ADVANCING HUMAN RIGHTS THROUGH ASEAN: VEHICLE FOR CHANGE?

HEARING

BEFORE THE

TOM LANTOS HUMAN RIGHTS COMMISSION

UNITED STATES
HOUSE OF REPRESENTATIVES

ONE HUNDRED AND FOURTEENTH CONGRESS
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ADVANCING HUMAN RIGHTS THROUGH ASEAN: VEHICLE FOR CHANGE?

FRIDAY, JUNE 10, 2016

HOUSE OF REPRESENTATIVES,
TOM LANTOS HUMAN RIGHTS COMMISSION,
Washington, D.C.

The Commission met, pursuant to call, at 10:00 a.m., in Room 2255 Rayburn House Office Building, Hon. James P. McGovern [co-chair of the Commission] presiding.

Mr. MCGOVERN. All right. I think we can begin. Good morning, everybody, and welcome to the Tom Lantos Human Rights Commission hearing on advancing human rights for the Association of Southeast Asia Nations, ASEAN.

I would like to – my co-chair, Joe Pitts, should be here shortly, I expect. But it's one of those crazy days up here. So people will be coming in and going out.

I want to welcome our witnesses here and I want to thank you for your great work and hard work on human rights. Some of you have traveled a great distance to join us and you bring expertise and on-the-ground experience from the region and so it's great to have you here.

Formed in 1967, ASEAN is southeast Asia's principal multilateral organization. Its ten member states include democracies, semi-authoritarian states and military regimes, and represents 620 million people from widely diverse ethnic, cultural, linguistic and religious backgrounds.

ASEAN is a trade powerhouse with a combined gross domestic product of $2.4 trillion per year. Were it a country, it would be the world's seventh largest economy and our fourth largest export market.

Four ASEAN members have signed the Trans-Pacific Partnership. So it is not a surprise that the administration has deepened our engagement with ASEAN in recent years. President Obama established a permanent mission at the secretariat in Jakarta in 2010, upgraded annual gatherings of U.S. and ASEAN leaders to a formal summit, and declared the U.S.-ASEAN strategic partnership in 2015. He hosted the first U.S. ASEAN leader summit on U.S. territory this past February and plans to visit Laos in the fall for his last ASEAN summit.

As the relationship deepens, one of my key concerns is whether the strategic partnership's stated commitment to strengthening democracy, enhancing good governance and the rule of law, and promoting and protecting human rights and fundamental freedoms will keep pace with the economic security and other aspects of the relationship.

Some contend that the varying human rights records of ASEAN members are not the business of the U.S. or that human rights are a Western cultural construct.

Yet, should a region's complexities mean that its inhabitants are less deserving than other peoples to the full enjoyment of universal human rights? The answer is no.

But when it comes to the protection and guarantee of human rights, unfortunately, ASEAN is behind the curve. To be sure, some ASEAN members such as Indonesia and the Philippines have thriving democratic institutions in spite of their shortcomings. Burma has the opportunity to build upon its recent historic elections, although the entrenched military retains veto power and the minority Rohingya remain disenfranchised.

Others in the group include Laos and Vietnam, one-party states with poor human rights records. Cambodia has a multi-party system but has been ruled by a strongman for more than 30 years. Brunei is an Islamic theocracy where adultery and same sex acts are illegal and punishable by death under Sharia law.

Singapore and Malaysia both hold parliamentary elections but favor social control over robust freedom of expression. Of the ten states, four – Malaysia, Singapore, Brunei and Myanmar – have neither signed or ratified the International Covenant on Civil and Political Rights.

As a multilateral organization, ASEAN can and should do more to promote and defend universal human rights. Under pressure, ASEAN has taken some steps. It has a declaration of human rights, a human rights commission and a charter that codifies some rights.

But as we will hear today, these fall short. For example, the commission cannot – for example, the commission cannot investigate cases. More generally, ASEAN's founding documents incorporate the principles of non-interference and consensus-based decision-making, while retaining an antiquated interpretation of sovereignty that considers human rights internal affairs. This is inconsistent with international law and in practice make it difficult for members to raise human rights concerns.

I'm convinced that civil society drives well-functioning human rights systems. Civil society organizations bring cases, serve as watchdogs and often cover more geographic and substantive ground than governments.

But in ASEAN, civil society has been relegated to the sidelines. There is no individual complaint mechanism to bring cases and legitimate NGOs have been denied accreditation before the commission.

When a coalition of NGOs wrote an open letter expressing their growing concerns, Laos, this year's summit chair, canceled the 2016 civil society conference.

For these reasons, before the February U.S.-ASEAN summit, I join my colleague, Mr. Lowenthal from California, and others in calling on President Obama to prioritize human rights in Sunnylands and to ensure civil society participation.

So I look forward to hearing from our witnesses about the human rights aspects of our relationship with ASEAN. While it is not our role to simply impose

our values on other countries, as a global leader and a partner to ASEAN, the U.S. government must use all available tools to support international human rights standards and advance the rule of law, as well as democratic principles.

In short, the U.S. can and should help close the gap between the human rights aspirations and realities for more than 620 million inhabitants of ASEAN.

With that, I want to now turn it over to Mr. Lowenthal of California, who is very active on this issue, for any opening statement he may have.

[The prepared statement of Co-Chair McGovern follows:]

PREPARED STATEMENT OF THE HONORABLE JAMES P. MCGOVERN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS AND CO-CHAIR OF THE TOM LANTOS HUMAN RIGHTS COMMISSION

Good morning, and welcome to the Tom Lantos Human Rights Commission's hearing on Advancing Human Rights through the Association of Southeast Asian Nations.

I would like to recognize my Co-Chair Congressman Joe Pitts for his longstanding leadership on behalf of human rights and the protection of vulnerable populations around the world. I am also pleased that we are joined by Congressman Alan Lowenthal, whose steadfast attention to human rights in Southeast Asia has been a positive force for the region.

I welcome our witnesses as well, and thank you for your hard work on human rights. Some of you have traveled to join us, and you bring expertise and on-the-ground experience from the region, so it's great to have you here.

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As the relationship deepens, one of my key concerns is whether the Strategic Partnership's stated commitment to "strengthening democracy, enhancing good governance and the rule of law, [and] promoting and protecting human rights and fundamental freedoms" will keep pace with the economic, security, and other aspects of the relationship.

Some contend that the varying human rights records of ASEAN members are not the business of the U.S., or that human rights are a western cultural construct. Yet should a region's complexities mean that its inhabitants are less deserving than other peoples of the full enjoyment of universal human rights?

The answer is no. But when it comes to the protection and guarantee of human rights, unfortunately, ASEAN is behind the curve.

To be sure, some ASEAN members, such as Indonesia and the Philippines, have thriving democratic institutions, in spite of their shortcomings. Burma has the opportunity to build upon its recent historic elections, although the entrenched military retains veto power and the minority Rohingya remains disenfranchised.

Others in the group, including Laos and Vietnam, are one-party states with poor human rights records. Cambodia has a multi-party system, but has been ruled by a strongman for more than 30 years. Brunei is an Islamic theocracy where adultery and same-sex acts are illegal and punishable by death under sharia law. Singapore and Malaysia both hold parliamentary elections, but favor social control over robust freedom of expression. Of the 10 states, four—Malaysia, Singapore, Brunei, and Myanmar—have neither signed nor ratified the International Covenant on Civil and Political Rights.

As a multilateral organization, ASEAN can and should do more to promote and defend universal human rights. Under pressure, ASEAN has taken some steps: it has a declaration of human rights, a human rights commission, and a Charter that codifies some rights. But as we will hear today, these fall short. For example, the commission cannot investigate cases.

More generally, ASEAN's founding documents incorporate the principles of non-interference and consensus-based decision-making, while retaining an antiquated interpretation of sovereignty that considers human rights as "internal affairs." This is inconsistent with international law, and in practice makes it difficult for members to raise human rights concerns.

I am convinced that civil society drives well-functioning human rights systems. Civil society organizations bring cases, serve as watchdogs, and often cover more geographic and substantive ground than governments. But in ASEAN, civil society has been relegated to the sidelines. There is no individual complaint mechanism to bring cases, and legitimate NGOs have been denied accreditation before the Commission. When a coalition of NGOs wrote an open letter expressing their growing concerns, Laos, this year's summit chair, cancelled the 2016 civil society conference.

For these reasons, before the February U.S.-ASEAN Summit, I joined my colleague, Mr. Lowenthal, and others in calling on President Obama to prioritize human rights in Sunnylands and to ensure civil society participation.

So I look forward to hearing from our witnesses about the human rights aspects of our relationship with ASEAN. While it is not our role to simply impose our values on other countries, as a global leader and a partner to ASEAN, the U.S. government must use all available tools to support international human rights standards and advance rule of law and democratic principles. In short, the U.S. can and should help close the gap between the human rights aspirations and realities for the more than 620 million inhabitants of ASEAN.

Mr. LOWENTHAL. Thank you, Mr. Co-Chair McGovern, and I want to thank our witnesses, Mr. Busby and Ms. Willett, for joining us at this very important hearing today.

Many of the countries in ASEAN have an extremely troubling human rights record. Thailand has been ruled by a military junta since the 2014 coup and efforts to restore democracy have been halting and uneven. In Burma, despite the historic election of Aung San Suu Kyi and the National League for Democracy, the Rohingya people continue to face widespread persecution and displacement.

As the representative of one of the largest Vietnamese-American and Cambodian-American communities, I am specifically interested in Vietnam and Cambodia and, honestly, I am deeply troubled by recent developments in these countries. In Cambodia, opposition leader Sam Rainsy has been forced out of the country by an ongoing politically-motivated government investigation. Now that he has fled the country, the government is going after deputy opposition leader Kem Sokha.

The current political environment of fear and intimidation created by Hun Sen's government offers little hope for free and fair elections in 2017 and 2018. That is why Congressman Matt Salmon and I have introduced a resolution supporting human rights, democracy and the rule of law in Cambodia. Our resolution would unequivocally state the support of the House of Representatives for these principles in Cambodia.

Now, in Vietnam, massive protests against the government's failure to adequately respond to an environmental disaster that has killed millions of fish and poisons thousands of people have been brutally suppressed. Vietnam continues to repress all forms of dissent, jailing bloggers, lawyers and religious leaders. I sent a letter to the President in February along with 34 of my colleagues including Co-Chair McGovern urging him to make human rights a priority in the first ever U.S.-ASEAN summit at Sunnylands. I also repeatedly urged the President to raise human rights during his visit to Vietnam last month.

Thus far, I have been very disappointed in what I see as the lack of progress on democracy and human rights in the region. Above all, I am disappointed by the administration's decision to lift the ban on the sale of lethal weapons to Vietnam. State Department previously stated that this move would be tied to progress in Vietnam's human rights record. But as I've mentioned before, I see no basis of improvement. I look forward to hearing from the witnesses about how we can do a better job of promoting human rights in Southeast Asia.

Thank you, Mr. Chair, and I yield back.

[The prepared statement of Mr. Lowenthal follows:]

PREPARED STATEMENT OF THE HONORABLE ALAN S. LOWENTHAL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA AND MEMBER OF THE TOM LANTOS HUMAN RIGHTS COMMISSION

Thank you to the Co-Chairs, and thank you to the witnesses for joining us at this important hearing today. Many of the countries in ASEAN have extremely troubling records on human rights. Thailand has been ruled by a military junta since a 2014 coup, and efforts to restore

democracy have been halting and uneven. In Burma, despite the historic election of Aung San Suu Kyi's National League for Democracy, the Rohingya people continue to face widespread persecution and displacement.

As the representative of the largest Vietnamese American and Cambodian American communities, I am specifically interested in Vietnam and Cambodia, and deeply troubled by recent developments in these countries. In Cambodia, opposition leader Sam Rainsy has been forced out of the country by an ongoing, politically-motivated government investigation. Now that he has fled the country, the government is going after deputy opposition leader Kem Sokha. The current political environment of fear and intimidation created by Hun Sen's government offers little hope for free and fair elections in 2017 and 2018.

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Thus far, I have been disappointed in what I see as the complete lack of progress on democracy and human rights in the region. Above all, I am disappointed by the Administration's decision to lift the ban on sales of lethal weapons to Vietnam. The State Department previously stated that this move would be tied to progress in Vietnam's human rights record, but as I mentioned before I see no basis for improvement. I look forward to hearing from the witnesses about how we can do a better job of promoting human rights in Southeast Asia. Thank you and I yield back.

Mr. MCGOVERN. Thank you very much, and we have – we are pleased to welcome our first panel: Colin Willett, Deputy Assistant Secretary, Bureau of East Asian and Pacific Affairs, Department of State, and Scott Busby, Deputy Assistant Secretary, Bureau of Democracy, Human Rights and Labor at the Department of State.

You have incredible biographies, which I'm going to submit for the record, but for the sake of time we're just going to introduce you by your current titles. And Ms. Willett, why don't we begin with you? And welcome.

STATEMENTS OF COLIN WILLETT, DEPUTY ASSISTANT SECRETARY, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OFSTATE; AND SCOTT BUSBY, DEPUTY ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE

STATEMENT OF COLIN WILLETT, DEPUTY ASSISTANT SECRETARY, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Ms. WILLETT. Thank you very much, Congressman McGovern, Congressman Lowenthal. Thank you for the opportunity to appear before you today. I would also like to thank the Commission for your continued leadership in promoting and defending human rights.

Last November, at the ASEAN-U.S. summit, the United States elevated its relationship with the Association of Southeast Asian Nations, or ASEAN, to a strategic partnership. Ties between the United States and ASEAN are increasingly strong and of growing strategic importance. Some of the most pressing challenges we face in the Asia Pacific, including climate change and terrorism, have no national boundaries.

As the principal multilateral organization in southeast Asia and as the central component for Asia's broader regional architecture, ASEAN is an indispensable partner for the United States. In recognition of this, we have pursued what has sometimes been called a re-balance within the re-balance, to place appropriate emphasis on Southeast Asia and ASEAN. We signed the Treaty of Amity and Cooperation, appointed the first ambassador to ASEAN and joined the East Asia Summit, the region's premier leaders-level forum for engaging on political and security issues. After the strategic partnership upgrade, President Obama hosted the ten leaders of ASEAN at an informal summit at Sunnylands in February and he will meet them again at the East Asia and U.S.-ASEAN summits in Vientiane this September. Many of these leaders are not democratically elected, and while we have seen progress on human rights in some countries, most notably Burma, others are on very troubling trajectories. The relationship we have been building with ASEAN has made it possible for us to speak frankly with its members about a wide range of issues that are important to the United States, including human rights and democracy.

Looking beyond the issue of high-level engagement, I would like to highlight today the significant programmatic investments the Department of State and USAID are making in ASEAN institutions and civil society that is helping to shape the climate of rights in the region.

When we elevated our relationship with ASEAN, we also agreed on a five-year cooperative framework, the 2016-2020 plan of action to implement the strategic partnership. Much of this cooperation work is carried out through a program we call PROGRESS – the Partnership for Good Governance, Equitable and Sustainable Development, and Security. PROGRESS is a $14 million program implemented by USAID to build up ASEAN's institutional capacity on the rule of law, good governance and human rights. It advances human rights through two lines of effort: one, support for the ASEAN Intergovernmental Commission on Human Rights, or AICHR, and two, on strengthening civil society.

AICHR, the commission on human rights, began in 2009 as a consultative body with the mandate to promote and protect human rights. But the weaknesses of the body are readily apparent. Each country has a veto. It does not have formalized linkages with the rest of ASEAN and the ASEAN Declaration on Human Rights contains problematic language. This is – nevertheless, this is the institution that exists and we do see new opportunity. Our ambassador to ASEAN recently met with the ten members of AICHR, eight of whom are new, and encouraged them to play a larger role in promoting rights in the region.

U.S. support has made it possible for AICHR to host a series of regional dialogues to raise awareness of the rights of persons with disabilities, a policy area where the region has lagged.

Later this summer, we will support the 2016 AICHR youth debate on human rights and we are supporting joint workshops between AICHR and ASEAN policy-making bodies, such as the senior officials meetings on transnational crime, to spread a rights-based perspective on policy like trafficking in persons.

Separate initiatives with civil society include our ambassador to ASEAN's regular meetings with youth and our support for the model ASEAN meeting which will focus this year on migrant workers' rights. We also work with the Human Rights Research Center, a academic network headquartered at the University of Indonesia, to hold summer institutes for civil society activists. This year's institute will focus on a rights-based perspective on economic integration.

Obama hosted – sorry. We knew these perspectives of these human rights defenders and before President Obama hosted ASEAN leaders at Sunnylands in February, we brought a delegation of civil society representatives to the United States to learn from a variety of interlocutors here and including meeting with the National Security Council, which helped shape our own posture towards the official dialogue in California.

As you know, ASEAN structures are decentralized and it is not enough to work only with ASEAN mechanisms. President Obama created the Young Southeast Asian Leaders Initiatives, or YSEALI, to develop an enduring

partnership with emerging leaders in ASEAN who are passionate about civic engagement. Through online networks, local workshops and U.S.-based training opportunities, we are providing these youth with more tools to stand up for their rights and work across borders to solve regional challenges. And at this time, we have around 70,000 young people across the region who are engaged through YSEALI.

Finally, the Department of State and USAID work with several ASEAN bodies to protect human rights in the areas of women's issues and trafficking in persons. Our ASEAN partners, including the senior officials leading on transnational crime, which drafted the ASEAN Convention against Trafficking in Persons, especially women and children, a legally-binding convention which all ten ASEAN leaders signed in November 2015, the convention takes a rights-based approach to combating TIP, a large step in the right direction for ASEAN, in line with the U.N. TIP protocol. The United States has several initiatives underway to support implementation of the convention at the national level.

We also work with the ASEAN Commission on the protection and promotion of the rights of women and children with which we are establishing a network of social service agencies to support all vulnerable populations in ASEAN. Outside of ASEAN structures, we are setting up a women's leadership academy through YSEALI to help ASEAN women overcome barriers to full participation in society.

ASEAN is a diverse region with vast differences in political systems and with respect to their human rights situations, as you noted. Nevertheless, the United States has important opportunities to work with our partners in ASEAN, many of whom are a new generation of civil servants and community activists with higher expectations and civic engagement.

By supporting these actors and the institutions that influence norms across the region, we hope to see a long-term change in the willingness and capacity of governments to uphold the rights of its citizens. And we will continue to help ASEAN institutions play a more important role in advancing human rights in the member states.

I would like to thank the committee again for its interest in these issues and we look forward to working with you in the promotion of human rights in Southeast Asia.

Mr. MCGOVERN. Thank you very much. Mr. Busby.

STATEMENT OF SCOTT BUSBY, DEPUTY ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE

Mr. BUSBY. Thank you, Co-Chair McGovern, and thank you, Representative Lowenthal, for being here today. It's a privilege and honor to be here and I thank you for casting a spotlight onto the human rights situation in the ASEAN region.

Thanks to Colin for laying out our broad efforts to advance human rights and democracy through the ASEAN process. As both you and she noted, the ASEAN region is diverse when it comes to human rights and democracy.

I'm going to focus on the human rights developments in ASEAN countries, both positive and negative, as well as what we're trying to do to address them, in addition to the efforts that Colin described in the ASEAN process.

First, the good news, and you both recognized this as Colin did as well. There are countries in ASEAN making progress, the most dramatic of them being Burma.

The victory of the National League for Democracy in last year's elections and the peaceful transition to a civilian-led government in April is a remarkable story. It's a testament to the fact that a concerted international effort to pressure an undemocratic and repressive regime can work. It shows the incredible resilience of the people of Burma who, despite years of privation and suffering, were willing to turn out in record numbers to vote for a new government. We were especially pleased to see that one of the new acts of the newly elected government was to release most of the remaining political prisoners in the country.

However, significant challenges remain and you both alluded to them. The Burmese constitution continues to allocate to the military a quarter of the seats in the national and regional parliaments, which effectively gives the military a veto over constitutional reform. I would also note that the constitution provides that the military should occupy the leadership of three key ministries.

Fighting continues in Kachin, Shan and Rakhine States. The situation of the Rohingya and certain other ethnic and religious minorities remains grim and, of course, the level of economic development is among the lowest in the region. Fortunately, however, the new government has made a priority of addressing all of these challenges and we are doing what we can to support them.

But the road to solving these problems is likely to be long and circuitous and I would specifically note with regard to the Rohingya that Secretary of State Kerry was there recently and had a public exchange – both a private exchange with Aung San Suu Kyi that focused on that problem, as well as a public exchange in which she indicated the importance of dealing with that issue, and she has talked about establishing a commission to look at it and we know that her government is looking hard at ways of solving the problems facing the Rohingya as well as the general lack of economic development in Rakhine State.

Another success story is Indonesia. It's important to keep in mind that Indonesia emerged from authoritarian rule only 18 years ago and it continues to grapple with challenges relating to that past. But the fact that it held a successful election in 2014 that was viewed as highly credible and which facilitated the peaceful transition to a new government is an important milestone. This accomplishment is all the more impressive for taking place in the world's fourth largest country.

Despite these successes, Indonesia still has a lot of work to do consolidating its democratic gains. For example, corruption continues to be widespread and the protection of the rights of ethnic and religious minorities is uneven.

However, these concerns should not obscure the remarkable progress Indonesians have made over the last 18 years. They enjoy more freedom and prosperity than at any time in their history. Civil society is blossoming. The press is generally free and women have a growing and influential voice.

The Philippines is another general success story. Since the ouster of the Marcos regime in 1986, the Philippines has enjoyed a string of democratically elected governments. In particular, we congratulate them on their most recent elections, which we consider to have been free and fair and were more peaceful than in past years.

Nevertheless, there continue to be many human rights challenges. Our countries, however, have strong and enduring ties based on our extensive military partnership and our shared respect for democratic values, and these provide us with ample opportunities to discuss and help the Philippines address their challenges.

While there are these positive stories, there are also countries where there are significant human rights concerns, and you both identified several of those cases. Thailand is one. Since the military coup in May 2014, the right of citizens to choose their leaders has not only been denied, but there have been strict limitations on civil liberties such as freedom of expression and freedom of assembly.

Under the broad powers the military government has granted itself, no gathering of five people or more is allowed. Prosecutions under Thailand's *lèse-majesté* law have increased dramatically since the coup, including a string of arrests in April and May.

Over 1,400 criminal cases have been initiated against civilians in military courts, which lack the fair trial protections of civilian courts, and a national referendum on a new constitution is slated for August, but campaigns or criticisms against that draft constitution are prohibited.

Cambodia is another country on a downward trend and I note in particular, Representative Lowenthal, your remarks on that. We largely concur with your analysis of the situation. Cambodia has been ruled by the same party and same leader for the past 31 years. The leader of the opposition, Sam Rainsy, is in self-imposed exile due to the resurrection of questionable defamation charges against him.

The CNRP's deputy leader, Kem Sokha, is currently holed up in CNRP headquarters in Phnom Penh to avoid arrest on what appear to be politically-motivated charges. Foreign and Cambodian employees of the human rights NGO Ad Hoc have been arrested and detained, and one member of the U.N. Human Rights Office has been charged as well. There are now more than 30 individuals who have been convicted or detained on various charges relating to activities criticizing the government. All of these efforts seem to be aimed at undermining any opposition to the ruling party in advance of the 2017 commune elections and the 2018 national elections.

We are also increasingly concerned about the human rights situation in Malaysia. Just three weeks after the most recent elections in 2013, the government arrested several opposition leaders under the Sedition Act, a law that Prime Minister Najib had formally promised to repeal. In March 2014, opposition leader Anwar Ibrahim was convicted of politically-motivated sodomy charges levied against him in 2008 and remains in prison.

Since June 2015, when Prime Minister Najib became embroiled in allegations of corruption regarding his ties to the state-owned development company 1MDB, there has been increasing use of the Sedition Act and other laws to harass, detain and imprison government critics, including Anwar.

We are also closely watching reports that tolerance of religious diversity in Malaysia is backsliding. Trafficking in persons also continues to be a serious problem on which we have been deeply engaged with the government.

Nevertheless, our cooperation on issues of mutual interest such as trade and counter-terrorism do provide us with a foundation to raise our concerns frankly on human rights and frequently with our Malaysian counterparts.

Vietnam and Laos are also countries where we have ongoing concerns and you both also mentioned those as well.

While Vietnam has made some modest progress on human rights in recent years, including reducing the number of political prisoners from over 160 in 2013 to fewer than a hundred today, there remain serious and ongoing restrictions on freedom of speech, assembly, association and religion.

We are very concerned about the recent uptick in arrests and convictions of bloggers and rights advocates under vague penal code articles and the efforts to restrict recent protests over the massive fish kill along Vietnam's coast. We have been pressing the Vietnamese government, including through our annual human rights dialogue, to immediately and unconditionally release all political prisoners, institute a permanent moratorium on arrests of peaceful activists, and continue the legal reform process to bring Vietnam's laws and their implementation into conformity with their international obligations.

Despite the very real challenges we are optimistic about Vietnam's long-term trajectory, however. President Obama became the first sitting U.S. president to meet with members of Vietnamese civil society during his recent visit, though we were very disappointed that four representatives were prevented from attending that meeting. For the first time ever, the Vietnamese government also allowed the President's speech in Hanoi to be broadcast live on television and the YSEALI town hall in Ho Chi Minh City was also streamed live online.

Citizens in Vietnam are increasingly active on the internet. Many of them, as you know, are on Facebook, and exchanging information both inside the country and with people outside the country, and many of them are engaged in civil society activities.

We also believe that the ratification of the Trans-Pacific Partnership by Vietnam and the United States would provide us with another important lever to encourage change, especially given the commitment by the Vietnamese government to allow independent labor unions, which is part of the TPP agreement.

Like Vietnam, Laos continues to be a one-party state where basic freedoms are denied. We remain especially concerned about the disappearance of Sombath Somphone in late 2014 for which the government has been unable to provide any defensible explanation. On religious freedom issues, we continue to see reports of attempted forced renunciations, imprisonment and detention of religious minorities. We are also deeply troubled by the fact that as current ASEAN chair, and you alluded to this, Co-Chair McGovern, Laos has been unwilling to allow the usual people's forum of civil society activists that occurs in conjunction with the ASEAN summit.

So as you can see, the picture on democracy and human rights in the ASEAN region is mixed. That said, we remain steadfastly committed to trying to advance democracy and human rights in the region and we use various tools to do so. First, we continue to use traditional diplomacy, both private and public, to press ASEAN governments on our concerns.

Second, we adjust our assistance and engagement with governments consistent with our concerns. Thus, for instance, in Thailand we have discontinued certain forms of military assistance, as required by the law, and scaled back various forms of our engagement.

Third, we encourage and assist government reform efforts, including legal reforms in Burma, Malaysia and Vietnam, and electoral reforms in Cambodia.

Fourth, as Colin mentioned, we are supporting civil society wherever and however we can, both organizations that hold governments accountable and others that seek to address pressing social, economic or other challenges.

And fifth, in addition to ASEAN, we are using other multilateral mechanisms such as the U.N. Human Rights Council and the Open Government Partnership to call attention to problems and encourage action.

On OGP in particular, I would note that both Indonesia and the Philippines were founding members of that process and have adopted and implemented ambitious national action plans, which among other things embrace – enhance government transparency, citizen participation and anti-corruption activities. In all of these efforts, we welcome congressional support.

Thank you again for this opportunity to address the state of democracy and human rights in the ASEAN region and our efforts to advance them, and I welcome your questions.

Mr. MCGOVERN. Thank you very much. Thank you both for your testimony. And I am going be fairly brief because we want to get through the questions and the next panel as well before we get called for votes.

I know this hearing isn't on TPP, but you brought up TPP with regard to Vietnam and, you know, saying that potentially they might move forward on unions – opening up to unions if in fact TPP were to move forward. I guess you don't need to answer this question but they could do that now. I mean, I don't understand why – you know, why labor unions of Vietnam somehow depend upon TPP, and that is why some of us who have angst about TPP are looking at the records of some of these governments that we are talking about and are very, very concerned that – you know, that a trade agreement in and of itself will not you know, will not deliver on all the promises that are being made and the reason why we say that is because there are a lot of other trade agreements where promises were made with other countries and they haven't delivered.

So I just kind of raise that. But let me just ask you a question. Were human rights on the agenda of the Sunnylands summit?

Ms. WILLETT. Yes. Thank you, Congressman. Yes. Human rights were on the agenda of the President's summit with ASEAN leaders in February. He raised his concerns about human rights and democracy in the region very explicitly in his discussions with the ten leaders.

And the Sunnylands declaration that was issued after the summit reiterated our joint commitment with the ten leaders of ASEAN to continue to work together through our partnership to promote democracy and human rights throughout South Asia.

Mr. MCGOVERN. But other than that statement, were there any concrete commitments made on human rights, you know, before, during or after the Sunnylands summit?

Ms. WILLETT. On a bilateral basis or ...

Mr. MCGOVERN. Well, I mean, I guess the – I think what we're trying to well, you know, on a multilateral basis, I mean, people signing on to a statement saying that we will continue to talk about human rights is one thing. You know, deliverables are another thing. I'm just wondering whether anything concrete in terms of a deliverable came out of that.

Ms. WILLETT. So the concrete sort of programmatic joint efforts to work on issues like rule of law, good governance, trafficking in persons, human rights, came in the November summit with our strategic partnership and the sort of five-year plan of action on implementing that strategic partnership.

They did sort of reiterate those commitments. The only sort of new commitment was new grants to work together on trafficking, combating trafficking in persons, and victim protection in the region at Sunnyland specifically.

Mr. MCGOVERN. Do you believe that ASEAN is changing in ways that can make it a more forceful actor on human rights issues?

Ms. WILLETT. I do. ASEAN is a organization that is very much evolving to the new sort of reality. It's a very connected region. It's a very – well, most of

it is a very wired region. It's a very young region. And they are evolving as their situation evolves.

Many of the issues that now confront ASEAN, whether they are human rights-related or not, have to be addressed on a regional level. And so I do see that the organization adapting and evolving to meet those new needs. Just as an example, a couple of years ago the migrant crisis coming out of Bangladesh and Burma that affected so many of the countries in the region did prompt the group, for the first time, to start a new series of regional dialogues on prevention, protection and – well, prevention and protection of those irregular migrants in an effort, one, to address the root causes, but also to come together to respond to the refugee crisis.

Mr. MCGOVERN. Mr. Busby, Mr. Busby, maybe you can help me with this. You know, I'm trying to figure out on what issues have southeast Asian civil society groups had the most impact in influencing ASEAN member nations. On what issues have such civil society participation been lacking or actively discouraged and, you know, and how can we in this country, you know, encourage the role of civil society groups in ASEAN, which has been one of the issues that has been raised to us, you know, on many occasions? What more can the United States do to empower civil society?

Mr. BUSBY. Thank you very much for the question. Well, an issue that is obviously core to civil society is freedom of association and assembly. And while there continue to be restrictions, constraints in various countries in the region, I think, you know, the fact that civil society is there and pushing on these issues has been significant.

I do think one of the newer developments in the region is the emergence of civil society pushing for the rights of lesbian, gay, bisexual, transsexual and intersex persons. There are small groups in a number of countries in the region. Even in Vietnam there has been progress on that issue. So I think that is an area where there has been some progress as well.

I think, in terms of support, I mean, it's both in terms of speaking out in support of these organizations, and discreetly providing them with funding to, you know, help them sustain themselves. DRL does have a budget, a relatively small one, but that budget is, you know, largely devoted to supporting civil society, and USAID, through its programs in the region, also does support civil society to a great extent including through the program of PROGRESS that Colin mentioned.

So I think to the extent that you can continue to help ensure that, you know, our funding requests that do support civil society are supported here in the Congress I think that would be quite useful.

Mr. MCGOVERN. I appreciate that. I'll turn it over to Mr. Lowenthal.

Mr. LOWENTHAL. Thank you, Mr. Co-Chair. My question is to either one of our witnesses, on what factors did our administration base its decision to lift the ban on lethal weapons sales to Vietnam?

Mr. BUSBY. I'll take that one. You know, as the President said, the ban on lethal weapon sales was put in place in the 1960s during the Vietnam War, and our relationship has obviously moved well beyond the War. So I think we have viewed it as a relic, and more significantly, the Vietnamese Government reviews

it as a relic of the past. And there are many more conservative elements within the Vietnamese Government who continue to view the U.S. with suspicion, given the fact that this lethal weapons ban was in place.

So I think the President's decision to lift the ban was partly informed by the view that lifting the ban would allow us to remove this element of suspicion and distrust and give us the opportunity to talk with them more honestly and openly about these issues.

I would note as well, even though the ban itself was lifted, that individual sales of weapons to Vietnam will, A, be noticed to the Congress and give you all an opportunity to comment on them depending on, you know, what your views are on them and their impact on the human rights situation. We in the executive branch, under the President's conventional arms transfer policy, are obliged to review each transfer in terms of the larger human rights situation, as well as the particular ways in which the weapons could be used to commit human rights abuses.

So even though the overall ban itself was lifted, we think there is ongoing leverage in terms of individual –

Mr. LOWENTHAL. Let me talk about this leverage. I see that we got nothing back in terms of human rights. We lost a leverage.

The State Department, as I said before, previously stated that the removal of – the lifting of the lethal weapons ban would be tied to progress in Vietnam's human rights record. I don't see anything and I think we just gave that up. Can you respond to that?

Mr. BUSBY. I mean, as I mentioned in my testimony, we have seen a decline –

Mr. LOWENTHAL. From 160 to a hundred. But we've also seen with Pastor Nguyen Cong Chinh. He remains in prison. His wife was recently beaten by security. As you pointed out, the President could not meet with human rights activists. We have a series of arrests. There may be some slight decline. But we are not seeing any real change in the Vietnamese Government's treatment of people.

Mr. BUSBY. The overall number of prosecutions in recent or past two years or so for people exercising their fundamental rights is dramatically lower than it was in prior years. It's not to condone the fact that they're still taking place, and the nine convictions that have already taken place this year are deeply concerning to us, and reflect, as I mentioned, a slight uptick which is concerning. But we continue to press them at every opportunity through our dialogue, through our bilateral relationship. Father Li, who is a quite prominent dissident, was released a few months early, a little something.

We are talking to them in great depth about legal reform. They have made a few reforms that are positive. As one of the deliverables of the President's visit was the signing of a letter of agreement which will allow us to cooperate with their law enforcement to a greater extent. So we're going to be talking to them about implementation of the Convention against Torture and other things.

Mr. LOWENTHAL. Am I convinced that these weapons, when if they are will never be used against political prisoners and others?

Mr. BUSBY. First of all, there are no weapons currently.

Mr. LOWENTHAL. But potentially they could be sold. They could be sold now that we've lifted the ban.

Mr. BUSBY. As I mentioned, under the conventional arms transfer policy that we review and that my bureau, DRL, is deeply involved in reviewing, each individual sale will be reviewed, and if we feel that they could be or would be used for domestic repression, then we can stop the sale.

Mr. LOWENTHAL. Again, I just want to say that I think that it's admirable our increasing our relationship and with the Government of Vietnam. I see diplomacy as the best method. But I see this policy as inconsistent with previous State Department policy said that there has to be demonstrable changes in human rights to lift the ban.

I want to switch to Cambodia. What role can we play or should we play in ensuring fair elections in Cambodia?

We all know that's coming up 2017. Agreements were made right after the last election. But as you pointed out, the opposition party has – there's a direct attack upon the opposition party. What role can we play?

Mr. BUSBY. A couple things there. First of all, our ambassador is working in lockstep with a number of other like-minded ambassadors in Phnom Penh in pressing the Cambodian Government on our concerns.

Mr. LOWENTHAL. Have we seen any changes by the Cambodian Government? In a positive direction? We've seen now an increasing oppression towards political opposition in Cambodia.

Mr. BUSBY. So there has been a downturn recently. They have not, even though they tried to arrest Kem Sokha a week or so ago, they at least haven't barged into headquarters yet. We're continuing to tell them we would view that as highly inappropriate.

In terms of electoral reform itself, after the last elections we are working with the electoral commission to help it up its game to try to ensure that every Cambodian citizen who wants to vote can register to vote. There were some problems with registration in the last election cycle and we're continuing to work on that, to give them the technical capacity to do that.

But we agree with you that, currently, the problem is, is that the current government led by Hun Sen seems intent on decimating the political opposition.

Mr. LOWENTHAL. And as you pointed out, how long has that government been in –

Mr. BUSBY. Thirty-one years.

Mr. LOWENTHAL. So it's not just the current government.

Ms. WILLETT. If I could just very quickly add to that, to what Scott said, we've also – or USAID has increased their funding for FY 2016 by about $10 million to increase our support to civil society organizations that are working basically to provide capacity-building and other assistance to groups that are working on – to advance democracy and electoral reforms.

Mr. LOWENTHAL. Thank you, and I yield back.

Mr. MCGOVERN. Let me just ask a couple last very quick questions. What is your view of the ASEAN human rights commission? How would you characterize that?

Ms. WILLETT. I would characterize it as flawed but still a work in progress. It is something that falls short of international standards and that is at this point sort of hampered by the consensus-based sort of non-interference principles that have guided ASEAN from the beginning.

That said, there is, I think, strong interest in the region in continuing to engage with us to work with us to strengthening ASEAN institutions. It is an opportunity to have frank conversations with representatives of the entire region about some of these issues and it's an opportunity to provide the type of training and input on a regional level that we didn't have before.

Mr. MCGOVERN. And we had raised the issue of the Rohingya before. Does any – is there any time frame on or indicators for improving the Rohingya for improving the Rohingya situation? Do we have any reports on that?

Mr. BUSBY. There is not a time frame. But there is, we believe, a very sincere and solid commitment from Aung San Suu Kyi and the current government to address the problem. It's a multifaceted problem, you know, involving discrimination, freedom of movement and the like, and it is a problem that is also one that the region as – or the province as a whole faces. So we are trying to address it sort of comprehensively by increasing economic development for everyone in Rakhine State – the Rakhine – ethnic Rakhine as well as the Rohingya.

Mr. MCGOVERN. Just one final thing. I mean, I'd just add on to what Mr. Lowenthal said. I think the concern when it comes to the sale of lethal weapons to the Government of Vietnam, and some other examples that involve not just arms sales but increased or better trade, is that, you know, given the fact that we're the Human Rights Commission, it should be no surprise, we think human rights ought to be front and center and at the top of the list, you know, and not an afterthought.

I am not saying you're viewing human rights as an afterthought. But it seems that, you know, that the message to Vietnam is that you could get this and in return we can kind of – we can continue behaving the way we do with regard to people who are opposition leaders, or who are dissidents, or who have a different point of view, and, you know, I don't want us to be viewed as a cheap date when it comes to human rights.

And I – and I, you know, have expressed that view and that frustration over and over and over again. You know, I think our view here is that, you know, the human rights commission ought to be strengthened, ought to have more power, ought to be able to – on the issue of human rights ought to be more front and center, you know, certainly over trade because I don't – look, we have increased trade with a number of countries that have lousy human rights records and guess what, they still have lousy human rights records. They have benefitted greatly from our trade, but the things that I think ought to be front and center for us haven't been addressed.

So we'd just – that's where a lot of the concerns are coming from here is that there is some serious problems in some of these countries with regard to human rights and we would like that elevated and we would like that more part of the agenda and we would like to hear more public statements about some of the things that are going on and obviously people are making progress. That's great. But human rights ought to be front and center, even when it comes to trade agreements, and that's why some of us have concerns with the TPP. We think we're giving too much away and we're not going to get anything in return.

But anyway, I appreciate you being here and we'll have probably some questions we want to submit in writing. But we appreciate your being here and your testimony and look forward to continuing to work with you. So thank you.

Mr. BUSBY. Thank you very much.

Mr. MCGOVERN. I want to call our next panel. Catherine Dalpino, who's an adjunct professor of professional practice in the School of Diplomacy and International Relations at Seton Hall University; John Sifton, the Asia Advocacy Director, works on southeast Asia. He – I just was with you two days ago. And Walden Bello, a Filipino author, academic and political analyst and a professor of sociology and public administration in the University of the Philippines Diliman as well as a board member for the ASEAN Parliamentarians for Human Rights. And Dr. Pek Koon Heng, the director of the ASEAN Studies Initiative and assistant professor at American University School of International Service.

We will begin with you. Just make sure your microphones are on. That's all.

STATEMENTS OF CATHERINE DALPINO, ADJUNCT PROFESSOR OF PROFESSIONAL PRACTICE, SCHOOL OF DIPLOMACY AND INTERNATIONAL RELATIONS, SETON HALL UNIVERSITY, AND FORMER DEPUTY ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE; JOHN SIFTON, ASIA ADVOCACY DIRECTOR, HUMAN RIGHTS WATCH; WALDEN BELLO, BOARD MEMBER, ASEAN PARLIAMENTARIANS FOR HUMAN RIGHTS, AND FORMER MEMBER, PHILIPPINES HOUSE OF REPRESENTATIVES; AND DR. PEK KOON HENG, DIRECTOR OF ASEAN STUDIES INITIATIVE, AMERICAN UNIVERSITY SCHOOL OF INTERNATIONAL SERVICE

STATEMENT OF CATHERINE DALPINO, ADJUNCT PROFESSOR OF PROFESSIONAL PRACTICE, SCHOOL OF DIPLOMACY AND INTERNATIONAL RELATIONS, SETON HALL UNIVERSITY, AND FORMER DEPUTY ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE

Ms. DALPINO. Thank you, Mr. Co Chairman, for this opportunity. Since we have a full panel I'll be brief. But I want to first of all to say that I agree with the Commission's statement that human rights and the development of democracy

in southeast Asia have been very uneven and I think this unevenness affects the ability for ASEAN to form a human rights commission at this time or an effective human rights mechanism at this time.

We have, as you have said, seen some discouraging developments in Thailand, continued political intransigence in more corporatist regimes such as Vietnam and Cambodia. That said, I think that's one of the reasons why we have to place human rights mechanisms for ASEAN in context.

I think it is futile to hold it to the standards of the European Union, which is an exclusive consortium of advanced democracies, and I have to say that it probably even doesn't measure up at this point to the African Union where last year we saw a threshold crossed when you saw a Chadian dictator being tried for crimes against humanity in another African country under the auspices of the African Union. I cannot imagine a scenario at this time that would happen in Southeast Asia.

On the other hand, you do have, I think, ASEAN about at the midpoint in terms of developing a human rights mechanism in that it is willing to consider it and there are regional organizations that don't. But like a number of regional organizations that nominally have human rights on their boilerplate – the SAARC, the South Asian Association of Regional Cooperation, and even the Organization of American States – it is something that is more nominal and symbolic, I think, than operational.

The ASEAN human rights structure borrows heavily from this model of basically just having it be a placeholder. The ASEAN Intergovernmental Human Rights Commission, I think, is probably not going to be the main driver of developing a mechanism. I think that those drivers will be two-fold. I think those drivers will be national movements through national human rights commissions and then through NGO and civil societies. Well, that said, the Intergovernmental Human Rights Commission is a fact of life. It has to exist or there will be no ASEAN coordination on human rights.

Let me just very briefly jump to some recommendations. One is that I don't think in our representations on human rights we really place regional human rights mechanisms very high at the top of the list and I say this as a former human rights official in the State Department, that we typically focus on individuals who are under siege, political activists, et cetera, and we also typically focus on political and civil rights, which says something about our own political heritage.

Until that – until having a human rights mechanism for ASEAN reaches higher on the list in the briefcase or the memos that the diplomats go off, et cetera, I don't think ASEAN is going to believe us that we really do think this is an important thing to do.

Second, is that I think that it is important to encourage the remaining five countries that do not have national human rights commissions to do so and to have a complete across the board set of human rights commissions. Those probably would be rubber stamp institutions initially, but we have seen in Southeast Asia that a rubber stamp institution can actually evolve and get legs, and I think the best example of that was Indonesia in the mid-1990s.

When I was a deputy assistant secretary in DRL, President Suharto established the National Human Rights Commission for Indonesia probably to get the West off of his back, and to his surprise and to others' surprise, it actually became an assertive organization. I think the benefit of the human rights commissions over the intergovernmental commission is that many of them do have investigative powers and they can refer to prosecutions specific cases.

We even saw the incident of Cambodian villagers petitioning the Malaysian Human Rights Commission on an issue having to do with a Malaysian company helping to develop a dam in Laos that would affect Cambodia down river.

So we see that there is some national recognition by the publics of ASEAN and these human rights commissions are important and I think that helping to urge the five remaining countries to start them and to build the network has a more bottom-up effect than a top-down effect.

I think also, and I think this is a step that would be a bold one for ASEAN, but I think it is reasonable for us to encourage ASEAN to do that. I think that we should encourage ASEAN to have its member states submit annual reports on human rights to ASEAN. And here I'm not one to force parallels, but I remember the Helsinki process in the mid-1970s and I remember that requiring the member states to submit reports had a galvanizing effect in some of the countries of Eastern Europe and northern tier.

Just the very fact of having to have this report, whether it's a whitewash or not, has an effect domestically, and it's something that ASEAN, I think, would resist initially but I actually think it's doable in the short to mid-term.

It's also important, I think, to encourage Southeast Asian countries to continue to sign and accede to U.N. treaties and covenants on human rights. There is a optic there that is more appealing to Southeast Asian countries than having – than acceding to pressure from individual Western powers or to a regional basis, well, particularly in countries where they are seeking a larger role on the global stage. So I think that there are convergence possibilities there.

And lastly, Mr. Co-Chairman, this is cliché, but I'll say it just for the record, that I agree that supporting civil society parallel efforts as well as others is probably very, very important in terms of encouraging a mechanism for ASEAN and human rights. The ASEAN governments have adopted this reluctantly and they need to hear from their own people that this is something that is very important in their campaign to get citizens to come on board with the ASEAN concept. This should be one price for that.

Thank you.

[The prepared statement of Ms. Dalpino follows:]

PREPARED STATEMENT OF CATHERINE DALPINO

Co-Chairman McGovern and Co-Chairman Pitts,

Thank you for this opportunity to appear before the Tom Lantos Human Rights Commission on the topic of human rights in Southeast Asia and the possibility of expanding and protecting rights through the Association of Southeast Asian Nations (ASEAN). My testimony is informed by my previous responsibilities as a Deputy Assistant Secretary of State in the Bureau of Democracy,

Human Rights and Labor (DRL) and by three decades of research and professional experience promoting Southeast Asian political development. My views are my own and not necessarily those of the School of Diplomacy and International Relations of Seton Hall University.

The State of Human Rights in Southeast Asia

As a broad observation, I can only echo the Commission's own words that the protection of human rights in Southeast Asia is uneven. This unevenness can be attributed in large part to the spectrum of political systems and transitions in the region, which has only broadened as ASEAN has expanded to encompass all of Southeast Asia. For example, in recent years we have seen a new but enduring democracy in Indonesia; a cautious but forward-moving reform effort in Burma/Myanmar; a decade of political instability and a dispiriting military coup in Thailand; and the determination by corporatist regimes in Vietnam and Cambodia to limit rights in order to retain political control. As well, there is downward pressure on political freedoms as governments attempt to counter violent extremism and face the social and environmental consequences of economic growth.

The prospect of promoting human rights in Southeast Asia through ASEAN comes with some caveats. Without doubt, the nature of the political system is germane to the protection of human rights; the more democratic systems may be expected to have stronger human rights regimes. However, we should take care not to equate a more open system with the automatic protection of rights. As well, we should not ignore any progress, however incremental, in authoritarian or semi-authoritarian countries of the region, even if that progress is an unintended byproduct of economic development or stronger foreign relations with advanced democracies such as the United States.

Lastly, some Westerners are inclined to narrow their focus to political and civil rights and to downgrade or dismiss issues related to economic rights and economic justice. However, many rights movements across Asia have been sparked and sustained by resistance to environmental destruction or local displacement by largescale infrastructure projects. For example, in 2015 the Philippines Commission on Human Rights became the first national human rights commission to launch an investigation on the impact of activities by major energy companies on climate change.

The Limits of ASEAN

On the global spectrum of regional organizations, ASEAN falls roughly in the middle on structures to promote or protect human rights. On the more active end of the spectrum is, of course, the European Union with the European Court of Justice and common positions on human rights in the EU's external relations. This should not be surprising in a group comprised exclusively of advanced democracies. It is futile to hold ASEAN up to EU standards at this point; in any case, Southeast Asian leaders have made clear that the European Union is "an inspiration but not a model." Last year the world witnessed the African Union cross a threshhold when the Extraordinary African Chambers was convened in Senegal to place a former Chadian dictator on trial for crimes against humanity. The prospect of a Southeast Asian leader being placed on trial for gross human rights abuse under ASEAN auspices in the foreseeable future is extremely remote.

In the middle range of the spectrum, ASEAN is comparable to other regional organizations that have integrated human rights into their boilerplates, however reluctantly. The mechanisms that presently exist in these organizations tend to be strong on rhetoric but weak on enforcement. These groups include the South Asian Association for Regional Cooperation (SAARC) and the Organization of American States (OAS). It bears mention that there is no organization in Northeast Asia that offers even a minimal human rights mechanism; more to the point, there is no organization in that sub-region that approximates ASEAN itself.

However, it has become something of a cliché that ASEAN's basic groundrules mitigate against an active and effective human rights mechanism. In the 21st century, when globalization has

blurred the lines of international and national borders, ASEAN is determined to adhere to Westphalian principles, politically if not economically, with its principle on non-interference in the internal affairs of member states. Moreover, the group's reliance on consensus in decision-making enables the least common denominator member to weaken or altogether block activism on controversial issues. Neither of these aspects of "the ASEAN way" bode well for developing a strong human rights mechanism at this time.

The ASEAN Human Rights Structure

The 2012 ASEAN Human Rights Declaration borrows heavily but selectively from the Universal Declaration of Human Rights, with updates such as protection against human trafficking and the illegal sale of human organs. However, the Declaration also admonishes that human rights must be "considered in the regional and national context," and that they may be limited by "public morality." The declaration is not a blueprint for the development of an ASEAN human rights mechanism; on the contrary, it is silent on this except for an expression of hope that it "will help establish a framework for human rights cooperation in the region."

In 2009 the ASEAN member states established the ASEAN Intergovernmental Commission on Human Rights (AICHR), but cautioned that the Commission would not receive or investigate complaints of human rights violations. Instead, it would focus initially on human rights promotion, primarily through "education, research and the dissemination of information." Not surprisingly, the AICHR has received criticism, within Southeast Asia and abroad, for offering promotion without protection. The Commission's primary accomplishment to date has been production of the Declaration. That process has been criticized for a lack of transparency in the drafting process and failure to consult with non-governmental groups.

Not surprisingly, what institutionalization there has been on human rights within ASEAN is focused on bringing together national institutions, specifically promoting linkages and cooperation among national human rights institutions (NHRI). This is not necessarily a bad choice, given ASEAN's embedded respect for national principles. However, only half of the ASEAN member states have national human rights commissions: Indonesia, Malaysia, Myanmar, the Philippines and Thailand. (Timor Leste also has a NHRI but is not a member of ASEAN). The six Southeast Asian human rights commissions have come together in a loose consortium, the South East Asia National Human Rights Institutions Forum (SEANF).

The efficacy of Thailand's national human rights commission has been openly questioned in the wake of the military takeover and the loss of civil and political rights; in January 2016 the International Coordinating Committee on National Human Rights Institutions downgraded its ranking of the Thailand commission. But despite the inherent weaknesses of some of the national commissions, their very existence has drawn attention and some degree of respect within Southeast Asia. Some Southeast Asians have even appealed to a national human rights commission in another country. For example, rural Cambodians traveled to Kuala Lumpur to deliver a petition of protest to the the Malaysian Human Rights Commission against the Malaysian company Mega First, which the Cambodians maintain is harming their communities through work on the Don Sahong dam project in Laos and the anticipated downstream effects.

Potential Next Steps Toward an ASEAN Human Rights Mechanism

Given global concern for human rights and growing US engagement with Southeast Asia, it is appropriate for the United States to encourage greater protection of human rights in the region, which includes a stronger ASEAN human rights mechanism. Generally, human rights advocacy in Southeast Asia might still be pursued best through bilateral relations, in which more favorable short-term outcomes might be effected. However, it would be a mistake to dismiss the potential for human rights protection through ASEAN in the longer term, as many "realists" in the US policy community are inclined to do.

In this regard, the best advocacy is multi-pronged, involving the US Congress, the White House and the State Department. Specific recommendations include:

- Raising the profile and priority of developing a more effective ASEAN human rights mechanism within US human rights policy in Southeast Asia. Too often, US diplomats and other officials focus on "the list" - of prominent dissidents in detention and other individual human rights victims - and give longer-term regional developments in human rights a lower priority, if they are included at all.

- Encouraging the remaining five ASEAN members to establish national human rights commissions. In these countries, "rubber stamp" institutions are likely to be the first line of defense, but should not be dismissed out of hand. In the mid-1990's, then-President Suharto of Indonesia launched a national human rights commission, in large part to deflect criticism from the West on human rights. To his and others' surprise, the commission became increasingly assertive and autonomous.

- Encouraging the ASEAN Inter-Governmental Commission on Human Rights to require member states to submit annual reports on the state of human rights in their countries. This would be a major step forward but a reasonable mid-term goal. Some, if not many, member governments would likely submit extremely optimistic interpretations of their rights protections, but the very process of compiling and submitting such reports, albeit by the governments, would stimulate discussion on rights within the domestic populations.

- Encouraging Southeast Asian governments to sign and ratify UN human rights treaties where they have not yet done so. For example, Myanmar is considering accession to the UN Convention Against Torture. This could stimulate an outside-in effect, that is, encourage ASEAN to be more pro-active in areas of human rights where the member states have already adopted international treaties.

- Supporting greater civil society interaction with the ASEAN Inter-Governmental Commission on Human Rights and related bodies. There is some of this already - for example, Forum Asia produces an annual performance report on the ASEAN human rights mechanism, but there is need and room for much more.

Mr. MCGOVERN. Mr. Sifton.

STATEMENT OF JOHN SIFTON, ASIA ADVOCACY DIRECTOR, HUMAN RIGHTS WATCH

Mr. SIFTON. Thank you. Thanks again for inviting me to testify. Thanks again for inviting me to testify. This is the first time I've testified twice in one week.

I think Deputy Assistant Secretary Busby really laid out exactly what the big problems are with each of the ten member states of ASEAN so I'm not going belabor it. I would like to get admitted into evidence this report from February 2016 on human rights in ASEAN which lays out each country.

Mr. MCGOVERN. Without objection.

Mr. SIFTON. Human rights issues in each country – except for Laos, excuse me.

So what I wanted to do is bear down on some of the issues that don't get as much attention. I think we all know what the problems are with Thailand, Cambodia, Burma, Vietnam, Laos, Malaysia, with, frankly, all of the ten ASEAN states. But there's a couple of issues which get overlooked.

So I'll start with Thailand. One is that Thailand does not have an enormous amount of USAID funding for democracy in governance because it's a more developed country, and as a result there is a lot of support – U.S. government support going to civil society in Thailand, but there could be more and, I think, given the assault that human rights is under in Thailand, it's time to start asking the State Department some questions about how to increase the funding that's accruing to civil society groups in Thailand.

It's good that there's a – you know, there is increased funding through the Progress – that was mentioned by, PROGRESS program, but I think we have to look hard at that and see if there's areas that can be boosted so that the groups on the ground that are advocating for human rights and rule of law in Thailand are getting more support.

Now, that's a general thing across the region because I think it's important for the State Department to recognize that norms of democracy and rights and rule of law are under assault worldwide, but in particular in ASEAN. And as a result of that, democracy and governance funding, and DRL funding for support for human rights groups, needs to be rejiggered. It might be a zero-sum game where hard decisions need to be made about eliminating programs that are oriented towards beneficiaries, and reorienting that money towards advocacy groups that are advocating for norms and don't necessarily help individuals with particular needs that they have, but are more sort of abstract and academic, because right now we're facing a norms crisis worldwide, but in Asia in particular.

So rejiggering that money, redirecting some of the democracy and governance funding, and all of USAID's funding, is an important thing, not just in Thailand but regional.

Cambodia – I mean, look, I was just in Phnom Penh. I visited Kem Sokha in CNRP headquarters and it's clear what's going on. We are at the cycle point

that we've been at probably five times since 1991 where Hun Sen has decided to crush the opposition yet again, leading up to an election which he would probably lose if it was free and fair.

So I think it's time to turn the page with Cambodia. It's time to start talking about Cambodia like we talk about a country like Zimbabwe, and what that means programmatically is it's time to start talking about tough measures, not just pulling back on funding which, frankly, Hun Sen probably doesn't care about, but talking about targeted sanctions on individuals in the CPP – visa bans, travel bans, things like that. It's time to start talking about that.

Burma – look, huge strides. We don't need to go into all the details but one thing that just systematically does not get enough attention is the armed conflicts in the northeast. Shan State, my colleague just visited recently, is in a state of active combat. There is – there are more planes bombing places in Shan State. There are hundreds of thousands of people displaced in both Kachin and Shan State. There is a negotiation that is supposed to be brokered in July. This is a foundational issue in Burmese governmental crisis. The junta arguably took power in 1962 because of the democratic government's failure to deal with ethnic armed conflict. So this is something that just needs to get more attention. That's just a broad comment.

Vietnam – I really can't say enough that Representative Lowenthal's questions were completely apt. The lifting of the arms sales ban seemingly had no basis in reality. There was nothing that Vietnam did.

The lowering of the number of political prisoners – primarily due to the fact that they served out their sentences. I agree that the number of prosecutions has declined. But the number of cases of harassment and violence and thuggery by plainclothes Vietnamese security personnel have increased. In other words, they have shifted the methodology of repression from prosecution to thuggery.

So it's too late, you know, to revisit that. The fact of the matter is the President made the decision. There was a very healthy inter-agency debate. There were many members of the administration who did not agree with the decision. I'm just stating, you know, the truth here.

But at the end of the day, President Obama is merely one third of the U.S. government and I think Congress should use its authority to ask tough questions about arms sales going forward and even place holds on them when they feel as though Vietnam needs to have the crack of the whip to see how serious the United States Government is about its concerns with the crackdowns that are still occurring.

Frankly, stopping Nguyen Quang A and Doan Trang from seeing Obama in Hanoi was a slap in the face to the President of the United States and I feel like the United States Government should have been more voluble in complaining about it.

Okay. Here are some recommendations. As I said, on programming, the U.S. Congress really ought to ask some tough questions of State and USAID about their programming in Southeast Asia and ask whether money should be redirected, as I indicated. More support for groups that are engaging in advocacy and the protection of norms of rule of law and democracy.

Second, on the TPP, I mean, it would be great if members of Congress, especially those who have angst, as you said, and others who are on the fence, communicate directly to governments like Malaysia and Vietnam, that they are inclined not to support the Trans-Pacific Partnership unless they see more visible progress on human rights. So, you know, doing that yourself and urging other members would be very helpful.

Three, as I mentioned, it's time to start talking about sanctions and other types of punishment for countries like Cambodia for individuals – for individuals in the Cambodian People's Party who are violators of human rights.

Fourth, I think it's time to really press this administration and the next administration to improve ASEAN. I agree with the previous panelists' remarks about how ASEAN, you know, despite its woeful record, can – does have the nascent sort of framework to become something more important.

Human Rights Watch owes its existence to the Helsinki Accords and the creation of that process, which everybody thought was a joke at the time, but turned out to be almost the undoing of the Eastern Bloc.

So absolutely that's true. But we also have to admit that ASEAN's Intergovernmental Human Rights Commission is really a sad joke. You cannot have a human rights institution preceded by consensus. It's an absurdity, and it's time to really press them.

But you can't just turn them into the European Court of Human Rights overnight. So I think we have to talk about our, we have to talk about intermediary steps, and one intermediary step that I suggested to the White House before Sunnylands was that this administration, and I hope the next administration, press ASEAN to have civil society participation in the ASEAN summit or in the U.S.-ASEAN summit – real participation.

The AU summit here in Washington in 2014 had a civil society participation component. The government delegations at least had to hear from civil society at one point. If we made this an intermediate step I think that would be one great step forward. Ask ASEAN to commit to – maybe not in Laos but next year – commit to having civil society participation as a formal part of the ASEAN summit.

Fifth, press the administration to coordinate better with Tokyo, Brussels, Canberra, other allies, because there's coordination. There was a good EU joint statement on Cambodia recently. But it just needs to be improved and I, frankly, feel like the State Department systemically misses opportunities to coordinate with Brussels, Tokyo, Canberra and others.

Six, use IFIs and other economic factors. I think, you know, whether it's formally putting it into the appropriations bill to instruct the Treasury Department to use its voice and vote, to ask tough questions about specific programs but also ask about re-engagement with a country like Cambodia, just get the executive director of the bank to use his or her leverage better.

And last, seventh, just urge this administration and the next administration to speak more forcefully and frankly and specifically about its human rights concerns because President Obama does a great job talking about the general

principles. But when it comes down to specifics, he doesn't really go there, and the next president, it's probably going to be the same.

So I think being more specific about what our concerns are, being – enunciating them more specifically, and specifically focusing on the principle of non-interference as an antiquated anachronistic concept that needs to be basically abandoned, would be to the good.

So those are the basic recommendations. We'd be glad to discuss them more.

[The statement of John Sifton was based on Human Rights Watch, *Human Rights in ASEAN*, Briefing Materials for the US-ASEAN Summit, Sunnylands Estate, California, February 15-16, 2016, a report submitted for the record.]

Mr. MCGOVERN. Thank you very much. I am going to have to temporarily suspend while I go to another committee and vote. But some of us are coming right back. Either I'll be back, or Mr. Pitts will be here in about five minutes. So I apologize, but this is what happens on Fridays here.

All right.

[Whereupon, the Commission recessed at 11:07 a.m. and resumed at 11:25 a.m.]

Mr. HULTGREN. We're going to go ahead and resume. I apologize for competing committees kind of going on at the same time.

My name is Randy Hultgren. I'm proud to be a member here of the Commission and just want to thank all of the witnesses for being here. And so we'll go ahead with continuing on opening statements, if that's all right, and then go to some questions after that.

So, Mr. Walden Bello, if you would be ready to give your opening remarks, we will go to you.

STATEMENT OF WALDEN BELLO, BOARD MEMBER, ASEAN PARLIAMENTARIANS FOR HUMAN RIGHTS, AND FORMER MEMBER, PHILIPPINES HOUSE OF REPRESENTATIVES

Mr. BELLO. Yes. Thank you very – thank you very much to the Commission for inviting the ASEAN Parliamentarians for Human Rights to testify at this hearing.

Very briefly, we are a network of Southeast Asian legislators committed to advancing human rights and democracy throughout the region and we work through a variety of means to strengthen regional human rights mechanisms and push ASEAN member state governments to adhere to their international human rights obligations.

We – since we have had already four witnesses that have spoken with respect to the record of ASEAN, especially with respect to human rights and democracy, I would just like maybe to say that I do share many of the same concerns. The situation in Thailand, for instance, the situation in Cambodia and Malaysia, in terms of the space for opposition disappearing, and, of course, the discussion that has taken place around Vietnam, Cambodia and Laos, where dissent is very much circumscribed.

Well, to put it bluntly, the future of democracy in Southeast Asia is at risk. The only thing that I would just like to add here is maybe with respect to the situation in Thailand, which I am familiar with to some extent, that what is very troubling about the situation of almost total power for the military is that it is something that is backed by the – largely by the middle class, which has been very worried about the situation whereby the lower classes might be able to gain a bigger part of decision-making in society, which has made it much more conservative, so that we are dealing here with a more complex situation than just a traditional authoritarian dictatorship.

The second development that I would just like to briefly address is the situation in the Philippines. The representative from the State Department has

said that the Philippines is a success story. I disagree. The Philippines is not a success story.

In fact, the reason that we had the – Duterte, the person who won, Rodrigo Duterte, the person who won the elections, in fact win was because of the lack of progress in terms of addressing poverty and inequality of the past four and five administrations.

Now, the problem is that the president-elect is also somebody who has been associated with extrajudicial execution of alleged criminals and someone who recently justified the assassination of journalists deemed as corrupt. Now, this harsh line against due process was also a central reason for his electoral victory, which raises questions about how deep respect for human rights has really been internalized in a country long regarded as a regional paradigm of liberal democracy.

The third challenge that also previous speakers have already addressed is how to get ASEAN to promote and put their human rights in the context of a regional integration process, which has emphasized economic prerogatives and eschewed political and human rights concerns.

I agree that ASEAN is fundamentally ill-equipped to address human rights challenges, and also that the ASEAN Intergovernmental Commission on Human Rights really lacks a sufficiently strong mandate and lacks teeth in terms of really being able to push for more effective human rights implementation. And I also agree that ASEAN's consensus based decision-making structure is really problematic in this regard.

But there have been some glimmers of success and certainly the ASEAN's approach to Myanmar under military rule, under prodding from many international actors, ASEAN did manage to apply much needed pressure on the Burmese junta, resulting in positive changes that we're seeing today, and APHR was in fact one of the organizations that participated in this process.

With respect to the role of the United States, yes, public pronouncements and bilateral meetings to condemn human rights violations and support the fundamental rights of legitimate oppositional voices is very much needed and I think that should continue.

But U.S. officials must avoid the temptation to tokenize human rights. Statements are important, but without more concrete policy action, the U.S. government risks falling into the same pattern as ASEAN itself, including the language of human rights in its rhetoric while displaying a lack of substance in its attempts to address the relevant issues.

At the same time, members of Congress must be sensitive to concerns that some initiatives promoted by the current administration, like the Trans-Pacific Partnership, promote corporate interests at the expense of violation of labor rights and social welfare, and I believe that Congressman McGovern has expressed his concerns about the TPP. Let me just add to his concerns that there is really very great worry that this is an agreement that is being purchased at the cost of social welfare of – in Asia.

Sustained dialogue between pro-democracy voices, including lawmakers on both continents, is also critical. In this dialogue, a higher profile played by

civil society organizations, and an image and a reality of their being independent from the U.S. government, would be welcome.

It is also important that the United States avoid being tagged as hypocritical. One weakness in this regard has been the country's record of incarcerating large numbers of its minority populations.

In addition, since the ASEAN region has been a source of productive migrants to the United States and is home to a large Muslim population, there is fear that anti-immigrant and anti-Muslim sentiments are on the rise in the American population and that government policy is conciliating this.

There is no perfect society when it comes to the observation and practice of democracy and human rights. And if the United States is to be effective in assisting in the promotion of democracy and the institutionalization of human rights elsewhere, its officials must be sensitive to the limitations of their own society. More humility and more openness to criticism would contribute to ASEAN governments being less defensive about their own shortcomings.

In this regard, Mr. Chairman, I would just like my written statement to be included in the record, as well as the APHR's paper on the erosion of democracy in Southeast Asia.

So the more points that I have made are mainly, you know, just brief summaries of key parts of the paper.

Thank you.

[The prepared statement of Mr. Bello follows:]

PREPARED STATEMENT OF WALDEN BELLO

Good morning honorable committee members. My name is Walden Bello, and I am here representing ASEAN Parliamentarians for Human Rights, a network of Southeast Asian legislators committed to advancing human rights and democracy throughout the region. We work through a variety of means to strengthen regional human rights mechanisms and push ASEAN member state governments to adhere to their international human rights obligations.

APHR functions outside of formal ASEAN structures and is not officially recognized by the ASEAN Secretariat. This status reflects the suspicion with which most ASEAN governments view independent voices in their own parliaments, as well as any substantive efforts to advance human rights regionally.

In terms of human rights, Southeast Asia today faces three defining challenges. The first is a regional trend of democratic erosion. In the past three years, we have witnessed efforts by member state governments to systematically undermine democratic institutions and fundamental freedoms. We have seen a military takeover in Thailand, as well as the use of extreme authoritarian measures by ruling parties in Cambodia and Malaysia to shut down space for opposition groups. Meanwhile the region’s democratic laggards, such as Laos and Vietnam, have settled firmly into their statuses as repressive one-party states, where dissent is not tolerated. To put it bluntly, the future of democracy in Southeast Asia is at risk.

Let me just add here with respect to Thailand. The military rule there today has key differences from previous periods. The problem democracy faces to today is that the military regime has the support of the elite and the middle class. The reason is that the democratic process is seen as a mechanism by which the lower classes have advanced their political and economic demands. In short, the middle class has become illiberal and this constitutes a major barrier to the return of democracy.

A second disturbing development is a challenge to universally recognized human rights and due process. Let me take the case of the Philippines. I disagree with the assessment of the representative of the State Department that the Philippine is a democratic success story. The results of the recent presidential election in the Philippines are seen by many as being in fact a protest vote against the failure of past administrations to solve entrenched problems of poverty and inequality that have prevented real democratic empowerment of the majority. The problem is that popular disaffection has also brought to power a person who has been associated with extra-judicial execution of alleged criminals and recently justified the assassination of journalists deemed "corrupt." The harsh line against due process was a central reason for his electoral victory, which raises questions about how deep respect for human rights has really been internalized in a country long regarded as a regional paragon of liberal democracy.

A third challenge for ASEAN is how to promote and protect human rights in the context of a regional integration process, which has emphasized economic prerogatives and eschewed political and human rights concerns. As a result, the creation of the ASEAN Economic Community at the end of last year included little in the way of safeguards against the negative impacts of intra-regional investment. Such an approach threatens to run roughshod over the rights of marginalized populations and reinforce patterns of corruption, inequality, and impunity.

Unlike its organizational counterparts in other regions, ASEAN is fundamentally ill-equipped to address all three of these challenges. Its current structure and institutional architecture prevent it from taking significant action, and many of its member governments have demonstrated open hostility toward rights and democracy.

Though ASEAN has provided rhetorical backing for some liberal democratic ideals, it has supplied little in the way of bureaucratic or institutional support to facilitate their implementation. Though the ASEAN Charter outlines member states' obligations to promote and protect human rights and adhere to the rule of law and democratic principles, such commitments are circumscribed by ASEAN's "non-interference" principle and by vague statements, which undermine the universality of human rights. Likewise, the ASEAN Human Rights Declaration, perceived as a step forward by some, fails to safeguard human rights as defined by international treaties.

Regional institutions function in a similarly hollow manner. The ASEAN Intergovernmental Commission on Human Rights, for instance, lacks a sufficiently strong mandate—one that would allow it to receive complaints and take up specific cases. While the Commission's more progressive country representatives have achieved moderate success in using their existing mandate to shape regional norms, it, like other regional institutions, remains ultimately crippled by ASEAN's consensus-based decision-making structure.

Despite these drawbacks, however, we have seen glimmers of success in the past, which can and should be replicated moving forward.

One example is ASEAN's approach to Myanmar under military rule. Thanks in part to coaxing from international actors, ASEAN managed to apply much-needed pressure on the Burmese junta, which was instrumental in facilitating the positive changes we are seeing today. APHR, in fact, has its roots in this same movement, having been originally founded in 2004 as a collective of regional parliamentarians speaking out in support of the Burmese democracy movement.

The United States has a role to play in similar efforts today. U.S. officials should use public pronouncements and bilateral meetings to condemn human rights violations and support the fundamental rights of legitimate opposition voices.

But U.S. officials must avoid the temptation to tokenize human rights. Statements are important, but without more concrete policy action, the U.S. government risks falling into the same pattern as ASEAN itself: including the language of human rights in its rhetoric, while displaying a lack of

substance in its attempts to address relevant issues. At the same time, members of Congress must be sensitive to concerns that some initiatives promoted by the current administration, like the Trans-Pacific Partnership (TPP), promote corporate interests at the expense of violations of labor rights and social welfare.

Sustained dialogue between pro-democracy voices, including lawmakers, on both continents is also critical. In this dialogue, a higher profile played by civil society organizations and an image and reality of their being independent from the U.S. government would be welcome.

It is also important that the United States avoid being tagged as hypocritical. One weakness in this regard has been the country's record of incarcerating large numbers of its minority populations. In addition, since the ASEAN region has been a source of productive migrants to the United States and is home to a large Muslim population, there is fear that anti-immigrant and anti-Muslim sentiments are on the rise in the American population, and that government policy is conciliating this.

There is no perfect society when it comes to the observance and practice of democracy and human rights, and if the United States is to be effective in assisting in the promotion of democracy and the institutionalization of human rights elsewhere, officials must be sensitive to the limitations in their own society. More humility and more openness to criticism would contribute to ASEAN governments being less defensive about their own shortcomings.

I thank you.

Mr. HULTGREN. Without objection, your statement will be made part of the record. Thank you. Thank you, Mr. Bello.

Next we will recognize Dr. Heng.

STATEMENT OF DR. PEK KOON HENG, DIRECTOR OF ASEAN STUDIES INITIATIVE, AMERICAN UNIVERSITY SCHOOL OF INTERNATIONAL SERVICE

Dr. HENG. Thank you, Mr. Co Chairman, for this opportunity to appear here today.

As the last speaker, I will obviously be echoing and talking about the same things that were raised by the previous speakers.

I would like to begin by noting that while the ASEAN human rights declaration pays lip service to the UDHR, its donor principles reflect a compromise among the ten ASEAN member states with systems of government, as we've seen earlier, range from military dictatorship, Muslim monarchy, communist authoritarian regimes and six hybrid democratic systems, which include two consolidated democracies, one fledgling multiparty system and three semi-democratic one-party dominant system.

And crafted according to the ASEAN way of consensus -based decision making aimed at upholding national sovereignty, non-interference, the declaration represents the lowest common denominator of what the ASEAN governments are willing to commit to human rights promotion with their own national borders.

It is a conceptual construct that identifies human rights promotion as a long-term aspirational goal rather than a guide to specific actions to protect civil liberties.

In essence, it was promulgated during Hun Sen's moral authority within its own domestic publics and to strengthen the group's standing in the U.S.-dominated global discourse on human rights and democracy advancement.

So what can one expect from the ASEAN Intergovernmental Human Rights Commission, AICHR? In keeping with the ASEAN government's driving principle of safeguarding national sovereignty, AICHR was intentionally designed as a weak institution with a mandate only to project ASEAN member states' willingness to learn about human rights, but not necessarily to respect, promote or protect them.

AICHR has no investigative, evaluative or enforcement powers. Its authority is confined to the right to collect information on human rights in each ASEAN country, to engage and consult with CSOs and other human rights stakeholders, and to enhance public awareness through education, research and dissemination of information on such thematic issues as irregular migration, trafficking persons, women and children and conflicts and disasters, rights of persons with disabilities, juvenile justice, right to health, education and peace, and as the previous speaker said, the emphasis on economic and social cultural rights, not on political and civil rights.

The – and since AICHR currently does not have the institutional strength to serve as a vehicle for human rights promotion, I believe it is through a bilateral

strategic arrangements with the five existing national human rights commissions in ASEAN, and national as well as regional human rights NGOs, that the U.S. can best advance human rights in the region.

The outcome of such arrangements will be more positive in countries that are receptive to – already receptive to human rights' promotion, particularly Indonesia and hopefully Philippines, perhaps probably in Burma under the stewardship of Aung San Suu Kyi, less so in countries with mixed human rights records such as Malaysia and Singapore, and least of all, in Vietnam, Laos and Cambodia.

So discrimination against LGBTI rights will be strongest in the Muslim majority countries of Brunei, Malaysia and, to a lesser extent, Indonesia.

Looking ahead, what are the prospects for improvement of human rights in ASEAN? Despite the varying degrees of limitations placed on human rights in each ASEAN country, it must be noted that each of these societies contain idealistic, committed activists and NGOs pressing for liberal reforms. National CSOs have also linked up regionally in bodies such as the ASEAN People's Forum, the Solidarity for Asian People's Advocacy, to present or confront an agenda to ASEAN's government elites.

Given the institutional weakness of the ASEAN's secretariat and the predisposition of ASEAN governments to discourage domestic CSOs from interacting regionally across borders, U.S. democracy and human rights promotion efforts should be dual-tracked to simultaneously build up both national and regional capacity of ASEAN CSOs.

This parallel dual-tracking with bottom-up effects would enable cross-fertilization of best practices with lessons and strategies learned from the more robust human rights communities to benefit the weaker, more fragile CSOs in Laos, Vietnam and Cambodia.

I have six recommendations to make to the committee and these are aimed at placing greater emphasis on human rights in the U.S.-ASEAN strategic partnership.

First of all, I would like to see an expansion and strengthening of the capacity of civil society organizations in ASEAN countries by promoting youth initiatives and civil society linkages between ASEAN and the U.S. Increase congressional funding for programs such as the Young Southeast Asia ASEAN Leadership Initiative, YSEALI, Youth ASEAN Fulbright Visiting Scholars Initiative, the International Visitors Leadership Program and the Kennedy Lugar Youth Exchange Study YES Program for high school students. These initiatives have successfully built up fledgling civil society movements in the newer ASEAN countries and deepened human rights NGO capacity in the older ASEAN nations.

The second recommendation is to earmark funding for the training of ASEAN anti-trafficking NGO leaders who can partner with law enforcement officials in the respective countries in identifying and addressing human rights violations, both among domestic populations and victimized foreign migrant workers.

The third is to fund ASEAN CSOs across border linkages that facilitate both national NGOs working under the auspices of regional bodies, such as the

ASEAN People's Forum, to address common objectives related to democracy promotion, ethnic minority rights, religious freedom and trafficking in persons.

Fourthly, to increase funding for democracy and human rights promotion advocacy groups here in the U.S. such as the NED, IRI, John Sifton's Human Rights Watch and this international which in their watchdog roles over the years have collaborated effectively with ASEAN-based CSOs in building capacity to champion democracy and civil liberties both nationally and regionally.

Five, fifth, increase efforts to strengthen pro-democracy and human rights institutions in the Muslim-majority countries, particularly in Indonesia, Malaysia, which together with the Muslim-minority countries make up almost half the population of ASEAN.

Congressional funding for U.S. public diplomacy outreach programs and education exchanges in ASEAN should target moderate and inclusive Muslim initiatives, particularly Indonesia's Nahdlatul Ulama 40-million-strong grassroots initiative called Islam Nusantara and Malaysia's state-sponsored Global Movement for Moderates. Both initiatives seek to counter violent extremism by localizing Islam within the Indonesian and Malaysian multicultural environments and to de-radicalize Indonesian and Malaysian Muslims from recruitment by ISIL.

Finally, I would like – I would urge the committee to establish two Tom Lantos Human Rights ASEAN Awards, the first to commend the efforts of the brave individuals who have made outstanding contributions to the promotion of democracy, human rights and freedom in their own countries, and the second to recognize the achievements of regional NGOs in coordinating and advancing human rights among civil society organizations throughout ASEAN. And these are what should be announced at the U.S.-ASEAN summit and that would prioritize human rights in the U.S. – ASEAN-U.S. strategic partnership.

Thank you for having me here and I now submit my written testimony for inclusion in the proceedings.

[The prepared statement of Dr. Heng follows:]

PREPARED STATEMENT OF DR. PEK KOON HENG

In discussing the current state of democracy and human rights in ASEAN, I want to begin by noting that the organization's ASEAN Human Rights Declaration (AHRD) was passed after great debate over many years and finally adopted on November 18, 2012. While the declaration pays lip service to the Universal Declaration of Human Rights, its general principles reflect a compromise among the ten ASEAN member states, whose systems of government range from military dictatorship in Thailand, a Muslim monarchy in Brunei, communist authoritarian regimes in Laos and Vietnam, and six hybrid democratic systems, which include two consolidated democracies in Indonesia and the Philippines, one fledgling multiparty system in Burma/Myanmar, and three semi-democratic one-party dominant system in Singapore, Malaysia and Cambodia.

Crafted according to the "ASEAN Way" of consensus-based decision-making aimed at upholding national sovereignty and non-interference, the Declaration represents the lowest common denominator of what the ASEAN governments are willing to commit to democracy and human rights promotion within their own national borders. Far from a ringing endorsement of liberal democratic ideals, the Declaration is a conceptual construct that identifies human rights promotion as a long-term aspirational goal rather than a guide to specific action to protect and promote civil

liberties. In essence, it was promulgated to enhance ASEAN's moral authority with its own domestic publics and to strengthen its standing in the U.S.-dominated global discourse on democracy and human rights advancement.

ASEAN civil society organizations (CSOs) had almost no input in crafting its details and were quick to criticize the final product. Outside observers expressed equally disparaging verdicts. Within ten days of the document's release, Mr. Daniel Baer, then Deputy Assistant Secretary at the State Department's Bureau of Democracy, Human Rights and Labor, offered the U.S. Government critique. Organizing his presentation around perceived failings of "cultural relativism," "domestic laws versus universal rights," "novel limits to rights," and "individual rights subject to group veto," Mr. Baer's raised three major objections to the Declaration: first, ASEAN's subjection of the bedrock principle of the universality of human rights to an assumed ASEAN cultural context, where national laws take precedence over human rights protection; second, the subordination of individual rights to group rights; and third, by balancing rights of citizens with emphasis on their primary duties to the state.

U.S. candid official criticism of ASEAN's performance in this area has been a consistent feature of the Congressionally-mandated annual reports on human rights, religious freedom and trafficking in persons for each ASEAN member country. However, within the broader context of U.S.-ASEAN relations and in the bilateral U.S. relations with individual ASEAN nations, human rights considerations clearly take a back seat to the top national priorities of security cooperation and economic engagement. Most notably, the Obama Administration seeks ASEAN's support for its position on settling territorial disputes in the South China Sea. Specifically it wants ASEAN to take a united position that will draw China into negotiating a binding Code of Conduct for the South China Sea, which will commit the claimant states to a peaceful resolution of disputed claims based on international law and freedom of navigation. A second issue that drives the security agenda between U.S. and ASEAN is counter-terrorism and the imperative to address ISIL recruitment activities, particularly in Indonesia, which contains the largest Muslim population in the world, and Malaysia, which has recently seen a disturbing rise in Islamist extremism.

In the area of economic engagement, particularly in the context of the Trans-Pacific Partnership (TPP) Agreement, where four ASEAN nations – Brunei, Malaysia, Singapore and Vietnam – have signed the free trade pact, and another three – Indonesia, Philippines and Thailand – have expressed their interest in becoming members, the Obama Administration has demonstrated a willingness to compromise on human rights to advance the TPP. This attitude was demonstrated by the State Department's upgrading of Malaysia's status in the 2015 Trafficking in Persons Report, when it was uplifted from Tier 3 to Tier 2 Watch List, despite credible evidence provided by both human rights groups in Malaysia and the U.S. that the country has not done enough to warrant that upgrading. If Malaysia had remained in Tier 3, it would have been ineligible to join the TPP, following the Trade Promotion Authority (TPA) legislation introduced by Senator Bob Menendez that prohibits expedited "fast track" Congressional consideration for any trade deal including a Tier 3-ranked country.

Looking at the human rights issue from the perspective of the ASEAN countries themselves, one can surmise that with the political liberalization in Burma/Myanmar, that country is no longer a contentious issue. And the domestic situations in other nations are equally far from capturing international headlines, with the exception of the plight of Burma's Rohingya Muslims. The annual reports on human rights, religious freedom and TIP will continue to be critical, even hard-hitting, but ASEAN leaders assume that Washington will not push very hard for immediate tangible improvements, even with regard to Tier 3 countries (only Thailand received that designation in 2015), which might be subject to sanctions in non-humanitarian and non-trade-related foreign assistance. On the other hand, there is always the potential that Congressional action will be forthcoming should human rights conditions deteriorate significantly, as was seen with the cut-off in military assistance to Indonesia in the wake of abuses committed by the military in Timor Leste, and sanctions applied to Burma/Myanmar before its political liberalization.

What can be expected from the established human rights institutions within ASEAN, particularly the ASEAN Intergovernmental Human Rights Commission (AICHR)? In keeping with the ASEAN governments' driving principle of safeguarding national sovereignty, AICHR, established in 2009, was intentionally designed as a weak institution with a mandate to project ASEAN member state's willingness to learn about human rights, but not necessarily to respect, promote or protect them. AICHR has no investigative, evaluative or enforcement powers, or any early warning mechanisms. Its authority is confined to the right to collect information regarding the promotion and protection of human rights in each ASEAN member state; to engage and consult with CSOs and other human rights stakeholders; and to enhance public awareness through education, research and dissemination of information on the following thematic areas: migration; trafficking in persons; women and children in conflict and disasters; rights of persons with disabilities; juvenile justice; right to health, education and peace; and freedom of religion and belief.

Since AICHR currently does not have the institutional strength to serve as a vehicle for human rights promotions, it is through bilateral strategic arrangements with national human rights commissions, and national as well as regional human rights NGOs, that the U.S. can best advance human rights in ASEAN. The outcomes of such arrangements will be more positive in countries that are receptive to democracy and human rights promotion, such as the Philippines and Indonesia, where elections and the press are relatively free, and civil society functions with minimum government interference (with the notable exception of Papua in Indonesia). Another country that is progressing along an encouraging path is Burma/Myanmar, where Aung San Suu Kyi has thus far managed to work effectively with the military leaders as she seeks to consolidate civilian rule in that country. However, she cannot become President and is constrained to speak out against the gross violations of the human rights of the Rohingya Muslims. Malaysia and Singapore continue to have free elections, but restrictive government policies in both countries and electoral gerrymandering in Malaysia have prevented the emergence of multi-party systems in those countries. Malaysia until recently was notably freer than Singapore but has now regressed to a point where it has become less tolerant of civil liberties and civil society institutions, which facilitated the rise of opposition politics in the 2008 and 2013 elections. Few advances in human rights can be expected in communist authoritarian Laos and Vietnam, though the latter country is committed to undertaking labor reforms required for its accession to the TPP. A particularly disturbing trend in the region has been the increasing resistance to the Western secular human rights regime from groups committed to the implementation of sharia law, as exemplified by Aceh in Indonesia and Brunei, the first nation in ASEAN to implement the sharia penal code.

Thailand, at one point heading in the direction of a vibrant pluralistic polity, has now become much less tolerant under a military dictatorship that is likely to remain in power and continues to apply the strict *lese majeste* laws and other edicts that constrain freedom of speech and other civil liberties as well as limit the activities of NGOs. That restrictive environment is likely to stay in place through the transition following the passing of His Majesty the King.

Looking ahead, what are the prospects for improvement of human rights in ASEAN?

Despite the varying degrees of limitations placed on human rights in each ASEAN country, each of the societies contain idealistic, committed activists and NGOs pressing for liberal reforms covering a wide spectrum of interests: free and fair elections; freedom of press, assembly, and speech; LGBTI rights; clean and accountable governance; environmental protection; inclusive economic development; and greater access to social welfare services. National CSOs have also linked up regionally in bodies, such as the ASEAN People's Forum (APF), the Solidarity for Asian People's Advocacy (SAPA) network, and Forum-Asia, to present a common front and agenda to ASEAN's governing elites. But there are also strong forces working in the opposite direction. These counter movements include the challenge to the authority of the ten ASEAN sitting governments posed by both Islamist and non-Islamist movements mobilized along ethnic

and regional identities. In thwarting such challenges, ASEAN governments have and will continue to crack down on civil liberties in the name of national security.

The Obama Administration's timely Asia rebalance policy has not only brought strategic, political and economic advantages to the U.S., but it has also increased U.S. standing in the region as well as opened up new opportunities for advances in the U.S. human rights agenda. Given the institutional weakness of the ASEAN Secretariat and the predisposition of ASEAN governments to discourage domestic CSOs from interacting regionally across borders as well as the lack of progress in building a substantive people centered ASEAN "Socio-Cultural Community," U.S. democracy and human rights promotion efforts should be dual-tracked to simultaneously build up both national and regional capacity of ASEAN CSOs. This parallel dual-tracking would enable cross fertilization of best practices within ASEAN, with lessons and strategies learned from the more robust human rights community in Indonesia and the Philippines to benefit the weaker and more fragile CSOs in other ASEAN nations such as Laos and Vietnam.

Recommendations:

1. Expand and strengthen the capacity of civil society organizations in the ASEAN countries by promoting youth leadership and civil society linkages between ASEAN and the U.S. Increase Congressional funding for programs such as the Young Southeast Asian Leadership Initiative (YSEALI), the U.S.-ASEAN Fulbright Visiting Scholars Initiative, the International Visitors Leadership Program (IVLP), and the Kennedy-Lugar Youth Exchange and Study (YES) program for high school students. These initiatives have successfully built up fledging civil society movements in the newer ASEAN countries (Laos, Burma/Myanmar, Cambodia and Vietnam) and deepened human rights NGO capacity in the older ASEAN countries (Indonesia, Malaysia, Philippines, Singapore, and Thailand).

2. Earmark funding for the training of ASEAN anti-trafficking NGO leaders who can partner with law enforcement officials in their respective countries in identifying and addressing human rights violations, both among domestic populations and victimized foreign migrant workers.

3. Fund ASEAN CSO cross-border linkages that facilitate national NGOs working under the auspicious of regional bodies, such as the ASEAN People's Forum, to address common objectives related to democracy promotion, ethnic minority rights, religious freedom, LGBTI rights, and trafficking in persons.

4. Increase funding for democracy and human rights promotion advocacy groups based in the United States – such as the National Endowment for Democracy, National Democratic Democracy, and International Republican Institute – which, in their watchdog roles over the years, have collaborated effectively with ASEAN-based CSOs in building capacity to champion civil liberties, free and fair competitive elections, and clean, accountable and democratic governance, both nationally and regionally.

5. Increase USG efforts to strengthen pro-democracy and human rights institutions in the Muslim majority countries of Indonesia, Malaysia and Brunei. Muslims in those countries, together with the Muslim minority populations in the Philippines, Thailand, Singapore, Burma/Myanmar and Cambodia, comprise almost half the total population of ASEAN. Congressional funding for U.S. public diplomacy outreach programs and educational exchanges in ASEAN should target moderate and inclusive Muslim initiatives such as Indonesia's Nahdatul Ulama's grass roots-driven Islam Nusantara project and Malaysia's state-sponsored Global Movement of Moderates. Both initiatives seek to counter violent extremism by localizing Islam within the Indonesian and Malaysian multicultural environments and to de-radicalize Indonesian and Malaysian Muslims from recruitment by the Islamic State (ISIS/ISIL).

6. Establish two Tom Lantos Human Rights ASEAN Awards, the first to commend the efforts of individuals who have made outstanding contributions to the promotion of democracy, human

rights and freedom in their own countries, and the second to recognize the achievements of regional NGOs in coordinating and advancing human rights among civil society organizations throughout ASEAN. In order to give greater attention to the role of human rights in the U.S.-ASEAN Strategic Partnership agenda, the establishment of these awards should be announced at the forthcoming U.S.-ASEAN Leaders Summit.

Mr. PITTS. The Chair thanks the gentlelady. We will go to questioning of the panelists at this point. I will recognize myself for that purpose.

Ms. Dalpino, you recommend that the U.S. encourage Southeast Asia nations join U.N. human rights treaties. Can you speak more to how the outside-in effect would follow from ASEAN members' ratification of U.N. treaties and if international treaties meet universal standards should ASEAN members be directed to the U.N. system and not to ASEAN? Put another way, what are the advantages to having separate ASEAN regional instruments on human rights.

Ms. DALPINO. Thank you, Mr. Co-Chairman. I think that for a number of reasons some ASEAN governments may be more inclined to accede to international treaties than to try and enforce one at the regional level. Some countries in Southeast Asia are anxious to be seen as playing a larger global role, emerging from isolation such as Myanmar, and my specific point was that Myanmar is considering acceding to the Convention against Torture.

Others, such as Vietnam, are seeking a larger role on the global stage. Also, international treaties treat the signatories equally which places countries from Southeast Asia on a plain with countries from the West, et cetera.

[Audio cuts out.]

Mr. PITTS. ... what is your view on that?

Mr. SIFTON. You get human rights progress in fits and starts, but you also sometimes have great leaps forward. I believe that, in the ASEAN context, we have to take what we can get on the gradual creep. In Vietnam, I'd be glad to discuss with the Vietnam regime issues of disability rights, LGBT rights, more technical issues that don't threaten them politically. But at the same time, human rights groups are going to demand the release of political prisoners. We can't quiet ourselves or censor ourselves on the political and civil rights as we focus on the more technical rights that the regimes will discuss with us.

At the end of – at the risk of just repeating this, this issue of congressional funding and U.S. funding for civil society groups on the ground is a very important one. But USAID and DRL need to make important decisions about the funding and not simply focus on the innocuous types of programing that governments don't feel threatened by. The funding does need to accrue to the groups that are on the front lines of the civil and political rights discussions as well. That funding sometimes has to be given quietly so that it doesn't look as though the United States is directing these groups to do certain things, because it's not, but there's an impression created sometimes that that's the case. I wish that those groups could be supported more by the private sector. Just to make it clear, thank you for the reference to Human Rights Watch, but Human Rights Watch takes no governmental funding, from the U.S. government or any government. Unfortunately, however, a lot of local groups don't have the luxury of making a decision like that to maintain their independence, and the illusion – not the illusion, the appearance. The funding should be given as much as possible and should not accrue to these innocuous programs. I strongly, strongly urge Members of Congress to push the State Department to increase that funding and to use it more effectively.

Mr. PITTS. Thank you. Mr. Bello, you've spent a career and a lifetime in the Philippines, both in academia and public service. What is the perception of ASEAN among those outside of the policy circle? Is it seen as a positive force in the region?

Mr. BELLO. Let me say this, Mr. Chair. I think that ASEAN is really regarded internally as mainly an organization who are – it's mainly government officials dealing with foreign policy that engage in this organization called ASEAN. If you ask the ordinary farmer or worker what ASEAN is, most likely they'll give you something like 'is it a brand of cement?' Okay? And this just goes to show how little the ASEAN consciousness or brotherhood or sisterhood has really come down. So, despite the fact that it has hundreds of meetings every year, the reality of it as an organization that has moved beyond just a formal diplomatic community to something that is a real community really has a long way to go.

The other thing I would just like to say, Mr. Chair, is the question you had asked Ms. Dalpino. And, yes, I believe that pressing ASEAN member states to join international human rights and labor rights conventions is really quite important. I'll just give you two examples. One is Laos, for instance, is a signatory on the International Convention Against Enforced Disappearances. And the disappearance of Sombath Somphone, one of the Laotian democratic activists – one of the levers that APHR has used is look, Laos, you signed this convention, therefore you have to live up to it. And that creates – you know, that is a very important moral and political weapon for human rights activists.

The second thing is more positive. When the Philippines for a long time did not regard its domestic workers as part of the formal labor force. But there was tremendous push for the Philippines to sign the ILO Convention on Domestic Workers. And when the Philippines signed that, therefore it said we have to make our own laws consistent with the convention that we signed. And I know this because I was one of the sponsors of the Domestic Workers Act and this is a case whereby signing an international agreement can in fact promote legislation internally that is positive. So I would definitely endorse the recommendation that is proposed by our previous speaker.

Mr. PITTS. Thank you. Dr. Heng, you note that some countries are stronger in corralling other countries toward a human rights center. Are there any states that the United States should target to lead changes within ASEAN?

Dr. HENG. There is no state that has a perfect performance on human rights. But if you have to target two states, I would say Indonesia would be the state to work with because they have – there is a very robust – the freest press, you know, democratic civil societies – civil liberties are very strong there and Islam in Indonesia coexists with secular democracy, and their human rights groups that are very secular in outlook.

So and one important is, you know, because of the fact that, you know, two of the largest Indonesian Muslim movements that claim 100 million members – they are committed to an inclusive, moderate, you know, sort of a non-Islamist state.

So that's the way to work it, the whole gamut of human rights in Indonesia, and they also include political and civil rights, not only economic social rights.

Philippines, I would have said, was another country, but under Duterte I'm not quite sure how, you know, that will go.

And then the – and apart from the countries themselves, I think a lot of attention should be given to the regional human rights – the ASEAN People's Forum, the ASEAN Solidarity Forum. They are doing tremendous work and there is a cross-fertilization effect because if you look at the ASEAN People's Forum, the ASEAN civil society conference last year in Malaysia that was held on the [unintelligible] Summit, the agenda that they had, you see that now in the AICHR five-year agenda, so some of the agendas are taken over, developmental justice, you know, peace, security and strengthen the mandate of AICHR, of the ASEAN women's and children's committee, of establishing a migrant workers' committee. Now, that is now part of the five-year 2016 to 2020 five-year action plan of AICHR.

So you see the these civil societies working together. They meet. AICHR consulted them. AICHR doesn't have individual hearings but they do consult with civil society and you see the – you see the transference of some of these goals – some of these platforms onto the AICHR platform.

Mr. PITTS. We have been called to a vote. I would like to thank all of our distinguished witnesses for their testimony and their expertise, sharing with us today. I must also thank my distinguished co-chair, Mr. McGovern, for organizing this important hearing and Mr. Lowenthal for his leadership on human rights issues in Southeast Asia and the other members of the Commission who regularly advocate on behalf of human rights around the globe.

As we head into the second half of the decade, the level of diplomatic economic security engagement between the United States and ASEAN member states is only likely to grow. These are important partnerships and in many cases they should be strengthened, but not at the expense of fundamental human rights. The Commission has kept a close eye on human rights developments in several ASEAN nations including Vietnam, Burma, Myanmar and Cambodia. One of particular concern to myself and many others has been the treatment of religious minorities in these three states, especially in Vietnam and Burma.

According to at least one source, dozens of pastors and church leaders remained imprisoned in Vietnam. Just last week, the U.N. human rights officials condemned the repeated arrest and torture of the wife of an imprisoned pastor who refuses to halt protests calling for her husband's freedom.

In Burma, the plight of the Rohingya, the Muslim community, has been well-documented and other religious minorities, including predominantly Christian Kachin and Chin tribal people, continue to face harassment and assaults at the hands of the SPDC, the Burmese military.

These and many other human rights concerns that have been raised here today should be acknowledged. They should be discussed. They should be addressed by the ASEAN entity. No international or regional body that ignores the rights and freedoms of people it was purportedly created to protect would be

able to maintain credibility in the long-term and this Commission will continue to examine these issues and seek ways that the Congress and the United States can engage ASEAN, promote mechanisms for addressing human rights concerns.

And I look forward to working with the distinguished witnesses who have spoken here today. Thank you very much for sharing your expertise with us. I apologize that the Members are being called to vote on the floor. But if we have questions to follow up, we'll send them to you in writing and ask that you please respond.

[The prepared statement of Co-Chair Pitts follows:]

PREPARED STATEMENT OF THE HONORABLE JOSEPH R. PITTS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA AND CO-CHAIR OF THE TOM LANTOS HUMAN RIGHTS COMMISSION

I would like to thank all of our distinguished witnesses for their testimony and their expertise. I must also thank my distinguished Co-Chair, Mr. McGovern, for organizing this important hearing, Mr. Lowenthal for his leadership on human rights issues in Southeast Asia, and the other Members of the Commission who regularly advocate on behalf of human rights around the globe.

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The Commission has kept a close eye on human rights developments in several ASEAN nations, including Vietnam, Burma, and Cambodia. Of particular concern to myself and many others has been the treatment of religious minorities in these three states, and especially in Vietnam and Burma. According to at least one source, dozens of pastors and church leaders remain imprisoned in Vietnam, and just last week U.N human rights officials condemned the "repeated arrest and torture" of the wife of an imprisoned pastor who refuses to halt protests calling for her husband's freedom.

In Burma, the plight of the Rohingya Muslim community has been well documented, and other religious minorities, including the pre-dominantly Christian Kachin and Chin continue to face harassment and assaults at the hands of the Burmese military.

These, and the many other human rights concerns that have been raised here today, should be acknowledged, discussed, and addressed by the ASEAN entity. No international or regional body that ignores the rights and freedoms of the people it was purportedly created to protect will be able to maintain credibility in the long term.

This Commission will continue to examine these issues and seek ways that the Congress and the United States can engage ASEAN and promote mechanisms for addressing human rights concerns. I look forward to working with the distinguished witnesses who have spoken here today, and with that, this hearing is adjourned.

Mr. PITTS. With that, this hearing is adjourned.
[Whereupon, at 11:55 a.m., the Commission was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

Tom Lantos Human Rights Commission Hearing

Hearing Notice

Advancing Human Rights through ASEAN: Vehicle for change?

June 10, 2016
10 AM – 11:30 AM
2255 Rayburn House Office Building

Please join the Tom Lantos Human Rights Commission for a hearing on the human rights functions of the Association of Southeast Asian Nations (ASEAN) and opportunities to improve human rights in the Southeast Asia region.

ASEAN is Southeast Asia's primary multilateral organization, comprised of ten member states: Indonesia, Philippines, Malaysia, Singapore, Thailand, Brunei, Burma, Cambodia, Laos, Thailand, and Vietnam. Founded in 1967, ASEAN adopted a charter in 2008 that includes human rights principles, and the organization has also emitted a human rights declaration and created a human rights commission. But aspects of the declaration and elements of the commission, as well as ASEAN's operating principles of non-interference and consensus, dubbed the "ASEAN Way," have been criticized by reputable international observers for falling short of universal human rights standards. Meanwhile, progress on human rights in the region has been uneven, and some situations have worsened.

In November 2015, as an indication of deepening U.S. ties with this economically and politically vital region, the Obama administration elevated the relationship with ASEAN to a Strategic Partnership. Last February, President Obama hosted the first U.S.-ASEAN leaders' summit on U.S. territory and plans to visit Laos in the fall for his last ASEAN Summit.

At this hearing, experts will examine the human rights trends in the Southeast Asia region, assess the capacity of ASEAN mechanisms to impact these trends, and provide recommendations on how the U.S., and particularly the

Congress, can engage with ASEAN to ensure that respect for human rights keeps pace with the other components of the U.S.-ASEAN relationship.

Panel I:

- **Colin Willett**, Deputy Assistant Secretary, Bureau of East Asian and Pacific Affairs, Department of State
- **Scott Busby**, Deputy Assistant Secretary, Bureau of Democracy, Human Rights, and Labor, Department of State

Panel II:

- **Catherin Dalpino**, Adjunct Professor of Professional Practice, School of Diplomacy and International Relations, Seton Hall University, and former Deputy Assistant Secretary, Bureau of Democracy, Human Rights and Labor, Department of State
- **John Sifton**, Asia Advocacy Director, Human Rights Watch
- **Walden Bello**, Board Member, ASEAN Parliamentarians for Human Rights, and former Member, Philippines House of Representatives
- **Dr. Pek Koon Heng**, Director of ASEAN Studies Initiative, American University School of International Service

This hearing will be open to members of Congress, congressional staff, the interested public, and the media. For any questions, please contact Dan Aum (for Mr. McGovern) at 202-225-3599 or Daniel.Aum@mail.house.gov, Isaac Six (for Mr. Pitts) at 202-225-2411 or Isaac.Six@mail.house.gov, or Ben Kane (for Mr. Lowenthal) at 202-225-7924 or Ben.Kane@mail.house.gov.

Sincerely,

James P. McGovern Co-Chair, TLHRC	Alan S. Lowenthal Member, TLHRC	Joseph R. Pitts Co-Chair, TLHRC

Tom Lantos Human Rights Commission Hearing

Witness Biographies

Advancing Human Rights through ASEAN:
Vehicle for change?

June 10, 2016
10 AM – 11:30 AM
2255 Rayburn House Office Building

Panel I

Colin Willett is the Deputy Assistant Secretary for Strategy and Multilateral Affairs in the East Asia and Pacific Bureau. Ms. Willett served as the Director for Southeast Asia at the National Security Council staff from May 2011 to December 2014. In that position, she advised the President and senior White House officials on a range of issues, including U.S. engagement with Burma, the United States' strategic cooperation with ASEAN, the East Asia Summit, the South China Sea, and U.S. relations with the countries of Southeast Asia. Ms. Willett had previously served as an Asia analyst at the Central Intelligence Agency, and has nearly 16 years of experience working on political, economic, and security issues in East Asia. Ms. Willett received her M.A. in Economics at Tufts University, and her B.A. in Economics at the College of William and Mary.

Scott Busby serves as Deputy Assistant Secretary in the Bureau of Democracy, Human Rights and Labor at the U.S. Department of State in Washington, DC, where he oversees the Bureau's work in East Asia and the Pacific as well as on multilateral and global issues, including U.S. engagement on human rights at the United Nations, Internet freedom, and business and human rights. Previously, he served as Director for Human Rights on the National Security Council in the White House from 2009 to 2011 where he managed a wide range of human rights and refugee issues. From 2005 to 2009, he was Coordinator of the Intergovernmental Consultations on Migration, Asylum and Refugees in Geneva, Switzerland.

Prior positions include Director of the Office of Policy and Resource Planning at the Bureau of Population, Refugees and Migration in the Department of State (2000-2005), Director for Multilateral and Humanitarian Affairs at the National Security Council under President Clinton (1997-2000), counsel at the Immigration and Naturalization Service (INS) (1995-1997) and the Office of the United Nations High Commissioner for Refugees (UNHCR) (1992-1995). He got his start in federal service as an Asylum Officer at INS. Scott holds advanced degrees in sociology and law from the University of California at Berkeley and received his B.A. from Amherst College.

Panel II

Catharin Dalpino is an Adjunct Professor of Professional Practice in the School of Diplomacy and International Relations at Seton Hall University. She has also taught Southeast Asian politics, security and international relations and US foreign policy variously at Georgetown University; Johns Hopkins School of Advanced International Studies; George Washington University and Simmons College. For five years she was Director of Georgetown University's Thai Studies Program. From 1993 to 1997 she was Deputy Assistant Secretary of State for Democracy in the State Department's Bureau of Democracy, Human Rights and Labor.

Ms. Dalpino has also been a Fellow at the Brookings Institution; a Resident Associate at the Carnegie Endowment for International Peace; an Associate at Georgetown University's Institute for the Study of Diplomacy; a Visiting Scholar in Southeast Asian Studies at SAIS; and a Nonresident Senior Fellow at the

Atlantic Council. From 1983 to 1993 she was a career officer with The Asia Foundation, and was the Foundation's Representative for Thailand, Laos and Cambodia. In that capacity, she re-opened the Foundation's programs in Laos and Cambodia after a hiatus of fifteen years. She was the founding director of the Aspen Institute Program on Agent Orange in Vietnam (2007-2009). She is a past president of the board of the War Legacies Project; a past member of the US-Thailand Fulbright Board; and a past Board member of the Commonwealth Club of California.

John Sifton, the Asia Advocacy Director, works on South and Southeast Asia. Previously, he was the director of One World Research, a public interest research and investigation firm. Before joining One World Research, Sifton spent six years at Human Rights Watch, first as a researcher in the Asia division, focusing on Afghanistan and Pakistan, then as the senior researcher on terrorism and counterterrorism. In 2000 and 2001, Sifton worked for the International Rescue Committee, primarily in Afghanistan and Pakistan, and in 1999 he worked at a refugee advocacy organization in Albania and Kosovo. He holds a law degree from New York University and a bachelor's degree from St. John's College, Annapolis.

Walden Bello is a Filipino author, academic, and political analyst. He is a professor of sociology and public administration at the University of the Philippines Diliman, as well as a Board member for ASEAN Parliamentarians for Human Rights (APHR). Bello previously served as a member of the Philippines House of Representatives with the political party Akbayan. He resigned from Congress in 2015 in protest over President Aquino's handling of the Mamasapano crisis.

Dr. Pek Koon Heng is Director of the ASEAN Studies Initiative and Assistant Professor at American University's (AU) School of International Service, where she teaches courses on international relations, international political economy, comparative politics and human rights in Southeast and East Asia. She also runs AU's summer graduate program in Malaysia and Indonesia. In addition, she is a Contract Course Coordinator of the Southeast Asia Area Studies Program, Foreign Service Institute, U.S. State Department. She has previously taught at Hull University, England, the National University of Malaysia, and Temple University Japan. She has also been a Visiting Professor at Peking University, and a Visiting Fellow at the Institute of Southeast Asian Studies, Singapore and the Institute of Security and International Studies, Chulalongkorn University, Bangkok. Her recent publications include "Malaysia and the United States: A Maturing Partnership," in Meredith Weiss, ed., *Routledge Handbook of Contemporary Malaysia*, 2015; *The 'ASEAN Way' and Regional Security Cooperation in the South China Sea,* European University Institute, Robert Schuman Center for Advanced Studies, EUI Working Paper RSCAS*,* 2014/121; and *ASEAN Integration in 2030: United States Perspectives*, ADBI Working Paper 367, July 6, 2012. She earned her Ph.D. from the School of Oriental and African Studies, University of London, and her BA and MA from Auckland University, New Zealand.

Human Rights Watch, Human Rights in ASEAN

Briefing Materials for the US-ASEAN Summit
Sunnylands Estate, California, February 15-16, 2016

Click here to read the full report.

Asian Parliamentarians for Human Rights, The Erosion of Democracy in Southeast Asia

APHR ASEAN PARLIAMENTARIANS FOR HUMAN RIGHTS

THE EROSION OF DEMOCRACY IN SOUTHEAST ASIA

The future of democracy in Southeast Asia is at risk. Across the region, ruling governments have taken steps to roll back rights protections and undermine democratic institutions.

Just a few years ago, the winds appeared to be blowing in the opposite direction. The prospect of inclusive elections in Cambodia, Indonesia, and Malaysia had many observers believing that durable multi-party democracy was on the horizon. But things have changed dramatically over the past two years, with a military coup in Thailand and the use of extreme authoritarian measures by ruling parties in Cambodia and Malaysia to shut down space for opposition groups.

The region has never been a paragon of human rights or democratic principles, but the current trend is particularly concerning. Human rights abuses have soared, and opposition activists and politicians are increasingly at risk in many countries. Unless this trend is countered, chances of multi-party democracies emerging and flourishing are remote.

The wider threat to democracy in Southeast Asia demands the international community's attention. Contrary to commitments stated in the ASEAN Charter, the regional grouping has been unable to credibly face up to retreating democracy. This has emboldened the more authoritarian governments in the region to act without fear of political or economic consequence. Indeed, rather than feeling pressured to improve civil and political rights or embrace reform, the region's democratic laggards, such as Laos and Vietnam, are entrenching their authoritarian political systems.

The implications for political and economic stability are stark. It is in the interest of ASEAN's partners, including the United States, to speak out against these antidemocratic developments and work to combat this disturbing regional trend.

Thailand

Since seizing power in a coup in May 2014, the Thai military has used a range of authoritarian measures to instill a climate of fear across the country, aiming to silence all dissent and shut down political debate. Article 44 of the military-drafted interim constitution gives junta leader Prayuth Chan-ocha ultimate power to override decisions made by other branches of government, and Prayuth has used this prerogative for decrees that limit the space for free expression. The junta has banned public assemblies, arbitrarily detained hundreds of prominent figures, used military courts to lock up government critics, and instituted severe media censorship. The military has also been accused of using torture and has presided over a marked increase in the number of arrests under Thailand's draconian lèse majesté law, which outlaws criticism of the monarchy.

Thailand's democracy has been under threat for the past decade, as the country has struggled to grapple with a bitter political divide. Nevertheless, the future of democracy in Thailand today is perhaps at its grimmest point in several decades. Despite eloquent assurances to the international community, Thailand's military rulers appear to have little intention to return the country to democratic rule anytime soon. In March, junta leaders put forward a new draft constitution, which would effectively cement a long-term role for the military in Thai politics. The junta has banned criticism and campaigns against the constitution in advance of a referendum planned for August, and some high-ranking officials have hinted that the charter's rejection may further prolong military rule.

Cambodia

Prime Minister Hun Sen, who has ruled Cambodia for over three decades, has moved to consolidate his hold over the political sphere in recent months. Opposition voices, including parliamentarians, have increasingly faced persecution from government authorities, including arrest, imprisonment, and orchestrated violence. Opposition leader Sam Rainsy was stripped of his seat in the National Assembly and remains in exile as a result of politically motivated charges against him. In recent weeks, authorities have arrested prominent civil society activists in connection with an ongoing case against deputy opposition leader Kem Sokha, in which the ruling party has used the courts and the country's Anti-Corruption Unit as tools for political retribution.

Meanwhile, the passage of a highly controversial NGO law last July, described by many in the country as a grave threat to independent civil society, represented a major setback for free association and expression. It was followed in April of this year by the passage of a law on trade unions, which threatens to severely undermine labor rights. The UN Special Rapporteur for Cambodia has said that the political situation is inching ever closer to a "dangerous tipping point." All of this comes against the backdrop of looming local and national elections, scheduled for 2017 and 2018 respectively, which the ruling Cambodian People's Party (CPP) fears it might lose after a worse-than-expected showing in the last general election in 2013.

Malaysia

Since hotly contested elections in 2013, in which the opposition won the popular vote but was denied a parliamentary majority thanks to severe gerrymandering and other electoral manipulation, Malaysia's ruling party has been waging an all-out war on its political competition. Authorities have used existing statutes, which violate international human rights law, including the Sedition Act and sections of the Penal Code, to crack down on opposition voices and undermine free expression. The February 2015 sentencing and imprisonment of Malaysian opposition leader Anwar Ibrahim on politically motivated charges demonstrated the Malaysian judiciary's increasing lack of independence and the disturbing lengths to which the ruling party is willing to go to remain in power.

As Prime Minister Najib Razak faces increasing calls for his resignation as a result of the scandal surrounding the state investment fund known as 1MDB, the repression has only intensified. Authorities have cracked down on media reporting on the scandal, levied charges against leaders of the Bersih campaign, which has organized a series of protests calling for free and fair elections, and increasingly relied on racially divisive rhetoric to consolidate its base of support.

Myanmar
Myanmar has emerged as a rare bright spot in the region. But while the promise of further reform following the resounding National League for Democracy (NLD) victory in the November 2015 election has left many optimistic, the country remains saddled with a fundamentally antidemocratic constitution, which requires the consent of the military to amend. The new government, led by State Counselor Aung San Suu Kyi, will struggle to navigate a complex relationship with the military as it attempts to bring an end to a series of long-running armed conflicts and undo decades of political and economic mismanagement by the former regime. It is far from guaranteed that Myanmar's current promise will yield sustainable democratic change in the months and years to come.

Laos
Laos remains one of the most closed and repressive states in ASEAN. Space for independent civil society is nonexistent, and the government has effectively crushed any discernable opposition through widespread repression that has intensified since the enforced disappearance of prominent civil society activist Sombath Somphone in December 2012. There should be no illusions about the reality of the prevailing fear within Lao society in mentioning issues that are deemed sensitive, including multi-party competition. The Lao government's chairmanship of ASEAN in 2016 has thrust it into the international spotlight, and its lack of openness has undermined its capacity to lead ASEAN as it launches its vaunted Economic Community.

Vietnam
Despite recent openness toward the United States, Vietnam remains an authoritarian state under the control of the Communist Party. The country's recent parliamentary elections, in which all candidates were pre-vetted and most independent contenders were barred from competing, laid bare the complete lack of genuine democratic processes in the country. Freedom of religion and association are severely limited, and leaders and members of independent civic and religious organizations have been the target of government repression, including arrest and torture. In recent months, Vietnamese authorities have intensified their crackdown on human rights defenders, including bloggers and lawyers, and have come down hard on peaceful demonstrators calling for increased transparency and accountability.

The Role of Parliamentarians

As the elected representatives of the people, parliamentarians throughout Southeast Asia, both from the ruling party and the opposition, have a crucial role to play in supporting the development of sustainable democracy in their respective countries. Unfortunately, many parliaments have limited capacity to promote democratic accountability and rights protections in their own countries, and are not yet capable of pushing their regional counterparts on these issues either.

Pro-democracy voices within ASEAN are few and far between, but those voices, including many members of ASEAN Parliamentarians for Human Rights (APHR), are working to highlight these issues on a regional level. Still, these individuals are under constant threat and are being increasingly marginalized in a regional political climate hostile to democracy.

The Role of the United States

The United States has a role to play in working against the troubling regional backsliding. Through concerted public pressure and more low-key lobbying, U.S. policymakers have the potential to help mitigate and perhaps even reverse the trend of democratic erosion.

Crucially, this should involve support to actors within ASEAN, including parliamentarians, working to combat efforts to undermine human rights and democratic principles. These regional leaders would benefit immensely from public support from the United States. The U.S. government should use public pronouncements, as well as bilateral meetings, to condemn human rights violations and lend support to legitimate opposition voices as vital components of multi-party democracy. Sustained dialogue between pro-democracy voices on both continents is also critical as they work together to develop coordinated responses to the myriad threats democracy faces in the region.

Recommendations

Recognize and highlight the erosion of democracy

- Use all possible avenues to increase awareness within the U.S. government of the seriousness of the threat to democracy across Southeast Asia and what it means for U.S. economic and security interests.
- Pressure the Thai junta to repeal restrictions on free expression and assembly.
- Publicly call for the release of jailed Malaysian opposition leader Anwar Ibrahim, as well as an end to persecution of opposition lawmakers and activists in Cambodia.
- Use Laos' chairmanship of ASEAN in 2016 as an opportunity to pressure the Lao government to address serious human rights concerns and end repression against human rights defenders and other civil society actors.

Support pro-democratic voices

- Support all actors working against the erosion of democracy, including opposition parliamentarians, through sustained dialogue and public shows of solidarity.
- Ensure that financial and rhetorical support for civil society includes support for human rights defenders and groups engaged in work on free and fair elections.
- Grant asylum to political dissidents and persecuted opposition party members.
- Ensure that U.S. embassies throughout Southeast Asia protect the identities of civil society actors they meet and the confidentiality of discussions in those meetings.

Apply pressure on key anti-democratic figures

- Pass the Global Magnitsky Act, and use its provisions to ban key Southeast Asian political and military leaders and their families from traveling to the United States.
- Utilize the Specially Designated Nationals (SDN) list to impose targeted sanctions on key figures associated with human rights abuses.
- Reassess U.S. relations with the Thai military regime, including military collaboration. Consider cancelling the Cobra Gold military exercise.
- Suspend training programs of any kind for security forces in Cambodia and Myanmar until those institutions relinquish control and influence over politics.