

115TH CONGRESS
1ST SESSION

H. R. 4223

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

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 2, 2017

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

A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Burma Unified through Rigorous Military Accountability
6 Act of 2017” or the “BURMA Act of 2017”.

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

- Sec. 1. Short title; table of contents.
 Sec. 2. Findings.
 Sec. 3. Statement of policy.
 Sec. 4. Sense of Congress on rights of returnees.
 Sec. 5. Sense of Congress with respect to humanitarian assistance and freedom of movement.
 Sec. 6. Multilateral assistance.
 Sec. 7. Limitation on security assistance and military and security sector cooperation.
 Sec. 8. Trade restrictions.
 Sec. 9. Visa ban and financial sanctions with respect to military officials responsible for human rights abuses.
 Sec. 10. Strategy for promoting economic development.
 Sec. 11. Report on accountability for ethnic cleansing, crimes against humanity, and genocide in Burma.
 Sec. 12. Appropriate congressional committees defined.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The United States policy since 1988 has
 4 fostered positive democratic reforms in Burma,
 5 which have achieved significant milestones on the
 6 path to democracy.

7 (2) On November 8, 2015, Burma held historic
 8 elections in which the National League for Democ-
 9 racy won a supermajority of seats in the combined
 10 national Parliament.

11 (3) On March 30, 2016, Htin Kyaw was inau-
 12 gurated as the President of Burma, the country's
 13 first civilian President in more than 50 years.

14 (4) Aung San Suu Kyi, President of the Na-
 15 tional League for Democracy, was barred from be-
 16 coming President due to the provisions of section
 17 59(f) of the 2008 Constitution of Burma, and there-
 18 fore assumed the office of State Counsellor, a posi-

1 tion created for her that made her the country's de
2 facto leader.

3 (5) Among Aung San Suu Kyi's first acts as
4 State Counsellor after the National League for De-
5 mocracy party took office was to drop charges
6 against more than 100 prisoners held for political
7 reasons, including well-known journalists and stu-
8 dent activists. President Htin Kyaw used his author-
9 ity to grant amnesty to another 86 convicted polit-
10 ical prisoners. However, as of September 2017, there
11 were 220 political prisoners in Burma, 42 of whom
12 were currently serving prison sentences, 51 of whom
13 were awaiting trial inside prison, and 127 of whom
14 were awaiting trial outside prison, according to the
15 Assistance Association for Political Prisoners.

16 (6) Current Burmese law continues to system-
17 atically oppress the Rohingya people. In particular,
18 the 1982 citizenship law effectively denies the
19 Rohingya Burmese citizenship, rendering them
20 stateless, and the Government of Burma continues
21 to deny them freedom of movement, access to
22 healthcare, education, and marriage.

23 (7) Despite the meaningful steps taken toward
24 democracy in Burma, there still remain important
25 structural and systemic impediments to the realiza-

1 tion of a fully democratic, civilian government, in-
2 cluding necessary reforms to the 2008 Constitution
3 of Burma and to existing laws and governance struc-
4 tures to ensure that—

5 (A) the Burmese military—

6 (i) ends its ability to directly and
7 undemocratically control appointments to
8 25 percent of the seats in the combined
9 national Parliament, providing legislators
10 appointed by the military a sufficient pro-
11 portion of seats to veto constitutional
12 amendments;

13 (ii) ends its control over governmental
14 ministries, including Home Affairs, De-
15 fense Affairs, and Border Affairs; and

16 (iii) ceases to operate autonomously
17 from the elected civilian government, by es-
18 tablishing meaningful civilian control over
19 the budgets and policy of both the military
20 and security forces; and

21 (B) the Government of Burma—

22 (i) addresses social and political dis-
23 enfranchisement and economic conditions
24 in the Burmese state of Rakhine, and
25 throughout the rest of the country, includ-

1 ing those faced by the Rohingya people;
2 and

3 (ii) addresses the underlying causes of
4 the current humanitarian and human
5 rights crisis affecting Burma's Rohingya
6 people as well as the other residents of the
7 Rakhine, Kachin, and Shan states in
8 Burma, including ethnic cleansing,
9 extrajudicial killings, sexual and gender-
10 based violence, and forced displacement re-
11 sulting from intercommunal violence and
12 the human rights abuses committed by the
13 Burmese military and security forces.

14 (8) Actions of the Burmese military, known as
15 the Tatmadaw, including continuing assaults on per-
16 sonnel and territory controlled by armed ethnic orga-
17 nizations, military offenses immediately preceding
18 the peace conference in Naypyitaw, and human
19 rights abuses against civilians in conflict areas, un-
20 dermine confidence in establishing a credible nation-
21 wide cease-fire agreement to end Burma's civil war.

22 (9) The people of Burma continue to suffer
23 from an ongoing internal armed conflict between the
24 Tatmadaw and nearly 20 armed ethnic groups. Any
25 prospects for a full democracy in Burma are contin-

1 gent on ending the internal armed conflict and find-
2 ing a path toward national reconciliation between
3 Burma's Bamar majority and its various ethnic mi-
4 norities, including through the establishment of a
5 federated state or similar structure of governance
6 that provides for meaningful political participation
7 by all citizens.

8 (10) Since 2011, over 98,000 people have been
9 displaced in the states of Kachina and Shan over the
10 escalating violence and instability, resulting in con-
11 tinued massive internal displacement, causing a
12 massive humanitarian crisis, continuing to under-
13 mine the trust necessary to achieve a durable, last-
14 ing peace, and disproportionately affecting the lives
15 of innocent civilians including the thousands of in-
16 ternally displaced persons forced from their homes.

17 (11) According to the United Nations Office for
18 the Coordination of Humanitarian Affairs, around
19 50 percent of such displaced people are staying in
20 areas beyond the control of the Government of
21 Burma, where access to humanitarian aid is limited.

22 (12) In 2015, the nongovernmental organiza-
23 tion Global Witness found that the estimated value
24 of official production of jade in 2014 was almost 48
25 percent of the official gross domestic product of

1 Burma. However, because of corruption and a lack
2 of transparency, the economic gains of Burma are
3 being pocketed by notorious leaders from the mili-
4 tary junta, including former dictator Than Shwe and
5 drug lord Wei Hsueh Kang, and vested interests in
6 maintaining such corrupt gains from trading in jade
7 are undermining prospects for resolving the armed
8 conflict in Burma.

9 (13) On August 31, 2016, State Counsellor
10 Aung San Suu Kyi and the Government of Burma
11 initiated the Union Peace Conference 21st Century
12 Panglong, where more than 1,400 representatives of
13 various concerned parties attended a peace con-
14 ference in Naypyitaw in an effort to begin the proc-
15 ess of ending Burma’s civil war and discuss options
16 in forming a democratic state of Burma.

17 (14) On May 24, 2017, the Government of
18 Burma held a second Panglong Peace Conference,
19 with mixed results.

20 (15) On October 31, 2016, the Secretary of
21 State determined that Burma should remain des-
22 ignated as a country of particular concern for reli-
23 gious freedom under section 402(b) of the Inter-
24 national Religious Freedom Act (22 U.S.C.
25 6442(b)), and that “members of the Rohingya com-

1 munity in particular face abuses by the Government
2 of Burma, including those involving torture, unlaw-
3 ful arrest and detention, restricted movement, re-
4 strictions on religious practices, discrimination in
5 employment and access to social services”.

6 (16) Both government- and military-initiated
7 investigations into human rights abuses in Burma
8 involving intercommunal violence or violence between
9 ethnic minorities and Burmese security forces have
10 failed to yield credible results. For example, the Feb-
11 ruary 2017 panels set up by the Burmese military
12 and the Home Affairs Ministry to investigate such
13 misconduct are widely perceived to lack independ-
14 ence and impartiality. The December 2016 commis-
15 sion established by Burma’s President Htin Kyaw to
16 investigate the October 2016 attacks in the state of
17 Rakhine dismissed claims of misconduct by security
18 forces due to “insufficient evidence”. The 2012 com-
19 mission that the Government established in the state
20 of Rakhine that year never held anyone accountable.

21 (17) In a public address on October 12, 2017,
22 State Counsellor Aung San Suu Kyi laid out the fol-
23 lowing goals for the state of Rakhine:

24 (A) Repatriation of those who have crossed
25 over to Bangladesh.

1 (B) Effective provision of humanitarian as-
2 sistance.

3 (C) Resettlement of displaced populations.

4 (D) Economic development and durable
5 peace.

6 (18) According to the Bangladesh Foreign Min-
7 istry, more than 600,000 Rohingya have fled to
8 Bangladesh, for fear of loss of livelihoods, shelter,
9 and disproportionate use of force by the military of
10 Burma.

11 (19) On October 23, 2017, State Department
12 Spokesperson Heather Nauert said, “We express our
13 gravest concern with recent events in Rakhine State
14 and the violent, traumatic abuses Rohingya and
15 other communities have endured. It is imperative
16 that any individuals or entities responsible for atroc-
17 ities, including non-state actors and vigilantes, be
18 held accountable”.

19 (20) At a hearing before the House Foreign Af-
20 fairs Committee on October 10, 2017, the Deputy
21 Assistant Secretary of State for Population, Refu-
22 gees, and Migration, Mark Sorella, said, “We have
23 been providing assistance to the United Nations and
24 other humanitarian partners to help those affected
25 by the Rakhine state violence. The United Nations

1 estimated \$434 million is needed. In fiscal year
2 2017, the United States contributed nearly \$104
3 million in assistance to the displaced populations in
4 Burma for refugees from Burma throughout the re-
5 gion”.

6 (21) At a hearing before the Senate Foreign
7 Relations Committee on October 24, 2017, the Dep-
8 uty Assistant Secretary of State for Southeast Asia,
9 Patrick Murphy, testified that current estimates in-
10 dicate over 600,000 people, mostly ethnic Rohingya,
11 have fled to Bangladesh since the crisis began on
12 August 25, 2017. In addition, Mr. Murphy indicated
13 that “refugees continue to cross into Bangladesh,
14 and we continue to receive credible reports of spo-
15 radic violence in northern Rakhine State”.

16 (22) Amnesty International and Human Rights
17 Watch have reported and documented a campaign of
18 violence perpetrated by the security forces of Burma,
19 which have indiscriminately fired on and killed civil-
20 ians, raped women and girls, and arbitrarily arrested
21 Rohingya men without any cause or charges, which
22 Amnesty International has said “may amount to
23 crimes against humanity” or “ethnic cleansing”.
24 Satellite images obtained by Amnesty International
25 reveal that, out of the approximately 470 villages in

1 northern Rakhine State, nearly 300 were partially or
2 completely destroyed by fire since August 25, 2017,
3 most of which were completely or partially populated
4 by Rohingya Muslims.

5 (23) Access to the northern state of Rakhine
6 has remained blocked during this crisis, including a
7 prohibition of access for the United Nations and
8 other humanitarian groups. For much of the second
9 half of 2017, hundreds of thousands of vulnerable
10 people in the state of Rakhine who needed humani-
11 tarian aid, including the Rohingya, Rakhine, and
12 other peoples and including children with acute mal-
13 nutrition, were being blocked from receiving such
14 aid, and aid groups expect that levels of malnutri-
15 tion and even starvation have dramatically increased.

16 (24) In response to previous violence between
17 the Burmese military and the Rohingya people in
18 2016, Aung San Suu Kyi established the Advisory
19 Commission on Rakhine State, headed by former
20 United Nations Secretary-General Kofi Annan, to
21 address tensions in Northern Rakhine. She has since
22 also endorsed the Commission's recommendations
23 and established a group to move forward with imple-
24 mentation.

1 **SEC. 3. STATEMENT OF POLICY.**

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

3 (1) the United States supports a complete tran-
4 sition to democracy and genuine national reconcili-
5 ation in Burma;

6 (2) the pursuit of a United States strategy of
7 calibrated and principled engagement is essential to
8 support the establishment of a peaceful, prosperous,
9 and democratic Burma that includes respect for the
10 human rights of all its people regardless of ethnicity
11 and religion; and

12 (3) the guiding principles of such a strategy
13 should include—

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

22 (B) establishing a fully democratic, plural-
23 istic, and representative political system that in-
24 cludes regularized free and fair elections in
25 which all people of Burma can vote;

1 (C) promoting genuine national reconcili-
2 ation, the conclusion of a credible and sustain-
3 able nationwide cease-fire agreement, including
4 political accommodation of ethnic Shan, Kachin,
5 Chin, Karen and other ethnic groups, and con-
6 stitutional change enabling inclusive permanent
7 peace;

8 (D) ensuring accountability for ethnic
9 cleansing, crimes against humanity, and geno-
10 cide perpetrated against the Rohingya, Kachin,
11 Shan, and other ethnic minorities by the Gov-
12 ernment and military of Burma, violent extrem-
13 ist groups, and other combatants involved in
14 the conflict;

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

18 (F) establishing professional and non-
19 partisan military, security, and police forces
20 that operate under civilian control;

21 (G) empowering local communities, civil so-
22 ciety, and independent media;

23 (H) encouraging the Government of
24 Burma to ensure equal access to full citizenship

1 for the Rohingya population in Burma as well
2 as for those displaced in Bangladesh;

3 (I) promoting responsible international and
4 regional engagement;

5 (J) strengthening respect for and protec-
6 tion of human rights and religious freedom; and

7 (K) addressing and ending the humani-
8 tarian and human rights crises and supporting
9 the ability of the displaced Rohingya to volun-
10 tarily return to their homes, under internation-
11 ally approved conditions.

12 **SEC. 4. SENSE OF CONGRESS ON RIGHTS OF RETURNEES.**

13 It is the sense of Congress that the Government of
14 Burma, in collaboration with the regional and inter-
15 national community including the United Nations High
16 Commissioner for Refugees, should—

17 (1) ensure the dignified, safe, and voluntary re-
18 turn of all those displaced from their homes, espe-
19 cially from Rakhine State, without an unduly high
20 burden of proof; and

21 (2) fully implement all of the recommendations
22 of the Advisory Commission on Rakhine State.

1 **SEC. 5. SENSE OF CONGRESS WITH RESPECT TO HUMANI-**
2 **TARIAN ASSISTANCE AND FREEDOM OF**
3 **MOVEMENT.**

4 (a) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that additional significant and sustained funding will
6 be necessary to address the medium and long-term im-
7 pacts of the crisis in Burma.

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

15 (c) FREEDOM OF MOVEMENT OF REFUGEES AND IN-
16 TERNALLY DISPLACED PERSONS.—Congress calls on the
17 Government of Bangladesh—

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

21 (2) to ensure the dignified, safe, and voluntary
22 return of those displaced from their homes; and

23 (3) to offer to those refugees who do not want
24 to return meaningful means to obtain compensation
25 or restitution.

1 **SEC. 6. MULTILATERAL ASSISTANCE.**

2 (a) IN GENERAL.—Except as provided under sub-
3 section (b), the Secretary of the Treasury shall instruct
4 the United States Executive Director of each international
5 financial institution to use the voice and vote of the United
6 States to support a project in Burma only if the project
7 does not partner with, contract or subcontract with, or
8 otherwise involve or benefit any enterprise owned or di-
9 rectly or indirectly controlled by the military of Burma.

10 (b) EXCEPTION.—The Secretary of the Treasury may
11 instruct the United States Executive Director of an inter-
12 national financial institution to approve projects that do
13 not meet the requirements under subsection (a) after the
14 date on which the Secretary of State certifies to the appro-
15 priate congressional committees that—

16 (1) senior Burmese military officials have—

17 (A) publicly acknowledged their role in
18 committing past human rights abuses;

19 (B) cooperated with independent efforts to
20 investigate such abuses;

21 (C) been held accountable for such abuses;

22 (D) demonstrated substantial progress in
23 reforming their behavior with respect to the
24 protection of human rights in the conduct of
25 civil-military relations;

1 (E) demonstrably and verifiably indicated
2 their support for extending civil and political
3 rights, including citizenship and access to rule
4 of law, to all the people of Burma, including the
5 Rohingya, consistent with international stand-
6 ards; and

7 (F) are cooperating with efforts to secure
8 a credible, nationwide cease-fire agreement, po-
9 litical accommodation, and constitutional
10 change; or

11 (2) doing so is in the national interest of the
12 United States.

13 **SEC. 7. LIMITATION ON SECURITY ASSISTANCE AND MILI-**
14 **TARY AND SECURITY SECTOR COOPERATION.**

15 (a) **LIMITATION ON MILITARY AND SECURITY SEC-**
16 **TOR COOPERATION.**—Except as provided under subsection
17 (b), the United States may not supply any security assist-
18 ance or engage in any military-to-military programs with
19 the armed forces or security forces of Burma, including
20 through training, observation, or participation in regional
21 exercises, until the date on which the Secretary of De-
22 fense, in consultation with the Secretary of State, certifies
23 to the appropriate congressional committees that the
24 armed forces of Burma have demonstrated significant
25 progress in abiding by international human rights stand-

1 ards and are undertaking meaningful and significant secu-
2 rity sector reform, including transparency and account-
3 ability, to prevent future abuses and that each of the fol-
4 lowing criteria have been met:

5 (1) The Burmese armed forces adhere to inter-
6 national humanitarian law and international stand-
7 ards for human rights and pledge to stop future
8 human rights abuses.

9 (2) The Burmese armed forces support efforts
10 to carry out meaningful and comprehensive inves-
11 tigations of alleged abuses and are taking steps to
12 hold accountable those members of such armed
13 forces responsible for human rights violations.

14 (3) The Government of Burma, including the
15 armed forces, allow immediate and unfettered hu-
16 manitarian access to communities in areas affected
17 by conflict, including Rohingya communities in the
18 state of Rakhine.

19 (4) The Government of Burma, including the
20 armed forces, cooperates with the United Nations
21 High Commissioner for Refugees and organizations
22 affiliated with the United Nations to ensure the pro-
23 tection of displaced persons and the safe and vol-
24 untary return of refugees and internally displaced
25 persons.

1 (5) The Burmese armed forces cease attacking
2 ethnic minority groups and constructively participate
3 in the conclusion of a credible, nationwide cease-fire
4 agreement, political accommodation, and constitu-
5 tional change.

6 (6) The Government of Burma, including the
7 armed forces, takes steps toward the implementation
8 of the recommendations of the Advisory Commission
9 on Rakhine State and has extended recognition of
10 human rights to all the people of the state of
11 Rakhine, including the Rohingya.

12 (7) The Government of Burma is clearly on the
13 path to civilian control over its security forces, in-
14 cluding constitutional reforms to relinquish military
15 control of ministries currently under exclusive mili-
16 tary control and over 25 percent of the seats in the
17 combined national Parliament.

18 (8) All political prisoners in Burma have been
19 released.

20 (b) EXCEPTIONS.—

21 (1) CERTAIN EXISTING AUTHORITIES.—The
22 Secretary of Defense may continue to conduct con-
23 sultations with Burma pursuant to the authorization
24 under section 1253 of the Carl Levin and Howard
25 P. “Buck” McKeon National Defense Authorization

1 Act for Fiscal Year 2015 (22 U.S.C. 2151 note)
2 after the date on which the Secretary of State cer-
3 tifies to the appropriate congressional committees
4 that—

5 (A) attacks by Burmese security forces
6 against minority groups, including the Kachin,
7 Shan, and Rohingya, have ceased;

8 (B) full and unfettered access for officials
9 of the United Nations, human rights observers,
10 and members of the press has been restored in
11 conflict areas, including the states of Rakhine,
12 Kachin and Shan;

13 (C) the Government of Burma has made a
14 firm commitment to a plan that is consistent
15 with internationally accepted human rights
16 principles for providing security to those refu-
17 gees and internally displaced persons who wish
18 to return to their homes; and

19 (D) Burma has ended its campaign of eth-
20 nic cleansing against the Rohingya people and
21 the military and government make a clear com-
22 mitment to the restoration of rights for ethnic
23 and religious minorities, including the
24 Rohingya.

1 (2) HOSPITALITY.—The Secretary of State and
2 the United States Agency for International Develop-
3 ment may meet related-hospitality requirements with
4 respect to the Union Peace Conference 21st Century
5 Panglong.

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

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

16 (e) REPORT.—

17 (1) IN GENERAL.—Not later than 180 days
18 after the date of the enactment of this Act, and
19 every 180 days thereafter, the Secretary of Defense,
20 in concurrence with the Secretary of State, shall
21 submit to the appropriate congressional committees
22 a report, in unclassified form with a classified annex,
23 on the strategy and plans for military-to-military en-
24 gagement between the United States Armed Forces
25 and the military of Burma.

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

3 (A) A description and assessment of the
4 Government of Burma’s strategy for security
5 sector reform, if applicable, including plans to
6 end involvement in the illicit trade in jade and
7 other natural resources, reforms to end corrup-
8 tion and illicit drug trafficking, and constitu-
9 tional reforms to ensure civilian control.

10 (B) A list of ongoing military activities
11 conducted by the United States Government
12 with the Government of Burma, and a descrip-
13 tion of the United States strategy for future
14 military-military engagements between the
15 United States and Burma’s military forces, in-
16 cluding the military of Burma, the Burma Po-
17 lice Force, and armed ethnic groups.

18 (C) An assessment of the progress of the
19 military of Burma towards developing a frame-
20 work to implement human right reforms, in-
21 cluding—

22 (i) cooperation with civilian authori-
23 ties to investigate and prosecute cases of
24 serious, credible, or gross human rights
25 violations;

1 (ii) steps taken to demonstrate respect
2 for and implementation of the laws of war
3 and international human rights law; and

4 (iii) a description of the elements of
5 the military-to-military engagement be-
6 tween the United States and Burma that
7 promote such implementation.

8 (D) An assessment of progress on the
9 peaceful settlement of armed conflicts between
10 the Government of Burma and ethnic minority
11 groups, including actions taken by the military
12 of Burma to adhere to cease-fire agreements
13 and withdraw forces from conflict zones.

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

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

20 **SEC. 8. TRADE RESTRICTIONS.**

21 (a) REINSTATEMENT OF IMPORT RESTRICTIONS ON
22 JADEITE AND RUBIES FROM BURMA.—Section 3A of the
23 Burmese Freedom and Democracy Act of 2003 (50 U.S.C.
24 1701 note) is amended by adding at the end the following:

1 “(i) TERMINATION.—Notwithstanding section 9, this
2 section shall remain in effect until the date on which the
3 President determines and certifies to the appropriate con-
4 gressional committees that the Government of Burma has
5 taken substantial measures to reform the gemstone indus-
6 try in Burma, including measures to require—

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

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

12 (b) CONFORMING AMENDMENTS.—Section 3A of the
13 Burmese Freedom and Democracy Act of 2003 (50 U.S.C.
14 1701), as amended by subsection (a), is further amend-
15 ed—

16 (1) in subsection (b)—

17 (A) in paragraph (1), by striking “until
18 such time” and all that follows through “2008”
19 and inserting “beginning on the date that is 15
20 days after the date of the enactment of the
21 BURMA Act of 2017”; and

22 (B) in paragraph (3), by striking “the date
23 of the enactment of this Act” and inserting
24 “the date of the enactment of the BURMA Act
25 of 2017”; and

1 (2) in subsection (c)(1), by striking “until such
2 time” and all that follows through “2008” and in-
3 serting “beginning on the date that is 15 days after
4 the date of the enactment of the BURMA Act of
5 2017”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply with respect to articles entered,
8 or withdrawn from warehouse for consumption, on or after
9 the 15th day after the date of the enactment of this Act.

10 **SEC. 9. VISA BAN AND FINANCIAL SANCTIONS WITH RE-**
11 **SPECT TO MILITARY OFFICIALS RESPON-**
12 **SIBLE FOR HUMAN RIGHTS ABUSES.**

13 (a) LIST REQUIRED.—

14 (1) IN GENERAL.—Not later than 30 days after
15 the date of the enactment of this Act and every 180
16 days thereafter, the President shall submit to the
17 appropriate congressional committees a list of—

18 (A) each senior official of the military or
19 security forces of Burma that the President de-
20 termines has played a direct and substantial
21 role in the commission of human rights abuses
22 in Burma, including any senior-ranking individ-
23 uals who gave orders to subordinates to engage
24 in the commission of human rights abuses; and

1 (B) each senior-ranking individual of such
2 forces who failed to investigate human rights
3 abuses allegedly committed by subordinates
4 under the command of such individual, includ-
5 ing human rights abuses committed against the
6 Rohingya minority population.

7 (2) INCLUSIONS.—The list required by para-
8 graph (1) shall include all of the senior officials of
9 the military and security forces of Burma in charge
10 of each unit that was operational during the so-
11 called “clearance operations” that began in October
12 2016 or thereafter.

13 (b) SANCTIONS.—

14 (1) VISA BAN.—The Secretary of State shall
15 deny a visa to, and the Secretary of Homeland Secu-
16 rity shall exclude from the United States, any indi-
17 vidual included in the most recent list submitted
18 pursuant to subsection (a)(1).

19 (2) LIST OF SPECIALLY DESIGNATED NATION-
20 ALS AND BLOCKED PERSONS.—

21 (A) IN GENERAL.—Not later than 90 days
22 after the date of the enactment of this Act, the
23 President shall—

1 (i) determine whether the individuals
2 specified in subparagraph (B) should be
3 included on the SDN list; and

4 (ii) submit to the appropriate congress-
5 sional committees a report that includes,
6 with respect to any individual specified in
7 subparagraph (B) that the President deter-
8 mines should not be included on the SDN
9 list, the justification for such determina-
10 tion.

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

13 (i) the head of each unit of the mili-
14 tary or security forces of Burma that was
15 operational during the so-called “clearance
16 operations” that began in October 2016 or
17 thereafter, including—

18 (I) Senior General Min Aung
19 Hlaing;

20 (II) Major General Maung
21 Maung Soe; and

22 (III) Major General Khin Maung
23 Soe; and

24 (ii) any senior official of the military
25 or security forces of Burma for which

1 there are credible allegations that the offi-
2 cial has aided, participated, or is otherwise
3 implicated in gross human rights abuses in
4 Burma, including sexual and ethnic- or
5 gender-based violence.

6 (C) SDN LIST DEFINED.—In this para-
7 graph, the term “SDN list” means the list of
8 specially designated nationals and blocked per-
9 sons maintained by the Office of Foreign Assets
10 Control of the Department of the Treasury.

11 (3) AUTHORITY FOR ADDITIONAL FINANCIAL
12 SANCTIONS.—The Secretary of the Treasury may
13 prohibit or impose appropriate conditions on the
14 opening or maintaining in the United States of a
15 correspondent account or payable-through account
16 by any financial institution or financial agency that
17 is a United States person, for or on behalf of a for-
18 eign financial institution, if the Secretary determines
19 that the account is knowingly used—

20 (A) by a foreign financial institution that
21 holds property or an interest in property of any
22 individual included on the most recent list sub-
23 mitted pursuant to subsection (a); or

24 (B) to conduct a transaction on behalf of
25 any individual on that list.

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
4 person with a credible nongovernmental humani-
5 tarian organization in Burma.

6 (c) REMOVAL FROM LISTS.—The President may re-
7 move an individual from a list submitted pursuant to sub-
8 section (a), or remove an individual included on the SDN
9 list pursuant to subsection (b)(2) from that list, if the
10 President certifies to the appropriate congressional com-
11 mittees that—

12 (1) the individual has—

13 (A) publicly acknowledged the role of the
14 individual in committing past human rights
15 abuses;

16 (B) cooperated with independent efforts to
17 investigate such abuses;

18 (C) been held accountable for such abuses;

19 or

20 (D) demonstrated substantial progress in
21 reforming the individual’s behavior with respect
22 to the protection of human rights in the con-
23 duct of civil-military relations; and

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

1 (d) PENALTIES.—

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

12 (2) RULE OF CONSTRUCTION.—This subsection
13 shall not be construed to require the President to
14 declare a national emergency under section 202 of
15 the International Emergency Economic Powers Act
16 (50 U.S.C. 1701).

17 (e) EXCEPTIONS.—

18 (1) HUMANITARIAN ASSISTANCE.—A require-
19 ment to impose sanctions under this section shall
20 not apply with respect to the provision of medicine,
21 medical equipment or supplies, food, or any other
22 form of humanitarian or human rights-related as-
23 sistance provided to Burma in response to a humani-
24 tarian crisis.

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

13 (f) DEFINITIONS.—In this section:

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

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

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

1 (A) a United States citizen or an alien law-
2 fully admitted for permanent residence to the
3 United States; or

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

8 **SEC. 10. STRATEGY FOR PROMOTING ECONOMIC DEVELOP-**
9 **MENT.**

10 (a) IN GENERAL.—Not later than 180 days after the
11 date of the enactment of this Act, the Secretary of State,
12 the Secretary of the Treasury, and the Administrator of
13 the United States Agency for International Development
14 shall jointly submit to the appropriate congressional com-
15 mittees a strategy to provide United States assistance to
16 support sustainable and broad-based economic develop-
17 ment, in accordance with the priorities of the elected civil-
18 ian Government of Burma to promote broad-based eco-
19 nomic development.

20 (b) ELEMENTS.—In order to support the efforts of
21 the Government of Burma for broad-based economic devel-
22 opment, the strategy required by subsection (a) shall in-
23 clude a plan to promote inclusive and responsible economic
24 growth, including through the following initiatives:

1 (1) Develop an economic reform road map to
2 diversify control over and access to participation in
3 key industries and sectors.

4 (2) Increase transparency disclosure require-
5 ments in key sectors to promote responsible invest-
6 ment. Provide technical support to develop and im-
7 plement policies, and revise existing Burmese poli-
8 cies on public disclosure of beneficial owners of com-
9 panies in key sectors identified by the Government
10 of Burma, including the identities of those seeking
11 or securing access to Burma's most valuable re-
12 sources. Such new requirements should complement
13 disclosures due to be put in place in Burma as a re-
14 sult of its participation in the global Extractives In-
15 dustry Transparency Initiative.

16 **SEC. 11. REPORT ON ACCOUNTABILITY FOR ETHNIC**
17 **CLEANSING, CRIMES AGAINST HUMANITY,**
18 **AND GENOCIDE IN BURMA.**

19 (a) IN GENERAL.—Not later than 90 days after the
20 date of the enactment of this Act, the Secretary of State
21 shall submit to the appropriate congressional committees
22 a report on allegations of ethnic cleansing, crimes against
23 humanity, and genocide, and on potential transitional jus-
24 tice mechanisms in Burma.

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

3 (1) a description of alleged ethnic cleaning,
4 crimes against humanity, including the crime of
5 apartheid, and genocide perpetrated against the
6 Rohingya ethnic minority in Burma, including—

7 (A) incidents that may constitute ethnic
8 cleansing, crimes against humanity, and geno-
9 cide committed by the Burmese military, and
10 other actors involved in the violence;

11 (B) the role of the civilian government in
12 the commission of such activities;

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

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

22 (E) to the extent possible, a description of
23 the conventional and unconventional weapons
24 used for such crimes and the sources of such
25 weapons;

1 (2) a description and assessment by the Depart-
2 ment of State, the United States Agency for Inter-
3 national Development, the Department of Justice,
4 and other appropriate Federal departments and
5 agencies of programs that the United States has al-
6 ready or is planning to undertake to ensure account-
7 ability for ethnic cleansing, crimes against humanity,
8 and genocide perpetrated against the Rohingya by
9 the Government, security forces, and military of
10 Burma, violent extremist groups, and other combat-
11 ants involved in the conflict, including programs
12 to—

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

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

24 (C) document, collect, preserve, and pro-
25 tect evidence of ethnic cleansing, crimes against

1 humanity, and genocide in Burma, including by
2 providing support for Burmese and
3 Bangladeshi, foreign, and international non-
4 governmental organizations, United Nations
5 Human Rights Council’s investigative team,
6 and other entities engaged in such activities;
7 and

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

17 (c) PROTECTION OF WITNESSES AND EVIDENCE.—

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

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

1 (1) IN GENERAL.—The Secretary of State, in
2 consultation with the Department of Justice and
3 other appropriate Federal departments and agencies,
4 is authorized to provide appropriate assistance to
5 support entities that, with respect to ethnic cleans-
6 ing, crimes against humanity, and genocide per-
7 petrated by the military, security forces, and Gov-
8 ernment of Burma, Buddhist militias, and all other
9 armed groups fighting in Rakhine State—

10 (A) identify suspected perpetrators of eth-
11 nic cleansing, crimes against humanity, and
12 genocide;

13 (B) collect, document, and protect evidence
14 of crimes and preserve the chain of custody for
15 such evidence;

16 (C) conduct criminal investigations; and

17 (D) support investigations by third-party
18 states, as appropriate.

19 (2) ADDITIONAL ASSISTANCE.—The Secretary
20 of State, in consultation with appropriate Federal
21 departments and agencies and the appropriate con-
22 gressional committees and taking into account any
23 relevant the findings in the report required by sec-
24 tion 11, is authorized to provide assistance to sup-
25 port the creation and operation of transitional jus-

