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For a hearing on “Human Rights in Southeast Asia: A Regional Outlook”

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Chairman Sherman, Ranking Member Yoho, and other distinguished Members of the Subcommittee:

Thank you for the privilege to testify at this crucial hearing entitled “Human Rights in Southeast Asia: A Regional Outlook”.

Southeast Asia is at an inflection point – on the one hand, each country has gone through significant political transformation through elections, and on the other hand, it finds itself embroiled in a larger U.S.-China competition for influence– all of which have only intensified the deteriorating trajectory of human rights in the region. Amid a growing climate of impunity, human rights defenders have come under assault, especially through new forms of attack on online expression, sanctioned by cybersecurity laws. From the ongoing mounting body count in the so-called “war on drugs” in the Philippines, to the silencing of political opposition and independent media in Cambodia, to the Myanmar military’s violent campaign of murder, rape and arson that forced more than 730,000 Rohingya women, men, and children from northern Rakhine State to flee their homes and country, the state of human rights in the region should be of the utmost concern to U.S. policymakers.

As part of this written testimony, I will discuss five regional trends that persist in Southeast Asia – a high level of impunity for security forces, the manipulation of democracy to obfuscate abuses, the violation of refugee and asylum-seekers’ rights, the rising assault on human rights defenders, and the use of new online tools of oppression. Amnesty International USA has more than two million members and supporters and activists in all 50 states, who are part of a larger global movement of 7 million people in 150 countries. Amnesty International USA is the global organization’s presence in the United States.

### **Abusers Hide Behind the Mask of Democracy**

Elections have not been a panacea for human rights and for freedom for the people of Southeast Asia. The Thai elections that occurred in March of this year were marred by severe restrictions on freedom of expression and assembly, including the dissolution of an opposition party, media censorship, legal threats, and criminal charges against candidates and peaceful protesters who brought out irregularities in the elections. Over a year after Malaysia witnessed its first change in government in 60 years – hope for a positive human rights transformation has met significant stumbling blocks. The rise of opposition voices in response to the Malaysian elections have contributed to the retention of repressive laws like the Sedition Act and backtracking on ratification of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and accession to the Rome Statute of the International Criminal Court.

In Cambodia, Prime Minister Hun Sen’s party won the general elections last year – having used legislation and the judiciary to effectively eliminate any meaningful

opposition and shut down dozens of media outlets in the lead-up to the vote. In Myanmar, many had hoped the historic elections in 2015 would herald progress on human rights, but the country's power-sharing deal between the civilian government and the military has seen a further erosion of human rights. This comes despite the National League for Democracy-led government having a Parliamentary majority, and the power to revise or abolish at least some of the most repressive laws. In some of these countries – the guise of “democracy” or “democratic-transition” has been used to slow down reform or meaningful accountability on human rights. When in reality in authoritarian governments in Southeast Asia, we are more likely to see human rights abuses before or after an election. In addition, it is crucial to keep in mind that having a climate of free expression and other freedoms are essential to good governance and a thriving civil society.

### **Lack of Accountability and High Level of Impunity**

A real accountability vacuum exists in Southeast Asia, especially when it comes to abuses committed by security forces. Each failure to investigate or bring those responsible to account reinforces the confidence of perpetrators that they are indeed above the law and can act with impunity.

The Philippine government's so-called “war on drugs” has resulted in thousands of extrajudicial executions, the victims of which overwhelmingly come from poor and marginalized communities. Amnesty International considers that the killings—which continue to be rampant and which appear to be systematic, planned and organized by the authorities—meet the threshold of crimes against humanity and require the international community to take immediate action. The killings continue to take place in a climate of near-total impunity, with rising attacks on independent media, human rights defenders and even UN experts. To date, there has been no meaningful accountability at the national level for the thousands of executions that have been carried out over the past three years. Since President Rodrigo Duterte took office and launched his anti-drug campaign, just one case of extrajudicial killing among thousands has been brought to justice, resulting in the conviction in November 2018 of the three police officers who murdered 17-year-old Kian delos Santos. This came too late, and this single prosecution is in no way commensurate to the vast number of extrajudicial executions and other human rights violations that have been documented in the country.

Not only have the authorities failed to launch credible investigations into the extrajudicial executions that have taken place, but in fact President Duterte has continued to encourage the police to commit such acts, telling them to “destroy the drug industry... including human life” and assuring them that he will “take care” of them if they end up killing alleged drug suspects during police operations. Indeed, police officials with command responsibility over abusive operations in the National Capital Region have been promoted to senior positions in other regions of the country, shifting the epicenter of the killings to those areas. President Duterte also has repeatedly warned,

with no contrition, that his bloody campaign is “far from over,” recently saying that the “war on drugs” will be “harsher in the days to come,” and that he will “catch up with and kill” people suspected of selling drugs.

In Indonesia, past abuses such as serious human rights violations, including unlawful killings, enforced disappearances, torture and other ill treatment, and rape and other crimes of sexual violence, which occurred during the rule of former President Suharto from 1966 to 1998 and during the early reform period between 1998 and 2002, have yet to be adequately addressed. Meanwhile, the government and parliament have not passed a new law to establish a comprehensive national truth and reconciliation commission. Over the more recent years in Indonesia, Amnesty International has received numerous reports of the use of torture and other ill-treatment against suspects and detainees during arrests, interrogation, and incarceration by police and other public security officials. The military has also been found committing torture and ill treatment in their 38 operations in Papua. In November 2017, for instance, a man suspected of being involved in a protest against the leaders of a village in Merauke was dragged out of his house and beaten by soldiers before he was handed over to the police the next day. To this day there is no independent, effective, and impartial mechanism to deal with public complaints about police and military misconduct in Indonesia, including criminal offences involving human rights violations. This leaves many victims without access to justice and reparation.

Impunity also reigns supreme in Myanmar, where the military has committed some of the gravest crimes under international law, in particular against the Rohingya in Rakhine State, and in Kachin and Shan States in northern Myanmar. A UN Fact Finding Mission has called for the investigation and prosecution of crimes against humanity, war crimes, and genocide. The prospect of meaningful justice and accountability in Myanmar is currently almost non-existent as the Myanmar military still operates independent of civilian oversight and retains control of its own judicial processes. To date, only seven soldiers are known to have been investigated and convicted for the crimes against the Rohingya, following a Reuters investigation into the massacre of 10 men and boys in Inn Din village. All seven have been released after serving less than a year of a ten-year prison sentence. For its part, the civilian-led government has shown itself to be unable and unwilling to independently and credibly investigate atrocities. Fresh violations in Rakhine State - where Amnesty International has documented military war crimes against civilians from all communities since the start of this year - and continuing violations in northern Myanmar highlight the institutionalized and systematic nature of military abuse, as well as the consequences of ongoing impunity.

### **Forced Returns of Political Dissidents**

As for migration policy in the region, we are witnessing the forced return of political dissidents to countries from which they are seeking protection, in blatant disregard for customary international law protections for the rights of refugees. This is a deeply

concerning trend. Countries including Thailand, Viet Nam, Cambodia and Malaysia appear to be trading off political dissidents and individuals fleeing persecution as part of an unholy ASEAN alliance to shore up each other's regime.

Take, for example, the abduction of Truong Duy Nhat, a Radio Free Asia journalist, political commentator, and former prisoner of conscience who is now languishing in jail in Hanoi. Based on information Amnesty has gathered, we are extremely concerned the Thai authorities played a role in his abduction. Nhat was picked up on January, the day after he filed a refugee application with the United Nations High Commissioner for Refugees (UNHCR). Four Thai police officers stopped him at an ice-cream shop and delivered him to a group of Vietnamese police officials. The Vietnamese officials forced Nhat into a van and drove away with him. The chain of events in Nhat's case suggests a possible quid pro quo exchange between Thailand and Viet Nam. Nhat's abduction and return to Viet Nam in January was followed, a few months later, by Viet Nam's detention of three Thai dissidents, whose whereabouts remain unknown. The three men – Siam Theerawut, Chuchee Chivasut and Kritsana Thapthai – were picked up by the Vietnamese authorities at the Viet Nam-Laos border in early 2019, and were reported to have been handed over to Thailand in early May 2019.

Others who have been handed over in recent years to face persecution in their home countries include Moua Toua Ter, an ethnic Hmong leader from Laos, deported from Bangkok to Laos in June 2014; Sam Sokha, a Cambodian opposition figure who was arrested in Bangkok and handed over to Cambodia in February 2018; Rath Rott Mony, a Cambodian union leader who assisted in a controversial documentary, who was arrested in Bangkok and deported to Cambodia in mid-December 2018; and Praphan Pipithnamporn, believed to be a member of a Thai federalist movement, who was arrested in Malaysia and returned to Thailand on May 2019. The principle of non-refoulement exists to prevent these kinds of violations and to protect the most vulnerable – it should be reinforced and strengthened by countries in the region not weakened.

### **Climate of Attacks on Human Rights Defenders**

Attacks on activists, journalists, and human rights defenders have only flourished and intensified, making the realization of human rights in each of these countries all the more challenging. In the Philippines, President Duterte has increasingly threatened journalists and media agencies critical of the government. Maria Ressa and her news website Rappler, which has published in-depth reports and regular updates on killings and associated human rights violations in the "war on drugs," are currently facing at least 9 politically-motivated lawsuits. In March 2019, journalists and human rights lawyers were threatened with charges after the Office of the President accused them, without credible proof, of plotting to destabilize the government. Meanwhile, Senator Leila de Lima, the President's most vocal critic, is enduring her third year of arbitrary detention on politically-motivated charges, after seeking to carry out a Senate investigation of drug-related killings. Another cause for alarm is the recent surge in

killings of human rights defenders and peaceful activists perceived to be affiliated with the political left, following the breakdown of peace talks between the government and the New People's Army. More recently, the Philippine National Police has filed sedition and related complaints against 36 high-profile individuals, including Vice President Leni Robredo, for allegedly "spreading lies" that the President and his family are involved in the illegal drug trade.

In Indonesia, we have been campaigning for accountability for the 2017 attack on human rights defender Novel Baswedan, an investigator working for the Corruption Eradication Commission (KPK), in which he had a vial of hydrochloric acid thrown into his face. At the time of the attack he was also leading the ongoing investigation into a misappropriation of funds for an electronic ID cards project, he was the chairman of KPK labor union, and has been very vocal towards repeated attempts to weaken the commission. The investigation process was increasingly marred by irregularities and eventually stalled, propelling Mr. Baswedan to report it to the National Commission of Human Rights (Komnas HAM). Late last year, Komnas HAM concluded that there is some preliminary evidence indicating that the attack was part of the effort of unnamed parties who were under KPK's investigations to hamper prosecution and that in investigating the crime the police had been involved in repeated misconduct. Moreover, the acid attack against Novel Baswedan and the failure to effectively resolve it cannot be viewed in isolation. Anti-corruption investigators from KPK and activists as well as human rights defenders in Indonesia have been subjected to threats and actual violence due to their activities, for which accountability is rare. The continued failure to address the intimidation against anti-corruption activists and human rights defenders undermines the fight against corruption, which deprives the State of resources to respect, protect, and fulfil human rights--civil, political, economic, social, and cultural-- of the people. It also further reinforces the culture of impunity in relation to human rights violations, which presents an imminent threat to the rule of law in Indonesia.

The environment for human rights defenders, journalists and activists in Myanmar continues to deteriorate. In recent months we have seen an alarming surge in politically-motivated arrests and detention. For example, on April 12, prominent film director Min Htin Ko Ko Gyi was detained in connection with Facebook posts critical of the military and the 2008 Constitution. On April 19, authorities announced they were opening a case for "online defamation" against Ye Ni, the editor of the Burmese section of *The Irrawaddy* for an article which the Myanmar military deemed "one-sided"; and on April 22, a group of five people were taken into custody and are now facing charges of defamation and making "statements conducive to public mischief" after they live-streamed a satirical *Thangyat* performance mocking the Myanmar military during Myanmar's new year festival. These arrests are made possible by a range of repressive laws which are frequently used to restrict the rights to freedom of expression, association, and peaceful assembly. Repealing or else amending these laws is one area where the current civilian-led government could make important progress, but with less than 18 months until general elections, time is running out.

In Vietnam, Amnesty International has identified 128 prisoners of conscience languishing in jails, the number of which has gone up a third since we last reported on it last year. Ten percent of the cases, against those jailed, stem from comments made on social media platforms such as Facebook. A current prisoner of conscience, Tran Hoang Phuc, is in jail even though his peaceful activism was recognized by the United States in the past. Phuc was a member of the US' Young Southeast Asian Leaders Initiative (YSEALI) and was invited to meet former President Barack Obama during his state visit to Viet Nam in May 2016, although authorities denied him access to the meeting. A pro-democracy and environmental activist, Phuc was arrested a year later, in June 2017. Tried on charges of 'conducting propaganda against the state' for making and sharing videos perceived to be critical of the government on social media, he was sentenced to six years in prison, followed by four years under house arrest. Prominent human rights defenders and activists, including those who have been released, have continued to face restrictions on movement and have been subjected to surveillance, harassment, and violent assaults as have their family members, in some instances. Given this persecution, many human rights defenders and activists have been forced to flee the country.

In Thailand, since early 2018 prominent human rights defenders who organize protests, as well as symbolic actions, against the military-led government have been physically assaulted in public space by anonymous men. The attacks against them appear to fit a pattern of systematic violence timed to coincide with their efforts to draw attention to such controversial issues as corruption and election irregularities in which the government is allegedly involved. It seems that police fail to identify perpetrators, causing public perception that authorities might connive in the attacks.

### **From Cyber Surveillance to Online Harassment**

As the evolution of social media platforms has become more sophisticated, many governments have also created new forms of online oppression and sought to criminalize free speech online. In Singapore, activists have faced targeted pressure and criticism, including convictions for "scandalizing the judiciary" for expressing themselves on Facebook. In Thailand, scores of human rights defenders, journalists, politicians, lawyers and activists were prosecuted for peaceful assembly, and faced charges of criminal defamation and sedition. In countries including the Philippines, Myanmar, Indonesia, Thailand, and Cambodia there has been a significant increase in the use of social media to fuel hate speech against social, religious, or ethnic minorities particularly on Facebook.

At the same time a swath of new repressive cybersecurity laws are being pushed across the region, raising serious concerns about freedom of expression and the right to privacy. For example, Viet Nam passed a sweeping and repressive new law that provides censors with the authority to force technology companies to hand over vast amounts of data, including personal information, and to censor users' posts.

## U.S.-China competition

This is all taking place in the context of a new geo-strategic environment for Southeast Asia in which governments of the U.S. and China have deemed they need to deepen their relationships with several Southeast Asia countries. What is concerning is how easily human rights concerns tend to fall to the wayside when it comes to the prioritization of security and economic issues in the region.

The reasons that human rights matter for U.S. national security interests are clear. Countries in Southeast Asia that are more likely to respect the rights of their people are more likely to be stable functioning societies and prosper economically. Asia is one of the most ethnically, racially, politically, and economically diverse regions in the world and if people do not feel empowered to voice their grievances peacefully, then they may feel they have no other recourse than to resort to other means. When minority groups are not protected and are even actively targeted, such actions not only violate human rights but also exacerbate the political and economic structures that sustain them.

Too often China's growing influence has paralyzed U.S. policymakers to raise human rights issues with potential partners at the region – only to have U.S. policymakers acknowledge the consequences of inaction later. If this trend continues it would be a mistake. In Myanmar, Thailand, the Philippines, the same refrain about China's growing influence always seems to come into play when discussing human rights with policymakers. This is short-sighted and problematic. Instead, every country should be centering human rights as they exert diplomatic influence, in order to stand with the people who are yearning for freedom and who can be allies in the future.

Here is a specific case in point. The United States could be well positioned to raise the human rights implications of China's Belt and Road Initiative in Southeast Asia. Take for example, the communities in southern Vietnam's Binh Thuan province, who certainly don't feel like winners following China's \$1.75 billion investment to build the 1,240-megawatt Vinh Tan-2 power station. The lucrative coal-fired power plant, completed in 2014, has resulted in a dramatic increase in pollution in the local area. When thousands of locals blocked the National Highway in 2015 to protest the dirty air, police responded by firing tear gas at the peaceful activists. Seven protesters were later jailed in connection with the unrest.

The potential health and environmental impact on the community was laid bare in a Vietnamese state audit issued in March 2019, which exposed "great environmental risks" related to the discharge of ash, as well as illegally high levels of nitrogen oxide emissions, and illegal discharge of waste water into the sea. Why hasn't the United States championed the cause of these Vietnamese who were freely expressing their opposition to pollution caused by Chinese companies? The United States would benefit from thinking of human rights issues holistically and incorporating it as part of its



economic and security strategy in Southeast Asia. So far it has been missing from the equation.

Without a concerted effort by the United States and the international community to strengthen human rights protections in Southeast Asia, the hardliners who loom large in this region are set to continue abusing rights and shattering human lives without consequences. The world is watching to see whether and how the United States promotes universal rights abroad. Failure to do so will undermine the United States' credibility and its ability to demonstrate leadership.

Thank you!