

**Testimony of Judith Cefkin  
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**Before the**

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**Oversight of U.S. Policy toward Burma**

**Introduction**

Chairman Chabot, Ranking Member Faleomavaega, and distinguished Members of the Subcommittee, thank you for the opportunity to testify today about U.S. policy toward Burma and the important transition that is underway in that country. Members of Congress, and particularly those on this Committee, have been powerful proponents of human rights and democracy in Burma over the past two decades. I know that we share the goal of supporting reforms that complete Burma's transition to become a democratic, peaceful, prosperous member of the world community. We tackle this test cheered by the advances that have been made, yet cognizant of the substantial challenges that remain. Thank you for your past and future partnership in supporting Burma's reform process.

When then-Assistant Secretary Campbell testified before this Subcommittee on Burma in April 2012, the historic bi-election had just brought Aung San Suu Kyi and 42 other members of the opposition National League for Democracy (NLD) into government. But the NLD members had not yet taken their seats in parliament. Today, they are active leaders in the government. Since 2011, the Government of Burma has released over 1,100 political prisoners. It has substantially eased media censorship. Burma has signed the International Atomic Energy Agency Additional Protocol, which we expect will enter into force for Burma soon. Burma has also taken steps to fulfill its obligation to implement the UN Security Council resolutions concerning the Democratic People's Republic of Korea. Burma has reformed its policies and laws to attract foreign investment. The intensified focus by the government and ethnic armed groups on a process to achieve peace and national reconciliation has been a particularly significant

development. In early November, as I was visiting Burma, ethnic armed leaders held a historic gathering that achieved a common platform for a nationwide ceasefire and political dialogue. In an initial round of negotiations with the government that followed on November 4-5, the parties forged consensus on a general path forward and a commitment to continue negotiations.

Nearly four years after we started down the path of principled engagement, the culture of reform in Burma is increasingly self-driven and self-perpetuating. In this context, we are working to bolster the efforts of those sincere about reform. Yet, Burma's transition remains fragile. The people's cautious hope is still matched by their fear and insecurity. The lifting of the authoritarian regime's heavy hand has exposed long-standing challenges, including a struggle to define a common national identity. Communal conflict and anti-Muslim discrimination has been unleashed in Rakhine State and now across the country. Burma's institutions are just beginning to take on the roles required of a democracy. Rule of law, including efforts to promote justice and accountability, continues to be inadequate and the military remains closely tied to politics and the economy. Burma's constitution and legal infrastructure is not yet fully consistent with those of a modern democratic state, including respect for the rights of minorities, civilian control of the military, and the right of citizens to freely elect the leaders of their choice. Power and the benefits of Burma's vast natural resources remain concentrated in the hands of a few. The country is working to improve its service delivery, but it remains far behind other countries in the region.

These challenges will be neither quickly nor easily remedied. Nevertheless, our surest road to helping Burma comes through a strategy of engagement that seeks to assist the country proactively in its transition to democracy and development. This is a unique opportunity in modern Burmese history. The potential for change is growing by the day, and the people of the country are calling for enhanced U.S. engagement in virtually all sectors of the country. We must also work tirelessly alongside the Burmese people to ensure that reforms generated by the Thein Sein administration become irreversible, entrenched in the institutions of the state, civil society, and the expectations of the Burmese people. Their expectations will guide our engagement during this delicate transition period. Our mission in Rangoon is in close and regular contact with Burmese leaders and people throughout the country, including in states that were inaccessible to us until recently.

The pillars of our policy include: promoting national peace and reconciliation; supporting the development of democratic systems and institutions

governed by rule of law and protecting human rights; helping Burma realize its transition to a transparent, free-market economy that generates growth for all regions and segments of society; strengthening livelihoods and local governance; and improving Burma's ability to become a contributor to regional and global security. Our continued engagement to effect positive change in Burma is grounded in our strategic interest in a successful, politically, and economically progressive Asia-Pacific region and the fundamental values that are at the core of who we are as a nation.

## **Peace and Reconciliation**

The quest for nation-wide peace and reconciliation is the defining challenge of Burma's transformation. Burma is one of Asia's most ethnically diverse countries, with 135 recognized ethnic nationalities and a history of ethnic conflict that pre-dates colonialism. Unless the people of Burma can achieve peace and national unity, based on equal rights and respect for diversity, no other reforms will be sustainable.

The challenge is enormous, but we believe the current time offers the best opportunity since Burma's independence to make genuine headway. Both the Burmese government and armed ethnic groups have demonstrated a renewed commitment to negotiating a nationwide ceasefire and the launching of a formal peace process. Trust remains fragile. The results of existing ceasefires have been mixed. In some states, ceasefires have resulted in a decreased government troop presence and a tangible reduction in human rights abuses. In others, ethnic groups report an increase in government troop levels and continued clashes. The Unlawful Association Act (17.1) outlaws contact with ethnic armed groups and exile groups, complicating political party and civil society efforts to collaborate with these entities due to fear of arrest. Ethnic groups seek a louder voice and improved governance to bring an end to land confiscation, forced labor, environmental destruction, and severe human rights abuses perpetrated on local populations. At the beginning of November, representatives from 16 armed ethnic groups convened in Kachin State – the broadest gathering of ethnic leaders in Burma's history. They reached consensus on a framework for a nation-wide ceasefire and political dialogue. A few days later they met with the Burmese government for an initial round of negotiations. Although they did not conclude a formal cease-fire agreement, they forged consensus on a general path forward and agreed to continue talks.

The United States is supporting the peace process through regular contact with all parties. Our Embassy, under the strong leadership of Ambassador Derek Mitchell, has traveled to every ethnic state multiple times, listening, consulting, and showing that we are interested in their futures and are invested in an inclusive, transparent peace process. We have advocated for broader and deeper inclusion in the peace process, particularly of civil society and women. We have contributed humanitarian assistance and continually pressed all parties to allow full access to all vulnerable populations. We are supporting local efforts to improve public information, incorporating messages of peace and participation in on-going civil society outreach, and training journalists on peace and conflict reporting. We are supporting efforts to rebuild trust within communities, for example, empowering former combatants, survivors, and communities in landmine-affected areas to work together through landmine risk education and assistance to victims. We will continue to urge full implementation of agreements between the government and non-state armed groups, including for all parties to respect the human rights of the civilian population.

While the initiation of a path toward national unity between the government and the ethnic groups is encouraging, a systematic lack of protection for minorities across the country remains. Communal violence is an historic problem in Burma with waves of anti-Muslim/anti-Indian violence occurring at least seven times between 1930 and 2001. In March, at least 44 people were killed in Meiktila, Mandalay Division and more than 6,800 people remain displaced. We continue to make clear to the Thein Sein government that it has a responsibility to uphold international human rights commitments to protect the people, including preventing violence and then responding quickly, responsibly, and effectively when violence breaks out. While the police have responded more quickly in recent cases of violence, developing the culture and capabilities needed to protect the people will be a long-term challenge. We continue to urge the government to improve security for all vulnerable populations, ensure unimpeded humanitarian access to conflict areas, and provide for the safe and voluntary return of displaced persons. Our Mission in Rangoon is also promoting messages of tolerance and diversity through public outreach including exchanges, speakers, and a year-long civil rights program.

One group in particular, the stateless Rohingya population in Burma's western Rakhine State, has been the object of violence, discrimination, and humanitarian crises in Burma and has little recourse for protection. There is a long history of communal conflict between the Rohingya and ethnic Rakhine, but also a long history of coexistence. Rakhine State is the second poorest state in the

country, and along with other factors, this has generated a sense of insecurity for both communities, but poverty does not excuse violence.

After tensions spiraled into violence in June and October 2012, a government-appointed investigation commission completed a report (released in April 2013) on the roots of conflict and suggestions to improve the situation. The national government has worked to address some of those recommendations, but more needs to be done. The violence killed nearly 200 people, and approximately 140,000 people, mainly Muslims, remain displaced. Access to livelihoods and basic services remains limited due to continued high tensions between communities, restrictions on movement for Rohingya, and segregation of the populations. These conditions have led Rohingya to flee Burma. Since June 2012, up to 60,000 Rohingya fled Rakhine State by boat, the largest number in over 20 years.

The U.S. government coordinates closely with the international community to send unified messages to the Government of Burma on Rakhine State. Most recently, Ambassador Mitchell, joined by two Burmese ministers, led a diplomatic mission to Rakhine State to assess the situation. In accordance with their findings, we will continue to advocate for an end to violence, protection of the population, government implementation of a path to citizenship for the Rohingya, and access to services and equitable returns as well as economic development throughout Rakhine State. We will also continue to support community- and government-led efforts to promote dialogue and reintegration.

Continuing our two-decade-long commitment to humanitarian assistance, in FY 2013, the State Department and USAID provided over \$51.6 million for displaced persons in Burma and the region through the UN and international non-governmental partners. The signing of a bilateral assistance agreement between the Government of Burma and USAID in June 2013 provides the framework for ramping up programs that promote inclusive economic growth, including through support for agricultural sector reform. My colleague Greg Beck of USAID will talk in more detail about our assistance priorities.

## **Political Reform**

The transition to democracy remains a centerpiece of Burma's reforms. The United States has demonstrated a long-standing commitment to this goal and its components, and this focus remains central to our current policy approach. We are committed to working with the government, Aung San Suu Kyi and the political

opposition, and with civil society to fully implement the commitments announced before President Obama's visit just over a year ago. In particular, we are watching closely the commitment to release all political prisoners by the end of this year. The government-established political prisoner review committee, which includes former political prisoners, continues its work. An estimated 1,100 political prisoners have been released since the reforms began. We are committed to assisting the reintegration of these heroic individuals back into society and ensuring that they are released without condition.

Troubling, though, is the fact that the government has continued to arrest and convict over 200 activists under the 2011 Peaceful Assembly and Processions Act. We are encouraged that Burma's parliament appears serious in working to reform such deficient laws, including the 2011 Peaceful Assembly and Processions Act, and that it has recently shown a willingness to accept public input. For example, the parliament's draft of a new Association Law that governs the status of NGOs threatened to reverse the newfound freedoms of civil society. But, with support from the U.S. Embassy – including a USAID-sponsored workshop on legislative compliance and international standards for rights of association – parliament heeded civil society's call for a consultative process. It is poised to consider a new draft that includes civil society input. We are also supporting the Ministry of Information as it drafts several media laws to ensure the protection of freedom of expression in this new era of media freedom and a proliferation of media outlets.

International humanitarian access to key locations is slowly improving. The International Committee of the Red Cross is conducting regular prison visits. The government has lifted restrictions on access to many conflict areas. Working with the International Labor Organization, the Government of Burma committed to end forced labor by 2015, and the United States' engagement on combating all forms of trafficking in Burma has increased as a result of a joint plan which began in 2012. The government has entered into an action plan with the UN to end the recruitment and the use of child soldiers. The government also remains committed to becoming eligible to join the Open Government Partnership by the end of 2016 and advancing the principles of transparency, civic engagement, anti-corruption, and using technology and innovation to make government more open, effective, and accountable.

A key commitment that remains unsatisfied is Burma's commitment to establish a UN Office of the High Commissioner for Human Rights with a full mandate. Such an office could support government and civil society actors as they

work to advance Burma's reform agenda. We continue to raise these priorities to the highest levels of the government, including through our annual U.S.-Burma Human Rights Dialogue. We welcome parliament's process to consider the changes needed for Burma's constitution to be consistent with international norms of a modern democratic state. In our conversations with Burmese authorities and other stakeholders, we continue to stress the importance of creating a legal infrastructure consistent with the international norms, including respect for the rights of minorities, civilian control of the military, and the right of citizens to freely elect the leaders of their choice. It will be important for constitutional reform to occur in time to ensure that the people of Burma are able to freely choose their leadership in the 2015 election.

### **Security Sector Reform**

Strengthening the rule of law and promoting security sector reform are essential elements of the reform effort. Voices from across Burmese society – including civil society, ethnic minority representatives, and members of the government and political opposition – are urging us to engage with the Burmese military and civilian police force to teach new models of conduct that help make the security services a stakeholder in the success of democratic reform. We have seen the need for police and justice reform clearly from the inadequate response to the violence that has plagued the country. We plan to support the Government of Burma's efforts to improve security through law enforcement capacity-building activities that address the needs of the criminal justice sector and the country's struggle with opium poppy cultivation and narcotics trafficking. USAID is working to support Burma's overall rule of law capacity, and the State Department will continue to advance counternarcotics programming and explore capacity-building activities for law enforcement in Burma.

A military under civilian control that protects the people, promotes human rights, and respects international law is a pillar of democracy and essential to the success of reforms. Our voice must be heard on this critical issue. Even while former military officers are leading Burma's reforms, we continue to see military and security sector abuses, particularly in ethnic areas. There are those within the military who have a vested interest in a system characterized by military dominance of Burma's economy and politics. We believe that carefully calibrated military-to-military engagement to share lessons on how militaries operate in a democratic framework will strengthen the hand of reformers. We believe that articulating a vision and identifying a pathway for the military to uphold Burma's

international obligations and commitments is one of the best tools for shaping Burma's most powerful institution during this critical window.

The participation of Burmese military officers in the October 2012 bilateral Human Rights Dialogue helped us launch this discussion on military respect for human rights and international norms. As a further step, the Defense Department's Defense Institute for International Legal Studies has begun limited exchanges to convey principles of human rights, rule of law, and civilian control of the military to the Burmese military. But, to be more effective in identifying and influencing those in the military most committed to reforms, we would like to use tools such as an Expanded IMET (E-IMET) program for Burma – which would involve a narrow subset of training with IMET funding limited to areas such as international human rights law, international humanitarian law, and rule of law training we seek to undertake. My colleague Vikram Singh will elaborate on the potential use of this tool and on our priorities with regard to Burma's military. And, we look forward to discussing this issue in greater detail in focused discussions with Congress in the next few weeks. Meanwhile, we maintain sanctions on areas of the military that concern us, particularly its outsized role in the economy – U.S. companies remain prohibited from investing in military-owned companies and from making payments in connection with the provision of security services to state or non-state armed groups, including the Burmese military.

## **Economic Reform**

Another pillar of our engagement is supporting Burma's transition to a transparent, open-market economy that promotes sustainable growth benefiting all segments of society. Unless Burma's communities see tangible improvements, the reform effort will be difficult to sustain. The Government of Burma has addressed some of the core structural challenges to the economy, namely by unifying the country's multiple exchange rates and passing a new Foreign Investment Law. The government has also moved to reduce trade restrictions, reform tax policy, and strengthen tax administration. In July 2013, it enacted a law which provides for the Central Bank's autonomy. Burma's macroeconomic outlook is largely positive. Growth rose from 5 percent to an estimated 6.5 percent in 2012/13 and is projected to increase again next year. Inflation rose to 4.7 percent in early 2013, but is expected to remain contained at 6.5 percent or less.

We are working to build the government's capacity to manage its economy in accordance with international best practices. A notable example is the partnership we launched with Burma to improve management of its rich energy



and natural resources. This will help the Burmese people reap the benefits of these resources and help Burma fulfill its commitment to become compliant with the Extractive Industry Transparency Initiative.

The U.S. private sector also has an important role to play in contributing to positive economic change in Burma. In recognition of this, we are encouraging responsible U.S. investment. We believe strongly that American companies set the standard for environmental, social, and labor best practices, as well as good corporate citizenship projects that give back to the communities in which they operate. We wish to see them building local capacity, creating jobs, and contributing to the country's economic development. And that investment is beginning. An American Chamber of Commerce chapter opened at the end of October.

To further reinforce the need for careful due diligence, when the ban on new investment was eased, we instituted a new requirement for U.S. persons with aggregate new investment over \$500,000 to report on human rights, labor rights, anti-corruption, local community consultation, and environmental stewardship. The U.S. companies I have spoken to have expressed a strong desire to invest conscientiously because it is the responsible thing to do. Military-owned companies remain off limits for new U.S. investment, and U.S. persons are not authorized to make payments to the military or other armed groups for security services. In addition, U.S. persons generally remain prohibited from dealing with blocked persons, including those on the Specially Designated Nationals (SDN) list administered by the Treasury Department's Office of Foreign Assets Control (OFAC). The SDN list is not static – potential listings under our Burma authorities will be pursued as appropriate to meet changing conditions in Burma, including to sanction individuals or entities that interfere with the democratic transition, abuse human rights, or perpetuate military trade with North Korea. Conversely, those on the SDN list may seek to be delisted by submitting to OFAC evidence that the circumstances resulting in the designation no longer apply. And although the broad ban on imports of products of Burma into the United States is no longer in effect, we still prohibit the import of Burmese jadeite and rubies – industries that are particularly problematic.

U.S.-Burma bilateral economic ties have grown significantly since the start of reforms in Burma. U.S. exports to Burma grew from \$25 million in the first nine months of 2011 to \$118 million for the same period in 2013, while U.S. imports from Burma have jumped from zero to \$17 million in the past year. In May 2013, the United States and Burma signed a Trade and Investment

Framework Agreement to promote dialogue and cooperation on trade and investment issues. A key goal of our trade and investment promotion activities is to contribute to job creation and improved livelihoods for the people of Burma.

## **Regional and Global Partnership**

Burma lies at a crucial crossroads between East and South Asia. Its reforms open an important opportunity for trade and links between India, Bangladesh, Burma, China, and the rapidly expanding economies of ASEAN. It is also a partner in important multilateral fora, and for the coming year is donning the leadership mantle of ASEAN Chair. This highlights the importance of helping Burma become a responsible member of the world community. In his speech in Washington DC last May, President Thein Sein acknowledged that a goal of the reform process is to end the country's isolation and make contributions to regional and global security and development. We seek to promote Burma's reengagement with international partners, and its understanding that acceptance in the global community comes with responsibilities. A key focus will continue to be non-proliferation. We are pleased that, as the government committed to do before President Obama's visit in November, it has signed the International Atomic Energy Agency Additional Protocol; we look forward to its early entry into force and implementation, and encourage Burma to also modify its Small Quantities Protocol. These steps will open a new chapter of Burmese cooperation with the IAEA and commitment to the global nonproliferation regime. We welcome Burma's indication that it will adhere to UN Security Council resolutions prohibiting military trade with North Korea and urge Burma's continued vigilance in their full implementation. The ASEAN Chairmanship is perhaps the most remarkable change in this area. We have provided capacity-building support to help the Burmese government manage the responsibility of hosting the multitude of ASEAN, ASEAN Regional Forum, and East Asia Summit meetings they are charged with organizing and to achieve concrete outcomes that further our regional goals.

## **Conclusion**

The United States remains committed to reinforcing Burma's progress on reform. We remain hopeful, but clear-eyed about the challenges. Burma's road to reform will be a long process. We should anticipate that along with steps forward there will inevitably be setbacks. To prevail and keep our focus on the long-term goals we must have a strategic approach that is steady and carefully considered, but flexible in implementation and keeps pace with conditions on the ground. We

must strengthen our relationships with all sectors in Burma while promoting our common interests and values for a peaceful, prosperous, democratic, and reconciled country. We owe it to the Burmese people, and to ourselves given our long-standing commitment to the country, to continue to support them as a remarkable moment of opportunity dawns.

I would like to acknowledge the tireless efforts of many in Congress who have remained committed to democratic reform, human rights, and the welfare of the Burmese people even when the prospects looked bleak. I encourage you to travel to Burma to see the reforms for yourselves, as I have done, and I look forward to working together to help the Burmese people inherit the future they deserve. I look forward to continued consultation and cooperation with you on these important issues.

I would like to acknowledge the tireless efforts of this Committee and Members of Congress to advance democratic reform, human rights, and the welfare of the Burmese people even when the prospects looked bleak. I look forward to continued consultation and cooperation with you on these important issues.

Thank you again, Mr. Chairman, for inviting me to testify today on our policy toward Burma. I am happy to answer any questions you may have.