Patrick Merloe began by asking the question, “What is a stolen election?” In asking this, he emphasized the importance of defining a stolen election and considering what interests are at stake and what remedies may be used. He argued that elections serve two basic purposes: to resolve peacefully the struggle for political power and to serve as a vehicle through which the free political will of people can be expressed. Different interests apply to the individuals involved in both circumstances.

Mr. Merloe stated that there is more to the issue of stolen elections than moral arguments – the definition of free and fair elections can be found in international law. Article 21 of the Universal Declaration of Human rights states that every person has a right to participate in government, either directly or indirectly, and that this shall be accomplished through genuine elections. Obligations for states to hold so-called fair and free elections do exist; for example, more than 140 countries have signed the “International Covenant on Civil and Political Rights,” and the UN Human Rights Committee, which oversees compliance with the Covenant, has interpreted the relevant provisions of the document to address these matters. Genuine elections protect fundamental rights. At the same time, genuine democratic elections cannot be held without the exercise of fundamental civil and political rights. Included in these rights are freedom of association to form political parties, freedom of assembly to rally supporters, freedom of movement to campaign for votes, freedom of expression to present political opinion, freedom to receive sufficient, accurate information upon which to make political choices and freedom from intimidation so that free political choices can be expressed.

Mr. Merloe explained that there is a complexity to the issue of stolen elections. It is easy to see how an election has been stolen when the results at the ballot box are understandable to the casual observer while the government says something different or cancels the election. This is a blatant example of fraud. Other clear examples indicating that an election has been stolen involve ballot box stuffing, multiple votes for one person holding multiple identification documents, the disenfranchisement of the people to such an extent that the popular will has been dismissed and an electoral apparatus that is not operating fairly or truthfully. Mr. Merloe offered historical examples of stolen elections in at various times in countries including Belarus, the Caucuses, Dominican Republic, Nigeria, Panama, Peru, the Philippines, Serbia and Togo.

Once it is established that an election has been stolen, what can be done about it? Mr. Merloe reviewed a number of possibilities that have developed following stolen elections, such as: turning to the courts as was recently the case in Zambia and was being pursued in Madagascar, although redress would likely be minimal in many countries where elections are hijacked by the government (such as Zimbabwe’s recent elections);
using “People Power” to defend electoral integrity, as illustrated by the mobilization of
the citizenry in the Philippines in 1986 to force a regime change after fraudulent
elections; and exploiting political crises that often result from stolen elections to force a
regime change, as illustrated in 1994 in the Dominican Republic, recently in Serbia and
in Peru in 2000, where scandal brought down Fujimori’s regime during a crisis of
legitimacy caused by a stolen election process. Mr. Merloe noted that all efforts should
seek to avoid use of violence to seek redress for stolen elections, but there have been
eamples of open conflict where peaceful avenues fail.

Mr. Merloe argued that the international community has a role to play in
these circumstances. There has to be clear evidence of a stolen election to mobilize the
political will of the international community to act against those who subvert the will of
the electorate. Political parties and civil society organizations, as well as international
organizations, must learn how to monitor elections to be able to provide the necessary
evidence. The international community may then decide to apply diplomatic pressure.
This could involve the suspension of organizations from intergovernmental and other
international organizations (as the Commonwealth of Nations did to Zimbabwe this
year); aid and assistance could be cut bilaterally or multilaterally (as was done by the US
and the European Union in the case of Togo); conditionality could be invoked by
international financial institutions, where financial assistance would be withheld until
states prove that free elections were held. Yet, Mr. Merloe cautioned that when a regime
is prepared for difficulties and is willing to allow its people to suffer, these international
pressures may not be enough to deter theft of an election process or to correct the
situation afterward. The actions nonetheless send important signals to the people of these
countries that the international community stands with them and can deter those in other
countries from negating the free expression of the people’s will as the basis of authority
for governance.

Finally, to make a difference, a concerted and unified international pressure must
be brought to bear. All of these factors, taken together, increase the likelihood of actions
being taken and results provided in response to a stolen election.

John Prendergast addressed the issue of stolen elections by examining
Zimbabwe as a case study. He asked the audience to “Imagine that you are President
Mugabe and it is February 2000 and you have just lost the referendum on your
constitution, the first electoral loss you have ever suffered…” and proceeded to describe
the situation that Mugabe faced between the time that he held a referendum and the
election results in 2002, two years later. During those two years, a foundation was laid to
destroy democratic institutions and the rule of law. There was an increase in
institutionalized state violence against any organized opposition. This led to gang justice,
vioenc, youth militias locating themselves near polling areas, the use of warlords and
war veterans to intimidate voters and the creation of a security apparatus to protect the
government while it continued to be involved in illegal activities to rob the country of its
resources.
Mr. Prendergast argued that regional governments, as well as the broader international community, were trapped. He stated that the result of a stolen election in Zimbabwe would not have been possible without the passivity of the region and of the international community. The regional governments were trapped by the fear of labor-based movements which transform themselves into political parties and challenge liberation movement parties, just as the MDC is doing in Southern Africa, as well as by the solidarity of the liberation movements throughout Southern Africa. The broader international community was trapped by the question of how to identify and respond to the issue of a stolen election. Given their fear that they might lose any access for monitors and observers, they took few meaningful actions leading up to the election. Mr. Prendergast argued that robust pressure and action against the government buys leverage to help push election monitors into a country. The demonstrated weakness of the international community, illustrated by their lack of resolve, was and will continue to be preyed upon by Zimbabwean government leaders. What the international community did not foresee was that Mugabe was willing to “let the house burn down in order to keep the keys to the front door”.

Mr. Prendergast continued that when the international community did act, we “walked loudly and carried a toothpick”. He argued that we must trade these toothpicks for at least twigs or sticks. The US and European response to stolen elections must be based on principles and standards. We cannot recognize illegitimacy. We must demonstrate that there are consequences for stealing elections. In order to do this we must widen and deepen the targeted sanctions against those responsible for the campaign of violence against the opposition. We could take advantage of recent advances such as those following the attacks of September 11th that allow governments to freeze and track financial assets as a means to isolate people or groups. We could streamline the decision-making process, also similar to what has been done since September 11th. Mr. Prendergast described how one person in one agency can hold up the entire process and thus the interagency process cannot move forward. A result of this can be seen in Zimbabwe, where the financial assets of the top people involved in the stolen election have not yet been made subject to a freeze.

Brian Joseph concluded the forum by presenting Burma as a case study under the topic of stolen elections. He began by pointing out that although Burma’s election was twelve years ago, its relevance is still central in discussions regarding Burma’s future. Questions linger in some quarters as to whether or not the party’s mandate still carries weight and when Burma may move beyond the results of the election. While the election results are the center of discussion, they are also the primary point of contention in Burma.

Mr. Joseph provided a brief history of the elections, beginning in 1988 when Burma’s economy began to further deteriorate and massive uprisings gave way to a coup, the reconfiguration of military power and the introduction of the State Law and Order Restoration Council (SLORC). Many students fled to the borders and the National League for Democracy (NLD) was formed early the next year. The ruling regime allowed approximately 290 political parties to form, believing that they would win by
dividing the opposition but they didn’t take into account the support of the people for NLD leader Aung San Suu Kyi, who was arrested in 1989, the year prior to the election. Relatively free elections were held in May 1990, with the exception of the involvement of NLD’s top leaders, and the NLD destroyed the other parties, signaling a coming together of the opposition. The ruling regime won only ten seats and proceeded to change the election rules, stating that the results were for a constitutional convention, not a parliament. Many of the parties contested, the regime detained a number of parliamentarians and many people fled the country – this flight continues today. In 2000, the regime began talking with Suu Kyi and the international community has focused on these talks, hoping that both sides will be able to reach agreement.

Mr. Joseph also addressed what the election results have meant for Burma’s ethnic population. He emphasized that the 1990 elections are important not just for the Burmans but for the ethnic nationalities as well. Following the 1990 elections, many of these ethnic groups realized that their struggle was directly tied to the NLD’s struggle for democracy and both sides joined forces. This has resulted in a shift in Burmese politics and provides an opportunity for the country’s democratic struggle.

Mr. Joseph argued that the elections in Burma did three things: First, they exposed and exacerbated the conflict at the national level between the regime and the pro-democracy and ethnic forces. Second, conflict was also exacerbated at the state level where military influence was exerted in ethnic areas throughout Burma, ceasefire agreements rather than the necessary political agreements were signed and Burma witnessed a rise in drug operations in certain areas – primarily in the Golden Triangle. Third, the elections came to illustrate what happens on an individual level as a result of fifty years of militarism. The size of the army and its reach throughout Burma is largely responsible for the grave human rights violations that have taken place for over forty years.

Mr. Joseph believes that conflict in Burma cannot be addressed solely by a political solution between the SPDC and the NLD. There is a need for greater pressure to incorporate ethnic groups into any political discourse going on today. We cannot assume that the ethnic groups will buy into any future agreement. There has been little opportunity for communication and the huge task currently facing the NLD is to deliver something that will be acceptable to all groups in Burma. Although recognizing the results of the elections alone will not solve Burma’s problems, it is hard to see how any real efforts at conflict resolution in Burma can begin without first resolving this primary conflict.