each unit of the mili-
20 tary or security forces of Burma that was
21 operational during the so-called “clearance
22 operations” that began in October 2016
23 and are ongoing as of the date of the en-
24 actment of this Act, including—

1 (I) Senior General Min Aung
2 Hlaing;

3 (II) Major General Maung
4 Maung Soe; and

5 (III) Major General Khin Maung
6 Soe; and

7 (ii) any senior official of the military
8 or security forces of Burma for which
9 there are credible allegations that the offi-
10 cial has aided, participated, or is otherwise
11 implicated in gross human rights abuses in
12 Burma, including sexual and ethnic- or
13 gender-based violence.

14 (C) SDN LIST DEFINED.—In this para-
15 graph, the term “SDN list” means the list of
16 specially designated nationals and blocked per-
17 sons maintained by the Office of Foreign Assets
18 Control of the Department of the Treasury.

19 (3) AUTHORITY FOR ADDITIONAL FINANCIAL
20 SANCTIONS.—The Secretary of the Treasury may
21 prohibit or impose conditions on the opening or
22 maintaining in the United States of a correspondent
23 account or payable-through account by any financial
24 institution or financial agency that is a United
25 States person, for or on behalf of a foreign financial

1 institution, if the Secretary determines that the ac-
2 count is used—

3 (A) by a foreign financial institution that
4 holds property or an interest in property of an
5 individual on the list required by subsection
6 (a)(1); or

7 (B) to conduct a transaction on behalf of
8 an individual on that list.

9 (4) RULE OF CONSTRUCTION.—Nothing in this
10 subsection may be construed to prohibit any contract
11 or other financial transaction with a credible non-
12 governmental humanitarian organization in Burma.

13 (c) REMOVAL FROM LISTS.—The President may re-
14 move an individual from the list required by subsection
15 (a)(1), or remove an individual included on the SDN list
16 pursuant to subsection (b)(2) from that list, if the Presi-
17 dent determines and reports to the appropriate congres-
18 sional committees that—

19 (1) the individual has—

20 (A) publicly acknowledged the role of the
21 individual in committing past human rights
22 abuses;

23 (B) cooperated with independent efforts to
24 investigate such abuses;

1 (C) been held accountable for such abuses;

2 or

3 (D) demonstrated substantial progress in
4 reforming the individual's behavior with respect
5 to the protection of human rights in the con-
6 duct of civil-military relations; and

7 (2) removing the individual from the list is in
8 the vital national interest of the United States.

9 (d) PENALTIES.—

10 (1) IN GENERAL.—A person that violates, at-
11 tempts to violate, conspires to violate, or causes a
12 violation of this section or any regulation, license, or
13 order issued to carry out paragraph (2) or (3) of
14 subsection (b) shall be subject to the penalties set
15 forth in subsections (b) and (c) of section 206 of the
16 International Emergency Economic Powers Act (50
17 U.S.C. 1705) to the same extent as a person that
18 commits an unlawful act described in subsection (a)
19 of that section.

20 (2) RULE OF CONSTRUCTION.—This subsection
21 shall not be construed to require the President to
22 declare a national emergency under section 202 of
23 the International Emergency Economic Powers Act
24 (50 U.S.C. 1701).

25 (e) EXCEPTIONS.—

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

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

20 (f) DEFINITIONS.—In this section:

21 (1) ACCOUNT; CORRESPONDENT ACCOUNT; PAY-
 22 ABLE-THROUGH ACCOUNT.—The terms “account”,
 23 “correspondent account”, and “payable-through ac-
 24 count” have the meanings given those terms in sec-
 25 tion 5318A of title 31, United States Code.

1 (2) FINANCIAL AGENCY; FINANCIAL INSTITU-
 2 TION.—The terms “financial agency” and “financial
 3 institution” have the meanings given those terms in
 4 section 5312 of title 31, United States Code.

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

7 (A) a United States citizen or an alien law-
 8 fully admitted for permanent residence to the
 9 United States; or

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

14 **SEC. 11. STRATEGY FOR PROMOTING ECONOMIC DEVELOP-**
 15 **MENT.**

16 (a) IN GENERAL.—Not later than 180 days after the
 17 date of the enactment of this Act, the Secretary of State,
 18 the Secretary of the Treasury, and the Administrator of
 19 the United States Agency for International Development
 20 shall submit to the appropriate congressional committees
 21 a strategy to support sustainable and broad-based eco-
 22 nomic development, in accordance with the priorities of
 23 the Government of Burma to improve economic conditions.

24 (b) ELEMENTS.—In order to support the efforts of
 25 the Government of Burma, the strategy required by sub-

1 section (a) shall include a plan to promote inclusive and
2 responsible economic growth, including through the fol-
3 lowing initiatives:

4 (1) Develop an economic reform road-map to
5 diversify control over and access to participation in
6 key industries and sectors. The United States Gov-
7 ernment should support the Government of Burma
8 to develop a roadmap to assess and recommend
9 measures to remove barriers to a level playing field
10 that increases competition, access and opportunity in
11 sectors dominated by the military, former military
12 officials, and their families, and businesspeople con-
13 nected to the military. The roadmap should include
14 areas related to government transparency, account-
15 ability, and governance.

16 (2) Increase transparency disclosure require-
17 ments in key sectors to promote responsible invest-
18 ment. Provide technical support to develop and im-
19 plement policies, and revise existing policies on pub-
20 lic disclosure of beneficial owners of companies in
21 key sectors identified by the Government of Burma,
22 including the identities of those seeking or securing
23 access to Burma's most valuable resources. Such
24 new requirements should complement disclosures due
25 to be put in place in Burma as a result of its partici-

1 pation in the Extractives Industry Transparency Ini-
 2 tiative (EITI).

3 **SEC. 12. REPORT ON ACCOUNTABILITY FOR ETHNIC**
 4 **CLEANSING, CRIMES AGAINST HUMANITY,**
 5 **AND GENOCIDE IN BURMA.**

6 (a) IN GENERAL.—Not later than 90 days after the
 7 date of the enactment of this Act, the Secretary of State
 8 shall submit to the appropriate congressional committees
 9 a report on allegations of ethnic cleansing, crimes against
 10 humanity, and genocide, and on potential transnational
 11 justice mechanisms in Burma.

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

14 (1) a description of alleged ethnic cleaning,
 15 crimes against humanity, including the crime of
 16 apartheid, and genocide perpetrated against the
 17 Rohingya ethnic minority in Burma, including—

18 (A) incidents that may constitute ethnic
 19 cleansing, crimes against humanity, and geno-
 20 cide committed by the Burmese military, and
 21 other actors involved in the violence;

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

24 (C) incidents that may constitute ethnic
 25 cleansing, crimes against humanity, or genocide

1 committed by violent extremist groups or
2 antigovernment forces;

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

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

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

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

ment, investigate, develop findings of, and identify and locate alleged perpetrators of ethnic cleansing, crimes against humanity, or genocide in Burma;

(B) to promote and prepare for a transitional justice process or processes for the perpetrators of ethnic cleansing, crimes against humanity, and genocide in Burma; and

(C) to document, collect, preserve, and protect evidence of ethnic cleansing, crimes against humanity, and genocide in Burma, including support for Burmese and Bangladeshi, foreign, and international nongovernmental organizations, United Nations Human Rights Council's investigative team, and other entities; and

(3) a detailed study of the feasibility and desirability of potential transitional justice mechanisms for Burma, including a hybrid tribunal, to address ethnic cleansing, crimes against humanity, and genocide perpetrated in Burma, including recommendations on which transitional justice mechanisms the United States Government should support, why such mechanisms should be supported, and what type of support should be offered.

1 (c) PROTECTION OF WITNESSES AND EVIDENCE.—

2 The Secretary shall take due care to ensure that the iden-
 3 tification of witnesses and physical evidence are not pub-
 4 licly disclosed in a manner that might place such persons
 5 at risk of harm or encourage the destruction of evidence
 6 by the Government of Burma.

7 **SEC. 13. TECHNICAL ASSISTANCE AUTHORIZED.**

8 (a) IN GENERAL.—The Secretary of State, in con-
 9 sultation with the Department of Justice and other appro-
 10 priate Federal departments and agencies, is authorized to
 11 provide appropriate assistance to support entities that,
 12 with respect to ethnic cleansing, crimes against humanity,
 13 and genocide perpetrated by the military, security forces,
 14 and Government of Burma, Buddhist militias, and all
 15 other armed groups fighting in Rakhine State—

16 (1) identify suspected perpetrators of ethnic
 17 cleansing, crimes against humanity, and genocide;

18 (2) collect, document, and protect evidence of
 19 crimes and preserve the chain of custody for such
 20 evidence;

21 (3) conduct criminal investigations; and

22 (4) support investigations by third-party states,
 23 as appropriate.

24 (b) ADDITIONAL ASSISTANCE.—The Secretary of
 25 State, after consultation with appropriate Federal depart-

1 ments and agencies and the appropriate congressional
2 committees, and taking into account the findings of the
3 transitional justice study required under section 12(b)(3),
4 is authorized to provide assistance to support the creation
5 and operation of transitional justice mechanisms, includ-
6 ing a potential hybrid tribunal, to prosecute individuals
7 suspected of committing ethnic cleansing, crimes against
8 humanity, or genocide in Burma.

○