



Statement of

Michael F. Martin
Specialist in Asian Affairs

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Chairmen McGovern and Hultgren, Members of the Commission, thank you for the opportunity to appear before you today to discuss the rights of survivors of human rights violations in Burma. My name is Michael F. Martin, and I am testifying today in my capacity as an analyst for the Congressional Research Service. My testimony is based on over 10 years of covering events in Burma, as well as three trips to Burma within the last nine months.

Burma's On-going Civil War

For almost 70 years, the people of Burma have endured a low-grade civil war that pits a central government—previously located in Yangon, now based in the capital city of Naypyitaw—controlled by the nation's ethnic majority, the Bamar, against a number of ethnic armed organizations, or EAOs, each fighting on behalf of the rights, culture and traditions of one of Burma's ethnic minorities. Over the decades, fighting between the Burmese military, known as the Tatmadaw, and the EAOs has ebbed and flowed, with periods of relative peace after the Tatmadaw and some of the EAOs concluded ceasefire agreements.

While the fighting may have subsided from time to time, the cause of the low-grade civil war remained. Many of Burma's ethnic minorities and the EAOs feel that Burma's ethnic majority, the Bamar, and the Tatmadaw have failed to abide by the terms of 1947 Panglong Agreement made between General Aung San, the father of Aung San Suu Kyi, and several of Burma's larger ethnic minorities, which committed to form a federated state that would provide the country's seven predominately ethnic minority states a high degree of autonomy. To many Bamar, and the Tatmadaw, the EAOs are insurgents threatening the disintegration of Burma. The Tatmadaw cited this fear of disintegration in justifying the overthrow of an elected civilian government in 1962, thereby beginning nearly 50 years of military rule.

During Burma's five decades of military rule, military leaders changed, and the military junta's reputation for brutality and repression grew. Four months after the 1962 coup d'état, the Tatmadaw broke up a student protest at Rangoon University, killing more than 100 students and destroying the Student Union building. In 1978, the Tatmadaw conducted Operation Dragon King in Rakhine State, driving over 250,000 Rohingya into neighboring Bangladesh. In August 1988, the Tatmadaw violently quelled the 8888 Uprising, a nationwide call for democracy and a return to civilian rule, killing thousands of protesters. Burma's military junta quashed another nationwide protest in 2007, the Saffron Revolution.

Throughout this period, fighting between the Tatmadaw and the emerging EAOs ebbed and flowed in intensity and scope across Burma's seven ethnic states—Chin, Kachin, Kayah (Karenni), Kayin (Karen), Mon, Rakhine (Arakan), and Shan. The major EAOs emerged soon after Burma's independence from British colonial rule in 1949—the Karen National Union (KNU), with its armed wing, the Karen National Liberation Army (KNLA), and the New Mon State Party (NMSP), with its armed wing, the New Mon State Army. The Karenni National Progressive Party (KNPP), and the Karenni Army, were established in 1957. Two other larger EAOs—the Kachin Independence Organization (with its associated militia, the Kachin Independence Army) and the Shan State Army—arose in the 1960s, around the time the Tatmadaw seized power. The Chin National Front (CNF), and its armed wing, the Chin National Army, was created a few months before the 8888 Uprising occurred. After the 8888 Uprising, the United Wa State Party (UWSP), and the United Wa State Army (UWSA), were formed and began their struggle to form an independent Wa State in northern Shan State.

Historically, Rakhine State is the only ethnic state in which there has not been a sustained EAO presence. From 1947 to 1961, a Rohingya group called the Mujahideen fought for the right to secede and join former East Pakistan (now present-day Bangladesh). The Rohingya Solidarity Organization (RSO) was formed in 1982 and was active in Rakhine State during the 1980s and 1990s, but effectively dissolved by 1998. The Arakan Liberation Party (ALP), and its militia, the Arakan Liberation Army (ALA), was active

in the 1970s, and briefly reemerged in the 1980s with the support of the KNU, but effectively became inactive in the 1990s.

Two new EAOs have emerged in Rakhine State over the past decade, representing each of the major ethnic minorities, the Rakhine and the Rohingya. The Arakan Army (AA) was formed in April 2009, representing the Rakhine and initially fighting alongside its supporter and benefactor, the KIA, in Rakhine State. In 2015, AA forces moved into northern Rakhine State and neighboring Chin State; fighting soon broke out between the AA and the Tatmadaw.

The other new EAO operating in Rakhine State is the Arakan Rohingya Salvation Army, or ARSA. This group has gone by different names since it first surfaced in 2013, including Harakah al-Yaqin, but its stated goal is stop the mistreatment of Rohingya. ARSA was formed after an outbreak of violence between the Rakhine and the Rohingya in 2012, in which dozens of people were killed and about 120,000 Rohingya were resettled in internally displaced persons (IDP) camps. Various organizations have alleged that ARSA may have ties to militant Islamic fundamentalist organizations, but ARSA has denied any affiliation and has stated its opposition to such organizations.

In October 2016, ARSA attacked several Burmese security outposts near the border of Bangladesh, killing 13 Burmese security personnel. The Tatmadaw responded to the attacks by sending additional troops into northern Rakhine State. Over 100,000 Rohingya fled to Bangladesh as the Tatmadaw soldiers attacked Rohingya villages in search of ARSA. On August 25, 2017—exactly 11 months ago today—ARSA launched coordinated attacks on 30 security outposts, killing 12 Burmese security personnel. In the months before the August attacks, ARSA reportedly killed over 50 people it claimed were informants for the Tatmadaw. According to a July 2018 report by Fortify Rights, during that same period, Burmese security forces were confiscating any potential weapons from Rohingya villagers, arresting and torturing Rohingya they thought had ties to ARSA, and imposing greater restrictions on the movement and activities of Rohingya in northern Rakhine State. The number of Tatmadaw soldiers present in northern Rakhine State also increased substantially before the August 25 attacks.

Immediately after the ARSA attacks, the Tatmadaw began a “clearance operation” reportedly aimed at destroying ARSA’s presence in northern Rakhine State. The results of the Tatmadaw’s “clearance operation” is well documented by various means—including satellite imagery, medical records, demographic studies, and interviews with survivors. Thousands of Rohingya were killed, nearly 400 Rohingya villages were fully or partially destroyed, and hundreds of women and girls were raped. Credible evidence has also been gathered indicating that ARSA members, or persons dressed like ARSA members, killed dozens of Hindus in the village of Kha Maung Seik.

Tatmadaw’s “Four Cuts” Strategy

A common strategy used by the Tatmadaw to combat the EAOs is known as “Four Cuts” (*Pya Ley Pya* in Burmese), which involves attempting to deprive the EAOs of food, funds, intelligence, and recruits by terrorizing the civilian population and driving them out of their villages.¹ This frequently involves directly attacking villages, murdering unarmed civilians, raping women and girls, mining fields and roads, forcing civilians to serve as porters, and destroying crops, markets, and property. This strategy generally results in large numbers of internally displaced persons (IDPs) who relocate to camps located in both Union Government-controlled and EAO-controlled areas, and refugees who flee to neighboring nations, including Bangladesh, China, India, and Thailand.

¹ For more about the “Four Cuts” strategy in Burma’s recent conflicts, see Stella Naw, “‘Four Cuts’ Strategy Deepens Myanmar’s War Wounds,” *Asia Times*, July 15, 2017.

According to a recent article published by the Lowy Institute, the Tatmadaw began using the “Four Cuts” strategy in 1968, after studying the British response to the Malay insurgency of 1948-1960.² The article described the “Four Cuts” strategy as it was first used in Karen State:

The military divided the country into black, brown, and white zones to reflect insurgent-controlled, partially insurgent-controlled, and government-controlled areas. 'Black zones' were essentially free-fire areas for Tatmadaw soldiers.

Villagers were frequently relocated by force. Forced conscriptions or portage was also common, providing free labour for the military. Rape also seems to have been used as a tool of social control under the 'four cuts' doctrine.

The Tatmadaw continues to describe areas in ethnic states with active EAOs as black, brown, and white zones.³

The history of Burma's civil war also is replete with accounts of Burma's security forces allegedly committing severe human rights abuses, including murder, rape, torture, forced conscription (including the conscription of children) and portage, the destruction of villages and property, and the use of civilians as human shields and “minesweepers.” The following is a partial list of cases where the Tatmadaw allegedly committed serious human rights abuses as part of its “Four Cuts” strategy:

- **Chin State, 2005-2008** – In a 2009 report, Human Rights Watch documented the Tatmadaw's systematic abuse of the Chin between 2005 and 2008.⁴ According to the report, the forms of human rights abuses committed included “extrajudicial killings, arbitrary arrest and detention, torture and mistreatment, forced labor, severe reprisals against members of the opposition, restrictions on movement, expression, and religious freedom, abusive military conscription policies, and extortion and confiscation of property.” The report also recounts incidents of rape committed by Tatmadaw soldiers.
- **Kachin State, 2018** – Tatmadaw utilized fixed wing aircraft, helicopters, and heavy artillery to attack villages and KIA bases to obtain access to land, jade and amber mines, and other resources.⁵ Kachin activists report cases of murder, torture and rape allegedly committed by Tatmadaw soldiers. Thousands of villagers were displaced by the attacks.
- **Karen (Kayin) State, 1984-1989** – After efforts to negotiate a ceasefire agreement with the KNU failed, the Tatmadaw launched an offensive in 1984, reportedly targeting civilians and resulting in the flight of approximately 10,000 Karen into neighboring Thailand. Over the next five years, fighting between the KNLA and the Tatmadaw resulted in over 120,000 Karen being displaced to refugee camps in Thailand, where they remain 30 years later.
- **Karenni (Kayah) State, 1992** – In 1992, fighting between the Tatmadaw and two Karenni EAOs, the Karenni National Progressive Party (KNPP) and the Karenni Nationalities People's Liberation Front (KNPLF), erupted. According to a report by the Karen Human Rights Group, Burma's military junta directed “their attacks as much at

² Andray Abrahamian, *The Tatmadaw Returns to the 'Four Cuts' Doctrine*, Lowy Institute, September 4, 2017. Other scholars say the Tatmadaw started using the “Four Cuts” strategy as far back as 1963.

³ CRS interviews with Ministry of Defense officials and EAO representatives, various dates.

⁴ Human Rights Watch, *'We Are Like Forgotten People': The Chin People of Burma: Unsafe in Burma, Unprotected in India*, January 27, 2009, <https://www.hrw.org/report/2009/01/27/we-are-forgotten-people/chin-people-burma-unsafe-burma-unprotected-india>.

⁵ CRS interviews in Myitkyina, June 2018.

Karenni villagers as at the opposition armies, while looting, burning houses and food, raping women, violently abusing villagers, and performing executions.”⁶

- **Mon State, 1989-1990, 1994** – In 1989 and 1990, the Tatmadaw attacked the New Mon State Party’s base of operations, displacing more than 12,000 Mon into Thailand.⁷ Starting in 1992, Thailand allegedly began applying pressure on the Mon refugees to return to Burma. On July 21, 1994, Tatmadaw soldiers attacked a Mon refugee camp at Halockhani, near the border with Thailand, possibly in response to the death of a Tatmadaw soldier. Mon survivors of the Tatmadaw attack accused the soldiers of murder, torture, and rape.
- **Rakhine State, 2017-2018** – Tatmadaw forces were sent to Rakhine State to conduct “clearance operation” following the August 25, 2017 attacks on security outposts by the Arakan Rohingya Salvation Army (ARSA). Nearly 400 Rohingya villages were fully or partially destroyed and over 700,000 Rohingya fled to neighboring Bangladesh. Survivors of the “clearance operations” described the murder, torture, and rape of villagers by Burmese security forces (including Tatamadaw, Border Guard Forces, and Myanmar Police Force). Health care providers in refugee camps in Bangladesh treated hundreds of Rohingya with injuries consistent with assault allegations.
- **Shan State, 1996-1997** – A major Tatmadaw offensive in Shan State resulted in the displacement of an estimated 300,000 people from over 1,400 villages; more than 100,000 fled into Thailand.⁸ A joint report by the Shan Human Rights Foundation and the Shan Women’s Action Network documents the Tatmadaw’s use of rape as a weapon of war in Shan State, as well as accounts of other human rights abuses by Burmese security forces.⁹

Burma’s Transition to a Mixed Civilian/Military Government

On August 30, 2003, Prime Minister General Khin Nyunt announced that Burma’s military junta, the State Peace and Development Council (SPDC), was undertaking a “Seven Step Roadmap to a Disciplined Flourishing Democracy.” The seven steps were:

1. Reassemble the National Convention that had been dissolved in 1996, for the purpose of writing a proposed new constitution;
2. Begin the process of forming a democracy after the National Convention had drafted a new constitution;
3. Draft a proposed new constitution for possible adoption;
4. Submit the new constitution to a national referendum for possible adoption;
5. Hold free and fair elections to elect a Union Parliament under the provisions of the new constitution;
6. Convene the elected Union Parliament; and

⁶ Karen Human Rights Group, *Karenni State: Forced Relocation, Concentration Camps, and Slavery*, August 10, 1992, <http://khrhg.org/1992/08/920810/karenni-state-forced-relocation-concentration-camps-and-slavery>.

⁷ Karen Human Rights Group, *SLORC’s Attack on Halockhani Refugee Camp*, August 30, 1994, <http://khrhg.org/1994/08/949408/slorcs-attack-halockhani-refugee-camp>.

⁸ Burma Link, *History of Conflict and the Border*, May 1, 2015, <https://www.burmalink.org/background/thailand-burma-border/history-of-conflict-and-the-border/>.

⁹ Shan Human Rights Foundation and Shan Women’s Action Network, *License to Rape: The Burmese Military Regime’s Use of Sexual Violence in the Ongoing War in Shan State*, May 2012.

7. Build a “modern, developed democratic nation” in accordance with the new constitution.¹⁰

It is unclear why Khin Nyunt and the SPDC decided to make this announcement. While Khin Nyunt was arrested and removed from office in October 2004, over the next eight years, the SPDC undertook measures that appear to fulfill the seven step roadmap he laid out in August 2003.

The SPDC reconstituted the National Convention in May 2004 (step 1), but its proceedings soon gave rise to controversies as major differences over the provisions of the proposed constitution arose. Several of the EAOs withdrew their support of the National Convention. Aung San Suu Kyi and the National League for Democracy (NLD) decided not to participate. The SPDC arrested Aung San Suu Kyi and others who expressed opposition to the National Convention. The United Nations and several countries initially expressed support for the effort to write a new constitution, but later became critical of its proceedings. The National Convention concluded its work in July 2007 (step 3), and the outcome largely reflected the preferences of the SPDC.

In May 2008, the SPDC held a national referendum to adopt the proposed new constitution (step 4). Despite much of central Burma being flooded by Cyclone Nargis just days before the referendum was to be held, according to the official results, 98% of those eligible voted, and more than 94% voted in favor of the new constitution.¹¹ On February 9, 2008, when the SPDC announced the national referendum would be held in May 2008, it also stated that parliamentary elections would be held in 2010, implicitly assuming that the constitution would be approved. The U.S. State Department issued a statement on February 11, 2008, that called the proposed constitutional referendum “evidence of its [the SPDC's] refusal to pursue a meaningful and time-bound dialogue with Burma's democratic and ethnic minority representatives.”¹²

In November 2010, the SPDC held parliamentary elections in accordance with the 2008 constitution (step 5). The NLD and most of the opposition political parties boycotted the elections. As a result, the military's political party, the Union Solidarity and Development Party (USDP), won a majority of the seats in each chamber of Burma's new Union Parliament.¹³ President Obama characterized Burma's 2010 parliamentary elections as “neither free nor fair,” and stated the elections “failed to meet any of the internationally accepted standards associated with legitimate elections.”¹⁴

The newly-elected Union Parliament met for the first time on January 31, 2011, fulfilling the 6th step of Khin Nyunt's roadmap to a “disciplined, flourishing democracy.” It chose the SPDC's Prime Minister, General Thein Sein as President, and former General and SPDC Secretary Tin Aung Myint Oo and Dr. Sai Mauk Kham to serve as the nation's two Vice Presidents.¹⁵ It is uncertain if the formation of the new Union Government constituted completion of the 7th step of the roadmap.

¹⁰ This version of the seven steps varies from the official text published in the SPDC's newspaper, *the New Light of Myanmar*, on August 11, 2004. It attempts to reflect the intent of each step in the progression towards the formation of a “disciplined, flourishing democracy” as envisioned by General Khin Nyunt and the SPDC.

¹¹ For more about Cyclone Nargis and the national constitutional referendum, see CRS Report RL34481, *Cyclone Nargis and Burma's Constitutional Referendum*, by Michael F. Martin and Rhoda Margesson.

¹² “Burmese Regime Announces Sham Referendum,” Press statement by Sean McCormack, U.S. Department of State, February 11, 2008.

¹³ For more about the 2010 parliamentary elections, see CRS Report R41971, *U.S. Policy Towards Burma: Issues for the 112th Congress*, by Michael F. Martin and Derek E. Mix.

¹⁴ Office of the Press Secretary, “Statement by President Obama on Burma's November 7 Elections,” press release, November 7, 2010.

¹⁵ The 2008 constitution provides for one President and two Vice Presidents. Each chamber of the Union Parliament select one candidate for the three offices, and the joint military members of each chamber select a third candidate. A joint session of both

The Division of Power under the 2008 Constitution

The 2008 constitution is a 213-page document that establishes the Republic of the Union of Myanmar as a perpetual union of seven states and seven regions¹⁸ under “a genuine, disciplined multi-party democratic system.” Although “the Sovereign power of the Union is derived from the citizens,” the constitution also stipulates that one of its objectives is “enabling the Defence Services to be able to participate in the national political leadership role of the State.” Various provisions of the 2008 constitution grant the Commander-in-Chief and active military officers significant control over the government. According to some assessments, the Commander-in-Chief has more authority than the President of Burma.

The 2008 constitution creates three equal branches of the State—the legislative, executive, and judicial branches—under a parliamentary system. The legislative branch is empowered to consider and approve legislation. It is headed by the Union Parliament (*Pyidaungsu Hluttaw*) with two chambers—the Union Assembly (*Pyithu Hluttaw*), with a maximum of 440 members selected by districts based on population, and the National Assembly (*Amyotha Hluttaw*), with a maximum of 224 members selected by the regions or states. Members of the *Pyidaungsu Hluttaw* serve terms of five years. Each chamber is to select a speaker from amongst its members. The constitution also creates Regional and State *Hluttaws*. In each of the *Hluttaws*, a quarter of the seats are active military officers appointed by the Commander-in-Chief of Burma's Defence Services.

Within the executive branch, the constitution also establishes the "National Defence and Security Council" (NDSC), consisting of the President; the two Vice Presidents; the Speakers of each chamber of the national parliament; the Commander-in-Chief and Deputy Commander-in-Chief of the Defence Services; and the Ministers of Border Affairs, Defence, Foreign Affairs, and Home Affairs. According to the constitution, the Ministers of Border Affairs, Defence, and Home Affairs must be active military personnel. As a result, a five of the NDSC members are active military officers, with a sixth selected by the military members of the Union Parliament.¹⁶ Chapter XI of the constitution gives the President the authority, after coordinating with the NDSC, to declare a state of emergency in all or part of Burma, and transfer all legislative, executive, and judicial authority to the Commander-in-Chief of Defence Services.

Chapter XII of the constitution stipulates that any proposed amendment to the constitution must obtain “the prior approval of more than seventy-five percent of all the representatives of the Pyidaungsu Hluttaw [Union Parliament].” Given that 25% of the members are appointed by the Commander-in-Chief, this provision effectively gives the Burmese military and the Commander-in-Chief veto power over any constitutional amendments, if the none of the military member vote in favor of the amendment.

The Ministers of Border Affairs, Defense, and Home Affairs are appointed in a three step process. The Commander-in-Chief gives the President a list of Defence Service personnel as nominees for each Ministry. The President then selects a candidate among the list of nominees for each Ministry, and then submits it to the Union Parliament for its approval. In practice, the Commander-in-Chief has submitted only one person for each ministry.

Article 20 of the constitution has several provisions regarding the Defense Services, including:

- The Defence Services has the right to independently administer and adjudicate all affairs of the armed forces; and
- The Commander-in-Chief of the Defence Services is the Supreme Commander of all armed forces.

chambers of the Union Parliament then selects one of the three candidates to serve as President; the other two then become Vice President.

¹⁶ The active military officers are the Commander-in-Chief, Deputy Commander-in-Chief, Minister of Border Affairs, Minister of Defense, Minister of Home Affairs.

Article 342 grants the President the power to appoint the Commander-in-Chief, but requires “the proposal and approval of the National Defence and Security Council.”

According to Article 338, “All the armed forces in the Union shall be under the command of the Defence Services.” Burma’s “armed forces” include the Tatmadaw, the Border Guard Force, and the Myanmar Police Force. The Border Guard Force report to the Ministry of Border Affairs and the Myanmar Police Force report to the Ministry of Home Affairs, both of which are headed by military officers, who report to both the President (as members of his Cabinet) and the Commander-in-Chief (as active military personnel).

In addition, the General Administration Department (GAD), which oversees the civil service, and appoints the staff to all the regional and state governments in Burma, is part of the Ministry of Home Affairs, and therefore under the direction of a military officer. According to some observers, the Tatmadaw uses its authority over the GAD to deny or undermine policies and directives of Aung San Suu Kyi and the civilian side of the Union Government that the Tatmadaw see as antithetical to its interests.

Implications for Peace

Aung San Suu Kyi has made ending Burma’s civil war a high priority for her government. She has chosen to adopt the “peace process” initiated by former President Thein Sein, which seeks to conclude a comprehensive nationwide ceasefire agreement to be followed by the negotiation of a mutually acceptable federated state for the governance of Burma. The main vehicle to advance her “peace process” are periodic 21st Century Panglong Peace Conferences; the third of which was held in Naypyidaw on July 11-15, 2018.

By most accounts, Aung San Suu Kyi’s “peace process” is stalled. The main parties—Aung San Suu Kyi’s civilian government, the Tatmadaw, and the EAOs—cannot agree on agendas for the conferences, or on the proper sequencing of the steps to peace.¹⁷ The escalation of fighting in Kachin and Shan State has led several of the EAOs to doubt the Tatmadaw’s commitment to negotiating and abiding by ceasefire agreements. The Tatmadaw’s “clearance operation” in Rakhine State has raised fears among some EAOs that Min Aung Hlaing may be seeking a military solution to the civil war that could involve the “ethnic cleansing” of other ethnic minorities. Some EAO leaders are considering a return to a struggle for independence from Burma.¹⁸

The emergence of the Arakan Rohingya Salvation Army, or ARSA, is also complicating the prospects for peace. Aung San Suu Kyi and Min Aung Hlaing have characterized ARSA as an external “terrorist organization,” and therefore should not be included in the peace process. They also do not recognize the Rohingya as one of Burma’s ethnic groups, and as a result, deny the Rohingya citizenship. Some of the EAOs, however, have indicated a willingness to accept ARSA as a legitimate party to the peace negotiations if ARSA can demonstrate that its goals and objectives are similar to the other EAOs.¹⁹

The allegations of human rights abuses by Burma’s security forces, the EAOs, ARSA, and others further complicate efforts to negotiate an end to the nation’s civil war. Survivors of the abuse not only seek some form of justice and possible reparations, but also have expressed an unwillingness to return or remain under the authority of the existing Burmese security forces unless some form of accountability is

¹⁷ For more about the stalled peace process, see CRS In Focus IF10808, *Burma’s Peace Process: Narrowing Opportunities in 2018*, by Michael F. Martin.

¹⁸ CRS interviews with EAO leaders, September 2017 and June 2018. Under the 1947 Constitution, the States had a right to secede from the Union of Burma after 10 years. Some of the first EAOs, such as the Kachin Independence Organization and the Karen National Union, initially supported the formation of independent countries, but subsequently agreed to remain part of Burma if an acceptable federal state could be negotiated.

¹⁹ CRS interviews with EAO leaders, September 2017.

undertaken. Also, some of the EAOs are calling for “security sector reform” (SSR) before they will sign a ceasefire agreement. The Tatmadaw has so far rejected SSR, and is insisting that the EAOs agree to “DDR”—disarmament, demobilization, and reintegration—as a precondition to signing the nationwide ceasefire agreement.

A final complicating factor in the peace negotiations is the status of the 2008 constitution. Both the civilian and military sides of the Union Government advocate the negotiation of amendments to the 2008 constitution as a means of forming a mutually acceptable federated state. Some of the EAOs, however, see the 2008 constitution as illegitimate and hopelessly flawed. They have called for the creation of a body to draft a new constitution, and have indicated they will not sign to a nationwide ceasefire without an agreement on the establishment of some form of constitutional convention.

Future of U.S. Policy

In practice, U.S. policy in Burma during the Trump Administration has, in general, been a continuation of the policy during the latter part of the Obama Administration. An underlying premise of that policy is that Burma is a nation undergoing a difficult transition to democracy and that U.S. support for the Union Government headed by Aung San Suu Kyi will help foster that transition. As such, the events in Rakhine State, as well as the escalation in fighting in Kachin and Shan States, are regarded as secondary issues that are potential impediments to Burma’s democratic transition, and U.S. actions in response to the situation in Rakhine State need to be balanced against the implications for Aung San Suu Kyi, the Union Government, and Burma’s democratic transition.

This continuity of policy may be the outcome of a lack of a conscientious review of policy in light of recent events or a lack of policy guidance from higher levels of the Trump Administration. Instability within the White House foreign policy staff and the failure to nominate senior political appointees in the State Department has created uncertainty about who is guiding U.S. policy in Burma. In addition, those Administration officials who have spoken about recent events in Burma often convey a mixed message on what actions are to be taken.

To date, the Trump Administration has taken some measures in response to the alleged human rights abuses in Rakhine State, and elsewhere in Burma, including:

- **Placing Maung Maung Soe on the Global Magnitsky list** – Former Major General Maung Maung Soe was the commander officer for Burma’s Western Command, which oversaw the “clearance operations” in Rakhine State. He was placed on the Global Magnitsky list on December 21, 2017 for being responsible for human rights abuses consistent with those required by the Global Magnitsky Act. He was relieved of his command in November 2017, and in June 2018, he was dismissed from the Tatmadaw for his “weakness” in response to the ARSA attacks of August 25, 2017. The State Department reportedly has identified 8 to 10 additional Burmese military officers to be placed on the Global Magnitsky list, but their inclusion is supposedly opposed by the Department of the Treasury.
- **Suspending the provision of visa waivers for Burma’s military leaders** – Section 5(a)(1) of the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (JADE Act; P.L. 110-286) prohibits the issuance of entry visas to Burma’s military leaders unless the President determines it is in the national interest of the United States to do so. According to the State Department, the issuance of such visa waivers has been suspended. However, in recent months, such waivers have been provided to former military leaders and immediate family members of current military leaders. In each case, the waiver indicated that the State Department had found no evidence that the military leader was responsible for “the repression of peaceful political activity or gross violations of human rights in Burma or in the commission of other human rights abuses.”

- **Suspending the invitation of Burmese military officers to attend training programs at the Department of Defense’s Daniel K. Inouye Asia-Pacific Center for Security Studies (APCSS)** – Burmese military officers have attended APCSS training programs for several years. According to the State Department, invitations to attend programs in Hawaii have been suspended. However, Burmese officers did attend an Advance Security Cooperation Course (ASC) held in Hawaii in March to May 2018 and a Maritime Awareness Workshop held in Bangkok in May 2018.
- **Downgrading Burmese military involvement in regional military exercises** – According to the DoD, Burma’s military participation in Cobra Gold 2018 and Pacific Partnership 2018 were “downgraded” as part of its modified engagement strategy.

The 115th Congress has considered a different approach to U.S. policy in light of the events in Kachin, Karen, Rakhine, and Shan States. The House of Representatives passed H.Amdt. 651 on May 23, 2018, by a vote of 382-30. The amendment to the National Defense Authorization Act (H.R. 5515) would have imposed financial and visa sanctions on Burmese security forces deemed responsible for human rights abuses in Burma, and would have restricted U.S. military and security assistance to Burma until certain security sector reforms were implemented. The House Committee on Foreign Affairs approved the BURMA Act of 2018²⁰ (H.R. 5819) on May 15, 2018. The Act would place restrictions on U.S. military and security assistance to Burma, and impose sanctions on senior Burmese security officers responsible for human rights violations. The Senate Committee on Foreign Relations approved the Burma Human Rights and Freedom Act of 2018 (S. 2060) on February 12, 2018. The Act would provide additional humanitarian assistance to Bangladesh and Burma “for the victims of the Burmese military’s ethnic cleansing campaign targeting Rohingya in Rakhine State,” prohibit military and security assistance to Burma until certain conditions are met, reinstate the ban on the import of jadeite from Burma, and impose sanctions on Burmese security officials responsible for human rights violations anywhere in Burma. To date, there has been no floor action on either H.R. 5819 or S. 2060.

²⁰ The full name is the “Burma Unified through Rigorous Military Accountability Act of 2018.”