

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.**

**S. 2060**

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

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. CARDIN

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Burma Human Rights

5 and Freedom Act of 2018”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The United States policy of principled en-

9 gagement since 1988 has fostered positive demo-

10 cratic reforms in Burma, which have led to signifi-

11 cant milestones on the path to full democracy.

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

13           (3) Aung San Suu Kyi's first acts as State  
14 Counsellor after her National League for Democracy  
15 party took office included releasing more than 100  
16 political prisoners, including well-known journalists  
17 and student activists held on politically motivated  
18 charges. However, as of November 2017, there were  
19 228 political prisoners in Burma, 46 of which were  
20 serving prison sentences, 49 of which were awaiting  
21 trial inside prison, and 133 of which were awaiting  
22 trial outside prison, according to the Assistance As-  
23 sociation for Political Prisoners.

24           (4) The Government of Burma also continues  
25 to systematically discriminate against the Rohingya

1 people. Burma's 1982 citizenship law stripped  
2 Rohingya Burmese of their Burmese citizenship,  
3 rendering them stateless, and the Government con-  
4 tinues to restrict Rohingya births and to deny the  
5 Rohingya freedom of movement and access to  
6 healthcare, land, education, voting, political partici-  
7 pation, and marriage.

8 (5) Despite the meaningful steps taken toward  
9 democracy in Burma, there remain important struc-  
10 tural and systemic impediments to the realization of  
11 a fully democratic civilian government, including—

12 (A) the 2008 Constitution, which is in  
13 need of reform;

14 (B) the disfranchisement of certain groups  
15 who voted in previous elections;

16 (C) the social, political, and economic con-  
17 ditions in Rakhine State, particularly with re-  
18 spect to the Rohingya population; and

19 (D) the current humanitarian and human  
20 rights crisis affecting Burma's Rohingya popu-  
21 lation and residents of the Rakhine, Kachin,  
22 and Shan states, including credible reports of  
23 ethnic cleansing, crimes against humanity,  
24 extrajudicial killings, sexual and gender-based  
25 violence, and forced displacement.

1           (6) Actions of the military of Burma, known as  
2           the Tatmadaw, including continuing assaults on per-  
3           sonnel and territory controlled by armed ethnic orga-  
4           nizations, military offensives immediately preceding  
5           the peace conference in Naypyitaw, and human  
6           rights violations against noncombatant civilians in  
7           conflict areas, undermine confidence in establishing  
8           a credible nationwide ceasefire agreement to end  
9           Burma's civil war.

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

17           (8) Since 2011, over 98,000 people have been  
18           displaced in Kachin and northern Shan State over  
19           the escalating violence and instability, resulting in  
20           continued massive internal displacement, including  
21           in internally displaced person (IDP) camps, which  
22           continues to undermine the trust necessary to  
23           achieve a durable, lasting peace, and has caused a  
24           massive humanitarian crisis which disproportionately  
25           affects the lives of innocent civilians and internally

1 displaced persons forced from their homes. Accord-  
2 ing to the United Nations Office for the Coordina-  
3 tion of Humanitarian Affairs, some 50 percent of  
4 these displaced persons are staying in areas beyond  
5 Government control where humanitarian access is  
6 limited. Even in areas controlled by the Government,  
7 delivery of humanitarian assistance has been in-  
8 creasingly restricted through onerous bureaucratic  
9 requirements resulting in limited access by inter-  
10 national and local humanitarian organizations.

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

23 (10) On August 31, 2016, State Counsellor  
24 Aung San Suu Kyi and the Government of Burma  
25 initiated the Union Peace Conference 21st Century

1 Panglong in Naypyitaw, which more than 1,400 rep-  
2 resentatives of various concerned parties attended in  
3 an effort to begin the process of ending Burma's  
4 civil war and to discuss options in forming a demo-  
5 cratic state of Burma. On May 24, 2017, the Gov-  
6 ernment of Burma held a second Panglong Peace  
7 Conference, with mixed results.

8 (11) On January 4, 2018, the Department of  
9 State determined that Burma remains designated as  
10 a country of particular concern for religious freedom  
11 under section 402(b) of the International Religious  
12 Freedom Act (22 U.S.C. 6442(b)), and that "mem-  
13 bers of the Rohingya community in particular face  
14 abuses by the Government of Burma, including  
15 those involving torture, unlawful arrest and deten-  
16 tion, restricted movement, restrictions on religious  
17 practices, discrimination in employment, and access  
18 to social services".

19 (12) The February 2017 panels set up by the  
20 Burmese army and the Home Affairs Ministry are  
21 widely perceived by the international community to  
22 lack independence and impartiality. The December  
23 2016 commission established by Burma's President  
24 Htin Kyaw to investigate the October 2016 attacks  
25 dismissed claims of misconduct by security forces

1 due to “insufficient evidence.” A Burmese army in-  
2 ternal inquiry completed in November 2017 claimed  
3 there had been no abuses committed by the military.  
4 The 2012 commission government established to in-  
5 vestigate violence in Rakhine State that year never  
6 held anyone accountable.

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

10 (A) Repatriation of those who have crossed  
11 over to Bangladesh and effective provision of  
12 humanitarian assistance.

13 (B) Resettlement of displaced populations.

14 (C) Economic development and durable  
15 peace.

16 (14) According to the Médecins Sans Frontières  
17 estimates, at least 6,700 Rohingya have been killed,  
18 including 730 children, and that at least 2,700 oth-  
19 ers died from disease and malnutrition and over an  
20 estimated 20,000 Rohingya have fled to Bangladesh  
21 since August 2017, fearing loss of livelihood and  
22 shelter and disproportionate use of force by the mili-  
23 tary of Burma.

24 (15) On October 23, 2017, the Department of  
25 State said, “We express our gravest concern with re-

1 cent events in Rakhine State and the violent, trau-  
2 matic abuses Rohingya and other communities have  
3 endured. It is imperative that any individuals or en-  
4 tities responsible for atrocities, including non-state  
5 actors and vigilantes, be held accountable.”.

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

12 (17) Amnesty International and Human Rights  
13 Watch have reported and documented a campaign of  
14 violence perpetuated by the security forces of Burma  
15 that “may amount to crimes against humanity” and  
16 “ethnic cleansing” and includes—

17 (A) indiscriminate attacks on civilians;

18 (B) rape of women and girls; and

19 (C) arbitrary arrest and detention of  
20 Rohingya men without charge.

21 (18) Satellite images captured by Human  
22 Rights Watch reveal that, out of the approximately  
23 470 villages in northern Rakhine State, most of  
24 which were completely or partially populated with



1       Rohingya Muslims, nearly 300 were partially or  
2       completely destroyed by fire after August 25, 2017.

3           (19) The Government of Burma has continued  
4       to block access to northern Rakhine State by United  
5       Nations and other humanitarian organizations, pre-  
6       venting hundreds of thousands of vulnerable  
7       Rohingya, Rakhine, and other ethnic groups, includ-  
8       ing children with acute malnutrition, from receiving  
9       humanitarian aid. According to a report by the  
10      United Nations Children’s Fund, a diphtheria out-  
11      break has led to 424 cases and 6 deaths since De-  
12      cember 6, 2017. In addition, the levels of global  
13      acute malnutrition in refugees from Burma exceeds  
14      the World Health Organization’s threshold by 15  
15      percent in children aged 6–59 months. Over 50 per-  
16      cent of the Rohingya children are reported to be suf-  
17      fering from anemia.

18           (20) In response to previous violence between  
19      the Burmese military and the ethnic Rohingya peo-  
20      ple in 2016, Aung San Suu Kyi established the Ad-  
21      visory Commission on Rakhine State headed by  
22      former United Nations Secretary-General Kofi  
23      Annan to address tensions in Northern Rakhine. She  
24      has since also endorsed the Commission’s rec-  
25      ommendations and established an “Advisory Team

1 for the Committee for the Implementation of Rec-  
2 ommendations on Rakhine State” to move forward  
3 with implementation.

4 (21) On December 21, 2017, using the author-  
5 ity granted by the Global Magnitsky Human Rights  
6 Accountability Act (subtitle F of title XII of Public  
7 Law 114–328), the President imposed sanctions on  
8 Maung Maung Soe, a Major General who was the  
9 chief of the Burmese Army’s Western command dur-  
10 ing the August 2017 attack in Rakhine state.

11 (22) On November 22, 2017, Secretary of State  
12 Rex Tillerson stated, “After careful and through  
13 analysis of available facts, it is clear that the situa-  
14 tion in northern Rakhine state constitutes ethnic  
15 cleansing against the Rohingya. Those responsible  
16 for these atrocities must be held accountable.”.

17 (23) Ethnic cleansing is a despicable evil, and  
18 while it is not an independent crime under domestic  
19 or international law, it is often accomplished  
20 through acts that constitute war crimes, crimes  
21 against humanity, or genocide, and the perpetrators  
22 of such crimes in Burma must be held accountable.

23 **SEC. 3. DEFINITIONS.**

24 In this Act:

1           (1) APPROPRIATE CONGRESSIONAL COMMIT-  
2           TEES.—The term “appropriate congressional com-  
3           mittees” means—

4                   (A) the Committee on Foreign Relations  
5                   and the Committee on Armed Services of the  
6                   Senate; and

7                   (B) the Committee on Foreign Affairs and  
8                   the Committee on Armed Services of the House  
9                   of Representatives.

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

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

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

24                   (A) to redress legacies of atrocities; and

1 (B) to promote long-term, sustainable  
2 peace.

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

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

7 It is the policy of the United States that—

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

13 (2) the guiding principles of such a strategy in-  
14 clude—

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

24 (B) the establishment of a fully demo-  
25 cratic, pluralistic, civilian controlled, and rep-

1           representative political system that includes regu-  
2           larized free and fair elections in which all peo-  
3           ple of Burma, including the Rohingya, can vote;

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

12          (D) investigations into credible reports of  
13          ethnic cleansing, crimes against humanity, and  
14          genocide perpetrated against ethnic minorities  
15          like the Rohingya by the government, military,  
16          and security forces of Burma, violent extremist  
17          groups, and other combatants involved in the  
18          conflict;

19          (E) accountability for determinations of  
20          ethnic cleansing, crimes against humanity, and  
21          genocide perpetrated against ethnic minorities  
22          like the Rohingya by the Government, military,  
23          and security forces of Burma, violent extremist  
24          groups, and other combatants involved in the  
25          conflict;

1 (F) strengthening the government’s civilian  
2 institutions, including support for greater trans-  
3 parency and accountability;

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

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

9 (I) promoting responsible international and  
10 regional engagement;

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

13 (K) addressing and ending the humani-  
14 tarian and human rights crisis, including by  
15 supporting the return of the displaced Rohingya  
16 to their homes and providing equal access to  
17 restoration of full citizenship for the Rohingya  
18 population; and

19 (L) promoting broad-based, inclusive eco-  
20 nomic development and fostering healthy and  
21 resilient communities.

22 **SEC. 5. AUTHORIZATION OF HUMANITARIAN ASSISTANCE**  
23 **AND RECONCILIATION.**

24 (a) HUMANITARIAN ASSISTANCE.—

1           (1) IN GENERAL.—There is authorized to be  
2           appropriated \$103,695,069 for fiscal year 2018 for  
3           humanitarian assistance for Burma, Bangladesh,  
4           and the region. The assistance may include—

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

10                   (B) support for voluntary resettlement or  
11                   repatriation efforts regionally; and

12                   (C) humanitarian assistance to victims of  
13                   violence and destruction in Rakhine State, in-  
14                   cluding victims of gender-based violence and  
15                   unaccompanied minors.

16           (2) SENSE OF CONGRESS ON ADDITIONAL  
17           FUNDING.—It is the sense of Congress that addi-  
18           tional significant and sustained funding will be nec-  
19           essary to address the medium and long-term impacts  
20           of this crisis.

21           (b) RECONCILIATION PROGRAMS.—There is author-  
22           ized to be appropriated \$27,400,000 for fiscal year 2018  
23           for reconciliation programs in Burma. The assistance may  
24           include—

1           (1) reducing the influence of the drivers of  
2           intercommunal conflict;

3           (2) strengthening engagement on areas affect-  
4           ing fundamental freedoms;

5           (3) enhancing the ability of key stakeholders to  
6           engage in the peace process; and

7           (4) assisting the implementation of the Kofi  
8           Annan Commission report.

9   **SEC. 6. MULTILATERAL ASSISTANCE.**

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

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

19               (2) will be developed and carried out in accord-  
20               ance with best practices regarding environmental  
21               conservation, cultural protection, and empowerment  
22               of local populations, including free, prior, and in-  
23               formed consent of affected indigenous communities;

24               (3) do not provide incentives for, or facilitate,  
25               forced displacement; and



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

3 **SEC. 7. SENSE OF CONGRESS ON RIGHT OF RETURNEES**  
4 **AND FREEDOM OF MOVEMENT.**

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

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

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

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

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

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

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

6 (1) to ensure all refugees have freedom of  
7 movement and under no circumstance are subject to  
8 unsafe, involuntary, or uninformed repatriation; and

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

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

14 (a) PROHIBITION.—Except as provided under sub-  
15 section (b), the President may not furnish any security  
16 assistance or to engage in any military-to-military pro-  
17 grams with the armed forces of Burma, including training  
18 or observation or participation in regional exercises, until  
19 the Secretary of State, in consultation with the Secretary  
20 of Defense, certifies to the appropriate congressional com-  
21 mittees that the Burmese military has demonstrated sig-  
22 nificant progress in abiding by international human rights  
23 standards and is undertaking meaningful and significant  
24 security sector reform, including transparency and ac-

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

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

6 (2) The military supports efforts to carry out  
7 meaningful and comprehensive investigations of  
8 credible reports of abuses and is taking steps to hold  
9 accountable those in the Burmese military respon-  
10 sible for human rights violations.

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

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

23 (5) The Government of Burma, including the  
24 military, takes steps toward the implementation of

1 the recommendations of the Advisory Commission on  
2 Rakhine State.

3 (b) EXCEPTIONS.—

4 (1) CERTAIN EXISTING AUTHORITIES.—The  
5 Department of Defense may continue to conduct  
6 consultations based on the authorities under section  
7 1253 of the Carl Levin and Howard P. “Buck”  
8 McKeon National Defense Authorization Act for  
9 Fiscal Year 2015 (Public Law 113–291; 22 U.S.C.  
10 2151 note).

11 (2) HOSPITALITY.—The United States Agency  
12 for International Development and the Department  
13 of State may provide assistance authorized by part  
14 I of the Foreign Assistance Act of 1961 (22 U.S.C.  
15 2151 et seq.) to support ethnic armed groups and  
16 the Burmese military for the purpose of supporting  
17 research, dialogues, meetings, and other activities re-  
18 lated to the Union Peace Conference, Political Dia-  
19 logues, and related processes, in furtherance of in-  
20 clusive, sustainable reconciliation.

21 (c) MILITARY REFORM.—The certification required  
22 under subsection (a) shall include a written justification  
23 in classified and unclassified form describing the Burmese  
24 military’s efforts to implement reforms, end impunity for

1 human rights violations, and increase transparency and  
2 accountability.

3 (d) RULE OF CONSTRUCTION.—Nothing in this Act  
4 shall be construed to authorize Department of Defense as-  
5 sistance to the Government of Burma except as provided  
6 in this section.

7 (e) REPORT.—

8 (1) IN GENERAL.—Not later than 180 days  
9 after the date of the enactment of this Act, and  
10 every 180 days thereafter, the Secretary of State  
11 and the Secretary of Defense shall submit to the ap-  
12 propriate congressional committees a report, in both  
13 classified and unclassified form, on the strategy and  
14 plans for military-to-military engagement between  
15 the United States Armed Forces and the military of  
16 Burma.

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

19 (A) A description and assessment of the  
20 Government of Burma's strategy for security  
21 sector reform, including as it relates to an end  
22 to involvement in the illicit trade in jade and  
23 other natural resources, reforms to end corrup-  
24 tion and illicit drug trafficking, and constitu-

1            tional reforms to ensure civilian control of the  
2            Government.

3            (B) A list of ongoing military activities  
4            conducted by the United States Government  
5            with the Government of Burma, and a descrip-  
6            tion of the United States strategy for future  
7            military-to-military engagements between the  
8            United States and Burma's military forces, in-  
9            cluding the military of Burma, the Burma Po-  
10          lice Force, and armed ethnic groups.

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

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

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

22                (iii) a description of the elements of  
23                the military-to-military engagement be-  
24                tween the United States and Burma that  
25                promote such implementation.

1           (D) An assessment of progress on the  
2 peaceful settlement of armed conflicts between  
3 the Government of Burma and ethnic minority  
4 groups, including actions taken by the military  
5 of Burma to adhere to ceasefire agreements,  
6 allow for safe and voluntary returns of dis-  
7 placed persons to their villages of origin, and  
8 withdraw forces from conflict zones.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

7           (1) in the section heading—

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

9                   (B) by striking “**OR RUBIES**”;

10          (2) in subsection (b)—

11                   (A) in paragraph (1), by striking “until  
12                   such time” and all that follows through “2008”  
13                   and inserting “beginning on the date that is  
14                   180 days after the date of the enactment of the  
15                   Burma Human Rights and Freedom Act of  
16                   2018”; and

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

21          (3) in subsection (c)—

22                   (A) in paragraph (1), by striking “until  
23                   such time” and all that follows through “2008”  
24                   and inserting “beginning on the date that is  
25                   180 days after the date of the enactment of the

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

3 (B) in paragraph (2)(B)—

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

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

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

11 (a) LIST REQUIRED.—

12 (1) IN GENERAL.—Not later than 180 days  
13 after the date of the enactment of this Act, the  
14 President shall submit to the appropriate congress-  
15 sional committees a list of senior officials of the mili-  
16 tary and security forces of Burma that the President  
17 determines have knowingly played a direct and sig-  
18 nificant role in the commission of human rights vio-  
19 lations in Burma, including against the Rohingya  
20 minority population.

21 (2) INCLUSIONS.—The list required by para-  
22 graph (1) shall include all of the senior officials of  
23 the military and security forces of Burma in charge  
24 of each unit that was operational during the so-

1 called “clearance operations” that began during or  
2 after October 2016.

3 (3) UPDATES.—Not less frequently than every  
4 180 days, the President shall submit to the appro-  
5 priate congressional committees an updated version  
6 of the list required by paragraph (1).

7 (b) SANCTIONS.—

8 (1) VISA BAN.—The Secretary of State shall  
9 deny a visa to, and the Secretary of Homeland Secu-  
10 rity shall exclude from the United States, any indi-  
11 vidual included in the most recent list required sub-  
12 section (a).

13 (2) LIST OF SPECIALLY DESIGNATED NATION-  
14 ALS AND BLOCKED PERSONS.—

15 (A) IN GENERAL.—Not later than 180  
16 days after the date of the enactment of this  
17 Act, the President shall—

18 (i) determine whether the individuals  
19 specified in subparagraph (B) should be  
20 included on the SDN list; and

21 (ii) submit to the appropriate congress-  
22 sional committees a report, in classified  
23 form if necessary, on the procedures for in-  
24 cluding those individuals on the SDN list

1 under existing authorities of the Depart-  
2 ment of the Treasury.

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

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

10 (I) Senior General Min Aung  
11 Hlaing; and

12 (II) Major General Khin Maung  
13 Soe; and

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

22 (3) AUTHORITY FOR ADDITIONAL FINANCIAL  
23 SANCTIONS.—The Secretary of the Treasury may, in  
24 consultation with the Secretary of State, prohibit or  
25 impose strict conditions on the opening or maintain-

1       ing in the United States of a correspondent account  
2       or payable-through account by any financial institu-  
3       tion that is a United States person, for or on behalf  
4       of a foreign financial institution, if the Secretary de-  
5       termines that the account is knowingly used—

6                (A) by a foreign financial institution that  
7                knowingly holds property or an interest in prop-  
8                erty of an individual included on the SDN list  
9                pursuant to paragraph (2); or

10              (B) to conduct a significant transaction on  
11              behalf of such an individual.

12              (4) **RULE OF CONSTRUCTION.**—Nothing in this  
13              subsection may be construed to prohibit any contract  
14              or other financial transaction by a United States  
15              person with a credible nongovernmental humani-  
16              tarian organization in Burma.

17              (c) **REMOVAL FROM LIST.**—The President may re-  
18              move an individual from the list required by subsection  
19              (a) if the President determines and reports to the appro-  
20              priate congressional committees that—

21                      (1) the individual has—

22                              (A) publicly acknowledged the role of the  
23                              individual in committing past human rights vio-  
24                              lations;

1 (B) cooperated with independent efforts to  
2 investigate such violations;

3 (C) been held accountable for such viola-  
4 tions; and

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

9 (2) removing the individual from the list is in  
10 the national interest of the United States.

11 (d) EXCEPTIONS.—

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

19 (2) UNITED NATIONS HEADQUARTERS AGREE-  
20 MENT.—Subsection (b)(1) shall not apply to the ad-  
21 mission of an individual to the United States if such  
22 admission is necessary to comply with United States  
23 obligations under the Agreement between the United  
24 Nations and the United States of America regarding  
25 the Headquarters of the United Nations, signed at

1 Lake Success June 26, 1947, and entered into force  
2 November 21, 1947, or under the Convention on  
3 Consular Relations, done at Vienna April 24, 1963,  
4 and entered into force March 19, 1967, or other  
5 international obligations of the United States.

6 (e) WAIVER.—The President may waive a require-  
7 ment of this section if the Secretary of State, in consulta-  
8 tion with the Secretary of the Treasury, determines and  
9 reports to the appropriate congressional committees that  
10 the waiver is important to the national security interests  
11 of the United States.

12 (f) IMPLEMENTATION; PENALTIES.—

13 (1) IMPLEMENTATION.—The President may ex-  
14 ercise all authorities provided under sections 203  
15 and 205 of the International Emergency Economic  
16 Powers Act (50 U.S.C. 1702 and 1704) to carry out  
17 this section.

18 (2) PENALTIES.—A person that violates, at-  
19 tempts to violate, conspires to violate, or causes a  
20 violation of paragraph (2) or (3) of subsection (b) or  
21 any regulation, license, or order issued to carry out  
22 either such paragraph shall be subject to the pen-  
23 alties set forth in subsections (b) and (c) of section  
24 206 of the International Emergency Economic Pow-  
25 ers Act (50 U.S.C. 1705) to the same extent as a



1 person that commits an unlawful act described in  
2 subsection (a) of that section.

3 (3) RULE OF CONSTRUCTION.—This subsection  
4 shall not be construed to require the President to  
5 declare a national emergency under section 202 of  
6 the International Emergency Economic Powers Act  
7 (50 U.S.C. 1701).

8 (g) DEFINITIONS.—In this section:

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

14 (2) FINANCIAL INSTITUTION.—The term “fi-  
15 nancial institution” has the meaning given that term  
16 in section 5312 of title 31, United States Code.

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

22 (4) SDN LIST.—The term “SDN list” means  
23 the list of specially designated nationals and blocked  
24 persons maintained by the Office of Foreign Assets  
25 Control of the Department of the Treasury.

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

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

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

10                   (C) any person in the United States.

11 **SEC. 11. STRATEGY FOR PROMOTING ECONOMIC DEVELOP-**  
12 **MENT.**

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

21           (b) ELEMENTS.—In order to support the efforts of  
22 the Government of Burma, the strategy required by sub-  
23 section (a) shall include a plan to promote inclusive and  
24 responsible economic growth, including through the fol-  
25 lowing initiatives:

1           (1) Develop an economic reform road-map to  
2 diversify control over and access to participation in  
3 key industries and sectors. The United States Gov-  
4 ernment should support the Government of Burma  
5 to develop a roadmap to assess and recommend  
6 measures to remove barriers and increase competi-  
7 tion, access and opportunity in sectors dominated by  
8 the military, former military officials, and their fam-  
9 ilies, and businesspeople connected to the military.  
10 The roadmap should include areas related to govern-  
11 ment transparency, accountability, and governance.

12           (2) Increase transparency disclosure require-  
13 ments in key sectors to promote responsible invest-  
14 ment. Provide technical support to develop and im-  
15 plement policies, and revise existing policies on pub-  
16 lic disclosure of beneficial owners of companies in  
17 key sectors identified by the Government of Burma,  
18 including the identities of those seeking or securing  
19 access to Burma's most valuable resources. In the  
20 ruby industry, this specifically includes working with  
21 the Government of Burma to require the disclosure  
22 of the ultimate beneficial ownership of entities in the  
23 industry and the publication of project revenues,  
24 payments, and contract terms relating to the indus-  
25 try. Such new requirements should complement dis-

1 closures due to be put in place in Burma as a result  
2 of its participation in the Extractives Industry  
3 Transparency Initiative (EITI).

4 **SEC. 12. REPORT ON ETHNIC CLEANSING AND SERIOUS**  
5 **HUMAN RIGHTS ABUSES IN BURMA.**

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

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

16 (1) a description of credible reports of ethnic  
17 cleaning and serious human rights abuses per-  
18 petrated against the Rohingya ethnic minority in  
19 Burma, including—

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

24 (B) the role of the civilian government in  
25 the commission of such activities;

1 (C) incidents that may constitute ethnic  
2 cleansing, crimes against humanity, or genocide  
3 committed by violent extremist groups or  
4 antigovernment forces;

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

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

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

1 violent extremist groups, and other combatants in-  
2 volved in the conflict, including programs—

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

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

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

21 (3) A detailed study of the feasibility and desir-  
22 ability of potential transitional justice mechanisms  
23 for Burma, including a hybrid tribunal, and rec-  
24 ommendations on which transitional justice mecha-  
25 nisms the United States Government should sup-

1 port, why such mechanisms should be supported,  
2 and what type of support should be offered.

3 (c) PROTECTION OF WITNESSES AND EVIDENCE.—

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

9 **SEC. 13. TECHNICAL ASSISTANCE AUTHORIZED.**

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

19 (1) identify suspected perpetrators of ethnic  
20 cleansing, war crimes, crimes against humanity, and  
21 genocide;

22 (2) collect, document, and protect evidence of  
23 crimes and preserve the chain of custody for such  
24 evidence;

25 (3) conduct criminal investigations; and

1           (4) support investigations by third-party states,  
2           as appropriate.

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

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

12           In order to promote freedom of the press in Burma,  
13 it is the sense of Congress that—

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

17           (2) the decision to use a colonial-era law to ar-  
18 rest these Reuters reporters undermines press free-  
19 dom around the world and further underscores the  
20 need for serious legal reform.