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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, Mrs. SHAHEEN, Mr. COONS, Ms. COLLINS, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

FEBRUARY 12, 2018

Reported by Mr. CORKER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The United States policy of principled en-
 4 gagement since 1988 has fostered positive demo-
 5 cratic reforms in Burma, which have led to signifi-
 6 cant milestones on the path to full democracy.

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

19 (3) Aung San Suu Kyi's first acts as State
 20 Counsellor after her National League for Democracy
 21 party took office included releasing more than 100
 22 political prisoners, including well-known journalists
 23 and student activists held on politically motivated
 24 charges. However, as of September 2017, there are
 25 220 political prisoners in Burma, 42 of which are
 26 currently serving prison sentences, 51 of which are

awaiting trial inside prison, and 127 of which are awaiting trial outside prison, according to the Assistance Association for Political Prisoners.

(4) The Government of Burma also continues to systematically discriminate against the Rohingya people. Burma's 1982 citizenship law stripped Rohingya Burmese of their Burmese citizenship, rendering them stateless, and the Government continues to restrict Rohingya births, deny them freedom of movement, access to healthcare, land, education, voting, political participation, and marriage.

(5) Despite the meaningful steps taken toward democracy in Burma, there still remain important structural and systemic impediments to the realization of a fully democratic civilian government, including—

(A) reform of the 2008 Constitution;

(B) the disfranchisement of groups of people who voted in previous elections;

(C) social, political, and economic conditions in Rakhine State, particularly those faced by the Rohingya population; and

(D) addressing and ending the current humanitarian and human rights crisis affecting Burma's Rohingya population and residents of

1 the Rakhine, Kachin, and Shan states, includ-
2 ing ethnic cleansing, extrajudicial killings, sex-
3 ual and gender-based violence, and forced dis-
4 placement.

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

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

21 (8) Since 2011, over 98,000 people have been
22 displaced in Kachin and northern Shan State over
23 the escalating violence and instability, resulting in
24 continued massive internal displacement, causing a
25 massive humanitarian crisis, and continuing to un-

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

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

22 (10) On August 31, 2016, State Counsellor
23 Aung San Suu Kyi and the Government of Burma
24 initiated the Union Peace Conference 21st Century
25 Panglong, where more than 1,400 representatives of

1 various concerned parties attended a peace con-
2 ference in Naypyitaw in an effort to begin the proe-
3 cess of ending Burma's civil war and discuss options
4 in forming a democratic state of Burma. On May
5 24, 2017, the Government of Burma held a second
6 Panglong Peace Conference, with mixed results.

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

18 (12) The February 2017 panels set up by the
19 Burmese army and the Home Affairs Ministry are
20 widely perceived to lack independence and impar-
21 tiality. The December 2016 commission established
22 by Burma's President Htin Kyaw to investigate the
23 October 2016 attacks dismissed claims of mis-
24 conduct by security forces due to "insufficient evi-
25 dence". The 2012 commission government estab-

1 lished to investigate violence in Rakhine State that
 2 year never held anyone accountable.

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

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

9 (B) Resettlement of displaced populations.

10 (C) Economic development and durable
 11 peace.

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

22 (15) On October 23, 2017, the Department of
 23 State said, “We express our gravest concern with re-
 24 cent events in Rakhine State and the violent, trau-
 25 matic abuses Rohingya and other communities have

1 endured. It is imperative that any individuals or en-
 2 tities responsible for atrocities, including non-state
 3 actors and vigilantes, be held accountable.”.

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

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

24 (18) The Government of Burma has continued
 25 to block access to northern Rakhine State by United

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

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

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

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

23 (A) the Committee on Foreign Relations
 24 and the Committee on Armed Services of the
 25 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(e) 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 (e) 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.

9 **SECTION 1. SHORT TITLE.**

10 *This Act may be cited as the “Burma Human Rights*
 11 *and Freedom Act of 2018”.*

12 **SEC. 2. FINDINGS.**

13 *Congress makes the following findings:*

14 *(1) The United States policy of principled en-*
 15 *gagement since 1988 has fostered positive democratic*
 16 *reforms in Burma, which have led to significant mile-*
 17 *stones on the path to full democracy.*

18 *(2) On November 8, 2015, Burma held historic*
 19 *elections in which the National League for Democracy*
 20 *won a supermajority of seats in the combined na-*
 21 *tional parliament. On March 30, 2016, Htin Kyaw*
 22 *was inaugurated as the President of Burma, the*
 23 *country’s first civilian President in more than 50*
 24 *years. Aung San Suu Kyi, President of the National*
 25 *League for Democracy, was barred from becoming*

1 *President due to the provisions of section 59(f) of the*
 2 *2008 Constitution, and therefore assumed the office of*
 3 *State Counsellor, a position created for her that made*
 4 *her the country's de facto leader.*

5 *(3) Aung San Suu Kyi's first acts as State*
 6 *Counsellor after her National League for Democracy*
 7 *party took office included releasing more than 100 po-*
 8 *litical prisoners, including well-known journalists*
 9 *and student activists held on politically motivated*
 10 *charges. However, as of November 2017, there were*
 11 *228 political prisoners in Burma, 46 of which were*
 12 *serving prison sentences, 49 of which were awaiting*
 13 *trial inside prison, and 133 of which were awaiting*
 14 *trial outside prison, according to the Assistance Asso-*
 15 *ciation for Political Prisoners.*

16 *(4) The Government of Burma also continues to*
 17 *systematically discriminate against the Rohingya*
 18 *people. Burma's 1982 citizenship law stripped*
 19 *Rohingya Burmese of their Burmese citizenship, ren-*
 20 *dering them stateless, and the Government continues*
 21 *to restrict Rohingya births and to deny the Rohingya*
 22 *freedom of movement and access to healthcare, land,*
 23 *education, voting, political participation, and mar-*
 24 *riage.*

1 (5) *Despite the meaningful steps taken toward*
 2 *democracy in Burma, there remain important struc-*
 3 *tural and systemic impediments to the realization of*
 4 *a fully democratic civilian government, including—*

5 (A) *the 2008 Constitution, which is in need*
 6 *of reform;*

7 (B) *the disfranchisement of certain groups*
 8 *who voted in previous elections;*

9 (C) *the social, political, and economic con-*
 10 *ditions in Rakhine State, particularly with re-*
 11 *spect to the Rohingya population; and*

12 (D) *the current humanitarian and human*
 13 *rights crisis affecting Burma's Rohingya popu-*
 14 *lation and residents of the Rakhine, Kachin, and*
 15 *Shan states, including credible reports of ethnic*
 16 *cleansing, crimes against humanity,*
 17 *extrajudicial killings, sexual and gender-based*
 18 *violence, and forced displacement.*

19 (6) *Actions of the military of Burma, known as*
 20 *the Tatmadaw, including continuing assaults on per-*
 21 *sonnel and territory controlled by armed ethnic orga-*
 22 *nizations, military offensives immediately preceding*
 23 *the peace conference in Naypyitaw, and human rights*
 24 *violations against noncombatant civilians in conflict*
 25 *areas, undermine confidence in establishing a credible*

1 *nationwide ceasefire agreement to end Burma's civil*
2 *war.*

3 (7) *The people of Burma continue to suffer from*
4 *an ongoing civil war between the Tatmadaw and*
5 *nearly 20 armed ethnic organizations. Any prospects*
6 *for a full democracy in Burma are contingent on end-*
7 *ing the civil war and finding a path toward national*
8 *reconciliation between Burma's Bamar majority and*
9 *its various ethnic minorities.*

10 (8) *Since 2011, over 98,000 people have been dis-*
11 *placed in Kachin and northern Shan State over the*
12 *escalating violence and instability, resulting in con-*
13 *tinued massive internal displacement, including in*
14 *internally displaced person (IDP) camps, which con-*
15 *tinues to undermine the trust necessary to achieve a*
16 *durable, lasting peace, and has caused a massive hu-*
17 *manitarian crisis which disproportionately affects the*
18 *lives of innocent civilians and internally displaced*
19 *persons forced from their homes. According to the*
20 *United Nations Office for the Coordination of Hu-*
21 *manitarian Affairs, some 50 percent of these dis-*
22 *placed persons are staying in areas beyond Govern-*
23 *ment control where humanitarian access is limited.*
24 *Even in areas controlled by the Government, delivery*
25 *of humanitarian assistance has been increasingly re-*

1 *stricted through onerous bureaucratic requirements re-*
2 *sulting in limited access by international and local*
3 *humanitarian organizations.*

4 (9) *In 2015, the nongovernmental campaign*
5 *Global Witness found that, in 2014, the estimated*
6 *value of official production of jade equated to up to*
7 *48 percent of the official gross domestic product of*
8 *Burma. Because of corruption and a lack of trans-*
9 *parency, much of the proceeds of the Burmese jade*
10 *trade enrich notorious leaders from the military*
11 *junta, including former dictator Than Shwe and*
12 *United States-sanctioned drug lord Hsueh Kang Wei,*
13 *and vested interests in jade are undermining pros-*
14 *pects for resolving the most intractable armed conflict*
15 *in Burma.*

16 (10) *On August 31, 2016, State Counsellor Aung*
17 *San Suu Kyi and the Government of Burma initi-*
18 *ated the Union Peace Conference 21st Century*
19 *Panglong in Naypyitaw, which more than 1,400 rep-*
20 *resentatives of various concerned parties attended in*
21 *an effort to begin the process of ending Burma's civil*
22 *war and to discuss options in forming a democratic*
23 *state of Burma. On May 24, 2017, the Government of*
24 *Burma held a second Panglong Peace Conference,*
25 *with mixed results.*

1 (11) *On January 4, 2018, the Department of*
2 *State determined that Burma remains designated as*
3 *a country of particular concern for religious freedom*
4 *under section 402(b) of the International Religious*
5 *Freedom Act (22 U.S.C. 6442(b)), and that “members*
6 *of the Rohingya community in particular face abuses*
7 *by the Government of Burma, including those involv-*
8 *ing torture, unlawful arrest and detention, restricted*
9 *movement, restrictions on religious practices, dis-*
10 *crimination in employment, and access to social serv-*
11 *ices”.*

12 (12) *The February 2017 panels set up by the*
13 *Burmese army and the Home Affairs Ministry are*
14 *widely perceived by the international community to*
15 *lack independence and impartiality. The December*
16 *2016 commission established by Burma’s President*
17 *Htin Kyaw to investigate the October 2016 attacks*
18 *dismissed claims of misconduct by security forces due*
19 *to “insufficient evidence.” A Burmese army internal*
20 *inquiry completed in November 2017 claimed there*
21 *had been no abuses committed by the military. The*
22 *2012 commission government established to inves-*
23 *tigate violence in Rakhine State that year never held*
24 *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 the Rakhine State:*

4 (A) *Repatriation of those who have crossed*
 5 *over to Bangladesh and effective provision of hu-*
 6 *manitarian assistance.*

7 (B) *Resettlement of displaced populations.*

8 (C) *Economic development and durable*
 9 *peace.*

10 (14) *According to the Médecins Sans Frontières*
 11 *estimates, at least 6,700 Rohingya have been killed,*
 12 *including 730 children, and that at least 2,700 others*
 13 *died from disease and malnutrition and over an esti-*
 14 *mated 680,000 Rohingya have fled to Bangladesh*
 15 *since August 2017, fearing loss of livelihood and shel-*
 16 *ter and disproportionate use of force by the military*
 17 *of Burma.*

18 (15) *On October 23, 2017, the Department of*
 19 *State said, “We express our gravest concern with re-*
 20 *cent events in Rakhine State and the violent, trau-*
 21 *matic abuses Rohingya and other communities have*
 22 *endured. It is imperative that any individuals or en-*
 23 *tities responsible for atrocities, including non-state*
 24 *actors and vigilantes, be held accountable.”.*

1 (16) *At a Senate Foreign Relations Committee*
 2 *hearing on October 24, 2017, the Department of State*
 3 *indicated that “refugees continue to cross into Ban-*
 4 *gladesh, and we continue to receive credible reports of*
 5 *sporadic violence in northern Rakhine State”.*

6 (17) *Amnesty International and Human Rights*
 7 *Watch have reported and documented a campaign of*
 8 *violence perpetuated by the security forces of Burma*
 9 *that “may amount to crimes against humanity” and*
 10 *“ethnic cleansing” and includes—*

11 (A) *indiscriminate attacks on civilians;*

12 (B) *rape of women and girls; and*

13 (C) *arbitrary arrest and detention of*
 14 *Rohingya men without charge.*

15 (18) *According to Human Rights Watch, Bur-*
 16 *mese security forces have committed widespread rape*
 17 *against women and girls as part of a campaign of*
 18 *ethnic cleansing against Rohingya Muslims in Bur-*
 19 *ma’s Rakhine State. Survivors said that soldiers*
 20 *gathered them together in groups and then raped or*
 21 *gang raped them.*

22 (19) *Because survivors of conflict-related sexual*
 23 *or gender-based violence know very little about the*
 24 *abusers, aside from identifying the abuser as a mem-*
 25 *ber of a military unit, existing laws and account-*

1 *ability mechanisms often fail to protect victims of*
 2 *such violence.*

3 *(20) Satellite images captured by Human Rights*
 4 *Watch reveal that, out of the approximately 470 vil-*
 5 *lages in northern Rakhine State, most of which were*
 6 *completely or partially populated with Rohingya*
 7 *Muslims, nearly 300 were partially or completely de-*
 8 *stroyed by fire after August 25, 2017.*

9 *(21) The Government of Burma has continued to*
 10 *block access to northern Rakhine State by United Na-*
 11 *tions and other humanitarian organizations, pre-*
 12 *venting hundreds of thousands of vulnerable*
 13 *Rohingya, Rakhine, and other ethnic groups, includ-*
 14 *ing children with acute malnutrition, from receiving*
 15 *humanitarian aid. According to a report by the*
 16 *United Nations Children's Fund, a diphtheria out-*
 17 *break has led to 424 cases and 6 deaths since Decem-*
 18 *ber 6, 2017. In addition, the levels of global acute*
 19 *malnutrition in refugees from Burma exceeds the*
 20 *World Health Organization's threshold by 15 percent*
 21 *in children aged 6–59 months. Over 50 percent of the*
 22 *Rohingya children are reported to be suffering from*
 23 *anemia.*

24 *(22) In response to previous violence between the*
 25 *Burmese military and the ethnic Rohingya people in*

1 2016, Aung San Suu Kyi established the Advisory
 2 Commission on Rakhine State headed by former
 3 United Nations Secretary-General Kofi Annan to ad-
 4 dress tensions in Northern Rakhine. She has since
 5 also endorsed the Commission’s recommendations and
 6 established an “Advisory Team for the Committee for
 7 the Implementation of Recommendations on Rakhine
 8 State” to move forward with implementation.

9 (23) On December 21, 2017, using the authority
 10 granted by the Global Magnitsky Human Rights Ac-
 11 countability Act (subtitle F of title XII of Public Law
 12 114–328), the President imposed sanctions on Maung
 13 Maung Soe, a Major General who was the chief of the
 14 Burmese Army’s Western command during the Au-
 15 gust 2017 attack in Rakhine state.

16 (24) On November 22, 2017, Secretary of State
 17 Rex Tillerson stated, “After careful and through anal-
 18 ysis of available facts, it is clear that the situation in
 19 northern Rakhine state constitutes ethnic cleansing
 20 against the Rohingya. Those responsible for these
 21 atrocities must be held accountable.”.

22 (25) Ethnic cleansing is a despicable evil, and
 23 while it is not an independent crime under domestic
 24 or international law, it is often accomplished through
 25 acts that constitute war crimes, crimes against hu-

1 *manity, or genocide, and the perpetrators of such*
 2 *crimes in Burma must be held accountable.*

3 **SEC. 3. DEFINITIONS.**

4 *In this Act:*

5 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*
 6 *TEES.—The term “appropriate congressional commit-*
 7 *tees” means—*

8 (A) *the Committee on Foreign Relations*
 9 *and the Committee on Armed Services of the*
 10 *Senate; and*

11 (B) *the Committee on Foreign Affairs and*
 12 *the Committee on Armed Services of the House*
 13 *of Representatives.*

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

17 (3) *HYBRID TRIBUNAL.—The term “hybrid tri-*
 18 *bunal” means a temporary criminal tribunal that in-*
 19 *volves a combination of domestic and international*
 20 *lawyers, judges, and other professionals to prosecute*
 21 *individuals suspected of committing war crimes,*
 22 *crimes against humanity, or genocide.*

23 (4) *TRANSITIONAL JUSTICE.—The term “transi-*
 24 *tional justice” means the range of judicial, non-*
 25 *judicial, formal, informal, retributive, and restorative*

1 *measures employed by countries transitioning out of*
 2 *armed conflict or repressive regimes—*

3 *(A) to redress legacies of atrocities; and*

4 *(B) to promote long-term, sustainable peace.*

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

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

9 *It is the policy of the United States that—*

10 *(1) the pursuit of a calibrated engagement strat-*
 11 *egy is essential to support the establishment of a*
 12 *peaceful, prosperous, and democratic Burma that in-*
 13 *cludes respect for the human rights of all its people*
 14 *regardless of ethnicity and religion; and*

15 *(2) the guiding principles of such a strategy in-*
 16 *clude—*

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

1 (B) the establishment of a fully democratic,
2 pluralistic, civilian controlled, and representa-
3 tive political system that includes regularized
4 free and fair elections in which all people of
5 Burma, including the Rohingya, can vote;

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

14 (D) investigations into credible reports of
15 ethnic cleansing, crimes against humanity, sex-
16 ual and gender-based violence, and genocide per-
17 petrated against ethnic minorities like the
18 Rohingya by the government, military, and secu-
19 rity forces of Burma, violent extremist groups,
20 and other combatants involved in the conflict;

21 (E) accountability for determinations of
22 ethnic cleansing, crimes against humanity, sex-
23 ual and gender-based violence, and genocide per-
24 petrated against ethnic minorities like the
25 Rohingya by the Government, military, and se-

1 *curity forces of Burma, violent extremist groups,*
 2 *and other combatants involved in the conflict;*

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

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

9 *(H) empowering local communities, civil so-*
 10 *cietty, and independent media;*

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

13 *(J) strengthening respect for and protection*
 14 *of human rights and religious freedom;*

15 *(K) addressing and ending the humani-*
 16 *tarian and human rights crisis, including by*
 17 *supporting the return of the displaced Rohingya*
 18 *to their homes and providing equal access to res-*
 19 *toration of full citizenship for the Rohingya pop-*
 20 *ulation; and*

21 *(L) promoting broad-based, inclusive eco-*
 22 *nomie development and fostering healthy and re-*
 23 *silient communities.*

1 **SEC. 5. AUTHORIZATION OF HUMANITARIAN ASSISTANCE**
2 **AND RECONCILIATION.**

3 (a) *HUMANITARIAN ASSISTANCE.*—

4 (1) *IN GENERAL.*—*There is authorized to be ap-*
5 *propriated \$103,695,069 for fiscal year 2018 for hu-*
6 *manitarian assistance for Burma, Bangladesh, and*
7 *the region. The assistance may include—*

8 (A) *assistance for the victims of the Bur-*
9 *mese military’s ethnic cleansing campaign tar-*
10 *geting Rohingya in Rakhine State, including*
11 *those displaced in Bangladesh, Burma, and the*
12 *region;*

13 (B) *support for voluntary resettlement or*
14 *repatriation efforts regionally; and*

15 (C) *humanitarian assistance to victims of*
16 *violence and destruction in Rakhine State, in-*
17 *cluding victims of gender-based violence and un-*
18 *accompanied minors.*

19 (2) *SENSE OF CONGRESS ON ADDITIONAL FUND-*
20 *ING.*—*It is the sense of Congress that additional sig-*
21 *nificant and sustained funding will be necessary to*
22 *address the medium and long-term impacts of this*
23 *crisis.*

24 (b) *RECONCILIATION PROGRAMS.*—*There is authorized*
25 *to be appropriated \$27,400,000 for fiscal year 2018 for rec-*

1 *conciliation programs in Burma. The assistance may in-*
 2 *clude—*

3 (1) *reducing the influence of the drivers of inter-*
 4 *communal conflict;*

5 (2) *strengthening engagement on areas affecting*
 6 *fundamental freedoms;*

7 (3) *enhancing the ability of key stakeholders to*
 8 *engage in the peace process; and*

9 (4) *assisting the implementation of the Kofi*
 10 *Annan Commission report.*

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

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

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

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

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

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

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

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

11 (1) *ensure the dignified, safe, and voluntary re-*
 12 *turn of all those displaced from their homes, espe-*
 13 *cially from Rakhine State, without an unduly high*
 14 *burden of proof;*

15 (2) *offer to those who do not want to return*
 16 *meaningful opportunity to obtain appropriate com-*
 17 *ensation or restitution;*

18 (3) *not place returning Rohingya in DP camps*
 19 *or “model villages”, but instead make efforts to recon-*
 20 *struct Rohingya villages as and where they were;*

21 (4) *keep any funds collected by the Government*
 22 *by harvesting the land previously owned and tended*
 23 *by Rohingya farmers for them upon their return; and*

24 (5) *fully implement all of the recommendations*
 25 *of the Advisory Commission on Rakhine State.*

1 (b) *FREEDOM OF MOVEMENT OF REFUGEES AND IN-*
 2 *TERNALLY DISPLACED PERSONS.*—Congress recognizes that
 3 the Government of Bangladesh has provided long-standing
 4 support and hospitality to people fleeing violence in Burma,
 5 and calls on the Government of Bangladesh—

6 (1) to ensure all refugees have freedom of move-
 7 ment and under no circumstance are subject to un-
 8 safe, involuntary, or uninformed repatriation; and

9 (2) to ensure the dignified, safe, and voluntary
 10 return of those displaced from their homes, and offer
 11 to those who do not want to return meaningful means
 12 to obtain compensation or restitution.

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

14 (a) *PROHIBITION.*—Except as provided under sub-
 15 section (b), the President may not furnish any security as-
 16 sistance or to engage in any military-to-military programs
 17 with the armed forces of Burma, including training or ob-
 18 servation or participation in regional exercises, until the
 19 Secretary of State, in consultation with the Secretary of
 20 Defense, certifies to the appropriate congressional commit-
 21 tees that the Burmese military has demonstrated significant
 22 progress in abiding by international human rights stand-
 23 ards and is undertaking meaningful and significant secu-
 24 rity sector reform, including transparency and account-

1 *ability to prevent future abuses, as determined by applying*
 2 *the following criteria:*

3 (1) *The military adheres to international human*
 4 *rights standards and pledges to stop future human*
 5 *rights violations.*

6 (2) *The military supports efforts to carry out*
 7 *meaningful and comprehensive investigations of cred-*
 8 *ible reports of abuses and is taking steps to hold ac-*
 9 *countable those in the Burmese military responsible*
 10 *for human rights violations.*

11 (3) *The military supports efforts to carry out*
 12 *meaningful and comprehensive investigations of re-*
 13 *ports of conflict-related sexual and gender-based vio-*
 14 *lence and is taking steps to hold accountable those in*
 15 *the Burmese military who failed to prevent, respond*
 16 *to, investigate, and prosecute violence against women,*
 17 *sexual violence, or other gender-based violence.*

18 (4) *The Government of Burma, including the*
 19 *military, allows immediate and unfettered humani-*
 20 *tarian access to communities in areas affected by con-*
 21 *flict, including Rohingya communities in Rakhine*
 22 *State.*

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

1 *Nations agencies to ensure the protection of displaced*
 2 *persons and the safe and voluntary return of*
 3 *Rohingya refugees and internally displaced persons.*

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

8 (b) *EXCEPTIONS.—*

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

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

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

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

11 (e) *REPORT.*—

12 (1) *IN GENERAL.*—*Not later than 180 days after*
 13 *the date of the enactment of this Act, and every 180*
 14 *days thereafter, the Secretary of State and the Sec-*
 15 *retary of Defense shall submit to the appropriate con-*
 16 *gressional committees a report, in both classified and*
 17 *unclassified form, on the strategy and plans for mili-*
 18 *tary-to-military engagement between the United*
 19 *States Armed Forces and the military of Burma.*

20 (2) *ELEMENTS.*—*The report required under*
 21 *paragraph (1) shall include the following elements:*

22 (A) *A description and assessment of the*
 23 *Government of Burma’s strategy for security sec-*
 24 *tor reform, including as it relates to an end to*
 25 *involvement in the illicit trade in jade and other*

1 *natural resources, reforms to end corruption and*
 2 *illicit drug trafficking, and constitutional re-*
 3 *forms to ensure civilian control of the Govern-*
 4 *ment.*

5 *(B) A list of ongoing military activities*
 6 *conducted by the United States Government with*
 7 *the Government of Burma, and a description of*
 8 *the United States strategy for future military-to-*
 9 *military engagements between the United States*
 10 *and Burma's military forces, including the mili-*
 11 *tary of Burma, the Burma Police Force, and*
 12 *armed ethnic groups.*

13 *(C) An assessment of the progress of the*
 14 *military of Burma towards developing a frame-*
 15 *work to implement human rights reforms, in-*
 16 *cluding—*

17 *(i) cooperation with civilian authori-*
 18 *ties to investigate and prosecute cases of*
 19 *human rights violations;*

20 *(ii) steps taken to demonstrate respect*
 21 *for internationally-recognized human rights*
 22 *standards and implementation of and ad-*
 23 *herence to the laws of war; and*

24 *(iii) a description of the elements of the*
 25 *military-to-military engagement between*

1 *the United States and Burma that promote*
 2 *such implementation.*

3 *(D) An assessment of progress on the peace-*
 4 *ful settlement of armed conflicts between the Gov-*
 5 *ernment of Burma and ethnic minority groups,*
 6 *including actions taken by the military of*
 7 *Burma to adhere to ceasefire agreements, allow*
 8 *for safe and voluntary returns of displaced per-*
 9 *sons to their villages of origin, and withdraw*
 10 *forces from conflict zones.*

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

13 *(F) An assessment of the Burmese's mili-*
 14 *tary's use of violence against women, sexual vio-*
 15 *lence, or other gender-based violence as a tool of*
 16 *terror, war, or ethnic cleansing.*

17 (f) *CIVILIAN CHANNELS.—Any program initiated*
 18 *under this section shall use appropriate civilian govern-*
 19 *ment channels with the democratically elected Government*
 20 *of Burma.*

21 (g) *REGULAR CONSULTATIONS.—Any new program or*
 22 *activity in Burma initiated under this section shall be sub-*
 23 *ject to prior consultation with the appropriate congres-*
 24 *sional committees.*

1 **SEC. 9. REINSTATEMENT OF IMPORT RESTRICTIONS ON**
 2 **JADEITE FROM BURMA.**

3 (a) *DEFINITIONS.*—Section 3A(a) of the *Burmese Free-*
 4 *dom and Democracy Act of 2003* (Public Law 108–61; 50
 5 *U.S.C. 1701 note*) is amended—

6 (1) *by striking paragraph (2) and inserting the*
 7 *following:*

8 “(2) *BURMESE COVERED ARTICLE.*—The term
 9 ‘*Burmese covered article*’ means—

10 “(A) *jadeite mined or extracted from*
 11 *Burma; or*

12 “(B) *articles of jewelry containing jadeite*
 13 *described in subparagraph (A).*”;

14 (2) *by striking paragraph (3) and inserting the*
 15 *following:*

16 “(3) *NON-BURMESE COVERED ARTICLE.*—The
 17 term ‘*non-Burmese covered article*’ means—

18 “(A) *jadeite mined or extracted from a*
 19 *country other than Burma; or*

20 “(B) *articles of jewelry containing jadeite*
 21 *described in subparagraph (A).*”; and

22 (3) *by striking paragraph (4) and inserting the*
 23 *following:*

24 “(4) *JADEITE; ARTICLES OF JEWELRY CON-*
 25 *TAINING JADEITE.*—

1 “(A) *JADEITE*.—The term ‘jadeite’ means
 2 any jadeite classifiable under heading 7103 of
 3 the Harmonized Tariff Schedule of the United
 4 States (in this paragraph referred to as the
 5 ‘HTS’).

6 “(B) *ARTICLES OF JEWELRY CONTAINING*
 7 *JADEITE*.—The term ‘articles of jewelry con-
 8 taining jadeite’ means—

9 “(i) any article of jewelry classifiable
 10 under heading 7113 of the HTS that con-
 11 tains jadeite; or

12 “(ii) any article of jadeite classifiable
 13 under heading 7116 of the HTS.”.

14 (b) *TERMINATION*.—Section 3A of the *Burmese Free-*
 15 *dom and Democracy Act of 2003* (Public Law 108–61; 50
 16 *U.S.C. 1701 note*) is amended by striking subsections (g)
 17 and (h) and inserting the following:

18 “(g) *TERMINATION*.—Notwithstanding section 9, this
 19 section shall remain in effect until the President determines
 20 and certifies to the appropriate congressional committees
 21 that the Government of Burma has taken measures to re-
 22 form the jadeite industry in Burma, including measures to
 23 require—

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

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

3 (c) *CONFORMING AMENDMENTS*.—Section 3A of the
4 *Burmese Freedom and Democracy Act of 2003* (Public Law
5 108–61; 50 U.S.C. 1701 note) is amended—

6 (1) in the section heading—

7 (A) by striking “**AND RUBIES**”; and

8 (B) by striking “**OR RUBIES**”;

9 (2) in subsection (b)—

10 (A) in paragraph (1), by striking “until
11 such time” and all that follows through “2008”
12 and inserting “beginning on the date that is 180
13 days after the date of the enactment of the
14 *Burma Human Rights and Freedom Act of*
15 2018”; and

16 (B) in paragraph (3), by striking “the date
17 of the enactment of this Act” and inserting “the
18 date of the enactment of the *Burma Human*
19 *Rights and Freedom Act of 2018*”; and

20 (3) in subsection (c)—

21 (A) in paragraph (1), by striking “until
22 such time” and all that follows through “2008”
23 and inserting “beginning on the date that is 180
24 days after the date of the enactment of the

1 *Burma Human Rights and Freedom Act of*
 2 *2018”;* and

3 *(B) in paragraph (2)(B)—*

4 *(i) in clause (ii), by striking “or pol-*
 5 *ished rubies”*

6 *(ii) by striking “or rubies” each place*
 7 *it appears.*

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

11 *(a) LIST REQUIRED.—*

12 *(1) IN GENERAL.—Not later than 180 days after*
 13 *the date of the enactment of this Act, the President*
 14 *shall submit to the appropriate congressional commit-*
 15 *tees a list of senior officials of the military and secu-*
 16 *rity forces of Burma that the President determines*
 17 *have knowingly played a direct and significant role*
 18 *in the commission of human rights violations in*
 19 *Burma, including against the Rohingya minority*
 20 *population.*

21 *(2) INCLUSIONS.—The list required by para-*
 22 *graph (1) shall include all of the senior officials of the*
 23 *military and security forces of Burma—*

24 *(A) in charge of each unit that was oper-*
 25 *ational during the so-called “clearance oper-*

1 *ations” that began during or after October 2016;*
 2 *and*

3 *(B) who knew, or should have known, that*
 4 *the official’s subordinates were committing sex-*
 5 *ual or gender-based violence and failed to take*
 6 *adequate steps to prevent such violence or punish*
 7 *the individuals responsible for such violence.*

8 *(3) UPDATES.—Not less frequently than every*
 9 *180 days, the President shall submit to the appro-*
 10 *priate congressional committees an updated version of*
 11 *the list required by paragraph (1).*

12 *(b) SANCTIONS.—*

13 *(1) VISA BAN.—The Secretary of State shall deny*
 14 *a visa to, and the Secretary of Homeland Security*
 15 *shall exclude from the United States, any individual*
 16 *included in the most recent list required subsection*
 17 *(a).*

18 *(2) LIST OF SPECIALLY DESIGNATED NATIONALS*
 19 *AND BLOCKED PERSONS.—*

20 *(A) IN GENERAL.—Not later than 180 days*
 21 *after the date of the enactment of this Act, the*
 22 *President shall—*

23 *(i) determine whether the individuals*
 24 *specified in subparagraph (B) should be in-*
 25 *cluded on the SDN list; and*

1 (ii) submit to the appropriate congres-
 2 sional committees a report, in classified
 3 form if necessary, on the procedures for in-
 4 cluding those individuals on the SDN list
 5 under existing authorities of the Depart-
 6 ment of the Treasury.

7 (B) INDIVIDUALS SPECIFIED.—The individ-
 8 uals specified in this subparagraph are—

9 (i) the head of each unit of the mili-
 10 tary or security forces of Burma that was
 11 operational during the so-called “clearance
 12 operations” that began during or after Oc-
 13 tober 2016, including—

14 (I) Senior General Min Aung
 15 Hlaing; and

16 (II) Major General Khin Maung
 17 Soe;

18 (ii) any senior official of the military
 19 or security forces of Burma for which the
 20 President determines there are credible re-
 21 ports that the official has aided, partici-
 22 pated, or is otherwise implicated in gross
 23 human rights violations in Burma, includ-
 24 ing sexual and ethnic- or gender-based vio-
 25 lence; and

1 (iii) any senior official of the military
 2 or security forces of Burma for which the
 3 President determines there are credible re-
 4 ports that the official knew, or should have
 5 known, that the official's subordinates were
 6 committing sexual or gender-based violence
 7 and failed to take adequate steps to prevent
 8 such violence or punish the individuals re-
 9 sponsible for such violence.

10 (3) *AUTHORITY FOR ADDITIONAL FINANCIAL*
 11 *SANCTIONS.—The Secretary of the Treasury may, in*
 12 *consultation with the Secretary of State, prohibit or*
 13 *impose strict conditions on the opening or maintain-*
 14 *ing in the United States of a correspondent account*
 15 *or payable-through account by any financial institu-*
 16 *tion that is a United States person, for or on behalf*
 17 *of a foreign financial institution, if the Secretary de-*
 18 *termines that the account is knowingly used—*

19 (A) by a foreign financial institution that
 20 knowingly holds property or an interest in prop-
 21 erty of an individual included on the SDN list
 22 pursuant to paragraph (2); or

23 (B) to conduct a significant transaction on
 24 behalf of such an individual.

1 (4) *RULE OF CONSTRUCTION.*—*Nothing in this*
2 *subsection may be construed to prohibit any contract*
3 *or other financial transaction by a United States per-*
4 *son with a credible nongovernmental humanitarian*
5 *organization in Burma.*

6 (c) *REMOVAL FROM LIST.*—*The President may remove*
7 *an individual from the list required by subsection (a) if*
8 *the President determines and reports to the appropriate*
9 *congressional committees that—*

10 (1) *the individual has—*

11 (A) *publicly acknowledged the role of the in-*
12 *dividual in committing past human rights viola-*
13 *tions;*

14 (B) *cooperated with independent efforts to*
15 *investigate such violations;*

16 (C) *been held accountable for such viola-*
17 *tions; and*

18 (D) *demonstrated substantial progress in re-*
19 *forming the individual's behavior with respect to*
20 *the protection of human rights in the conduct of*
21 *civil-military relations; and*

22 (2) *removing the individual from the list is in*
23 *the national interest of the United States.*

24 (d) *EXCEPTIONS.*—

1 (1) *HUMANITARIAN ASSISTANCE*.—*A requirement*
 2 *to impose sanctions under this section shall not apply*
 3 *with respect to the provision of medicine, medical*
 4 *equipment or supplies, food, or any other form of hu-*
 5 *manitarian or human rights-related assistance pro-*
 6 *vided to Burma in response to a humanitarian crisis.*

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

19 (e) *WAIVER*.—*The President may waive a requirement*
 20 *of this section if the Secretary of State, in consultation with*
 21 *the Secretary of the Treasury, determines and reports to*
 22 *the appropriate congressional committees that the waiver*
 23 *is important to the national security interests of the United*
 24 *States.*

25 (f) *IMPLEMENTATION; PENALTIES*.—

1 (1) *IMPLEMENTATION.*—*The President may exer-*
 2 *cise all authorities provided under sections 203 and*
 3 *205 of the International Emergency Economic Powers*
 4 *Act (50 U.S.C. 1702 and 1704) to carry out this sec-*
 5 *tion.*

6 (2) *PENALTIES.*—*A person that violates, at-*
 7 *tempts to violate, conspires to violate, or causes a vio-*
 8 *lation of paragraph (2) or (3) of subsection (b) or any*
 9 *regulation, license, or order issued to carry out either*
 10 *such paragraph shall be subject to the penalties set*
 11 *forth in subsections (b) and (c) of section 206 of the*
 12 *International Emergency Economic Powers Act (50*
 13 *U.S.C. 1705) to the same extent as a person that com-*
 14 *mits an unlawful act described in subsection (a) of*
 15 *that section.*

16 (3) *RULE OF CONSTRUCTION.*—*This subsection*
 17 *shall not be construed to require the President to de-*
 18 *clare a national emergency under section 202 of the*
 19 *International Emergency Economic Powers Act (50*
 20 *U.S.C. 1701).*

21 (g) *DEFINITIONS.*—*In this section:*

22 (1) *ACCOUNT; CORRESPONDENT ACCOUNT; PAY-*
 23 *ABLE-THROUGH ACCOUNT.*—*The terms “account”,*
 24 *“correspondent account”, and “payable-through ac-*

1 *count” have the meanings given those terms in section*
2 *5318A of title 31, United States Code.*

3 (2) *FINANCIAL INSTITUTION.*—*The term “finan-*
4 *cial institution” has the meaning given that term in*
5 *section 5312 of title 31, United States Code.*

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

10 (4) *SDN LIST.*—*The term “SDN list” means the*
11 *list of specially designated nationals and blocked per-*
12 *sons maintained by the Office of Foreign Assets Con-*
13 *trol of the Department of the Treasury.*

14 (5) *UNITED STATES PERSON.*—*The term “United*
15 *States person” means—*

16 (A) *a United States citizen or an alien law-*
17 *fully admitted for permanent residence to the*
18 *United States;*

19 (B) *an entity organized under the laws of*
20 *the United States or of any jurisdiction within*
21 *the United States, including a foreign branch of*
22 *such an entity; or*

23 (C) *any person in the United States.*

1 **SEC. 11. STRATEGY FOR PROMOTING ECONOMIC DEVELOP-**
2 **MENT.**

3 (a) *IN GENERAL.*—Not later than 180 days after the
4 date of the enactment of this Act, the Secretary of State,
5 the Secretary of the Treasury, and the Administrator of the
6 United States Agency for International Development shall
7 submit to the appropriate congressional committees a strat-
8 egy to support sustainable and broad-based economic devel-
9 opment, in accordance with the priorities of the Govern-
10 ment of Burma to improve economic conditions.

11 (b) *ELEMENTS.*—In order to support the efforts of the
12 Government of Burma, the strategy required by subsection
13 (a) shall include a plan to promote inclusive and respon-
14 sible economic growth, including through the following ini-
15 tiatives:

16 (1) *Develop an economic reform road-map to di-*
17 *versify control over and access to participation in key*
18 *industries and sectors. The United States Government*
19 *should support the Government of Burma to develop*
20 *a roadmap to assess and recommend measures to re-*
21 *move barriers and increase competition, access and*
22 *opportunity in sectors dominated by the military,*
23 *former military officials, and their families, and*
24 *businesspeople connected to the military. The road-*
25 *map should include areas related to government*
26 *transparency, accountability, and governance.*

1 (2) *Increase transparency disclosure require-*
 2 *ments in key sectors to promote responsible invest-*
 3 *ment. Provide technical support to develop and imple-*
 4 *ment policies, and revise existing policies on public*
 5 *disclosure of beneficial owners of companies in key*
 6 *sectors identified by the Government of Burma, in-*
 7 *cluding the identities of those seeking or securing ac-*
 8 *cess to Burma's most valuable resources. In the ruby*
 9 *industry, this specifically includes working with the*
 10 *Government of Burma to require the disclosure of the*
 11 *ultimate beneficial ownership of entities in the indus-*
 12 *try and the publication of project revenues, payments,*
 13 *and contract terms relating to the industry. Such new*
 14 *requirements should complement disclosures due to be*
 15 *put in place in Burma as a result of its participation*
 16 *in the Extractives Industry Transparency Initiative*
 17 *(EITI).*

18 (3) *Promote universal access to reliable, afford-*
 19 *able, energy efficient, and sustainable power, includ-*
 20 *ing leveraging United States assistance to support re-*
 21 *forms in the power sector and electrification projects*
 22 *that increase energy access, in partnership with mul-*
 23 *tilateral organizations and the private sector.*

1 **SEC. 12. REPORT ON ETHNIC CLEANSING AND SERIOUS**
2 **HUMAN RIGHTS ABUSES IN BURMA.**

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

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

13 (1) a description of credible reports of ethnic
14 cleaning and serious human rights abuses perpetrated
15 against the Rohingya ethnic minority in Burma, in-
16 cluding—

17 (A) incidents that may constitute ethnic
18 cleansing, crimes against humanity, sexual and
19 gender-based violence, and genocide committed
20 by the Burmese military, and other actors in-
21 volved 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, sexual and
26 gender-based violence, or genocide committed by

1 *violent extremist groups or antigovernment*
2 *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; and*

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

11 *(2) a description and assessment by the Depart-*
12 *ment of State, the United States Agency for Inter-*
13 *national Development, the Department of Justice, and*
14 *other appropriate Federal departments and agencies*
15 *of programs that the United States Government has*
16 *already or is planning to undertake to ensure ac-*
17 *countability for credible reports of ethnic cleansing*
18 *and reports of war crimes, crimes against humanity,*
19 *sexual and gender-based violence, and genocide per-*
20 *petrated against the Rohingya and other ethnic mi-*
21 *nority groups by the Government, security forces, and*
22 *military of Burma, violent extremist groups, and*
23 *other combatants involved in the conflict, including*
24 *programs—*

1 (A) to train investigators within and out-
2 side of Burma and Bangladesh on how to docu-
3 ment, investigate, develop findings of, and iden-
4 tify and locate alleged perpetrators of ethnic
5 cleansing, crimes against humanity, or genocide
6 in Burma;

7 (B) to promote and prepare for a transi-
8 tional justice process or processes for the per-
9 petrators of ethnic cleansing, crimes against hu-
10 manity, and genocide in Burma; and

11 (C) to document, collect, preserve, and pro-
12 tect evidence of reports of ethnic cleansing,
13 crimes against humanity, and genocide in
14 Burma, including support for Burmese and
15 Bangladeshi, foreign, and international non-
16 governmental organizations, the United Nations
17 Human Rights Council's investigative team, and
18 other entities; and

19 (3) A detailed study of the feasibility and desir-
20 ability of potential transitional justice mechanisms
21 for Burma, including a hybrid tribunal, and rec-
22 ommendations on which transitional justice mecha-
23 nisms the United States Government should support,
24 why such mechanisms should be supported, and what
25 type of support should be offered.

1 (c) *PROTECTION OF WITNESSES AND EVIDENCE.*—The
 2 Secretary shall take due care to ensure that the identifica-
 3 tion of witnesses and physical evidence are not publicly dis-
 4 closed in a manner that might place such persons at risk
 5 of harm or encourage the destruction of evidence by the Gov-
 6 ernment of Burma.

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

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

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

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

22 (3) conduct criminal investigations; and

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

1 (b) *ADDITIONAL ASSISTANCE.*—*The Secretary of State,*
 2 *after consultation with appropriate Federal departments*
 3 *and agencies and the appropriate congressional committees,*
 4 *and taking into account the findings of the transitional jus-*
 5 *tice study required under section 12(b)(3), is authorized to*
 6 *provide assistance to support the creation and operation of*
 7 *transitional justice mechanisms for Burma.*

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

9 *In order to promote freedom of the press in Burma,*
 10 *it is the sense of Congress that—*

11 (1) *Wa Lone and Kyaw Soe Oo should be imme-*
 12 *diately released and should have access to lawyers*
 13 *and their families; and*

14 (2) *the decision to use a colonial-era law to ar-*
 15 *rest these Reuters reporters undermines press freedom*
 16 *around the world and further underscores the need for*
 17 *serious legal reform.*

18 **SEC. 15. MEASURES RELATING TO MILITARY COOPERATION**

19 **BETWEEN BURMA AND NORTH KOREA.**

20 (a) *IMPOSITION OF SANCTIONS.*—

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

23 (A) *impose the sanctions described in para-*
 24 *graph (1) or (3) of section 10(b); or*

1 (B) include that person on the SDN list (as
2 defined in section 10(g)).

3 (2) *PERSONS DESCRIBED.*—A person described
4 in this paragraph is an official of the Government of
5 Burma or an individual or entity acting on behalf of
6 that Government that the President determines pur-
7 chases or otherwise acquires defense articles from the
8 Government of North Korea or an individual or enti-
9 ty acting on behalf of that Government.

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

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

21 **SEC. 16. NO AUTHORIZATION FOR THE USE OF MILITARY**
22 **FORCE.**

23 Nothing in this Act shall be construed as an authoriza-
24 tion for the use of force.

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A BILL

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

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Reported with an amendment