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U.S. House of Representatives  
Committee on Foreign Affairs  
Subcommittee on Asia and the Pacific  
Hearing on Burma: "Oversight of U.S. Policy Towards Burma"  
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Testimony of Aung Din  
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Mr. Chairman, Ranking Member, and Members of the Subcommittee,

Thank you very much for holding this hearing today. I am grateful to be here to testify about the current situation in Burma, the country in Southeast Asia where I was born and raised. Before I start, on behalf of the people of Burma, I would like to take this opportunity to state my appreciation for the United States Congress's strong interest and consistent support for our struggle for democracy, human rights and national reconciliation.

The historic by-elections in Burma were held on April 1, 2012. Democracy leader Daw Aung San Suu Kyi and her party, the National League for Democracy (NLD), won 43 seats out the 44 they had contested. The ruling party, the Union Solidarity and Development Party (USDP), won only one seat. Despite threats, violence, vote buying and other fraudulent acts made by the authorities, the people of Burma again courageously expressed their strong desire to be free from authoritarian rule by voting for the NLD, just as they did in the 1990 elections. The results of the NLD's 1990 landslide victory were nullified by the military junta.

The Burmese regime may believe that allowing Daw Aung San Suu Kyi and the NLD to hold nearly 7% of the seats in Parliament will not constitute a major threat to their hold on power, as USDP and the military still control 80% of the seats in Parliament and the military still has veto power to kill any proposed legal changes. Furthermore, for this concession, what they have achieved from the by-elections is enormous. The international community recognizes their political system as all party-inclusive and legitimate. Many international leaders see them as true reformers. The pressure and sanctions imposed by the United States, Australia, Canada and the European Union are being significantly eased or suspended. The Japanese government has

announced it will write off 3.7 billion dollars in debt and plans to resume development assistance. Engagement and appeasement will flourish further. More investment and more tourists, as well as more development assistance will flow in. The generals and their cronies who still control the country may be able to do shopping and send their children to schools in the United States and Europe soon. Actually, in my opinion, the Burmese government led by President U Thein Sein is the real winner of the by-elections.

Sadly, this election effectively eradicates the long standing objective and expectation of Burma's democracy forces and ethnic nationalities – the realization of a meaningful and time-bound political dialogue between the military, democracy forces led by Daw Aung San Suu Kyi, and ethnic representatives that would lead to real democratization and sustainable national reconciliation. The NLD and Daw Aung San Suu Kyi are now entering into a new playing field with the determination to expand their political base in the Parliament and organize changes within the military controlled political system.

The NLD has promised that it will work on three major issues in the Parliament: (1) rule of law, (2) internal peace, and (3) amendments to the 2008 Constitution. Rule of law is of vital importance as unfair laws and decrees, designed to arrest and imprison anyone who holds different opinions are still in place. The judiciary system is still an instrument of the regime's oppressive rule. Corrupt judges run the courts without due process and make rulings as instructed by their superiors or in favor of those who pay them most. Law enforcement officials are brutal and dangerous, and arbitrary detention and torture are their only tools to get confessions they want from the accused.

Internal peace must also be a central concern. Current peace talks between ethnic armed groups and the regime will not lead to the permanent ending of civil war, without granting ethnic rights, such as a certain degree of autonomy, self-determination, proper sharing of revenue generated from natural resources located in ethnic areas which represents 60% of the country's total area, as well as a complete end to human rights violations in ethnic areas committed by the Burmese military. Even now, severe fighting between the Burmese army and ethnic armed groups are going on in Shan and Kachin States having forced hundreds of thousands of ethnic people to flee from their homes and villages.

Amending the undemocratic 2008 Constitution is the single most important issue. This constitution grants supreme power to the military's Commander-in-Chief, who can run the military as he deems fit. The military is independent from all administrative, legislative and judiciary authority; yet can also interfere in all branches of the government. It holds 25% of the seats in each parliament and three significant security ministries in the government, and ensures civilian judges have no jurisdiction over armed forces. Moreover, the Commander-in-Chief can assume all powers, dismiss the government and rule the country under the Martial Law in the name of a state of emergency. If Burma hopes to move toward a genuine democratic government, civilian oversight of the military and removal of the military's authority over the government are imperative.

All three major campaign issues promised by Daw Aung San Suu Kyi need constitutional amendments and additional changes to laws in order to be fulfilled. She will enter into the new

playing field with good faith that she can work with President U Thein Sein, Parliament Speakers U Shwe Mann and U Khin Aung Myint, and Military Commander-in-Chief General Min Aung Hlaing, to make the country prosperous and democratic. However General Min Aung Hlaing confirmed to his troops recently that the major task of the military is to protect the constitution, signaling that he will not allow any reduction in his power. Former Major General Htay Oo, who is the General Secretary of the USDP, also recently said that the Constitution is perfect and there is nothing to amend it, including the leading role of the military in politics.

The constitution was purposefully crafted to be difficult to amend. At least 20% of lawmakers have to submit the Bill to amend the Constitution to the Union Parliament, a Joint Session of the Lower and Upper Houses, and the amendment can only be approved by a vote of more than seventy-five percent of all the representatives of the Union Parliament. This effectively gives a veto power to the military with its 25% of seats in the Parliament. Even if all 75 percent of the elected representatives stand together for the amendment, they can't win if they can't get even one vote from the military bloc.

The by-election is just the beginning of new challenges for Daw Aung San Suu Kyi and the NLD. There is the risk, of course, that she may be contained, confined and co-opted in the regime's political system without achieving anything. Or, she may be able to crack the door wider and recruit more and more members of the USDP and the military to join in the alliance of the agents of reform. There are so many uncertainties lying ahead. The current stand-off between the ruling party and the NLD over the language of the Parliamentary oath has made the NLD and Daw Aung San Suu Kyi unable to attend parliament yet, which resumed on April 23<sup>rd</sup>. We can see from this stand point the magnitude and depth of obstacles that Daw Aung San Suu Kyi will face. But, governments around the world are rushing to reward the regime with the excuse of encouraging the reformers.

On April 4, 2012, just three days after the by-election, Secretary of State Hillary Clinton announced the U.S. response to the outcome of the by-elections: the U.S. Agency for International Development (USAID) will establish an official presence in Burma; restrictions imposed upon the UNDP will be lifted; and an U.S. Ambassador to Burma will be nominated. In addition, selected Burmese officials and parliamentarians will be invited to the United States, and private organizations from the U.S. will be allowed to operate in Burma in the non-profit sector. In addition two major financial sanctions, the bans on investment and financial services, will be eased for selected targets. These steps are undoubtedly being well received by the generals in Burma, who are still engaged in killing innocent civilians in ethnic areas and keeping hundreds of political prisoners behind bars and have not relinquished any of their power. The generous awards from the United States and the more generous awards from the European Union are a major victory for the Burmese regime, which holds the policy of "give little, cheat more, and gain much" to encourage the U.S. and EU policy of engagement.

To be sure, there have been significant changes in Burma over the past six months, but it would be a mistake to assume that they are irreversible or that all things are pointing in a positive direction. Responding to positive changes is one thing; racing to provide rewards may be regrettable.

I support the measures announced by Secretary Clinton, except the targeted easing of bans on investment and financial services. I strongly believe that this is too much and too fast. I asked my colleagues inside Burma, including NLD leaders, ethnic leaders, the 88 Generation Student leaders and some economists. They all said that they were not consulted by any U.S. officials and they do not think this is the time to ease these important sanctions. They are afraid that these measures will lead to another targeted easing or permanent lifting of import restrictions, which will have to be renewed by Congress before the end of July. They also believe such easing of sanctions will only help cronies and families of authorities as they have power, resources, connections, and institutions to profit from the easing of sanctions. We can see some economic reform on the surface. But, actual practice of doing business in Burma remains unchanged, totally controlled by the regime and its allied cronies.

In addition, the premature lifting of financial sanctions can greatly jeopardize the fragile peace negotiations currently underway between the regime's civilian authorities and ethnic nationality groups. The majority of Burma's ethnic nationalities populations believe the regime is engaging in these negotiations to win economic concessions from the ethnic armed groups. If the international community rewards the regime with economic gains, critical leverage is lost to ensure national political reconciliation and peace is achieved.

I agree that the U.S. should respond to the positive developments in Burma with positive measures. However, such responses by the U.S. should be carefully calibrated. Having over 40 seats in the Parliament through the by-election is just a start for Daw Aung San Suu Kyi. Two days before the by-elections, when a journalist asked her how she would rate the current state of changes towards democracy in Burma on a scale of one to ten, she said we are "on the way to 1." She knows clearly that there is still a long way to go.

I am sure she will aim to win the majority of seats in the general election in 2015. The sanctions we have are leverage for her, Burma's democracy movement, and ethnic nationalities, a kind of the money in the bank. We need to use it carefully, so it will last until we achieve major results. However, the Obama administration is now in the process of implementation of easing of major financial sanctions. That's why I would like to make the following recommendations and request Congress to balance the fast track action of the administration.

- (1) Before the removal of any financial sanctions takes place, the SDN (Specially Designated Nationals) list on Burma, managed by Office of Foreign Assets Control (OFAC), MUST be updated to include more cronies and hardliners. It has been almost three years since the list has been updated. Many cronies, who are sanctioned by the EU and Australia, are still not included in the U.S. SDN list. This list should be a must-check reference for U.S. companies that will do business in Burma.
- (2) The process of selecting targets to be eased for investment and financial services should take sufficient time and should be made through broader consultation with the human rights community in the United States and key stakeholders inside Burma, especially ethnic nationalities.
- (3) The implementation of targeted easing of bans on investment and financial services should wait until we see clearly how NLD MPs and Daw Aung San Suu Kyi are treated by the USDP and the military in the Parliament and an end to attacks against the Kachin.

- (4) Binding requirements or a compulsory framework for responsible business conduct should be imposed for any U.S. business that will invest in Burma. Elements from OECD Guidelines on Multinational Enterprises, Conflict Minerals Provision of the Dodd-Frank Act, the Tibet Policy Act, Foreign Corrupt Practices Act, can be drawn to create such framework.
- (5) U.S. must pressure the Burmese regime to allow former political prisoners to obtain passports, so they can make trips abroad, in response to the U.S. easing of visa restrictions on Burmese officials.
- (6) U.S. must pressure the Burmese regime to allow members of Burmese civil society to form and operate non-profit organizations freely, in response to the U.S. granting permission to U.S. organizations to support non-profit sectors in Burma.
- (7) U.S. must pressure the Burmese regime to release all remaining political prisoners unconditionally, lift all restrictions imposed upon all former political prisoners, and allow former political prisoners to go back to schools or resume their professions in legal representation, medical practice, teaching, etc.
- (8) As the U.S. plans to establish an official USAID presence in Burma and support the UNDP country program, the U.S. must pressure the regime to allow international organizations to have unhindered access to areas affected by natural disasters and armed conflict.
- (9) U.S. must remind and keep reminding the Burmese regime that their full cooperation with Daw Aung San Suu Kyi and democratic MPs in the Parliament and achieving negotiated political settlement with ethnic nationalities through a meaningful political dialogue outside the Parliament are the sole factors to justify fully lifting of all sanctions.
- (10) U.S. Congress must renew import restrictions from Burma.

Lastly, I would like to highlight the assumption of reformers vs. hardliners within the Burmese regime. Many international players believe that they have to encourage so-called reformers by lifting sanctions and pressure, and so reformers will be encouraged and hardliners will be undermined. There is a possibility that the positive responses being made by the international community may become irreversible while the changes in the country are not irreversible yet. This is a very tricky issue. Encouraging the so-call reformers in the regime should not undermine democracy activists, ethnic nationalities, and human rights defenders, the true agents of change in Burma.

Thank You.

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