Suspend the Rules and Pass the Bill, H.R. 3190, With an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

116TH CONGRESS
1ST SESSION

H. R. 3190

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2019

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

A BILL

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

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Burma Unified through Rigorous Military Accountability Act of 2019” or the “BURMA Act of 2019”.

(b) Table of Contents.—The table of contents for this Act is as follows:

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

TITLE I—MATTERS RELATING TO THE CONFLICT IN BURMA

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

TITLE II—ASSISTANCE AND SANCTIONS WITH RESPECT TO BURMA

Sec. 201. Authorization to provide humanitarian assistance.
Sec. 202. Imposition of sanctions with respect to human rights abuses in Burma.

TITLE III—GOVERNANCE OF THE BURMESE MINING AND GEMSTONE SECTORS

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

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

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

TITLE V—DETERMINATION OF BUDGETARY EFFECTS

Sec. 501. Determination of budgetary effects.

7 SEC. 2. DEFINITIONS.

8 In this Act:
3

(1) Appropriate Congressional Committees.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Affairs, the Committee on Financial Services, and the Committee on Armed Services of the House of Representatives; and

(B) the Committee on Foreign Relations, the Committee on Banking, and the Committee on Armed Services of the Senate.

(2) Crimes against Humanity.—The term “crimes against humanity” includes, when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack—

(A) murder;

(B) deportation or forcible transfer of population;

(C) torture;

(D) extermination;

(E) enslavement;

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

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

(H) enforced disappearance of persons.

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

(4) TRANSITIONAL JUSTICE.—The term “transitional justice” means the range of judicial, non-judicial, formal, informal, retributive, and restorative measures employed by countries transitioning out of armed conflict or repressive regimes to redress legacies of atrocities and to promote long-term, sustainable peace.

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

SEC. 3. FINDINGS.

Congress finds the following:

(1) On August 25, 2017, Burmese military and security forces violently and disproportionately responded to an attack on security outposts, resulting in a mass exodus of Rohingya from the Rakhine State of Burma into Bangladesh, which the Inter-
national Organization of Migration called “unprecedented in terms of volume and speed”.

(2) Between August 2017 and March 2019, in response to the violence perpetrated by the Burmese military and security forces, the United Nations estimates more than 740,000 Rohingya, approximately 75 percent of whom are women and children, have fled to Bangladesh, fearing loss of life, livelihoods, and shelter. Rohingya have continued to flee Burma in significant numbers, including in 2019. According to the United Nations High Commissioner for Refugees, more than 1,400 Rohingya have arrived in Bangladesh since January 1, 2019.

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

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

(5) Both government- and military-initiated investigations into human rights abuses in Burma involving violence between ethnic minorities and Burmese security forces have failed to yield credible results or hold perpetrators accountable.

(6) In a public address on October 12, 2017, State Counsellor Aung San Suu Kyi laid out the following goals for the State of Rakhine:

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

(B) Effective provision of humanitarian assistance.

(C) Resettlement of displaced populations.

(D) Economic development and durable peace.

(7) Due to restrictions enforced by the Rakhine State government and the national military and security forces, there has been little progress made since that time and limited ability for the international community to support, verify, or evaluate the Government of Burma’s efforts. There are also
credible reports of Burmese military and security forces bulldozing numerous villages where violence occurred, thus destroying physical evidence, and in some cases, constructing new military installations on top of the bulldozed villages.

(8) On November 22, 2017, former Secretary of State Rex Tillerson stated that “After a careful and thorough analysis of available facts, it is clear that the situation in northern Rakhine state constitutes ethnic cleansing against the Rohingya. Those responsible for these atrocities must be held accountable”. He also said the violence “has a number of characteristics of certainly crimes against humanity”. Despite repeated requests from Members of Congress, as well as the result of its own investigation (the executive summary of which was released on September 17, 2018), the Department has declined to make a determination if the atrocities in Rakhine State constitute genocide or crimes against humanity.

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

(10) Another barrier to the voluntary, safe, dignified and sustainable return of the Rohingya to Rakhine State is the refusal of the Government of Burma to reinstate the full citizenship of the Rohingya, as well as the Government’s unwillingness to consider the repeal of or amendments to the Citizenship Act of 1982 that stripped the Rohingya of their full citizenship.

(11) During 2018, the ongoing conflict in Burma escalated in Kachin and Shan States, reignited in Karen (Kayin) State, and spread into Chin and Rakhine States. Along with the increase in fighting between Burma’s security forces and several ethnic armed organizations, there was a rise in allegations of human rights abuses perpetrated by Burmese security forces in these conflict areas.

(12) In April 2018, thousands of civilians fled fighting between the military and ethnic armed groups in Kachin State, prompting peaceful demonstrations. In December 2018, three prominent activist in Kachin State, Lum Zawng, Nang Pu and Zau Jet were convicted and sentenced to six months imprisonment for defaming the military.
(13) On June 6, 2018, the United Nations Refugee Agency and the United Nations Development Programme signed a tripartite Memorandum of Understanding with Burma. The Office of the United Nations High Commissioner for Refugees and various international human rights and international relief agencies agreed that conditions in Rakhine State are not sufficient for the voluntary, safe, dignified, and sustainable return of the Rohingya.

(14) The United Nations Independent International Fact-Finding Mission on Myanmar, the Department of State, and more than a dozen human rights organizations have reported and documented a campaign of violence perpetrated by the security forces of Burma, which indiscriminately fired on and killed civilians, raped women and girls, and arrested Rohingya men without any cause or charges. Satellite images obtained by Amnesty International reveal that, out of the approximately 470 villages in northern Rakhine State, nearly 300 were partially or completely destroyed by fire since August 25, 2017, most of which were completely or partially populated by Rohingya Muslims.

(15) In its report of September 17, 2018, the United Nations Independent International Fact-
Finding Mission on Myanmar determined that there was sufficient evidence of “genocidal intent” in the attacks against the Rohingya in Rakhine State, and probable “crimes against humanity” and “war crimes” in Burmese security forces assaults on ethnic minorities in Kachin and Shan States. The Mission recommended that the United Nations Security Council “should ensure accountability for crimes under international law committed in Myanmar, preferably by referring the situation to the International Criminal Court or alternatively by creating an ad hoc international criminal tribunal”. The Mission also recommended the imposition of targeted economic sanctions, including an arms embargo on Burma.

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

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

(18) On September 28, 2018, the United Na-
tions Human Rights Council passed a resolution
that calls for an independent mechanism to collect
and analyze evidence in regard to the serious inter-
national crimes committed in Burma against
Rohingya Muslims and other minorities since 2011.
The resolution requests that the independent mecha-
nism “prepare files in order to facilitate and exped-
dite fair and independent criminal proceedings, in
accordance with international law standards, in na-
tional, regional or international courts or tribunals
that have or may in the future have jurisdiction over
these crimes”.

(19) On November 15, 2018, the Government
of Bangladesh and the Government of Burma aban-
donied plans to return more than 2,000 Rohingya to
Rakhine State after it was determined that none
were willing to voluntarily return given the current
conditions in Rakhine State, as well as the Govern-
ment of Burma’s failure to ensure the returnees’
safety, dignity, or sustainability of their livelihoods.
(20) A December 2018 report by the Public Law Interest & Policy group noted that “the destruction of their villages, crops, and virtually all infrastructure clearly points to a strategy of ensuring the Rohingya’s permanent removal. The mass killings and accompanying brutality, including against children, women, pregnant women, the elderly, and those crossing the border to Bangladesh further suggest, however, that, at least in the minds of some perpetrators, the goal was not only to expel, but also to exterminate the Rohingya . . .” and that “there are reasonable grounds to believe that crimes against humanity, genocide, and war crimes have been committed against the Rohingya in Myanmar’s northern Rakhine State”.

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

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


(24) The 2019 Joint Response Plan for the Rohingya Humanitarian Crisis asks the international community to provide $20,500,000 in assistance to meet needs in Bangladesh.

(25) On May 14, 2019, the United Nations Fact-Finding Mission on Myanmar urged all countries to cut off economic ties to Burma’s military-owned businesses, stating “. . . due to the gravity of past and continuing violations, attention must be given to the political, economic and financial ties of the Myanmar military . . . so we can cut off the money supply as a means of increasing pressure and reducing the violence.”.
TITLE I—MATTERS RELATING TO THE CONFLICT IN BURMA

SEC. 101. STATEMENT OF POLICY.

It is the policy of the United States as follows:

(1) To support a complete transition to democracy and genuine national reconciliation in Burma, including accountability for the atrocities committed by the Burmese military against the Rohingya population and other ethnic minorities throughout the country.

(2) To pursue a United States strategy of calibrated engagement, which is essential to support the establishment of a peaceful, prosperous, and democratic Burma that includes respect for the human rights of all its people regardless of ethnicity and religion.

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

(A) supporting legal reforms, removing remaining restrictions on civil and political rights, and ensuring civilian governance, including reforms to the current constitutional provision reserving 25 percent of parliamentary seats for appointments by the military, which provides
the military with veto power over constitutional amendments;

(B) establishing a fully democratic, pluralistic, and representative political system that includes free, fair, and democratic elections in which all people of Burma can vote;

(C) promoting national reconciliation and the conclusion of a nationwide cease-fire agreement, including the development of a political system that is inclusive of ethnic Rohingya, Shan, Kachin, Chin, Karen, and other ethnic groups, measures to address natural resource governance, revenue-sharing, land rights, and constitutional change enabling inclusive peace;

(D) ensuring accountability through independent international investigations of genocide, war crimes, and crimes against humanity, including sexual and gender-based violence, perpetuated against the Rohingya and other ethnic minorities by the military and security forces of Burma, violent extremist groups and other combatants involved in the conflict;

(E) strengthening Burma’s civilian governmental institutions, including support for greater transparency and accountability;
(F) encouraging the establishment of professional military, security, and police forces that operate under civilian control and are held accountable for human rights abuses, corruption, or other abuses of power;

(G) combating corruption and illegal economic activity, including that which involves the military and its close allies;

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

(I) encouraging the provision of full citizenship for the Rohingya population in Burma, as well as durable solutions for those displaced in Bangladesh;

(J) promoting responsible international and regional engagement;

(K) strengthening respect for and protection of human rights and religious freedom; and

(L) promoting broad-based, inclusive economic development and fostering healthy and resilient communities.
SEC. 102. SENSE OF CONGRESS WITH RESPECT TO HUMANITARIAN ASSISTANCE, FREEDOM OF MOVEMENT, AND RIGHTS OF RETURNEES.

(a) Sense of Congress.—It is the sense of Congress that—

(1) significant and sustained international funding, from both public and private sources, is necessary to address the medium- and long-term impacts of the crisis in Burma and the impact of the crisis on Bangladesh; and

(2) the United States should make resolving the Rohingya crisis one of its top priorities in its engagement with regional institutions, such as the Association of Southeast Asian Nations.

(b) Restoration of Humanitarian Access and Accountability in Rakhine State.—Congress calls on the Government of Burma, including the Burmese military and security forces, to ensure full and secure humanitarian access to the State of Rakhine and to cooperate with the ongoing international mechanism set up by the United Nations Human Rights Council in September 2018 and funded by the United Nations General Assembly to gather evidence and other information pertaining to allegations of crimes against humanity and genocide committed in Burma.
(c) Rights of Refugees, Internally Displaced Persons, and Returnees.—

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

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

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

(C) work closely with the international community, including the United Nations High Commissioner for Refugees, to ensure the dignified, safe, sustainable and voluntary return of all those displaced from their homes, especially from Rakhine State, without an unduly high burden of proof; and

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

(2) Bangladesh.—Congress calls on the Government of Bangladesh to—

(A) ensure that the rights of refugees are protected, including through allowing them to
build more permanent shelters, and ensuring equal access to healthcare, basic services, education and work;

(B) work closely with the international community, including the United Nations High Commissioner for Refugees, to ensure that any repatriation or resettlement of refugees be dignified, safe, sustainable and voluntary; and

(C) ensure that any relocation or local integration of refugees in Bangladesh be consistent with international humanitarian principles, including freedom of movement, and implemented only through voluntary, fully informed consent.

SEC. 103. SENSE OF CONGRESS ON FREEDOMS OF PRESS AND ASSOCIATION.

It is the sense of Congress that, in order to promote the freedom of the press and speech, the Government of Burma should undertake serious legal reforms including reform of the Official Secrets Act, 1923, the Unlawful Association Act, 1908, and the Penal Code.

SEC. 104. IMPOSITION OF SANCTIONS FOR THE VIOLATION OF HUMAN RIGHTS.

The President shall impose sanctions—
(1) against officials in Burma, including Comm-
mander in Chief of the Armed Forces of Myanmar
Min Aung Hlaing, under the Global Magnitsky
Human Rights Accountability Act (22 U.S.C. 2656
note); and

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

TITLE II—ASSISTANCE AND
SANCTIONS WITH RESPECT
TO BURMA

SEC. 201. AUTHORIZATION TO PROVIDE HUMANITARIAN AS-
SISTANCE.

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

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

(2) Supporting voluntary resettlement or repatriation of such displaced persons in Burma, upon the conclusion of genuine agreements developed and negotiated with the involvement and consultation of such displaced persons.

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

(4) Supporting programs to investigate and document allegations of war crimes, crimes against humanity, and genocide committed in Burma, including gender-based violence.

(5) Supporting access to education for children currently living in refugee camps in the surrounding region, and access to higher education in Bangladesh.

(6) Assisting minority ethnic groups and civil society in Burma to help sustain cease-fire agreements and further prospects for reconciliation and sustainable peace.

(7) Promoting ethnic minority inclusion and participation in Burma’s political processes.
SEC. 202. IMPOSITION OF SANCTIONS WITH RESPECT TO
HUMAN RIGHTS ABUSES IN BURMA.

(a) In General.—For the 8-year period beginning on the date that is 270 days after the date of the enactment of this Act, the President shall impose the sanctions described in subsection (b) with respect to each foreign person that the President determines, based on credible evidence—

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

(A) knowingly perpetrated, ordered, or otherwise directed serious human rights abuses in Burma; or

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

(2) is an entity owned or controlled by any person described in paragraph (1);

(3) is an entity, such as the Myanmar Economic Cooperation or the Myanmar Economic Holding Corporation, that is owned or controlled, directly or indirectly, by the military or security forces of Burma, including through collective or cooperative structures, from which one or more persons de-
scribed in paragraph (1) derive significant revenue or financial benefit; or

(4) has knowingly—

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

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

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

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

(b) SANCTIONS DESCRIBED; EXCEPTIONS.—

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

(A) ASSET BLOCKING.—Notwithstanding the requirements of section 202 of the International Emergency Economic Powers Act (50 U.S.C. 1701), the exercise of all powers granted to the President by such Act to the extent nec-
necessary to block and prohibit all transactions in all property and interests in property of a foreign person the President determines meets one or more of the criteria described in subsection (a) if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(B) ALIENS INADMISSIBLE FOR VISAS, ADMISSION, OR PAROLE.—

(i) VISAS, ADMISSION, OR PAROLE.—A foreign person described in subsection (a) is—

(I) inadmissible to the United States;

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

(III) otherwise ineligible to be admitted or paroled into the United States or to receive any other benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).
(ii) **CURRENT VISAS REVOKED.**—A foreign person described in subsection (a) is subject to the following:

(I) Revocation of any visa or other entry documentation regardless of when the visa or other entry documentation is or was issued.

(II) A revocation under subclause (I) shall—

(aa) take effect immediately;

and

(bb) automatically cancel any other valid visa or entry documentation that is in the foreign person’s possession.

(2) **EXCEPTION TO COMPLY WITH UNITED NATIONS HEADQUARTERS AGREEMENT.**—Sanctions under paragraph (1)(B) shall not apply with respect to an alien if admitting or paroling the alien into the United States is necessary to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, between the United Nations and
the United States, or other applicable international obligations.

(c) **Penalties.**—Any person that violates, attempts to violate, conspires to violate, or causes a violation of this section or any regulation, license, or order issued to carry out subsection (b) shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of that section.

(d) **Implementation.**—The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to carry out this section and shall issue such regulations, licenses, and orders as are necessary to carry out this section.

(e) **Exception relating to the importation of goods.**—

(1) **In general.**—The authorities and requirements to impose sanctions authorized under this Act shall not include the authority or requirement to impose sanctions on the importation of goods.

(2) **Good defined.**—In this subsection, the term “good” means any article, natural or man-made substance, material, supply or manufactured...
product, including inspection and test equipment, and excluding technical data.

(f) WAIVER.—The President may annually waive the application of sanctions imposed on a foreign person pursuant to subsection (a) if the President—

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

(2) not later than the date on which such waiver will take effect, submits to the following committees notice of and justification for such waiver:

(A) The Committee on Foreign Affairs, the Committee on Appropriations, and the Committee on Financial Services of the House of Representatives.

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

(g) DEFINITIONS.—In this section—

(1) ADMITTED; ALIEN.—The terms “admitted” and “alien” have the meanings given those terms in section 101 of the Immigration and Nationality Act (8 U.S.C. 1001).
(2) FOREIGN PERSON.—The term “foreign person” means a person that is not a United States person.

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

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

(A) a United States citizen, an alien lawfully admitted for permanent residence to the United States, or any other individual subject to the jurisdiction of the United States; or

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

TITLE III—GOVERNANCE OF THE BURMESE MINING AND GEMSTONE SECTORS

SEC. 301. SENSE OF CONGRESS ON THE MINING SECTOR OF BURMA.

(a) FINDINGS.—Congress finds the following:
(1) In 2015, the nongovernmental organization Global Witness estimated that the value of total production of jade in Burma in 2014 was $31,000,000,000, almost 48 percent of the official gross domestic product of Burma. As much as 80 percent of that jade sold is smuggled out of Burma.

(2) Burma’s military and associated entities, including companies owned or controlled by Myanmar Economic Corporation and Myanmar Economic Holding Limited, their affiliated companies, and companies owned or controlled by current and former senior military officers or their family members, are linked to the mining sector, including the gemstone industry, and benefit financially from widespread illegal smuggling of jade and rubies from Burma.

(3) Illegal trafficking in precious and semiprecious stones from Burma, including the trade in high-value jade and rubies, deprives the people of Burma and the civilian government of critical revenue and instead benefits military-linked entities, non-state armed groups, and transnational organized criminal networks.
(4) In 2016, the Government of Burma began to take steps to reform aspects of the mining sector, including—

(A) improving governance in the gemstone industry, by temporarily suspending the issuance or renewal of jade and gemstone mining permits;

(B) commissioning an environmental management plan for some mining areas; and

(C) establishing the multi-stakeholder Jade and Gemstone Support Committee under the Ministry of Natural Resources and Environmental Conservation to develop recommendations for a new industry-wide policy and limited gemstone payment disclosures under the Myanmar Extractives Industry Transparency Initiative.

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

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

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

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

(2) companies that seek to import to the United States gemstones or minerals that may be of Burmese origin or articles of jewelry containing such gemstones should—

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

(B) undertake robust due diligence procedures in line with the “Due Diligence Guidance for Responsible Business Conduct” and “Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas” promulgated by the Organization for Economic Cooperation and Development.

SEC. 302. GUIDANCE RELATING TO RESPONSIBILITY AND TRANSPARENCY IN THE MINING SECTOR OF BURMA.

(a) List of Participating White-List Entities.—Not later than 120 days after the date of the enactment of this Act, and annually thereafter until the date described in subsection (e), the Secretary of State shall submit to the appropriate congressional committees, and publish on a publicly available website, a list of each entity described in subsection (b)(1) that—

(1) participates in Burma’s mining sector;

(2) publicly discloses beneficial ownership, as such term is defined for purposes of the Myanmar
Extractive Industry Transparency Initiative (“Myanmar EITI”);

(3) is not owned or controlled, either directly or indirectly, by the Burmese military or security forces, any current or former senior Burmese military officer, or any person sanctioned by the United States pursuant to any relevant sanctions authority; and

(4) is making significant progress toward meeting the criteria described in subsection (b)(2).

(b) ENTITIES AND CRITERIA DESCRIBED.—

(1) ENTITIES DESCRIBED.—The entities described in this subsection are the following:

(A) Entities that produce or process precious and semiprecious gemstones.

(B) Entities that sell or export precious and semiprecious gemstones from Burma or articles of jewelry containing such gemstones.

(2) CRITERIA DESCRIBED.—The criteria described in this subsection are the following:

(A) The entity publicly discloses any politically exposed persons, officers, directors or beneficial owners, as defined under the Myanmar EITI.
(B) The entity publicly discloses valid authorization, license, or permit to produce, process, sell, or export minerals or gemstones, as applicable.

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

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

(e) Periodic Updating.—The Secretary shall periodically update the publicly available version of the list described in subsection (a) as appropriate.

(d) Guidance and White-List Entities.—The Secretary shall issue guidance for entities in the United States private sector with respect to the best practices for supply-chain due diligence that are applicable to importation of gemstones or minerals that may be of Burmese origin or articles of jewelry containing such gemstones, including with respect to transactions with entities approved for inclusion in the list published pursuant subsection (a),
in order to mitigate potential risks and legal liabilities as-
associated with the importation of such items.

(c) TERMINATION.—The date described in this sec-

tion is the date on which the President certifies to the
appropriate congressional committees that the Govern-
ment of Burma has taken substantial measures to reform
the mining sector in Burma, including the following:

(1) Require the mandatory disclosure of pay-
ments, permit and license allocations, project reve-

nues, contracts, and beneficial ownership, including
the identification any politically exposed persons who
are beneficial owners, consistent with the approach
agreed under the Myanmar EITI and with due re-
gard for civil society participation.

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

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

(A) adhere to environmental and social im-

pact assessment and management standards in
accordance with international responsible min-
ing practices, the country’s environmental con-
reservation law, and other applicable laws and regulations; and

(B) uphold occupational health and safety standards and codes of conduct that are aligned with the core labor standards of the International Labour Organisation and with domestic law.

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

(5) Reform the process for valuation of gemstones at the mine-site, including developing an independent valuation system to prevent undervaluation and tax evasion.

(6) Require companies bidding for jade and ruby mining, finishing, or export permits to be independently audited upon the request of the Government of Burma and making the results of all such audits public.

(7) Establish credible and transparent procedures for permit allocations that are independent from external influence, including scrutiny of applicants that prevents unscrupulous entities from gaining access to concessions or the right to trade in minerals or gemstones.
(8) Establish effective oversight of state-owned enterprises operating in such sector, including through parliamentary oversight or requirements for independent financial auditing.

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

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

(a) In General.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report that—

(1) summarizes credible reports of serious human rights violations, including war crimes, committed against the Rohingya or other ethnic minorities in Burma between 2012 and the date of the submission of the report;

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

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

(4) includes a determination of the Secretary whether—

(A) the events that took place in the state of Rakhine in Burma, starting on August 25, 2017, constitute war crimes, crimes against humanity, or genocide; or

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

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

(1) A description of—

(A) each incident for which there is credible evidence that the incident may constitute war crimes, crimes against humanity, or genocide committed by the Burmese military or security forces against the Rohingya and other ethnic minorities, including the identities of any other actors involved in such incident;

(B) the role of the civilian government in the commission of any such incidents;
(C) each incident for which there is credible evidence that the incident may constitute war crime, crimes against humanity, or genocide committed by violent extremist groups in Burma;

(D) each attack on health workers, health facilities, health transport, or patients and, to the extent possible, the identities of any individuals who engaged in or organized such incidents in Burma; and

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

(2) A description and assessment, in consultation with the Administrator of the United States Agency for International Development, the Attorney General, and other heads of any other appropriate Federal departments or agencies, of the effectiveness of any programs that the United States has already undertaken to ensure accountability for war crimes, crimes against humanity, and genocide perpetrated against the Rohingya by the military and security forces of Burma, the Rakhine State government, pro-government militias, and all other armed groups.
operating fighting in Rakhine, including programs
to—

(A) train civilian investigators within and
outside of Burma and Bangladesh on how to
document, investigate, develop findings of, iden-
tify, and locate alleged perpetrators of war
crimes, crimes against humanity, or genocide in
Burma;

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

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

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

(A) a discussion of the use of universal ju-
risdiction or of legal cases brought against the
country of Burma by other sovereign countries
at the International Court of Justice to address
war crimes, crimes against humanity, and geno-
cide perpetrated in Burma;

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

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

(c) PROTECTION OF WITNESSES AND EVIDENCE.—
The Secretary of State shall ensure that the identification
of witnesses and physical evidence for purposes of the re-
port required by subsection (a) are not publicly disclosed
in a manner that might place such persons at risk of harm
or encourage the destruction of such evidence by the mili-
tary or Government of Burma.
(d) CRIME OF APARTHEID.—In this section, the term “crime of apartheid” means inhumane acts that—

(1) are of a character similar to the acts referred to in subparagraphs (A) through (H) of section 2(2);

(2) are committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group; and

(3) are committed with the intention of maintaining such regime.

SEC. 402. AUTHORIZATION TO PROVIDE TECHNICAL ASSISTANCE FOR EFFORTS AGAINST HUMAN RIGHTS ABUSES.

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

(b) EFFORTS AGAINST HUMAN RIGHTS ABUSES.—The efforts described in this subsection are the following:
(1) Identifying suspected perpetrators of war crimes, crimes against humanity, and genocide.
(2) Collecting, documenting, and protecting evidence of such crimes and preserve the chain of custody for such evidence.
(3) Conducting criminal investigations.
(4) Supporting investigations conducted by other countries, as appropriate.

e) Authorization for Transitional Justice Mechanisms.—The Secretary of State, taking into account any relevant findings in the report required by section 401(a), is authorized to provide support for the creation and operation of transitional justice mechanisms, including a potential hybrid tribunal, to prosecute individuals suspected of committing war crimes, crimes against humanity, or genocide in Burma.

SEC. 403. STRATEGY FOR PROMOTING ECONOMIC DEVELOPMENT IN BURMA.

(a) In General.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State, the Secretary of the Treasury, and the Administrator of the United States Agency for International Development shall jointly submit to the appropriate congressional committees a strategy to support sustainable, inclusive and broad-based economic development in Burma, in accord-
ance with the priorities of disadvantaged communities in Burma and in consultation with relevant civil society and local stakeholders, to improve economic conditions and government transparency.

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

(1) Measures to diversify control over and access to participation in key industries and sectors, including efforts to remove barriers and increase competition, access, and opportunity in sectors dominated by officials of the Burmese military, former military officials, and their families, and businesspeople connected to the military of Burma, with the goal of eliminating the role of the military in the economy of Burma.

(2) Measures to increase transparency disclosure requirements in key sectors of the economy of Burma, to promote responsible investment, including through—

(A) efforts to provide technical support to develop and implement policy reforms related to public disclosure of the beneficial owners of en-
entities in key sectors identified by the Government of Burma, specifically by—

(i) working with the Government of Burma to require the disclosure of the ultimate beneficial ownership of entities in the mining industry and the publication of project revenues, payments, and contract terms relating to that industry; and

(ii) ensuring that reforms complement the disclosures required to be put in place in Burma as a result of its participation in the Extractives Industry Transparency Initiative; and

(B) efforts to promote universal access to reliable, affordable, energy efficient, and sustainable power, including leveraging United States assistance to support reforms in the power sector and electrification projects that increase energy access, in partnership with multilateral organizations and the private sector.

(3) Measures to create an enabling environment for economic growth and opportunity for all ethnic groups residing in Burma, including through addressing issues related to land tenure.
(4) An identification of needs and opportunities to provide technical assistance to key ministries, institutions, and organizations to enact economic reforms, including revisions to existing policies on public disclosure of beneficial ownership of companies in key sectors that will allow for identification of those seeking or securing access to Burma’s most valuable natural resources.

(e) Consultation Required.—In developing the strategy required by subsection (a), the Secretary of State shall consult with appropriate officials of the Government of Burma, ethnic groups and civil society leaders in Burma.

(d) Report on Implementation.—Not later than 180 days after the date of the submission of the strategy required by subsection (a), the Secretary of State, the Secretary of the Treasury, and the Administrator of the United States Agency for International Development shall jointly submit to the appropriate congressional committees a report in unclassified form, that may contain a classified annex, that describes—

(1) the extent to which United States assistance and the efforts of the Government of Burma have promoted inclusive and enduring economic development in accordance with such strategy; and
the efforts undertaken, progress achieved, and any next steps planned by either the United States or the Government of Burma with respect to—

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

(B) the promotion of accountability and transparency, including through the collection, verification, and publication of beneficial ownership information related to extractive industries; and

(C) the promotion of best practices regarding—

(i) environmental conservation, management, and planning;

(ii) social impact assessments, including social and cultural protection and free, prior, and informed consent and meaningful participation of local populations, particularly minority ethnic nationalities; and

(iii) avoidance of displacement of local populations without meaningful consultation and consent, harm mitigation, and compensation.
TITLE V—DETERMINATION OF BUDGETARY EFFECTS

SEC. 501. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Committee on the Budget of the House of Representatives, provided that such statement has been submitted prior to the vote on passage.