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Committee on Foreign Affairs
Subcommittee on Asia and the Pacific

Hearing: “Burma’s Challenge: Democracy, Human Rights, Peace, and the Plight of the Rohingya”
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Mr. Chairman, Ranking Member, and Members of the Subcommittee,

I would like to thank you for the opportunity to speak today about the challenges to democracy, human rights, and peace in Burma. There is a lot of hype and grand expectations swirling around Burma right now. Unfortunately, reality does not live up to this hype. A week ago today, the Government of Burma touted the historic signing of a document referred to as a nationwide ceasefire agreement. It is not a nationwide ceasefire agreement. After a multi-year negotiation process, the Government of Burma refused to allow three ethnic armed organizations (the Ta’ang National Liberation Army (TNLA), Arakan Army (AA), and the Myanmar National Democratic Alliance Army (MNDAA)) to sign the nationwide ceasefire agreement. Many of the other ethnic armed organizations were clear they would not sign a non-inclusive ceasefire agreement. The Government persuaded five ethnic armed organizations and the student armed organization to break from their allies and sign a limited group ceasefire with the government and two of its proxy militias. Several of the largest of the ethnic armed organizations, including the Kachin Independence Organization/Army, did not sign the non-inclusive ceasefire agreement. While diplomats and media converged on Naypyidaw to witness the signing of this agreement, the Burmese military launched an offensive against one of the non-signatories, the Shan State Army – North, displacing more than 3,000 Shan villagers.

The Burmese government’s intention with the ceasefire negotiation process was not to end the decades’ long civil war and forge peace through dialogue; it was to secure the end of international sanctions, particularly those targeting the Burmese military, including arms embargoes. Instead of attempting to achieve both, a genuine peace and an end to sanctions, the Burmese government used the same tactics it always has, divide and conquer. Weaken the ethnic alliance and use military attacks to force acquiescence of those who do not want to abandon their smaller ethnic allies. The timing of the signing of a nationwide ceasefire was more important than the number of participants. The Government of Burma pushed forcefully for a nationwide ceasefire to be signed prior to the November 8th nationwide parliamentary elections.

The upcoming election is part of the current government’s strategy to achieve legitimacy as a democratically elected government. The government has taken steps to limit its chances at failing to achieve its goal. The 2008 constitution guarantees 25% of the seats in the national and state level parliaments are reserved for members of the military. With only 75% of the seats being contested in the election, the Union Solidarity and Development Party (USDP), only needs to win 34% of the contested seats to form a government with the backing of the military. Whereas, Aung San Suu Kyi and her party, the National League for Democracy (NLD), and other democratic opposition parties need to win 67% of the contested seats to have a simple majority and the potential to form the next government. Contrary to speculation that the NLD could get to the ‘super-majority’ through forming a coalition with ethnic political parties, the likelihood of significant number of ethnic minority representatives continues to plummet with the cancelation of voting in hundreds of villages throughout ethnic minority areas, citing

security concerns. To date, the Union Election Commission has cancelled voting for more ethnic minorities than was cancelled in the 2010 election.

The Union Solidarity and Development Party government, made up primarily of former leaders of the despised military junta, is perverting religion to garner support from a majority Buddhist electorate. The already persecuted and oppressed Rohingya Muslim minority has been stripped of their voting rights, disenfranchising approximately one million people. Muslim candidates have been disqualified, including U Shwe Maung, a current USDP Member of Parliament from the 2010 election. Parliament passed four race and religion discrimination laws this year to portray the USDP as the protectors and defenders of Buddhism. The fomenting of religious discrimination and tension raises grave concerns about election related violence.

Despite the disenfranchisement of millions of ethnic minorities, exclusion of Muslims and disproportionate advantage for the ruling USDP party, ahead of the November 8th election, the international community has an outsized expectation for an acceptable election outcome and hope for an NLD victory. But regardless of the election outcome, there are significant obstacles to establishing a truly genuine democratic government in the country. The primary obstacle is the 2008 constitution. The military regime's 2008 constitution guarantees the military has veto power over any constitutional changes, states the civilian government does not have authority over the military, does not provide an independent judiciary, continues the legal authority of military junta era laws, guarantees military representation in parliament, and gives the military authority over almost all ethnic minority affairs.

The persecution and oppression of the Rohingya Muslim minority population continues to grow direr. Earlier this year, President Thein Sein invalidated the legal status of Rohingya identification cards, known as 'white cards' and ordered they be confiscated, leaving the Rohingya without legal documentation. Rohingya were further stripped of their voting rights. Already, confined to camps or their villages with little to no access to healthcare and livelihoods, further denial of legal status and no opportunity to participate in the political process to improve their dire situation, thousands of Rohingya took to the sea to escape their hopeless fate in Burma. Only after an outcry and pressure from the international community did Malaysia and Indonesia agree to temporarily accept the Rohingya refugees. As rainy season comes to an end in Southeast Asia, many fear thousands more Rohingya will flee Burma by sea, attempting to make the perilous journey to Malaysia or Indonesia. The United States must address both the root cause of the Rohingya's plight in Burma, as well as, continue to pressure the regional governments to rescue and accept the Rohingya refugees who become stranded at sea.

These deep, structural and systemic problems should be the focus of future US Burma relations. For too long, the Obama Administration has prioritized building and deepening a relationship with the Burmese government in the hopes of persuading through diplomacy, capacity building and investment. This approach has not worked. Nearly three years ago, President Thein Sein pledged eleven commitments on democracy, human rights, peace and humanitarian need to President Obama on his first trip to Burma. To date, only one of those commitments has been fulfilled, signing the Additional Protocol to the U.N.'s Comprehensive Safeguards Agreement. In addition to the unfulfilled commitments, the Burmese government has returned to its old tactics of imprisoning those who criticize their policies, including journalists, students, land rights activists and individuals harmlessly commenting on Facebook.

It would be a mistake to predicate the future of US Burma policy on the signing of a partial ceasefire agreement or a deeply flawed election. Congress should consider legislation that is forward looking to address the problems Burma will face regardless of who wins the election. Binding benchmarks for further lifting of remaining sanctions or conditions for potential future engagement have been sorely lacking from US Burma policy since investment and financial sanctions were suspended in 2012. Congress should create a legislative policy that clearly states U.S. expectations from the Government of

Burma on key human rights and democracy indicators as the basis for the future of U.S. Burma relations. These key indicators should include:

- (1) Dropping the charges against and releasing all political prisoners and expunge the criminal records of all former political prisoners;
- (2) Establishment of an U.N. High Commissioner for Human Rights Office in Burma;
- (3) Agree to include all ethnic armed organizations in a genuinely all-inclusive nationwide ceasefire;
- (4) Convene a nationwide political dialogue with ethnic armed organizations, political parties and civil society organizations (including women's organizations) to agree to a political solution to ethnic and religious minority rights and national reconciliation;
- (5) Restore citizenship for Rohingya and remove restrictions on their human rights;
- (6) Allow unfettered international humanitarian assistance into conflict areas and throughout Rakhine State;
- (7) Enact constitutional change to remove the military's veto power, bring the military under civilian control, end military representation in parliaments and ensure an independent judiciary.

The Burmese military remains the biggest obstacle to achieving these key democratic and human rights concerns. Whether the USDP or NLD wins the election on November 8th and forms the next Government of Burma, neither will be able to address these concerns and convince the Burmese military to change its ways without the international community, and particularly the United States, conditioning the future of bilateral and multilateral relations on these key democratic and human rights concerns. A genuine democratic Burma is in the best interests of our two countries. Let's ensure Burma achieves genuine democracy.