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Thank you Chairman Gardner, Ranking Member Cardin and other members of the subcommittee for the opportunity to testify before you today on the state of democracy in Southeast Asia. This is an important and timely hearing, and I am privileged to be able to share some thoughts on this subject today.

After working in support of democracy and human rights in Burma for much of the past twenty years, including as a young congressional staffer, it was profoundly affecting for me to be in Burma for the November 8, 2015 elections. I watched this historic event from one of the most remote, poorest parts of the country: Falam township, in Chin State, on the Burma-India-Bangladesh border. When the early unofficial results in Falam showed an NLD landslide, it seemed likely to me the NLD would do very well in the elections, including in at least some ethnic areas. But I will happily admit that I was as surprised as anyone else at the scope and depth of the victory. I knew the NLD should win a majority of the popular vote, but was concerned about the substantial structural barriers and institutional biases that the ruling party and military had set up to keep the NLD from achieving a governing majority of not less than 2/3rds of the elected seats in parliament. It is hard to overstate the NLD’s accomplishment in achieving a governing majority, and it is something for which the NLD, its leader Daw Aung San Suu Kyi, and the Burmese people themselves deserve tremendous credit.

While Daw Suu’s star power was the major factor in the NLD’s ability to pull off such an overwhelming victory, there were a few other things that jumped out at me over the course of the elections. The NLD was by far the most organized party in Falam, and apparently nationwide: their observers had tally sheets, their local office was taking in results from the field systematically and knew where things stood all day. In Falam, they were still getting out the vote when other parties had given up on that, and they knew their vote totals for Falam well before preliminary consolidation at the township office. I understand that the situation was much the same across Burma. By the time I arrived at the NLD’s Rangoon headquarters on the day after the elections, the party knew they had locked in a governing majority well before the official count made that clear. As someone who used to work on these things for a living, I was particularly impressed by their parallel vote count operation, very little of which had been telegraphed beforehand. It was top notch and its organizers deserve huge credit.

Second, I suspect that Burma’s schoolteachers may have been among the NLD’s most powerful secret weapons at the grassroots level. As government employees, they were forced to join the ruling Union Solidarity and Development Party (USDP) and its predecessor mass organization, the Union Solidarity and Development Association (USDA). Successive military-led governments forced them to work in an anti-intellectual climate that intentionally sought to keep the population ignorant. But it turned out that many of these teachers were secret (or maybe not

so secret) NLD supporters. Given their central role as Election Day workers, they likely helped to keep the vote clean and more credible than it otherwise might have been.

Further to this point, many outside observers underestimated how well integrated the NLD was into the local communities and how well they knew their electorate. In conversations with some of the more educated and "higher information" voters in this small ethnic mountain township, it was interesting to see how they viewed the regional parties and the NLD. The young Chin pastor of the largest church in town, whose family members are heavily involved in one of the ethnic parties told me he personally was voting NLD because he didn't think it made sense for the future of Chin State to have such regional parties but rather it would be better to support the NLD and help them to wrest control of the government for the greater good. While this level of analysis may not have been typical of the average voter in Falam, I often I heard this sentiment in various forms.

One of the biggest lingering questions about the elections is, given the many tools at its disposal, how and why the ruling USDP allowed itself to get beaten so soundly? My personal view is that the USDP believed they would do well enough without engaging in massive fraud to peel off the 80 or so seats they needed (in conjunction with the military's 25% block) to keep the NLD from forming a governing majority in parliament. Therefore, they calibrated their manipulation of the process in the expectation of nudging a much closer vote in their direction. However, in the face of such a massive NLD landslide, these manipulations were clearly insufficient. In fact, I believe that if the USDP had been aware of just how badly they were doing, we would have seen far more of the kind of manipulation that characterized USDP victories in heavily-militarized areas of Kachin and Shan states. As it is, the NLD and others have filed complaints about the large and suspicious tranches of out-of-constituency advance votes in Shan and Kachin states. I do not believe that the Union Election Commission can receive a passing grade without a credible investigation into the serious allegations of fraud around these votes.

The other dark cloud that hangs over this election is the legacy of disenfranchisement of Burma's Muslim population, both as candidates and voters, and the USDP's despicable effort to use anti-Muslim sentiment as a political weapon. As many have noted, this will be the first time in Burma's history that its parliament will not include Muslim members. I hope the NLD will take steps to address this problem going forward, and ensure that future elections are not likewise marred by such discriminatory practices. Further, I am hopeful – but not convinced – that those who believed this tactic would be effective have been persuaded from using it in the future. The sentiment that they hoped to tap into has not disappeared and it will be a generational project to build a more tolerant society in Burma, and the forces of intolerance such as MaBaTha, will regroup and adapt. Leadership that seeks to heal divisions rather than exploit them will be critical in stemming their influence going forward.

Beyond these issues, the NLD and Daw Suu will inherit a country that has been severely damaged by nearly six decades of brutal, incompetent and venal military rule. The problems she faces as leader are well known, including but not limited to: an entrenched military ruling class that is both philosophically and personally opposed to her leadership; long-running and brutal conflicts in Burma's ethnic periphery which have only partially been addressed by the so-called 'peace process' led by Thein Sein's government; massive social, educational, economic and

health deficits wrought by misgovernment and misallocation of resources; a low-trust society riven with cleavages that were only partially masked by the elections; an economy that is just starting to heal itself from decades of plunder and bizarre policies; and a growing drugs problem that has mutated as it has spread from Burma's borderlands. The NLD must attempt to manage these problems while the military and its allies who perpetrated them retain substantial means to thwart improved governance: a veto on change to Burma's deeply undemocratic constitutional framework; more than a quarter of the seats in the parliament; deep penetration into the country's bureaucratic and governance structures; and a monopoly on the legal use of coercive force.

The NLD will also have to contend with voters' expectations and the inherent dangers of such huge majorities operating within such a confined political space. Given the decades of misrule that got Burma into its current condition, it would be difficult for anyone or any party – no matter how spectacularly gifted or qualified - to meet the Burmese public's expectations. The NLD is lucky, however, that they benefit from enormous goodwill; as long as they don't abuse it, they should be given a relatively long leash by the people. Among those who have ridden the NLD wave to victory are a new generation of leaders. They are young, smart and diverse people who represent the future of the party and I hope they will be given opportunities to lead. For example, the new parliament will include at least 80 former political prisoners in its ranks. Their voices will be important ones in pursuing justice and legal reform - two areas where the NLD seems likely focus early on - and they know well that despite the overwhelming electoral victory, the Tatmadaw will not give up any ground easily. I have also had long discussions with NLD economic policy advisors and am confident that they are working on policy prescriptions that will stabilize and promote cleaner, more broad-based and equitable growth.

One of the biggest and most urgent challenges for the NLD will be its strategy for peacemaking and political dialogue with Burma's ethnic nationalities. The so-called Nationwide Ceasefire Agreement (NCA) signed by the government and 8 ethnic armed groups in October is a potential platform for further efforts, but many parties on all sides have concerns about both the process and substance that underpinned that effort. The perhaps biggest challenge is the level of cooperation the NLD can expect from the Tatmadaw. On this front, the picture is worrying, given how the military has launched several major new offensives in Shan and Kachin states since November 8. Likewise, the NLD does not have substantial technical expertise in negotiations, but seems unlikely to retain much of the infrastructure that the USDP developed for that purpose given its close association with the outgoing president Thein Sein. The NLD majority will include a cadre of newly-elected representatives drawn from nearly all of Burma's ethnic nationalities, as well as a number of new Burman MPs with strong backgrounds of working in multi-ethnic coalitions in civil society and other forums. The NLD's somewhat "scorched earth" strategy towards the regional ethnic parties left substantial hurt feelings in its wake, and the party's relationships with other ethnic leaders are wildly variable. The NLD will need to reach out to ethnic leaders who were not part of its winning coalition, including political party and armed group leadership. So far, Daw Suu and the NLD has called for her party to be magnanimous in victory, but there is little indication this has been operationalized on any meaningful level with regard to ethnic leaders.

Further to this, one of my biggest worries is that because the USDP and Tatmadaw will represent its only functional parliamentary opposition, the NLD will become entrenched in oppositional

politics with the military and unable to break free of structural constraints on policymaking and implementation. What will happen to the USDP as a party is also an interesting question. The party was decimated: it appears to have won only 10% of seats nationwide, and many of its top leaders lost their constituencies. While the Tatmadaw and the USDP leadership have repeatedly stated their commitment to turn over power to the NLD, exactly how this will happen remains to be seen. President Thein Sein and Commander in Chief Min Aung Hlaing have reportedly delayed a meeting with Daw Aung San Suu Kyi to discuss the transition, and we have seen little in the way of conciliatory behavior up to now. In the past, the Tatmadaw has used its institutional positions to manage the on the ground situation into its favor. They have shown they are not above provoking societal conflict or sacrificing societal goods in order to maintain their prerogatives. There is no indication this institutional posture has been changed as a result of elections that really did not alter the status quo from a legitimacy perspective, and have yet to alter it from a functional one.

Since the election results became clear, there has been a flood of expert commentary questioning how well Daw Suu and the NLD will be able to govern, given their lack of experience. On this point, I would note her response to these questions: “We could hardly do worse.” While Burma’s problems do seem overwhelming, it is important to note how consistently many Burma ‘experts’ – both international and domestic – have underestimated Daw Suu and the NLD over the past 25 years. I cannot count the number of times I have been told that the NLD is a “spent force”; that the Burmese people are “over the Lady”; and that what “average Burmese” are really interested in is economic development. The election results were a stunning rebuke to much of this thinking, and I hope will lead some commentators to be a little more humble in assuming they know what the Burmese people believe based on their discussions with government officials, Yangon-based diplomats and Burmese elite intellectuals. I would also caution against the kind of pearl-clutching some analysts have indulged in over Daw Suu's dismissive attitude towards the junta's anti-democratic constitution. Her choice of phrase in explaining how she would lead the NLD government from “above the president” may have sounded inartful to outsiders, but Burmese voters found it reassuring and seem to hold the junta-drafted 2008 constitution in the same low regard she does. In any event, I hope that the NLD will continue to defy their skeptics’ expectations.

As the media caravan moves on to the next shiny object and the country enters this interregnum, we cannot forget that the current government will remain largely in place until April 2016. I know the Burmese people will keep demanding accountability and democracy, but I am less confident about how principled the international community will be in doing so for the next few months. This is especially true given how eager it was to engage with the USDP over the past five years. In the near term, we also need to express our clear expectations to the lame-duck government that they should immediately take steps to address the following in order to indicate their seriousness in continuing the reform process and effecting a smooth transfer of power to the NLD:

- Unconditional release of all political prisoners, including those awaiting trial;
- Halt to offensives against ethnic nationalities areas -- particularly indiscriminate airstrikes in Kachin and Shan states; and
- Removal of current barriers to humanitarian access and space, including in Rakhine state.

On the evening of November 9, I was standing with thousands of NLD supporters on of all ages, madly screaming their heads off when returns were announced from the balcony of the party headquarters in Rangoon. There was not a policeman of any kind in sight; NLD youth managed traffic as the crowds spilled into and across the busy roadway in front of the building. Every new announcement of an NLD sweep brought massive celebrations. One rarely gets the opportunity to live history in that way, and being there with Min Ko Naing announcing official results from Pegu division was like a dream. But the reality was that I had gone to this party with my friend May Sabe Phyu, a prominent Kachin activist whose husband Patrick was arrested a month ago over a Facebook posting and remains in jail, as this past Tuesday he was again denied bail apparently on orders from the military. In addition to keeping me updated about her husband's absurd imprisonment, Phyu Phyu was sending me harrowing reports of the latest military assaults in her homeland and the worsening humanitarian situation for the thousands of IDPs in Kachin state who currently are receiving little international assistance. Neither political prisoners nor Kachin and Shan IDPs should not have to wait until April to get relief.

Likewise, the situation of the Rohingya remains abominable, and there is very little hope that it will improve during this interregnum period. While the USDP's electoral imperative to use them as a scapegoat may have subsided, their potential utility as a spark for creating violence and instability remains a tool the authorities are all too willing to deploy. The monsoon season is now over, and while we are unlikely to see a repeat of the horrors of the mass migration of this past spring, many Rohingya will doubtless take to the seas out of hopelessness and despair. The NLD has indicated a willingness to address the citizenship problem at some point, but right now this is a mess that the current regime made and should be held responsible for addressing in a meaningful way in its waning days. The US and international community should push hard for the outgoing regime to open humanitarian space in Rakhine state and pull back on enforcement of both new and long-standing racist policies that serve as push factors for migration of Rohingya. The NLD will inherit enough negative legacies of military rule without also having deal with the immediate consequences of the USDP's demonization of the Rohingya.

Looking ahead to April 2016, as we think about how US policy should be adjusted to account for Burma's evolving political situation, it is important that we consider the problems that were created by our move away from a principled approach, and toward a more pragmatic approach to Burma. Following the April 2012 by-elections in which Aung San Suu Kyi was elected to parliament, the US began a process of rapidly normalizing relations with the USDP-led government despite the fact that key fundamental aspects of Burma's political environment either remained unimproved or began to worsen. The US did not self-correct and slow down its engagement until earlier this year, and our brand in Burma was clearly damaged by this overly optimistic policy. Democratic civil society, ethnic nationalities leaders and NLD leaders at various times expressed their concerns that the US was too close to the Thein Sein government and had abandoned Burma's democratic movement.

By this summer, it had become clear to many on the ground that the US and other former supporters of democracy in Burma were willing to accept something that fell far short of democracy, as long as the elections were not openly stolen or subject to widespread violence. This lowering of the bar also had troubling implications for democrats struggling in Thailand,

Cambodia, China and other countries around the region. Civil society on the ground viewed negative much of the US assistance provided to and through Burmese government entities, especially when the coupled with a tendency on the part of USAID and other large donors to funnel most of the remaining funds through its usual cadre of contractors. We need to examine how our assistance programs may have undermined our stated objective of supporting democracy in Burma.

The NLD's landslide has now gotten much of the international community off the hook for its questionable behavior heading into the elections, as they are not forced to deal with the prospect of an illegitimate minority government comprised of the USDP and the military. It remains to be seen how the NLD will reflect on this short-sighted, transactional approach by its erstwhile supporters. I encourage the US to enter a period of strategic pause and reflection until we see a real transfer of power, meaning April 2016 at the earliest. In the meantime, we should undertake serious work to engage actors on the ground beyond those who seem to have guided us into our previous policy cul-de-sac. If they are still willing to work with us and accept our support in building a brighter future for their country, then we will once again be the fortunate partners of Burma's long-suffering and potentially victorious democrats.