HUMAN RIGHTS IN SOUTHEAST ASIA: A REGIONAL OUTLOOK

HEARING

BEFORE THE

SUBCOMMITTEE ON ASIA, THE PACIFIC AND NONPROLIFERATION

OF THE

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CONTENTS

HUMAN RIGHTS IN SOUTHEAST ASIA: A REGIONAL OUTLOOK

Thursday, July 25, 2019

House of Representatives

Subcommittee on Asia, the Pacific and Nonproliferation

Committee on Foreign Affairs

Washington, DC

The subcommittee met, pursuant to notice, at 10 a.m., in room 2172 Rayburn House Office Building, Hon. Brad Sherman (chairman of the subcommittee) presiding.

Mr. SHERMAN. The notes say the subcommittee will come to order, but it is already in order. Members present will be permitted to submit written statements to be included in the official hearing record. Without objection, the hearing record will remain open for five calendar days to allow statements, questions, extraneous material for the record to be subject to the length limitation in the committee rules.

We will be joined at various points by Members of Congress who are not members of the full committee or the subcommittee, but have a deep interest in the issues before us. I will recognize the ranking member for his 5-minute opening statement, after which I will give mine, and then we will hear from the witnesses.

Mr. YOHO. Mr. Chairman, I appreciate the opportunity to do this and I appreciate you having this important hearing on Human Rights in Southeast Asia: a Regional Outlook.

Good morning, and I would like to thank Chairman Sherman for holding this—I should have started with my notes. I would also like to thank our esteemed witnesses for being here this morning, including Olivia Enos from the Heritage Foundation, Francisco Bencosme from Amnesty International, Dr. Cindy Huang from Refugees International, and somebody I have grown to know over the course of the last year, Ms. Helen Nguyen, wife of Michael Nguyen.

I would like to especially welcome Mrs. Nguyen whose story I have followed for about a year. Her husband Michael has been imprisoned in Vietnam since July 2018, and was recently sentenced to 20 years in prison for activity against the people's government. Ms. Nguyen has been working tirelessly with members of this Congress and the past Congress, the administration, the consulate in Vietnam to ensure that there is justice for her husband.

And we look forward to continue this work on this important matter and this unfortunate incident to return Michael to his family, to his wife, and to his four children. My thoughts are with you and the family and we are going to continue to work with the Vietnamese Government.

As we continue to witness decaying human rights in the region especially in countries like Burma, Cambodia, Thailand, some in Vietnam, and the Philippines, it is important that the United States and our allies stand up for the rights and freedoms of the people of this region. The world is dividing like we have never seen before. There has been a stability since World War II, if you can believe that with as much conflict that is going on, but the democracy that has led freedom, democracy, individual rights has been unprecedented in the world, but it is being challenged today.

Hun Sen, Cambodia's strongman Prime Minister has clung to power for decades and has no intentions of relinquishing power. His regime has used violence, threats, and sham prosecutions to attack the peaceful opposition. Hun Sen's relentless consolidation of power means that his abuses, which also include attacks against NGO's and the shuttering of critical media outlets, will only continue left unchallenged.

Just last week, the Cambodia Democracy Act, which we are the sponsors of which I introduced, passed the House with wide bipartisan support. It is working its way through the Senate. We look forward to being signed into legislation this year. This legislation directs the President to impose sanctions on high-level government officials who are responsible for undermining democracies in Cambodia, including acts that are considered serious human rights violations.

I look forward to seeing this bill move through the Senate and eventually become law, and I truly believe that will happen this Congress, allowing the U.S. to finally hold Hun Sen and his despicable regime accountable.

Similar abuses have occurred in Burma where an estimated one million Rohingya, a predominantly Muslim ethnic minority, have fled to neighboring Bangladesh to escape attacks from the Burmese military. For decades, there has been allegations of human rights violation in Burma, including murder of civilians, torture, forced labor, and the enlistment of children soldiers, which the International Criminal Court and the U.S. State Department have recently begun investigation into.

Burma has also been classified as a tier 3 country in the State Department 2019 Trafficking in Human Persons Report. That is slavery, people. That is modern-day slavery and they are tier 3, which is the lowest of the low that you can go. And to be clear, this is, the lowest tier can be a sign. The human rights situation is poor and will continue to worsen unless measures are taken to protect the rights of the Burmese people and mitigate the devastating violence that has ravaged this country.

Whether it be Vietnam's recently enacted crypto-security law that oppresses criticism and opposition of the government—I think we can thank the Chinese for that—extrajudicial killings in the Philippines, or rampant human trafficking in Thailand and elsewhere, these abuses are serious and continue to threaten the peace and stability of the entire region.

I look forward to hearing our witnesses today as we explore the severity and continuation of human rights abuses in Southeast Asia and discuss ways in which the U.S. and our allies can stand up for the rights and freedoms of the people not just of Southeast

Asia, but where this is happening around the world. I look forward to this meeting and, Mr. Chairman, I thank you again for holding this.

Mr. SHERMAN. Thank you, Mr. Yoho. I will be recognizing other members who wish to give an opening statement for either one or 2 minutes, at their request. I now recognize myself for 5 minutes.

In recent years, the United States has really ramped up our economic and security arrangements with the countries of Southeast Asia, but we must also ramp up our engagement on human rights. We played, speaking first of Burma/Myanmar, we played, I think, an important role in the return to some form of democracy and the return of Aung San Suu Kyi to high post in Burma where she, in effect, is the civilian president.

The response though, unfortunately, has been disappointing from even the civilian government in Myanmar/Burma in reaction to the Burmese military, 2 years ago, launching what is called a military operation, one could call it an ethnic cleansing operation, against the Rohingya in Rakhine State.

I want to commend Bangladesh for hosting up to a million refugees. America has stepped forward and provided more assistance to those refugees than any other outside country, but the maintenance of those refugees in Bangladesh permanently is not a solution for Bangladesh. It is not a solution acceptable to the American taxpayer and it is certainly not acceptable to the Rohingya.

The United States sometimes by jihadist enemies is branded as anti-Muslim. Keep in mind, Muslims have been subject to ethnic cleansing and genocide in Bosnia, America responded; Kosovo, America responded; and now the Rohingya, where America is at least doing far more than the Islamic Conference. The Rohingya need to return to their homeland soon. The Burmese Government needs to provide them with dignity, safety, and citizenship documents.

We are told, "Oh, it is just the military. The civilian government cannot control them." The military is not in Bangladesh, so the foreign ministry, a part of the civilian government, could be there issuing 700–800,000, a million, citizenship documents—whether they be passports or whether they be other documents—so people could have that as tangible proof that when they get back they will be recognized as citizens of Burma/Myanmar. I am a co-sponsor of the BURMA Act which would impose sanctions on those responsible for the atrocities against the Rohingya.

Last week, the State Department announced travel restrictions on four Burmese military officials. We need to do far more. In the past, Congress and the executive branch has placed significant restrictions on Burma, but these have been lapsed. Keep in mind, so many of the human rights community met so often with Aung San Suu Kyi. She asked us or at least was positive about a whole panel of economic sanctions. These sanctions, she said they would work. They worked. She said they would have an effect on the policy in Burma/Myanmar. They did. Now how can she tell us not to reinstitute those same economic policies that changed the Government of Burma/Myanmar for her benefit?

I have been a little bit—and I want to apologize to my colleagues—I am going to go a little long here. I have raised the spec-

ter of changing the border between Bangladesh and Myanmar, because if Burma cannot make people safe they should not govern the territory. That was, I know, an extremely unlikely and hopefully unnecessary change.

Bangladesh's Prime Minister, of course, has said they do not want to change the border. But keep in mind, Burma/Myanmar, only once in this century has an international border been changed and that was because of the genocide that was being committed by Sudan.

As to the Philippines, we have designated a major non-NATO ally, we provide $150 million of foreign aid annually. But the human rights situation there is appalling. Thousands of persons—we were told it is OK because they are branded as drug offenders' they in some cases may be and in many cases are not—have been killed extrajudicially by authorities at pretty much the urging of President Duterte. The Philippine Government has yet to hold anyone accountable for these extrajudicial killings or at least announce a policy that they are opposed to them.

The Philippines must also uphold the rights of indigenous persons. I am pleased—I believe we have Beverly Longid in the audience. Thank you for being here in the room today. Beverly has done so much good work and participated in recent United Nations meetings on the issue of indigenous persons.

Turning to Vietnam, we have with us Helen Nguyen. Thank you for coming to testify. Ms. Nguyen is a surgery room nurse for highly specialized surgeries in the southern part of the megalopolis I represent in the Orange County area. Her husband Michael has lived in the United States for decades. He is an exemplary citizen, a business owner, and a committed family man.

In July 2018, Michael traveled to Vietnam to visit elderly family members. He had regularly visited Vietnam, but on this trip he was detained, imprisoned, and sentenced on dubious charges to a 12-year term. My colleagues, including Ms. Nguyen and Michael Nguyen's Congress member Katie Porter, have repeatedly raised this issue and will continue to do so until Michael returns home.

We are on the precipice of perhaps improved relations with Vietnam. American companies are looking for places to do business other than China. We are the natural geopolitical alternative to China in that region of the world. Vietnam should care about its image in the United States. Vietnam is posed to benefit from closer ties to the United States. Human rights is important to America, and it is time to bring Michael Nguyen home.

Now, our witnesses will speak to these issues after we hear from any member who wishes to give a short opening statement. That being the case, I want to recognize Katie Porter from California to introduce our first witness, so then I will introduce the rest.

Ms. PORTER. Chairman Sherman, thank you for holding this important hearing and for providing the opportunity for my constituent Helen Nguyen to share her family's story. Helen's husband Michael Nguyen has been detained in Vietnam for over a year for allegedly acting against the government. Michael's absence has devastated his family. His wife, Helen, and their four young daughters who are now struggling each day without him, constantly agonizing over when or if they will see him again.

For the past year, Helen has been a single mom. Michael largely took care of the kids before he was detained. And as a single mom of four kids myself, I know and can see exactly how strong Helen is. I also know how hard this is for her and that the human harms that Michael's continued detention are creating for Helen and for their four beautiful daughters. Helen is working sixty to eighty hours a week now as a surgical nurse and another 180 hours on call every 2 weeks just to be able to make ends meet while she is juggling child care and transportation for her kids.

She has shared with me the personal stories of how her kids are really struggling with the loss of their dad, with being unable to communicate and talk with him, and the challenges that they are facing that no child should have to feel. Michael was a devoted father and husband and a member of our Orange County community.

And I want a better relationship with Vietnam, but stories like the one that Helen is going to share with you all today are a real impediment to moving that relationship forward.

Helen, you have my word that I will continue to advocate for Michael's rapid return to the United States and to reunification with your family. Michael is my constituent. Michael is an American citizen and I will be tireless on his behalf and on the behalf of your family. I look forward to hearing your story.

Mr. SHERMAN. I will now introduce the other three witnesses and then we will hear from Ms. Nguyen and the other witnesses.

Francisco Bencosme is the Asia Pacific Advocacy Manager at Amnesty International. He previously served as professional staff member on the Senate Foreign Relations Committee, the second most prestigious committee in the Congress dedicated to Foreign Affairs. Francisco will focus on human rights in the Philippines, but, given his background, is available to answer questions on all of the Southeast Asia countries that we are focused on.

Cindy Huang is Vice President of Strategic Outreach at Refugees international. She previously held senior positions at the Millennium Challenge Corporation and the State Department's Bureau of Conflict and Stabilization Operations. She holds a Ph.D. in Anthropology from the University of California Berkeley. And last week, Cindy was in Bangladesh and she will provide us with important information about the Rohingya situation but is also qualified to deal with the other countries that we are that we are focused on here.

Finally, Olivia Enos is a Senior Policy Analyst with the Asian Studies Center at the Heritage Foundation. She focuses on human rights and national security challenges in Asia and she will deal with all of the issues that we face in this hearing. So with that I look forward to hearing from all of the witnesses, but I especially would like to hear Helen's story. Please proceed.

STATEMENT OF HELEN NGUYEN, WIFE OF MICHAEL NGUYEN

Ms. NGUYEN. My name is Helen Nguyen. I am a U.S. citizen and I have been residing in Orange County, California for over 37 years. For 19 years I have been working at the University of California Medical Center and Kaiser Hospital as a floor nurse and as a surgical registered nurse. Michael Phuong Nguyen and I have been married since 2002 and we have four daughters together.

I have served medical missions in Mexico and local Orange County since 2004. In 2016, I started to serve surgical missionary in Vietnam helping misfortunate children with a cleft lip and cleft palate. I also play an active role in my community and churches. Over a year, I say goodbye to my husband and I wish him a great vacation in Hong Kong and Vietnam. I expect to greet him on his flight home 3 weeks later, but I did not expect that our initial goodbye would be final one.

I was devastated to find out through social media that he was detained by the Vietnamese Government on July 7th, 2018 for investigation of Article 109 which is activity against the people government. This shocking to my family is happen overwhelming at times.

Sometimes at work I am assisting in a complex surgery receiving phone call from psychologist from the school, unexpected outbursts, crying at school. They need comfort but I cannot be there. I have to choose between my patient and my family. Of course, with the title of registered nurse behind my name I had to advocate for my patients who are defensive laying on a surgical operating room table with their chest open for open heart surgery or their belly is open for the kidney transplant. Definitely I had to advocate for them. But, eventually, I have to get back to the school to talk to them.

On June 24th he was sentenced for 12 years imprisonment in Vietnam, a life learning to cope with loss and still nothing could ever prepare me to the loss of my own family. Just 12 months ago, Michael Phuong was my husband, the father of my four daughters; now he is gone. Imagine the emptiness, the pain one feels when they have lost someone they truly loved. Imagine the confusion and the frustration for the children who parent 1 day disappear. These are the struggle shared by all the family torn apart by the actions of foreign government.

My husband like any other American in prison overseas have been denied the due process that every person is entitled to under international law. The Government of United States, a country found on principles of individual rights and liberties, should do everything possible to obtain Michael's release. The United Nations, a pioneer of international human rights law, should insist that Vietnam and all United Nations member States abide by the universal declarations of human rights and other human rights convention and treaties.

I, my family, would like Michael returned back to us as soon as possible. The Members of Congress, the State Department, the Senate, the U.S. consulate are my family's lifeline, so please help us to get my husband and the father of my four daughters back. Thank you.

[The prepared statement of Ms. Nguyen follows:]

7

Helen Hieu Nguyen

Wife of Michael Phuong Nguyen, US Citizen, held in Vietnam

HOUSE FOREIGN AFFAIRS COMMITTEE

July 25, 2019

Human Rights in Southeast Asia: A Regional Outlook

Opening Statement (only) by brother in law, Mark Roberts

ATTACHMENTS TO THIS TESTIMONY

- **VIETNAM 2017 HUMAN RIGHTS REPORT (Country Reports on Human Rights Practices for 2017) United States Department of State, Bureau of Democracy, Human Rights and Labor, with most relevant and most egregious items highlighted. Pages 1, 2, 3, 4, 5, 8, 11 & 12**

ATTACHMENTS SENT SEPARATELY
(NOT PERMITTED TO ENTER INTO RECORD DUE TO LENGTH)

- **A short biography of Michael Phuong Nguyen**
- **VIETNAM 2017 HUMAN RIGHTS REPORT (as noted above, but FULL REPORT)**
- **August 9, 2018 Letter from House Members to Secretary of State Pompeo**
- **October 1, 2018 Letter from House Members to Secretary of State Pompeo**
- **February 25, 2019 Letter from House Members to President Trump**
- **February 19, 2019 Letter from the Congressional Caucus on Vietnam to President Trump**
- **Photos of Michael at "trial" (4)**
- **Family photos of Michael & Helen Nguyen's family (3)**

The loss of a parent is a tragic occurrence in any person's life and the loss of a person's father is a tragedy beyond recovery. Michael Phuong Nguyen is the father

of my 4 daughters and he is the backbone of our family. As a mother, I am the emotional support, while Michael, is the pillar of strength in the face of any calamity. The past 12 months, my daughters and I have felt empty, heartbroken and incomplete without Michael, the father and husband that we so love. It doesn't matter whether your father was an old man with a full and happy life behind him or a young man with his whole life unlived ahead. Without Michael being at home and by our side, is like losing a part of our soul. This is how my 4 daughters and I have felt these past 12 months. Not everyone can relate to the heartache and pain that my immediate and extended family are enduring, but the countless families that have been unlawfully and painfully torn apart by corrupt governments can relate to this nightmare that we live every day. This is my story.

- **Michael left on June 27, 2018 to Vietnam, with an expected return date of July 16.**
- **Michael had contacted me every few days during his trip**
- **The last known communication from Michael that I received was on July 5th, which would have been July 6th in Vietnam**
- **Our primary means of communication was Viber, which relies on internet and wifi access.**
- **There was no communication after that, which I attributed to possible internet access not being available, either shut down by the VN govt for some reason, or due to third world infrastructure, where it sometimes is down for days at a time.**
- **On July 16th, while worried that I had not heard from him is about 10 days, considering that internet can be unreliable in Vietnam, I was not overly concerned. One of Michael's friends had planned to pick him up at LAX that day, which I thought would be the end of my worries. But Michael was not on the plane. I started to get a sick feeling in my stomach, and that same day, I contacted American Airlines to see if Michael was on the plane. American Airlines confirmed to me that he was not on the flight manifest. I assumed that he took a different flight, as on his initial flight from LAX to HCMC, that flight was overbooked, and he volunteered himself to be bumped**

and take the next flight, getting a valuable travel voucher in return. I was worried, and maybe looking for excuses not to be too worried.

- **By the next day, still not hearing from my husband, the sick feeling in my stomach came back, and a fear crept into my soul. I reached out to some of my husbands Facebook friends in Vietnam, who provided me with un-confirmable, but in hindsight, credible information about his situation and whereabouts. At this point, I became very concerned, and my terror turned into action. All I could think about was our 4 girls, all young, all innocent, all who deeply love and miss their daddy. I did the only thing I could think of at that point, and I looked through Facebook to see if I could find any information at all. I found a Facebook post from July 6th, that Michael and a few others, were taken off a bus and was missing somewhere near Saigon. At this news, inside of me, I wanted to cry. I felt fear and terror. I didn't know who took my husband; I didn't know if they harmed him, or would harm him, I didn't know if he was even alive. It took every ounce of inner strength along with my prayers to God, yet my heart dropped…I didn't know how I could possibly tell my girls this. Yet, I had to quickly come to realize that I was the only parent to our children. With faith in my heart, I knew that I had to plow forward to find my husband, to find daddy.**
- **On July 18th, I reported him as a Missing Person, with the State Department in Washington DC. They advised me that they do not have Michaels name on any list of overseas arrested citizens. I felt both extreme frustration as well as panic, but I have 4 girls whose daddy is missing and no one knows anything, thus, I knew I had to be strong.**
- **The same day, I also reported Michael missing with the US Consulate in Saigon.**
- **On about July 19th, I called multiple local police offices in Saigon, to report a missing person. They were not cooperative, nor would they even acknowledge his identity or whereabouts, and, shockingly, they even stated that I would be required to inquire in person, not over the phone!! IN PERSON!**
- **Daily calls to the US Consulate in Saigon were made but no information was given out. I was referred to the 1994 Privacy Act agreement between the United States and Vietnam, where no personal information can be given out about any US Citizen, to anyone, without that Citizens written consent. I told them this is my husband, and father of our 4 girls, but this was no help at all. I even offered to fax or email them our marriage license. Still no luck.**

- **On July 20th, I started online requests for help from various Representative offices, including Representative Mimi Walters, Secretary of State Mike Pompeo, the President and Vice President.**
- **On July 20th and 22nd, I called the US Consulate in Saigon, to try to obtain any information. Still, even though Michael is my husband of almost 20 years, no information was given to me due to the Privacy Act of 1994. At this point, I knew I had to have a talk with our 4 girls, and I needed to have a strong front when I found the words to tell the girls that their daddy is missing, somewhere half way around the world, and we know next to nothing about the situation. My insides were churning, but I knew I also needed to involve our kids to help find their daddy. We are a close knit family, who pray together; go to church regularly together, we all try to eat together as often as possible. When I told the girls, they were visibly frightened, and at night, I could hear them crying in their beds. To this day, this seems to be one of the hardest parts, seeing my girls crying at unexpected times, the cause I know due to their internal fear of what has happened to their dad, and if or even when they will ever see him again.**
- **On July 23rd, I contacted Representative Mimi Walters office (Jefferson Cha), to plead for help because the Privacy Act had become a complete roadblock to me, which I could no longer tolerate. Mr. Cha scheduled a meeting at their Irvine offices for July 27th; I attended, with my sister Christine, brother in law Mark, and 2 friends for additional support.**
- **July 25th, I received a response from Justin Brown from the US Consulate in Saigon, again, stating in more detail, that even though Michael is my husband of many years, they could not provide any information due to the Privacy Act of 1994. Mr. Brown also provided two phone contacts for a possible detention center in/around Saigon.**
- **July 26th, I called these detention facilities, and was basically given the run around, with no information other than more phone numbers to call, to no avail. I felt like no one cared, not anyone in Vietnam, not even my own government would give me any information at all about my husband, who at that point, I had to assume, was taken off a bus somewhere in central Vietnam some 10 days ago. I was sick to my stomach with what was happening. The terror made me feel the blood running through my veins. Thank God for my faith. Thank God for my 4 girls, because of both of these things, I knew I have to be strong, and not stop for anything.**
- **The July 27th meeting with Representative Walters office staff gave the family confidence that locating Michael would somehow be possible. They indicated that they were contacted by Long Beach Congressman Lowenthal's staff, that they were also aware of the case.**

- **By July 28th, when we still did not really know anything concrete, we started a Change.org petition to Free Michael Nguyen, which ultimately has received well over 100,000 signatures. Looking for more ways to get any sort of information and help, we decided we needed to make people in the community aware of this awful situation. We printed posters and petitions, and my girls, many of their cousins, aunts & uncles, went out to the Little Saigon area of Orange County and started to gather signatures. Our oldest daughter, Eileen, who was 15 at the time, went with her uncle Mark. They found mostly rejection from people who were too afraid to sign a petition, out of a natural fear from their homeland. Eileen started to cry, telling her uncle, that even here in Little Saigon, nobody cares or wants to help her dad, who has been part of this community for so long. They sat down and had a talk, and decided that the only way to help her dad, was not to give up, and to change their methods, with my 15 year old daughter taking the lead, telling them about her dads plight, and her uncle trying to encourage signatures after Eileen told the story of her dad. Eileen made me proud that at 15, in the face of an almost hopeless situation, we never give up, our faith never fails us, and we always keep going, doing something! That weekend, with much of the extended family and friends out on the streets of Little Saigon, and at local Churches, working hard, successfully gathered hundreds of signatures.**
- **Finally, on night July 31st I recognized an incoming call as being from Vietnam. It was American Citizen Services, part of the U.S. Consulate in Saigon. When I answered the call, I was filled with so many emotions, I could hardly think. Fear, anxiety, hope…all these feelings felt overwhelming. On the other end of the phone, was the steady voice of Franc Shelton, Consulate General in Saigon. I held my breath when he told me that Michael is in Ho Chi Minh City, that he is alive and appears to be in good health. I think that was when I started breathing again. He told me that my husband is being held in a local detention facility in Ho Chi Minh City, and that he met with Michael in person on July 31st for about an hour.**
- **He confirmed that Michael signed a Privacy Act Waiver, authorizing the State Dept to speak with his family, US Law enforcement agencies and Congressional Representatives and their staffs. Mr. Shelton told me that the Vietnamese government arrested Michael on July 7th in central Vietnam, and also, that the Vietnamese government did not bother to advise the Embassy or Consulate there until July 19th, 12 days later! When I learned that Michael had the foresight to request a health evaluation from the authorities there, I knew my husband was thinking about all the terrible things that have been reported to have happened in Vietnamese prisons (See pages 1,2,3,4**

& 5 of U.S. State Department Human Rights Practices for 2017 attached). He told me that Michael is under investigation for Article 109 (Activity against the Peoples Government) which made no sense to me, because I knew he went to Vietnam to see his older family members and to tour part of the country.

- **For the past year, my 4 girls, Michaels elderly parents, and the rest of our families, along with me, have lived with the fear, knowing that an Article 109 conviction could receive a sentence of up to Life in Prison, or even Death! Imagine not only my horror, but that of our 8 year old, 10 year old, 13 year old and 15 year old daughters must feel, and how this affected them.**
- **Mr. Shelton explained to us, the legal process over there, including that the investigation could last 3-5 months, and could even be extended if they choose. Within that timeframe, he would NOT be allowed any family visits, No Lawyers, only once a month visit from the Consulate. Nor could we send him any letters or written communication, even from his children. It was shocking to me that we could not personally communicate with him in any way, that we could not see him at all, not really knowing if he is really OK. I was stricken with fear and anxiety, about how I was going to tell our girls this and how they would react.**
- **I was told that the detention center will provide him with 1 basic meal a day, and that he is allowed to purchase from the canteen there, additional food, but the maximum money he can spend on food or other necessities is about $80 per month, or about $2.67 per day. This made me sick, as not only that amount of money in Vietnam today would buy about one bowl of soup of mostly broth and a few noodles, but we had heard about prisoners getting insects, pebbles, and worse mixed in with their rations. (See pg. 5 of U.S. State Department Human Rights Practices for 2017 attached) I was completely disgusted.**
- **At that point, NO FORMAL CHARGES HAD BEEN FILED AGAINST MICHAEL, and during the 3-5+ month investigative stage (which turned into over 10 months), they do not have bring any specific charges against him, allowing them (according to their legal system as I was to understand) to deny Michael the access to anything even resembling due process and legal justice that we so value here in the United States.**
- **I knew we needed to escalate our activities to a higher level. Soon there after, we organized a press conference which Representative Walters attended. That was August 2nd. Local media showed up, particularly the local Vietnamese media. I did multiple interviews with various news**

outlets, TV, newspaper and online. We started to get some national media attention, which I felt helped expose what was happening to Michael and my family.

- **My sister Christine, and brother in law Mark, have been my closest advisors, and the 3 of us would (and still) take regular monthly calls from the Consulate in Saigon, giving us the only updates about Michael available.**
- **Some of the concerns we voiced to the consulate, was the fact that we had heard about many previous cases, where prisoners would have, what I would call "fake accidents" or "manufactured suicides". I even feared they might slowly poison him with the food they give him.**
- **We learned from the Consulates confirmation, that when they arrested my husband, he had about $1,200 dollars, a cell phone and some personal items on him. Yet the local Vietnamese, State controlled media put out that he had on him $1,600,000 dollars along with various recording equipment. I knew this was all nonsense because we don't have that kind of money and I know he left Los Angeles with a backpack and 1 carry on luggage. I have no idea how large of a box or carrying case 1.6 million dollars would need, but I would think it would be huge.**
- **In August of 2018, Christine, Mark, my 4 girls and I met with 4 of our local Members of Congress; Rep. Walters, Rep. Lowenthal, Rep. Correa and House Foreign Affairs Chairman (at the time), Rep. Royce. They all were very supportive and pledged to work together to bring my husband home.**
- **August 9, 2018, a Congressional Letter was sent to Secretary of State Pompeo, signed by Representatives Walters, Royce, Lowenthal & Correa**
- **In early September of 2018, Representative Walters held the first of many Special Orders in Congress. I was heartened to hear the speeches from Representatives Walters, Royce, Lowenthal, Correa, Green and Gohmert.**
- **In late September, my sister Christine and Michael's Houston, TX sister Mindy went to Washington, DC for a few days to broaden support for my husbands release and to personally thank the Members who were already actively involved. They met with the State Department team working on my husband's case, as well as many House Members, including Representatives Walters, Green, O'Rourke, LaMalfa, Speier, Aguilar and Gohmert.**
- **As now the only breadwinner for my family, with 2 jobs at 2 different hospitals, it was difficult for me to make the trip. I was grateful to my sister and my sister in law for going to the expense and putting their heart into bringing my girls daddy home. I held a lot of hope in their DC mission.**

- **On October 1, 2018, a 2nd Letter to the Secretary of State was signed this time, by 19 Members from the House of Representatives.**
- **In October, by brother in law, Mark had a month long business trip to China. He asked the Consulate if they could arrange for a meeting with Mark and anyone of authority in Vietnam, to both discuss Michael's case, and to hopefully see Michael, even if briefly. While I was cautious and concerned for Mark's safety if he did fly from China to Saigon, I was also hopeful that somehow, a breakthrough of some kind might occur. But this meeting was denied, and nothing happened.**
- **With the election season going on, things seemed to slow down in October and November.**
- **December was an eventful month. Representative Walters, even though she lost her election, held another Special Order in Congress, co-hosted by Rep. Al Green of Houston, where many of Michael's family resides.**
- **The day after Christmas, I met with incoming Congresswoman Katie Porter. Christine, Mark, my brother Marcel, and my 4 daughters came with me to what turned out to be an hour plus long meeting with the incoming Representative, who said among other things, that this was one of her top priorities. I felt a personal connection to Rep. Katie Porter as she told me that she is a single mother of 3 kids, similar in age to my girls, and I realized at that moment, that I too am basically a single mom now. I had confidence and hope with the smooth transition from one Representative to the next.**
- **In early January, we heard that the United States Ambassador to Vietnam, Daniel Kritenbrink, would be coming to Orange County later in January to meet with the large Vietnamese community of Orange County. We immediately contacted everyone we could, to get his attention and to obtain a personal meeting. Eventually, we were assured he would meet with us privately, but due to the Government Shutdown, this trip was cancelled. So again, my hopes were cut short.**
- **At the very end of January 2019, Representative Katie Porter invited me, as her guest, to attend the State of the Union address. With only days to go, Mark & I got tickets and went to Washington for 2 very eventful days.**
- **With Representative Porters Legislative Director, Brieana Marticorena, along with staff from Rep. Lowenthal, Green and Correa's office, we met for an 1.5 hours with the State Department team working on Michael's case.**

- **In addition to numerous media interviews, we met of course with Rep. Porter, along with Rep.'s Lowenthal, Yoho, Gomez, Sherman, Lieu and Green.**
- **We were also both invited to the Speakers Reception before the SOTU address, where we got to meet Majority Leader Hoyer, Speaker Pelosi and many other House Members in a more informal setting. I was heartened that Rep. Porter introduced me to so many Members who showed genuine concern for my plight.**
- **Late February of 2019 brought my family and I more hope. President Trump had an upcoming summit in Hanoi for a few days. I believed with all my heart, that the President would be bringing my husband home on Air Force One. A letter was written to the President, and signed by 27 Members of Congress, urging him to push for Michael's release.**
- **A second letter to President Trump, signed by Co-Chairs of the Congressional Caucus on Vietnam, also was delivered to the President, to expose Vietnam's poor human rights record, including my husband's case. While I learned later that Secretary of State Pompeo did bring up my husband's case with his counterparts in Vietnam, again, nothing concrete happened.**
- **In April of 2019, we learned that just after Easter, Senator Patrick Leahy and 8 or 9 other Senators would be going to Vietnam on a good will mission, with hundreds of millions of dollars in funding to provide clean up of Agent Orange to the benefit of the Vietnamese people. Senator Leahy and his staff have taken on an active and great interest in my husband's case. I learned that Senator Leahy has a long history of wanting to improve bilateral relations between Vietnam and the United States, spearheading at least two major initiatives, including remediation projects to restore lands contaminated by poisons. I hoped his decade's long, close relationship with Vietnam, along with his Senior Foreign Policy Aid, Tim Riser's active involvement, would somehow be the breakthrough I keep waiting for. I hoped Senator Leahy and Senator Kaine and the other Senators who made the April trip to Vietnam would be bringing my husband home on their plane. But still, nothing happened.**
- **In early to mid June 2019, my congressional Representative, Katie Porter along with Representatives Lowenthal, Correa and others, again gave speeches on the House floor in support of getting my husband home to his family, in addition to being critical of the many abuses Vietnam has imposed on my husband, my family, and other Citizens.**
- **Around this same time, the HCMC Consulate confirmed to me that Michael's "trial" would be held June 24th and if necessary, continues through the 25th. The days and weeks before the trial**

were very difficult for my whole family, my parents, Michael's parents, everyone in our families, especially our 4 daughters. It is hard to put into words, the anxiety, the fear, the waiting for "trial", one I already knew would be pre-determined with his "guilt." I prayed to God that they would not put my husband to death, or give him a life sentence. I was terrified for myself and my daughters.

- His "trial" on June 24, 2019, included the 3 other people arrested with him on the bus a year ago. That "trial" of 4 persons, lasted a total of 4 hours, so about one hour per person, which I assume included the reading the "Indictment". The 3 others were represented by 1 private lawyer. Michael had a court appointed lawyer. I don't think any of the lawyers had any reasonable opportunity to provide even a remote form of defense, as it is common knowledge within the Vietnamese community that lawyers in these types of cases are subject to losing their license, harassment or worse. (See pages 8, 11 & 12, Country Reports on Human Rights Practices for 2017, U.S. Department of State). All "defendants" were convicted and sentenced to many years in prison each.
- I know my husband is innocent of these charges. While he believes in freedom as does virtually everyone else in the world, he is not trying to subvert or overthrow governments anywhere. Michael is the father of my daughters. With my job as a surgery room nurse in highly specialized surgeries, I am most always on call as open heart surgery, or an organ transplant just happens, so there are many, many times, I have to drop everything, and rush to the hospital. Michael is "Mr. Mom" most of the time. He would make breakfast every day and take the girls to school each morning. He was there to pick them up, to take them to after school events, to take them to Vietnamese Mass at church every Tuesday night, to Doctor's appointments and anything else that was needed. My girls loved their "taco Tuesday" nights, or ice cream treats with their dad somewhere close by.
- I miss the movie nights where we would all lay on our bed together, the 6 of us and watch movies.

- For the past year my family has been torn apart. Memories have been taken away from us. My oldest daughter Eileen was sad that her dad was not home to celebrate her "Sweet 16" birthday and the milestone of getting her drivers license soon after. Our daughter Elaine is the athletic one. She misses her dad going to her basketball games and taking her to practice. The youngest 2, Emily and Evelyn, did not fully participate in their schools annual Father/Daughter luncheon,

which they went to sad, and came home sad, knowing that their dad is locked up somewhere on the other side of the planet, accused of something they know he did not do, made worse by the fact that they can't see or speak to their own father.

- **My husband, like many others, has been detained by the Vietnamese government to, what I and many others believe, is to do their bidding by systematically controlling and oppressing their own people. This flagrant disregard for human rights must not be ignored. The United States, a country founded on the preservation of individual freedoms and universal civil liberties, should use its position as a global leader, to hold violators accountable for their unwillingness to ensure basic human rights.**
- **Human rights violations committed around the world have been overlooked, unrecorded, and unreported. It needs to end today. With the United States at the forefront of overseeing the promotion of global human rights, every country must be held accountable, *especially* our trade partners and international allies. Increased trade relations with Southeast Asian countries and throughout the world should go hand in hand with the evolution of human rights. The United States should uphold the ideals of universal human rights promised in our Constitution. The Vietnamese government has openly defied the Universal Declaration of Human Rights which encourages all nations to continuously work towards freedom, peace, and security. As a part of the United Nations, they must be held accountable for their membership of such a well-respected organization. The world must recognize that those who deny fundamental human rights are not welcomed as allies let alone economic partners. Let us stand today to liberate those denied of respect and dignity. Let us stand today to bring justice for the families torn apart.**
- **Thank you for including me in this important Hearing, including the highlighting of my husbands case. For Michael's and my 4 daughters, we thank you very much.**

Mr. SHERMAN. Thank you. So often we hear about human rights in statistics as a policy matter. Ms. Nguyen, you have brought it home and I think all of us are absolutely dedicated to the immediate return of your husband.

With that we will go on to our next witness.

STATEMENT OF FRANCISCO BENCOSME, ASIA PACIFIC ADVOCACY MANAGER, AMNESTY INTERNATIONAL

Mr. BENCOSME. Chairman Sherman, Ranking Member Yoho, and members of the subcommittee, thank you for inviting me to testify on this very important topic.

On July 1st, while many of us were looking forward to spending July 4th with our families, the Philippine National Police raided a home of a suspected drug user and killed 3-year-old Kateleen Myca Ulpina during an antidrug operation in Razil Province. Myca would have been four on July 31st. Myca became the latest casualty of Philippine President Duterte's war on drugs which has killed thousands over the past 3 years.

Last month, we came out with a new report on the Philippines titled, "They Just Kill," a quote from one of the victims of the so-called war on drugs. I would like to submit the executive summary of the report for the record.

In towns and cities across the Philippines, the so-called war on drugs continues. In the 3-years since President Duterte took office, thousands of poor people suspected of using or selling drugs or otherwise linked to drugs have been killed by police and unknown armed persons. While during the first year of Duterte's tenure as President these killings were fairly well documented they often go unreported now, contributing to a perilous normalization of extrajudicial executions, police abuses, erosion of the rule of law, and victimization of the poor in the country.

According to the Philippine National Police figures, at least 6,600 drug personalities were killed in police antidrug, an average of six a day. Amid constant excitement from the highest levels of governments, thousands of other drug related killings have been committed by unknown armed persons, at least some of whom have links to the police.

Despite international condemnation, the Duterte administration remains defiant. In fact, the President warned in early 2019 that the second half of his 6-year term will only be harsher, stating that "the last 3 years of my term will be the most dangerous for people into drugs."

The deliberate and systematic nature of the killings which appear to have been conducted as part of a government orchestrated attack against poor people suspected of using or selling drugs is why Amnesty International has repeatedly said that they may amount to crimes against humanity. These extrajudicial executions in the Philippines have resulted in a high level of impunity in the country which is also one of the main regional trends we see throughout Southeast Asia.

A real accountability vacuum exists in Southeast Asia, especially when it comes to abuses committed by security forces. Each failure to investigate or bring those responsible to account reinforces the

confidence of perpetrators that they are indeed above the law and can act with impunity.

To date, there has been no meaningful accountability at the national level for the thousands of executions that have been carried out over the past 3 years. Since President Duterte took office and launched his antidrug campaign, just one case of extrajudicial killing among thousands has been brought to justice.

Impunity also reigns supreme in Myanmar where the military has committed some of the gravest crimes under international law and particularly against Rohingya in Rakhine State and in Kachin and Shan States in northern Myanmar. A U.N. fact finding mission has called for the investigation and prosecution of crimes against humanity or crimes in genocide.

The prospect of meaningful justice and accountability in Myanmar is currently almost nonexistent as the Myanmar military still operates independent of civilian oversight and retains control of its own judicial processes. To date, only seven soldiers are known to have been investigated and convicted for the crimes against the Rohingya following a Reuters investigation into the massacre of ten men and boys in Inn Din village. All seven have now been released.

Fresh violations in Rakhine State, where Amnesty International has documented military war crimes against civilians from all communities since the start of this year and continuing violations in northern Myanmar, highlight the institutionalized and systematic nature of military abuse as well as the consequences of ongoing impunity.

The second trend we are seeing is a growing climate of attack on human rights defenders. Attacks on activists, journalists, and human rights defenders have only flourished and intensified, making the realization of human rights in each of these countries all the more challenging. In the Philippines, human rights defenders, particularly women, are under attack. Senator Leila de Lima, President Duterte's most vocal critic, is enduring her third year of arbitrary detention on politically motivated charges after seeking to carry out a Senate investigation of drug related killings.

Journalist Maria Ressa who had published in-depth reports on human rights violations committed in the so-called war on drugs, faces at least nine politically motivated lawsuits. Christina Palabay of the Philippines human rights organization Karapatan is at risk after receiving a text message from an unidentified person that she would be killed later this year. There has been numerous death threats and members of the organization Karapatan who have been killed. Even yesterday, we received reports of another human rights lawyer who was murdered. There is an urgent need, particularly in the context of a rising number of extrajudicial killings and other human rights violations, to make this a priority.

Earlier this year in Indonesia, I met a human rights defender Novel Baswedan who was fighting anticorruption in Indonesia when 2 years ago he was the subject of a vile acid attack which was thrown in his face. At the time of the incident he was investigating a high-profile case that could have possibly implicated the highest level of law enforcement. Since then there has not been anyone held accountable for the attack on him, setting back anticorruption efforts in Indonesia.

It reminded me also of human rights activist Minur, one of the most famous Indonesian human rights activists who spent his life trying to make Indonesia a more free and humane place. Fifteen years after his assassination justice has not been serviced. There is yet to be full accountability for all of those allegedly involved.

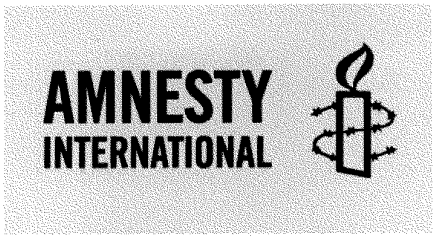
In Vietnam, Amnesty International has identified 128 prisoner of conscience languishing in jails, the number of which has gone up a third since we last reported it last year. Ten percent of these cases against those jailed stem from comments made on social media platforms such as Facebook.

The final trend that I will mention is that abusers in the region have hidden behind the mask of democracy. Elections have not been a panacea for human rights and for freedom for the people of Southeast Asia. The Thai elections that occurred in March of this year were marred by severe restrictions on freedom of expression and assembly including the dissolution of an opposition party, media censorship, legal threats, and criminal charges against candidates and peaceful protesters who brought out irregularities in the elections.

Over a year after Malaysia witnessed its first change in government in 60 years, there was hope for a positive human rights transformation. However, the rise of opposition voices and response to the elections have contributed to the retention of repressive laws like the Sedition Act and backtracking on ICERD and accession to the ICC.

In Cambodia, Prime Minister Hun Sen's party won the general elections last year having used legislation and the judiciary to effectively eliminate any meaningful opposition and shut down dozens of media outlets in the lead-up to the vote. Without a concerted effort by the United States and international community to strengthen human rights protections in Southeast Asia, the hardliners who loom large in the region are set to continue abusing rights and shattering human lives without consequences. Thank you.

[The prepared statement of Mr. Bencosme follows:]



Written Testimony of Francisco Bencosme

Asia Advocacy Manager

Amnesty International USA

Submitted to the

Subcommittee on Asia, the Pacific, and Nonproliferation

House Foreign Affairs Committee

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

July 25, 2019

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

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

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

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

Abusers Hide Behind the Mask of Democracy

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

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

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

Lack of Accountability and High Level of Impunity

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

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

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

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

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

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

Forced Returns of Political Dissidents

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

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

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

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

Climate of Attacks on Human Rights Defenders

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

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

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

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

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

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

From Cyber Surveillance to Online Harassment

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

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

U.S.-China competition

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

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

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

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

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

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

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

Thank you!

Mr. SHERMAN. Thank you. We will now hear from Dr. Huang.

STATEMENT OF CINDY HUANG, VICE PRESIDENT OF STRATEGIC OUTREACH, REFUGEES INTERNATIONAL

Ms. HUANG. Thank you. Chairman Sherman and distinguished members of the subcommittee, I am honored to be here today to discuss the situation of the Rohingya people, a long persecuted Muslim minority in Myanmar.

On August 25th, 2017, the Myanmar military began a campaign of mass violence that led more than 700,000 Rohingya to flee to Bangladesh. By September 5th, Refugees International reported that the military was responsible for crimes against humanity, a conclusion later echoed by a U.N. expert group and many others.

Crimes against humanity do not emerge overnight. Waves of violence and displacement over decades reflect Myanmar's systematic campaign to persecute and exclude the Rohingya. Last week, I visited the camps in Bangladesh where three themes emerged. First, refugees want to return to their homes in Myanmar's Rakhine State where 500–600,000 Rohingya remain. But the conditions there are actually getting worse. Fighting between an ethnic Rakhine armed group and the military has led to crackdowns and an internet blackout since late June. This is a warning sign of potential atrocities and is hampering humanitarian relief in Rohingya and other communities.

126,000 Rohingya live in camps for internally displaced people that are essentially open-air prisons. The Myanmar Government has closed some, but with only superficial changes. For example, moving people to structures next to the camps without improving their freedom to move or access to livelihoods.

The most fundamental challenge that the chairman recognized remains the denial of citizenship to Rohingya. The Myanmar Government continues a documentation process that is irredeemably flawed because it is based on the 1982 citizenship law that requires Rohingya to renounce their identity as a distinct ethnic group. Given the authorities' characterization of the Rohingya as "Bengali immigrants," it is no surprise the Rohingya have little to no confidence that the process could lead to equal rights and full citizenship.

Earlier this year, Refugees International Advocates spoke with Noor Jahan, a 70-year-old Rohingya grandmother whose house was burned to the ground in August 2017. She then moved to four different villages in Rakhine. She described security forces coming almost every night to the villages taking men for forced labor or women to be sexually assaulted.

After fleeing to Bangladesh, she says she can finally sleep at night. This leads me to the second theme. Humanitarian conditions are improving in Bangladesh where more than a million Rohingya have sought safety, but more progress is needed. I saw how monsoon season poses access and safety challenges and how some food, health, nutrition, and protection needs remain unmet, especially among women and girls.

As displacement continues, there is increasing need for education, skills development and livelihoods for refugees and their host communities. I saw home gardens, small shops, training pro-

grams that are a testament of the potential for the Rohingya to contribute to the local economy. In the immediate term, we are very concerned about Bangladesh's plan to relocate a hundred thousand Rohingya to Bhasan Char, a small island in the Bay of Bengal. In light of unanswered questions on safety, services, and movement to and from the island, the government should refrain from relocating Rohingya there.

Third and finally, I heard that Rohingya are looking to the United States for our leadership. We recommend that the U.S. forge a three-pillar plan spearheaded by a high-level envoy committed to sustained diplomatic engagement. The first pillar is increasing international pressure on Myanmar toward justice, accountability, and conditions for return. This would include the U.S. making a determination based on its 2018 report as to whether the abuses amount to crimes against humanity and genocide. And while we do welcome the recent travel sanctions on four military leaders, the U.S. should impose financial sanctions on military officials and military-owned enterprises.

Congress should continue to pursue the bipartisan BURMA Act which includes sanctions and limits on security assistance, and the U.S. should lead a diplomatic effort to press for an ad hoc tribunal or referral to the international criminal court and implementation of the Rakhine Advisory Commission's recommendations. The second pillar is ensuring Rohingya participation throughout the response in Bangladesh and in all regional and global forums.

The third pillar is for the U.S. to maintain and increase its support for Bangladesh and lead dialog toward policy shifts on freedom of movement, education, and livelihoods for refugees. By pursuing this plan, America can advance Rohingya rights, promote regional stability, and send a critical message about our values and our priorities. Thank you so much.

[The prepared statement of Ms. Huang follows:]

Testimony of Cindy Huang
Vice President of Strategic Outreach
Refugees International
House Committee on Foreign Affairs
Subcommittee: Asia, the Pacific, and Nonproliferation
"Human Rights in Southeast Asia: A Regional Outlook"
July 25, 2019

Chairman Sherman, Ranking Member Yoho, and distinguished members of the subcommittee,

Thank you for holding this timely hearing on human rights in Southeast Asia. I will be discussing today the plight of the Rohingya people, a long persecuted and stateless population. I visited the camps in Bangladesh last week and saw firsthand the urgent need for increased international support and diplomatic engagement.

Refugees International is a non-profit, non-governmental organization that advocates for lifesaving assistance and protection for displaced people in parts of the world impacted by conflict, persecution, and forced displacement. Based here in Washington, we conduct fact-finding missions to research and report on the circumstances of displaced populations in countries such as Somalia, Iraq, Bangladesh, and Syria. Refugees International has been reporting on the Rohingya population for many years on topics such as host country conditions, protection measures for women and girls, and humanitarian and human rights considerations. Refugees International does not accept any government or United Nations funding, which helps ensure that our advocacy is impartial and independent.

One month from today, August 25th, will mark the two-year anniversary of the mass violence that led more than 700,000 Rohingya Muslim people to flee Myanmar across the border into Bangladesh. Ten days after the violence began, Refugees International determined and publicly declared that crimes against humanity were taking place, findings that were later confirmed by many others—including an independent UN fact-finding mission in 2018. That mission also called for military leaders to be investigated and prosecuted for genocide.[1] It found the military conducted clearing operations and other planned activities that extended far beyond the immediate response to the Arakan Rohingya Salvation Army attacks on police and military outposts. The State Department's own report supported these findings but fell short of making a legal determination on whether crimes against humanity and genocide took place. A senior UN official called the situation a "textbook example of ethnic cleansing."[2] Bangladesh is now hosting a total of more than a million Rohingya refugees. An estimated 520,000 to 600,000 Rohingya remain in Rakhine State, Myanmar.[3] Of these, 126,000 live in camps for internally displaced people (IDPs) that were established following a

[1] *Myanmar: UN Fact-Finding Mission releases its full account of massive violations by military in Rakhine, Kachin and Shan States.* OHCHR, 2018. (https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23575&LangID=E)

[2] *UN human rights chief points to 'textbook example of ethnic cleansing' in Myanmar*, UN News, September 11, 2017. (https://news.un.org/en/story/2017/09/564622-un-human-rights-chief-points-textbook-example-ethnic-cleansing-myanmar)

[3] *2018 Report on International Religious Freedom: Burma.* U.S. Department of State, 2019. (https://www.state.gov/reports/2018-report-on-international-religious-freedom/burma/) Estimates vary widely, in large part due to lack of access to Rohingya populations in Myanmar.

crackdown against the Rohingya in 2012. The UN has called the conditions in the camp "deplorable."[4] A significant number of Rohingya refugees live in other countries in the region, including Malaysia, Pakistan, and India, where many face serious protection concerns.

The numbers displaced and their conditions speak to Myanmar's decades-long efforts to persecute and exclude Rohingya. A turn for the worse came with the passage of the 1982 citizenship law that excluded Rohingya and several other ethnic minorities. This accelerated an already deteriorating situation for the Rohingya—including denial of basic access to healthcare and education, vulnerability to arbitrary arrest and forced labor, and restrictions on movement, marriage, and children. Alongside these trendlines, episodes of disproportionate violence have caused widespread suffering and displacement.

The hopeful news is that much more can be done to seek accountability for crimes in Myanmar and promote conditions for sustainable return and protection of Rohingya communities. In interviews last week in Cox's Bazar, Bangladesh, I heard repeatedly that Rohingya look to the United States for leadership. Many receive news of related Congressional hearings, such as this one, and they are closely following U.S. engagement, such as the recent announcement of a travel ban on Myanmar's top generals.

But actions to date have failed to spur meaningful progress. For instance, it is puzzling and frustrating that the administration has failed to declare that the Myanmar military is responsible for crimes against humanity, as there is overwhelming evidence that such crimes have been committed. The recent sanctioning of Senior General Min Aung Hlaing is significant, but sanctions should go beyond a travel ban to include targeted financial sanctions on Myanmar generals and military-owned enterprises. Many Rohingya and advocates, like myself, were heartened that Rohingya leader Mohib Ullah was invited to participate in last week's Ministerial to Advance Religious Freedom. But we were disappointed when President Trump did not seem familiar with key details of these mass crimes.[5]

In fact, we are not aware of any public statements made by the president about the atrocities committed against the Rohingya. This is disappointing as the United States can and should lead a global effort to pursue a just and sustainable solution for the Rohingya people. But this can only be successful if leadership comes from the highest levels of the administration and Congress. And while senior administration officials make statements about the crisis from time to time, there is no evidence of a concerted high-level diplomatic campaign of the kind that would be necessary to create real change.

Deteriorating conditions in Rakhine State, dim prospects for return

It is of utmost concern that conditions in Rakhine State continue to deteriorate. Another dimension of the situation separate from the Rohingya is the struggle between the Myanmar government and the Arakan Army, an armed group from the ethnic Rakhine Buddhist community. In early 2019, the Arakan Army conducted coordinated attacks on police stations. Myanmar security forces responded with a crackdown that

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[4] *Myanmar Humanitarian Brief.* OCHA, 2018. (https://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Myanmar%20Humanitarian%20Brief%20-%20September%202018.pdf)

[5] *A Yazidi woman from Iraq told Trump that ISIS killed her family. 'Where are they now?' he asked.* The Washington Post, 2019. (https://www.washingtonpost.com/politics/a-yazidi-woman-from-iraq-told-trump-that-isis-killed-her-family-where-are-they-now-he-asked/2019/07/19/cc0c83e0-aa2d-11e9-a3a6-ab670962db05_story.html?utm_term=.1c275d3dfd57)

led to displacement of 30,000 ethnic Rakhine and others in the region.[6] Citing continued fighting in Rakhine, the government shutdown the internet in parts of Rakhine in late June. The UN Special Rapporteur on the Situation of Human Rights in Myanmar Yanghee Lee called the ongoing blackout "unprecedented and unacceptable," noting that the government is blocking information, a warning sign of potential atrocities, and hampering humanitarian relief efforts among Rohingya, Rakhine, and other communities.[7]

Beyond these recent counterproductive measures, the Myanmar government has failed to make progress on human rights, protection, and conditions for the safe, dignified, and sustainable return of Rohingya refugees to Rakhine. For the several hundred thousand Rohingya who are still in Rahkine, the conditions are horrific. They face systematic and state-sponsored discrimination and segregation, including severe restrictions on freedom of movement and access to essential health and education services, and other violations including arbitrary arrests, sexual violence, and forced labor. In February and April 2019, Refugees International advocates interviewed refugees in Bangladesh, including those who had recently fled Myanmar and who described the terrible conditions firsthand.[8] For example, Noor Jan, a 70-year-old Rohingya refugee described security forces coming to her village almost every night, beating people, or taking men for forced labor or women to be sexually assaulted.

For those living in IDP camps in central Rakhine, which are essentially open-air prisons, the Myanmar government is moving forward with a plan to close the camps, ostensibly to improve conditions for the displaced. However, the closure of some IDP camps to date has resulted in superficial changes, such as shifting people to structures next to camps, without any increase in freedom of movement, access to non-segregated services and livelihoods, or opportunity to return to their lands.[9] In some cases, IDP villages of origin in central Rakhine have been built over for other use, extending the pattern of deliberate destruction observed in northern Rakhine. Restrictions on movement remain severe, affecting not only IDPs but also non-displaced Rohingya who cannot use roads due to the deliberate placement of checkpoints near villages. Arbitrary imprisonment and detention in dangerous conditions remain the reality for hundreds of Rohingya.

Most fundamentally, the question of citizenship remains outstanding. The Myanmar government continues to pursue the National Verification Card (NVC) process, which offers Rohingya temporary residence and a purported opportunity to be considered for citizenship later. However, this is based on the discriminatory 1982 Citizenship Law that requires Rohingya to renounce their identity as a distinct ethnic group. As a refugee in Bangladesh told the Refugees International team, "The NVC is the first step toward making us a foreigner." The few thousand Rohingya who have undergone the NVC process still face significant restrictions in movement and livelihoods.

In light of these conditions, it is no surprise that Rohingya in Bangladesh refused to participate in the repatriation exercise in November 2018. In fact, Rohingya continue to flee to Bangladesh, including 946

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[6] *"No one can protect us" – War crimes and abuses in Myanmar's Rakhine state.* Amnesty International, 2019. (https://www.amnestyusa.org/wp-content/uploads/2019/05/Briefing-Myanmar-No-one-can-protect-us.pdf)

[7] *Myanmar: Internet Shutdown Risks Lives.* Human Rights Watch, 2019. (https://www.hrw.org/news/2019/06/28/myanmar-internet-shutdown-risks-lives)

[8] *Abuse or Exile: Myanmar's ongoing persecution of the Rohingya.* Refugees International, 2019. (https://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/5cdc6b489b747a1e0f237fe4/1557949259439/Bangladesh+FINAL.pdf)

[9] *Erasing the Rohingya: Point of No Return.* Reuters, 2017. (https://www.reuters.com/investigates/special-report/myanmar-rohingya-return/)

between January and April 2019.[10] Despite rhetoric to the contrary, Myanmar's government has demonstrated a complete lack of political will to create conditions that enable Rohingya to live with basic rights and dignity in Rakhine. In fact, they are actively pursuing policies that are making conditions worse.

Progress in Bangladesh, but near and medium-term challenges remain

The Bangladesh government must be commended for hosting more than a million refugees and continuing to allow Rohingya to seek refuge within its borders. Both the government and the international community should be proud of an effective humanitarian response in unprecedented circumstances. As the largest donor, the United States is supporting life-saving nutrition, food, health, water, sanitation, and other programs.[11] More than 300,000 Rohingya have been registered through the UNHCR-Government of Bangladesh process, providing their primary or only identity document that gives access to services and protection against forced return.[12] There was recent progress in education, with the Bangladesh government approving the first two of four levels of an informal learning framework. Critically, donors are also investing to improve the lives of host communities to address impacts, such as deforestation, and mitigate social tensions.

Despite these achievements, Rohingya refugees in Bangladesh continue to face steep challenges. The 2019 Joint Response Plan (JRP) for Rohingya Humanitarian Crisis has been funded at just a third of what is required to meet refugee and host needs.[13] In July, monsoons have displaced 6,000 refugees in the camps and killed two people.[14] Refugees remain vulnerable to food insecurity, and many resort to borrowing money or buying food on credit when their monthly assistance runs out.[15] Between July 2018 and July 2019, Rohingya households reported sharp increases in safety concerns for boys related to violence within the community (from 27 to 52 percent) and fears of kidnapping of girls (from 38 to 52 percent).[16] While progress has been made on providing gender-based violence and sexual and reproductive health services, major challenges to scale and quality remain,[17] and the JRP estimates that 6,555 women and girls are at risk of sexual violence during 2019.[18] Space is a significant constraint that limits access to health, informal education, and other

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[10] *Operational Dashboard: 2019 Indicators Monitoring.* UNHCR, 2019. (https://data2.unhcr.org/en/documents/download/70378)

[11] *Bangladesh: 2019 Joint Response Plan for Rohingya Humanitarian Crisis (January-December).* Financial Tracking Service, 2019 (https://fts.unocha.org/appeals/719/summary).

[12] Operational Update: Bangladesh. UNHCR, 2019. (https://data2.unhcr.org/en/documents/download/69927)

[13] *Heavy monsoon rains drench Rohingya sites in Bangladesh.* UNHCR, 2019. (https://www.unhcr.org/news/briefing/2019/7/5d1f08404/heavy-monsoon-rains-drench-rohingya-sites-bangladesh.html)

[14] *Bangladesh: Rohingya face monsoon floods, landslides.* Human Rights Watch, 2019. (https://www.hrw.org/news/2019/07/12/bangladesh-rohingya-face-monsoon-floods-landslides)

[15] *The Rohingya: Displacement, Deprivation and Policy.* International Food Policy Research Institute, 2019. (http://ebrary.ifpri.org/utils/getfile/collection/p15738coll2/id/133324/filename/133535.pdf)

[16] *Multi-Sector Needs Assessment II – All Camps.* UNHCR-REACH, 2019. (https://reliefweb.int/sites/reliefweb.int/files/resources/68613.pdf)

[17] *Still at Risk: Restrictions Endanger Rohingya Women and Girls in Bangladesh.* Refugees International, 2018. (https://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/5b58d950562fa7945e42b7a0/1532549459128/Bangladesh+GBV+Report+-+July+2018+-+final.pdf) & *Removing Barriers and Closing Gaps: Improving Sexual and Reproductive Health and Rights for Rohingya Refugees and Host Communities.* Center for Global Development, 2019. (https://www.cgdev.org/publication/removing-barriers-and-closing-gaps-improving-sexual-and-reproductive-health-and-rights)

[18] *2019 Joint Response Plan for Rohingya Humanitarian Crisis.* IOM, UNHCR, UNRC Bangladesh, Inter Sector Coordination Group, 2019.

services. For example, many children attend informal education for only two hours to allow for multiple shifts per day. In the near-term, many issues could be partly addressed through policies that enable the construction of more semi-durable structures (including two-story ones), multipurpose cash assistance, and expanded cash-for-work opportunities.

As Refugees International has stated, Myanmar bears ultimate responsibility for addressing the root causes of the crisis and creating sustainable solutions. However, given the lack of progress to date, the reality is that most or all Rohingya will remain in Bangladesh for the foreseeable future. For this reason, the government of Bangladesh should reduce barriers that have impeded the effective delivery of humanitarian aid. As has been reported by Refugees International, it should establish clear and consistent guidance for NGO registration, project approvals, and visas.[19] More fundamentally, the Bangladesh government should recognize that the Rohingya are refugees with accompanying rights—including access to justice, health services, cash and livelihoods, and education, as well as freedom of movement—and allow aid organizations to provide these types of services. In fact, we believe the government of Bangladesh would be well advised to go further by considering opportunities for medium-term planning and investment that would create new job and livelihoods opportunities for refugees and hosts.[20] Evidence indicates that such an approach can mitigate social tensions and facilitate *sustainable return* when conditions exist by helping refugees develop portable skills and assets.[21] As opposed to relying on annual humanitarian aid that falls over time, this approach can generate substantial international financing and other support (e.g., trade concessions and investment facilitation) that advance outcomes for refugees, hosts, and sustainable development in Bangladesh.

In the immediate term, a major area of concern is the Bangladesh government's plan to relocate 100,000 Rohingya to a Bhasan Char, a small island in the Bay of Bengal. The island, composed of silt, is vulnerable to cyclones and flooding and is a several hour boat ride from the mainland. As recently as last week, the government insisted that Rohingya will move to the island in the next few months, while underscoring that any relocations would be voluntary.[22] However, many questions remain about safety, access to services and livelihoods, and movement between the camps and island. In light of unanswered questions, the government should refrain from moving Rohingya to Bhasan Char.

Priorities for sustainable progress and way forward

The final report of the Advisory Commission on Rakhine State, accepted by the Myanmar government, contains the key pillars necessary (if not sufficient) for a sustainable solution.[23] These include, but are not

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(https://reliefweb.int/sites/reliefweb.int/files/resources/2019%20JRP%20for%20Rohingya%20Humanitarian%20Crisis%20%28February%202019%29.compressed_0.pdf)

[19] *Aid Restrictions Endangering Rohingya ahead of Monsoons in Bangladesh.* Refugees International, 2018. (https://www.refugeesinternational.org/reports/rohingyalivesatrisk)

[20] *Toward Medium-Term Solutions for Rohingya Refugees and Hosts in Bangladesh: Mapping Potential Responsibility-Sharing Contributions.* Center for Global Development, 2019. (https://www.cgdev.org/publication/toward-medium-term-solutions-rohingya-refugees-and-hosts-bangladesh-mapping-potential)

[21] *Sustainable Refugee Return: Triggers, constraints, and lessons on addressing the development challenges of forced displacement.* World Bank Group, 2015.

[22] *Bangladesh prepares to move Rohingya to island at risk of floods and cyclones.* The Guardian, 2019. (https://www.theguardian.com/global-development/2019/jul/19/bangladesh-prepares-to-move-rohingya-to-island-at-risk-of-floods-and-cyclones)

[23] *Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine.* Advisory Commission on Rakhine State, 2017. (http://www.rakhinecommission.org/the-final-report/)

limited to, socio-economic development that benefits local communities; revisiting the citizenship law to align with international standards; freedom of movement for all people in Rakhine; and promoting communal representation and participation of underrepresented groups, including ethnic minorities, stateless, and displaced communities. Although the report was released just before the August 2017 wave of violence, its recommendations remain ever more relevant in light of worsening conditions.

While there has been some coordinated action, much greater progress can be achieved if the United States leads and mobilizes a global response. To support this, the United States should create a high-level envoy, with the support and confidence of the president, to work with governments and multilateral organizations to lead international efforts to end abuses, provide assistance and protection for Rohingya refugees and IDPs, and promote conditions for eventual safe and voluntary return of Rohingya to Myanmar.

The United States should forge a three-pillar plan to:

1. Increase international pressure on Myanmar toward justice, accountability, and conditions for return

- Make a legal determination, through the U.S. Secretary of State, as to whether the abuses identified in the U.S. State Department's August 2018 report amount to crimes against humanity and genocide (or provide sufficient information to merit investigation and prosecution of senior officials for genocide).[24]
- Continue to pursue enactment of legislation, such as the bipartisan Burma United through Rigorous Military Accountability (BURMA) Act of 2019 advanced by your committee last month—or similar language as an NDAA amendment, as was recently passed by the House. I wish to thank the subcommittee members who cosponsored the BURMA Act, which would limit security assistance until impunity for human rights abuses ends and impose visa and financial sanctions on military leaders responsible for serious human rights abuses.
- Building on the targeted travel sanctions on Senior General Min Aung Hlaing and three others, impose additional travel and financial sanctions on high-level Myanmar military officials as identified in the UN Fact-Finding Mission report, as well as the leadership of military-owned enterprises.
- Lead a high-level international diplomatic campaign to advance accountability and sustainable solutions, including efforts to:
    - Establish an ad hoc tribunal or referral to the International Criminal Court.
    - Demand access for the UN Fact-Finding Mission and the UN Special Rapporteur for Human Rights in Myanmar, and support the transition from the mission to the UN-sponsored Independent Investigative Mechanism for collecting evidence related to atrocity crimes committed against the Rohingya.
    - Demand access for and inclusion of UN agencies in any plans to repatriate Rohingya to Myanmar.
    - Place a multilateral arms embargo on the Myanmar military until those responsible for atrocity crimes are held to account.

[24] Many of these recommendations are also included in *Abuse or Exile: Myanmar's ongoing persecution of the Rohingya.* Refugees International, 2019. (https://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/5cdc6b489b747a1e0f237fe4/1557949259439/Bangladesh+FINAL.pdf)

- Implement recommendations of the Advisory Commission on Rakhine State, including those related to socio-economic development, citizenship, and freedom of movement.

2. Elevate and ensure Rohingya participation in all related forums and processes.

- As reflected in the 2019 Joint Response Plan for Rohingya Humanitarian Response, ensure robust participation of Rohingya throughout the response in Bangladesh, including through the creation of youth, men, and women committees.
- Encourage the Bangladesh government to enhance engagement with Rohingya groups to understand their needs and priorities, as well as their concerns about premature repatriation.
- Support the representation of Rohingya refugees in regional and global forums on the Rohingya crisis and consult and inform refugees on UN agreements, including those related to repatriation.

3. Increase support for Bangladesh and encourage the government of Bangladesh to support measures that enhance Rohingya and host wellbeing

- Maintain generous support for the humanitarian response and scale up investments for host communities.
- Encourage the Bangladesh government to permit the assistance necessary to meet humanitarian needs, and to begin dialogue on broader refugee and host needs that would arise in the context of protracted displacement.
- Lead international efforts, including those to:
  - Fully fund the JRP activities for Rohingya refugees and host communities.
  - Oppose the relocation of Rohingya refugees to Bhasan Char in light of ongoing questions and concerns that have not been addressed.
  - Advocate for near-term policy shifts that would facilitate improved refugee wellbeing and security, such as increasing multipurpose cash assistance, cash-for-work opportunities, semi-durable structures, and community policing.
  - Support a curriculum for Rohingya refugee children that aligns with national standards and provides a path for future certification.
  - Support a medium-term development plan for Cox's Bazar that includes opportunities for improved skills, livelihoods, and self-reliance for both hosts and refugees.
  - Encourage the World Bank, as well as the Asian Development Bank, to scale up its investments in Cox's Bazar and support a coordinated policy dialogue.

By pursuing these actions, the United States can play a decisive role in advancing Rohingya rights and promoting regional stability. At a time when human rights and refugee rights are increasingly under attack, standing up for the Rohingya people sends a critical message about our values and priorities. Thank you again for the opportunity to testify today.

Mr. SHERMAN. Thank you.

And no one in Burma/Myanmar should think that the solution is bigger and nicer refugee camps in Bangladesh. The solution is for people to go back to their homes.

Ms. Enos.

STATEMENT OF OLIVIA ENOS, SENIOR POLICY ANALYST, ASIAN STUDIES CENTER, HERITAGE FOUNDATION

Ms. ENOS. Chairman and distinguished members of the subcommittee, the Trump administration inaugurated the Free and Open Indo-Pacific Strategy in 2017. There are several notable features of the Indo-Pacific strategy including that it identifies South Asia, especially India, as falling under the purview of U.S. strategy toward Asia.

The second most notable feature of the strategy are the two modifiers affixed to it, both of which relate to promoting values. The Indo-Pacific Strategy makes explicit commitments to promoting human rights, democracy, and freedom. As the strategy has taken shape, however, only the security and to some extent the economic aspects of U.S. commitments in the Indo-Pacific materialized; the values component did not.

In Southeast Asia, the U.S. has the opportunity to turn its rhetorical commitments to values into reality. There are few countries in Asia with worse human rights track records than Burma or Cambodia. These two countries provide an excellent opportunity for the administration to put rhetorical commitments to the test.

Throughout the remainder of my testimony, I want to take stock of what the U.S. has done so far in Cambodia and Burma, then I want to discuss how the U.S. can demonstrate its commitments to values in the Indo-Pacific by prioritizing the promotion of human rights in both countries.

First, Cambodia. It is difficult to describe Cambodia as a democracy today. July 2018 elections, neither free nor fair, solidified Cambodia's descent into one-party rule. Sham 2018 elections came on the heels of the Cambodian Supreme Court's decision to dissolve the main opposition Cambodia National Rescue Party, CNRP, in November 2017, and the opposition's dissolution happened right after the arrest of opposition leader Kem Sokha in September 2017. He remains under house arrest today.

In addition to political upheaval, concerns have deepened regarding China's influence in Cambodia. Recent reports indicate that China signed a secret naval base sharing agreement that gives China exclusive rights to part of the Cambodian naval installation on the Gulf of Thailand. The alleged base sharing agreement could amplify the threat that China poses to freedom of navigation in the South China Sea.

While the U.S. responded to Kem Sokha's arrest and the dissolving of the CNRP with strong statements and eventually by imposing travel restrictions on Cambodian Government officials, it has done little to respond after July 2018 elections. The U.S. Government promised that there would be follow-on actions, presumably sanctions, but now more than a year after failed 2018 elections, no further sanctions have been issued. The U.S. should view Cambodia as a battleground for values, perhaps even as a litmus

test for whether Southeast Asia is turning more toward democracy or authoritarianism.

Now I want to turn to Burma. Horrific events of August 2017 resulted in the displacement of approximately 750,000 of Burma's Muslim minority Rohingya. The United Nations Fact Finding Mission Report found evidence that genocide, crimes against humanity, and war crimes took place. Conservative estimates suggest that more than 10,000 Rohingya were killed with many more women and girls sexually abused or raped. There were even horrifying reports of mothers having their babies torn from their arms and thrown into the fire right before their eyes.

In spite of overwhelming evidence documenting the genocide and several reputable institutions including the U.S. Holocaust Memorial Museum corroborating, the U.S. Government has not issued a determination on atrocities committed against the Rohingya. This is in spite of the fact that the Secretary of State has the authority to issue a genocide determination at any point in time.

In fairness, the U.S. has already provided $494 million in aid, making it the top provider of humanitarian assistance to Burma and Bangladesh. The U.S. also already issued Global Magnitsky sanctions against some members of the Burmese military, and just last week imposed travel restrictions on others including Senior General Min Aung Hlaing. The U.S. Government, however, stopped short of financially sanctioning Min Aung Hlaing and some of the other military officials who bear primary responsibility for atrocities.

In the face of such severe crimes, I would point the distinguished members of this subcommittee to my written statements submitted for the record which has additional recommendations, but for now I will offer five. The U.S. Government should, first, appoint an interagency coordinator responsible for promoting human rights and values in the Indo-Pacific Strategy.

Second, it should sanction Hun Sen and other party cadres for undermining democracy in Cambodia. Third, it should create and convene an emergency meeting of the Cambodia contact group comprised of the parties to the 1991 Paris Peace Agreement who have an obligation to hold the country accountable if democracy falters. Fourth, they should financially sanction senior members of the Burmese military, particularly Min Aung Hlaing, for the crimes that they committed against Rohingya. And fifth, the U.S. Government should make an official, public legal determination on crimes committed against Rohingya.

The U.S. has intermittently viewed human rights as a luxury issue to be raised when all other diplomatic issues are addressed. But this is not the most strategic way to respond to human rights challenges in Asia. The U.S. should take these and other steps to demonstrate its tangible commitment to preserving and promoting human rights in the Indo-Pacific. Thank you.

[The prepared statement of Ms. Enos follows:]

The Heritage Foundation

CONGRESSIONAL TESTIMONY

"Human Rights in Southeast Asia: A Regional Outlook"

Advancing Values in the Indo-Pacific Strategy by Promoting Human Rights in Southeast Asia

Testimony before the
Subcommittee on Asia, the Pacific, and Nonproliferation
House Foreign Affairs Committee

United States House of Representatives

July 25, 2019

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My name is Olivia Enos. I am a senior policy analyst in the Asian Studies Center at The Heritage Foundation. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

The Need to Promote Values in the Indo-Pacific

The Trump Administration inaugurated the Free and Open Indo–Pacific strategy in 2017. There are several notable features of the strategy, the most obvious of which is that it identifies South Asia, especially India, as falling under the purview of U.S. strategy toward Asia.

The second most notable feature of the Indo-Pacific strategy are the two modifiers affixed to it. According to Alex Wong in a briefing[1] on the Indo-Pacific strategy, "free" means promoting sovereignty of the U.S. and individual countries in Asia, freedom from coercion, and promoting human rights. "Open" means open communications, including Sea Lines of Communication, open investment, and open trade. Both modifiers relate directly to U.S. commitment to values.

[1] Alex N. Wong, "Briefing on the Indo–Pacific Strategy," Bureau of East Asian and Pacific Affairs, U.S. State Department, April 2, 2018, https://www.state.gov/briefing-on-the-indo-pacific-strategy/ (accessed May 21, 2019).

In a *Washington Post* op-ed, Vice President Mike Pence, put a finer point on it, explaining that the Indo–Pacific strategy supports

> transparent and responsive government, the rule of law and the protection of individual rights, including religious freedom. Nations that empower their citizens, nurture civil society, fight corruption and guard their sovereignty are stronger homes for their people and better partners for the United States. Conversely, nations that oppress their people often violate their neighbors' sovereignty as well. Authoritarianism and aggression have no place in the Indo–Pacific region.[2]

As the strategy has taken shape, the security (and to some extent) the economic aspects of U.S. commitments in the Indo–Pacific strategy materialized. However, the values component of the strategy remains grossly under-developed.

In Southeast Asia, the U.S. has the opportunity to turn its rhetorical commitments to values into reality. The 10 countries of the Association of Southeast Asian Nations (ASEAN), in fact, commit some of the world's most significant human rights violations. From less-than-fair 2019 elections in Thailand to a brutal drug war that led to the death of anywhere from 12,000 to 27,000 people—and counting—in the Philippines, there can be no doubt that governments in the region have found myriad of ways of infringing on human rights.[3]

There are few countries in Asia with worse human rights track records than Burma or Cambodia. These two countries, in particular, provide an excellent opportunity for the Administration to put rhetorical commitments to the test, and may serve as invaluable opportunities to craft more purposeful, strategic policies to address severe human rights violations in Asia.

Throughout the remainder of my testimony, I want to take stock of what the U.S. has done so far to remedy the collapse of democratic norms in Cambodia, and respond to ongoing human rights violations in Burma after the Burmese military committed genocide against Rohingya in 2017. Then, I want to discuss how the U.S. can demonstrate its commitment to promoting freedom in the Indo–Pacific by prioritizing efforts to alleviate suffering in Burma and Cambodia.

The Collapse of Democracy in Cambodia

The Current Situation

It is difficult to describe Cambodia as a democracy today. The July 2018 elections, which were neither free nor fair, solidified Cambodia's descent into one-party rule.

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[2] Mike Pence, "The United States Seeks Collaboration, Not Control, in the Indo–Pacific," *The Washington Post*, November 9, 2018, https://www.washingtonpost.com/opinions/mike-pence-the-united-states-seeks-collaboration-not-control-in-the-indo-pacific/2018/11/09/1a0c330a-e45a-11e8-b759-3d88a5ce9e19_story.html?utm_term=.733b0de7d2c7 (accessed May 21, 2019).

[3] Human Rights Watch, "Philippines' 'War on Drugs,'" https://www.hrw.org/tag/philippines-war-drugs (accessed July 24, 2019), and "Philippines Drugs War: UN Votes to Investigate Killings," BBC, July 11, 2019, https://www.bbc.com/news/world-asia-48955153 (accessed July 24, 2019).

Election day was marred by corruption that included falsified election-turnout statistics and voter intimidation at the polls.[4] In the face of election boycotts, Prime Minister Hun Sen threatened to punish non-voters.[5] Post-election, the Cambodian National Election Committee (NEC) claimed a voter turnout of more than 82 percent, a close to 20 percent increase over 2013 elections.[6] This statistic "did not correspond with the sight of empty polling stations and residents walking around with fingers untouched by the ink used to denote those who voted."[7] Of the ballots cast, the NEC claims that 8.4 percent of ballots were spoiled, or cast improperly as a protest vote by ordinary Cambodians who felt they could not support the direction the ruling party is taking the country.[8]

Sham elections came on the heels of the Cambodian Supreme Court's decision to dissolve the main opposition Cambodia National Rescue Party (CNRP) in November 2017. The opposition's dissolution came on the heels of the arrest of opposition leader Kem Sokha in September 2017. He remains under house arrest. Shortly after Kem Sokha's arbitrary detention and the dissolution of the CNRP, more than 100 parliamentarians and opposition leaders fled the country. With the primary opposition immobilized, Hun Sen paved the way to a guaranteed victory in July 2018, extending his nearly 35 years as prime minister for another five years.

Hun Sen brazenly destroyed democracy in Cambodia. He was even quoted by the Associated Press and in *The Wall Street Journal* saying that he would rule the country for another ten years and then retire.[9] Since the 2018 elections, he has continued to rule the country through thuggish intimidation. Crackdowns on civil society largely continue, and opposition parliamentarians who fled at the end of 2017 still feel unsafe to return to the country, even after nearly two years living in exile.

Hun Sen's intimidation tactics have left the CNRP without clear leadership and in search of a strategy. Without a clear opposition, or leadership that directly counters Hun Sen's authoritarian tactics inside the country, he is likely to get his way, and will rule the country for the next 10 years—if not longer. Even if Hun Sen is unseated or willingly relinquishes power, the question remains: Who and what party will rule Cambodia next? Early indicators suggest that some form of dynastic rule may take root, with Hun Sen intimating that his son is next in line.[10]

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[4] Prak C. Thul and Tom Allard, "Cambodia's Ruling Party Claims Victory in Much-Criticized Election," Reuters, July 28, 2018, https://www.reuters.com/article/us-cambodia-election/polls-open-in-cambodias-general-election-idUSKBN1KJ005 (accessed August 6, 2018).

[5] Sopheng Cheang and Jerry Harmer, "Cambodia's Hun Sen Coasts to Win After Opposition Silenced," NBC Washington, July 29, 2018, https://www.nbcwashington.com/news/politics/Cambodians-Vote-in-Election-with-Main-Opposition-Silenced-489447391.html (accessed August 6, 2018).

[6] Hannah Beech, "Cambodia Re-Elects Its Leader, a Result Predetermined by One," *The New York Times*, July 29, 2018, https://www.nytimes.com/2018/07/29/world/asia/cambodia-election-hun-sen.html (accessed August 6, 2018).

[7] Ibid.

[8] Prak C. Thul, "Spoilt Cambodian Ballot Papers Seen as Protest over 'Sham' Election," Reuters, July 30, 2018, https://www.reuters.com/article/us-cambodia-election-spoilt/spoilt-cambodian-ballot-papers-seen-as-protest-over-sham-election-idUSKBN1KK184 (accessed August 6, 2018).

[9] "Cambodian Strongman Hun Sen Says 'Don't Be Jealous' of His Longevity," *The Wall Street Journal*, September 6, 2017, https://www.wsj.com/articles/cambodias-leader-plans-to-stay-in-office-for-next-decade-1504688173 (accessed July 24, 2019)).

[10] Charles Dunst, "Can Hun Sen Pass Power to His Children?" Council on Foreign Relations, December 20, 2018, https://www.cfr.org/blog/can-hun-sen-pass-power-his-children (accessed July 24, 2019).

In addition to political upheaval in the country, concerns have deepened about China's influence in Cambodia. According to a report in *The Wall Street Journal*, China signed a secret naval base-sharing agreement with Cambodia: "The pact—signed this spring but not disclosed by either side—gives China exclusive rights to part of a Cambodian naval installation on the Gulf of Thailand, not far from a large airport now being constructed by a Chinese company."[11]

The alleged base-sharing agreement between China and Cambodia was a 30-year lease that automatically renews every 10 years and could amplify the threat that China poses to freedom of navigation in the South China Sea.[12] At minimum, the base increases China's ability to enforce its disputed claim to certain parts of the South China Sea.

Cambodia's trend toward authoritarianism may be emboldened by support from Chinese partners. There is nothing inherently wrong with Cambodia, or any other Southeast Asian nation, doing business with China. In fact, few countries in Southeast Asia respond positively when pressed to choose between the U.S. or China as an economic partner. Countries in Southeast Asia will most likely continue to engage the two economic powerhouses—the U.S. and China—for the foreseeable future. Strategic military cooperation, however, is another matter altogether.

The U.S. should view Cambodia as a battleground for values—perhaps even as a litmus test for whether Southeast Asia is trending toward democracy or authoritarianism. Cambodia has strayed far from the democratic path it once committed to. After Cambodia assented to the Paris Peace Agreement on October 23, 1991, the U.S. and 18 other international signatories agreed to "promote and encourage respect for and observance of human rights and fundamental freedoms in Cambodia."[13] The agreement also ensured the "the right to self-determination of the Cambodian people through free and fair elections."[14] In this regard, signatories have a continuing obligation to assist Cambodia when the political process falters, as it is so visibly is today.

The U.S. Response to Political Upheaval in Cambodia

The U.S. response to political turmoil in Cambodia has been inconsistent at best, haphazard at worst. The initial response to Kem Sokha's arrest was tepid, though subsequent calls for his release have increased in strength, particularly after the dissolution of the opposition.

On December 6, 2017, the U.S. Department of State restricted travel for "individuals involved in undermining democracy in Cambodia."[15] The statement accompanying the visa ban suggested that there might be additional actions if conditions worsen. It also communicated that the visa ban could

[11] Gordon Lubold, Jeremy Page, and Rob Taylor, "Deal for Naval Outpost in Cambodia Furthers China's Quest for Military Network," *The Wall Street Journal*, July 22, 2019, https://www.wsj.com/articles/secret-deal-for-chinese-naval-outpost-in-cambodia-raises-u-s-fears-of-beijings-ambitions-11563732482 (accessed July 24, 2019).
[12] Ibid.
[13] United States Institute of Peace, "Agreement on a Comprehensive Political Settlement of the Cambodia Conflict," Part I, Section II, United National Transitional Authority in Cambodia, 1991, http://www.usip.org/sites/default/files/file/resources/collections/peace_agreements/agree_comppol_10231991.pdf (accessed August 3, 2018).
[14] Ibid.
[15] U.S. Department of State, "Visa Restrictions on Individuals Responsible for Undermining Cambodian Democracy," December 6, 2017, https://www.state.gov/visa-restrictions-on-individuals-responsible-for-undermining-cambodian-democracy/ (accessed July 24, 2018).

be rolled back if conditions, such as recognizing the CNRP as the legitimate opposition and releasing Kem Sokha, are met.

The Cambodian government has repeatedly communicated that it did not believe that the U.S. would institute sanctions or a visa ban, so this action, as well as future action should make clear that there will be no impunity for persons who erode democracy.

Prior to the July 2018 elections, the U.S. took its strongest action yet. On July 12, 2018, the U.S. Department of the Treasury sanctioned Cambodian General Hing Bun Hieng for his complicity in serious human rights violations.[16] He is head of the body guard unit that effectively serves as Hun Sen's private army. In 1997, he allegedly oversaw a unit that killed 16 people and injured 100 more, including an American, in a grenade attack.[17] This incident is characteristic of his brutality. His designation was the first time that a Cambodian was sanctioned under Global Magnitsky authorities. Global Magnitsky permits the Treasury and the State Department to sanction individuals and entities on grounds of human rights violations and corruption.[18]

Many saw this notable action as a warning shot fired prior to the elections—a signal to Hun Sen that he should get his act together or face consequences. Hing Bun Hieng's designation was also seen as a follow-up to the visa ban instituted in December 2017, when the U.S. promised that further actions would follow if Cambodia's political system continued to falter.

Given this important designation, many anticipated that the Treasury and the State Department had a strong response lined up when 2018 elections were neither free nor fair. The U.S. did not certify Cambodia's elections and issued a strong statement, once again promising more actions:

> The United States will consider additional steps to respond to the elections and other recent setbacks to democracy and human rights in Cambodia, including a significant expansion of the visa restrictions announced on December 6, 2017. In the meantime, we call on the Cambodian government to take tangible actions to promote national reconciliation by allowing independent media and civil society organizations to fulfill their vital roles unhindered, immediately releasing Kem Sokha and other political prisoners, and ending the ban on the political opposition.[19]

It has now been a year since the flawed 2018 elections, yet the executive branch has taken no additional actions. This is both a failure to follow through on promises after the 2018 elections, and a failure to uphold commitments made in 1991 to hold Cambodia accountable when democracy deteriorates, or in this case, disappears.

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[16] News release, "Treasury Sanctions Two Individuals and Five Entities Under Global Magnitsky," U.S. Department of the Treasury, June 12, 2018, https://home.treasury.gov/news/press-releases/sm0411 (accessed July 24, 2019).
[17] News release, "Cambodia: 1977 Grenade Attack on Opposition Still Unpunished," Human Rights Watch, March 30, 2009, https://www.hrw.org/news/2009/03/30/cambodia-1997-grenade-attack-opposition-still-unpunished (accessed July 24, 2019).
[18] Olivia Enos, "Cambodia's Democracy in Shambles Ahead of July Elections," *Forbes*, July 5, 2018, https://www.forbes.com/sites/oliviaenos/2018/07/05/cambodias-democracy-in-shambles-ahead-of-july-elections/#116f9794571a (accessed July 24, 2018).
[19] News release, "Statement from the Press Secretary on Cambodia's Flawed Parliamentary Elections," The White House, July 29, 2018, https://www.whitehouse.gov/briefings-statements/statement-press-secretary-cambodias-flawed-parliamentary-elections/ (accessed July 24, 2019).

In contrast to the executive branch, Congress has undertaken a number of important initiatives, including the recently passed Cambodia Democracy Act of 2019, which was introduced by a member of the subcommittee, Representative Ted Yoho (R–FL) and passed the House of Representatives last week.[20] It now awaits approval in the Senate. If passed, the bill would target top members of the Cambodian government for violating democratic norms and human rights. The legislation was previously introduced and passed the House in the 115th Congress.

Congress is also considering the Cambodia Trade Act of 2019, which would require the U.S. government to evaluate Cambodia's fitness to continue receiving Generalized System of Preferences (GSP) trade status.[21] Originally introduced in the Senate by Ted Cruz (R–TX) and Chris Coons (D-DE), the legislation does not mandate that the U.S. government revoke GSP, but merely evaluates whether Cambodia still merits receiving preferential trade status. The bill was partially introduced in response to the European Union's decision in February to temporarily suspend Cambodia's Everything But Arms (EBA) trade status.[22] In February 2020, the EU will decide whether to revoke Cambodia's EBA status permanently. If this happens, it may have devastating impacts on Cambodia's economy.

While there is some encouraging movement in Congress, action in the executive branch seems stalled. The U.S. government should see Cambodia as a part of its broader strategy to promote democratic values, in particular by thwarting the rise of authoritarianism in the region, and view it as a broader part of commitments to advance democracy and human rights in the Indo–Pacific strategy.

Responding to Atrocities in Burma

The Current Situation

Since August 2017, more than 750,000 Rohingya, the Burmese Muslim minority, have been displaced after the Burmese military responded with disproportionate force to violence by the separatist Arakan Rohingya Salvation Army (ARSA). Now living as refugees primarily in Bangladesh, the Rohingya face an uncertain future.

The violence carried out in "clearing operations" by the Burmese military resulted in what the United Nation's Fact-Finding Mission (FFM) believes was genocide, crimes against humanity, and war crimes.[23] The FFM documented crimes of a systematic and premeditated nature, including mass killings of Rohingya men and boys, gang rape and other forms of sexual violence against women and girls, and significant razing of Rohingya villages. Conservative estimates suggest that more than

[20] "Cambodia Democracy Act of 2019," H.R. 526, https://www.congress.gov/bill/116th-congress/house-bill/526 (accessed July 24, 2019).
[21] "Cambodia Trade Act of 2019," S. 34, https://www.cruz.senate.gov/files/documents/Bills/20190108_cambodia.pdf (accessed July 24, 2019).
[22] News release, "Cambodia: EU Launches Procedure to Temporarily Suspend Trade preferences," European Commission, February 11, 2019, http://europa.eu/rapid/press-release_IP-19-882_en.htm (accessed July 24, 2019).
[23] United Nations Human Rights Council, "Myanmar: UN Fact-Finding Mission Releases Its Full Account of Massive Violations by Military in Rakhine, Kachin and Shan States," September 18, 2018, https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23575&LangID=E (accessed July 24, 2019).

10,000 Rohingya have been killed,[24] countless more have been raped and sexually abused.[25] Members of the Burmese military were even seen snatching newborn babies from their mothers' arms and throwing them into the fire.[26] All of these actions were instigated and orchestrated by Senior-General Min Aung Hlaing and carried out by senior military cadres.

The U.N. FFM documented specific instances of members of the Burmese military and government encouraging violence against the Rohingya. Nay Myo Wai, chairman of the Peace and Diversity Party, made an especially egregious comment, saying:

> I won't say much, I will make it short and direct. Number one, shoot and kill them! (the Rohingya). Number two, kill and shoot them! (the Rohingya). Number three, shoot and bury them! (the Rohingya). Number four, bury and shoot them! (the Rohingya). If we do not kill, shoot, and bury them, they will keep sneaking into our country![27]

The findings of the U.N. FFM were egregious and corroborated by many other institutions, including the U.S. Holocaust Memorial Museum,[28] Fortify Rights,[29] and other organizations.

Critically, the FFM and other reports also found evidence that many of these atrocities were being committed not only against Rohingya, but also against other minorities in Shan and Kachin states.[30] The FFM specifically outlined the systematic nature of crimes committed, and identified instances where it was clear that the Burmese military prepared in advance for the atrocities, including an increased military presence in August 2017, confiscation of knives and other potential weapons from Rohingya, heightened restrictions on the Rohingya's freedom of movement, and renewed efforts to institute a National Identification Card ahead of August 25.

One particularly illuminating comment from the FFM noted:

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[24] Ibid.

[25] Human Rights Watch, "All of My Body Was Pain: Sexual Violence Against Women and Girls in Burma," November 2017, https://www.hrw.org/sites/default/files/report_pdf/burma1117_web_1.pdf (accessed July 24, 2019).

[26] Jeffrey Gettleman, "Rohingya Recount Atrocities: "They Threw My Baby Into a Fire," The *New York Times,* October 11, 2017, https://www.nytimes.com/2017/10/11/world/asia/rohingya-myanmar-atrocities.html (accessed July 24, 2019).

[27] United Nations Human Rights Council, "Myanmar: UN Fact-Finding Mission Releases Its Full Account of Massive Violations by Military in Rakhine, Kachin and Shan States."

[28] News release, "Museum Finds Compelling Evidence Genocide Was Committed Against Rohingya, Warns of Continued Threat," United States Holocaust Memorial Museum, December 2018, https://www.ushmm.org/information/press/press-releases/museum-finds-compelling-evidence-genocide-was-committed-against-rohingya-wa (accessed July 24, 2019).

[29] Fortify Rights, "They Gave Them Long Swords: Preparation for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar," July 2018, https://www.fortifyrights.org/downloads/Fortify_Rights_Long_Swords_July_2018.pdf (accessed July 24, 2019).

[30] U.S. Commission on International Religious Freedom, "Hidden Plight: Christian Minorities in Burma," December 2016, https://www.uscirf.gov/sites/default/files/Hidden%20Plight.%20Christian%20Minorities%20in%20Burma.pdf (accessed July 24, 2019), and United Nations Human Rights Council, "Myanmar: UN Fact-Finding Mission Releases Its Full Account of Massive Violations by Military in Rakhine, Kachin and Shan States."

> The nature, scale and organization of the operations suggest a level of preplanning and design by the Tatmadaw leadership that was consistent with the vision of the Commander-in-Chief, Senior-General Min Aung Hlaing, who stated in a Facebook post on 2 September 2018, at the height of the operations, that "the Bengali problem" [a derogatory term for Rohingya] was a long-standing one which has become an unfinished job despite the efforts of the previous governments to solve it. The government in office is taking great care in solving the problem.[31]

All this and more led the FFM to not only conclude that crimes were premeditated, but that the evidence collected in the report placed primary responsibility on the Tatmadaw (the Burmese military) and security forces, including the Burmese police and border guard police. The FFM specifically names the Tatmadaw's commander-in-chief, Senior-General Min Aung Hlaing; deputy commander-in-chief, Vice Senior-General Soe Win; commander, of the Bureau of Special Operations-3, Lieutenant-General Aung Kyaw Zaw; Commander of the Western Regional Military Command, Major-General Maung Maung Soe; Commander of the 22nd Light Infantry Division, Brigadier-General Aung Aung; and Commander of the 99th Light Infantry Division, Brigadier-General Than Oo as directly responsible for the crimes committed against Rohingya. The report also notes that additional known perpetrators were identified and that information is held in U.N. archives for use in international accountability efforts in the future.

In spite of overwhelming evidence, the U.S. has yet to issue a determination on crimes committed. The U.S. issued a report, "Documenting Atrocities in Rakhine State," that found that "recent violence in northern Rakhine State was extreme, large-scale, widespread, and seemingly geared toward both terrorizing the population and driving out the Rohingya residents. The scope and scale of the military's operations indicate they were well-planned and coordinated."[32] The report corroborated many of the findings of the FFM, including that actions were pre-planned and pre-meditated, and that the Burmese military was primarily to blame.

Yet, the report stopped short of issuing a legal determination.

There are several reasons why it is in the U.S. government's interest to issue a determination, but I will quickly offer five: (1) A designation would counter the narrative that the U.S. doesn't care about human rights; (2) a designation demonstrates U.S. commitment to preventing atrocities; (3) a designation is likely to increase humanitarian aid burden-sharing among countries, especially as donor fatigue sets in; (4) a designation will put the U.S. Free and Open Indo–Pacific strategy into action; and (5) a designation is an opportunity for the U.S. to reset its policy toward Burma.[33]

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[31] Ibid.

[32] U.S. Department of State, "Documentation of Atrocities in Northern Rakhine State,*I* Bureau of Democracy, Human Rights, and Labor, September 24, 2018, https://www.state.gov/reports-bureau-of-democracy-human-rights-and-labor/documentation-of-atrocities-in-northern-rakhine-state/ (accessed July 24, 2019).

[33] Olivia Enos, "5 Reasons the U.S. Should Issue a Determination on Crimes Committed Against Rohingya," *Forbes,* November 28, 2018, https://www.heritage.org/asia/commentary/5-reasons-the-us-should-issue-determination-crimes-committed-against-rohingya(accessed July 24, 2019).

The U.S. Response to Atrocities Committed Against Rohingya

Credit should be given where credit is due. The U.S. is the top provider of humanitarian assistance to refugees and internally displaced persons currently in Bangladesh and Burma. According to a March 2019 update, the U.S. has provided a total of $494 million since August 2017.[34] USAID notes that this is in addition to other U.S.-funded humanitarian aid activities.

In addition to providing humanitarian assistance, the U.S. has periodically issued sanctions against Burmese officials. On July 16, 2019, the State Department levied travel restrictions against four Burmese officials, including Senior-General Min Aung Hlaing.[35] These actions were important, but largely symbolic, and should lead to the eventual levying of financial sanctions.

The July 2019 travel restrictions were not the first sanctions the U.S. government issued in response to the Rohingya crisis, however. The U.S. also designated a handful of Burmese officials under Global Magnitsky. Specifically, one Burmese official, Maung Maung Soe, was designated in December 2017.[36] An additional four members of the Burmese military, including Aung Kyaw Zaw, and the 99th and 33rd Light Infantry Divisions, were designated on August 17, 2018.[37] This periodic commitment to financially sanctioning entities in the Burmese military should be sustained and should go a step further by financially targeting Min Aung Hlaing.

In addition to sanctions and humanitarian assistance, the U.S. government has also sent high-level government officials to visit Cox's Bazaar, where most of the displaced Rohingya live in Bangladesh, as well as Burma. Former Secretary of State Rex Tillerson visited Burma and was the first U.S. government official to employ the term ethnic cleansing to describe atrocities committed there.[38] During her tenure as UN Ambassador, Nikki Haley, devoted significant attention to the issue.[39] Several other senior U.S. government officials have devoted substantial time to advocating on behalf of the Rohingya and other minorities inside the country.

Congress, for its part, introduced the BURMA Act of 2019.[40] The act, which was introduced by Representatives Eliot Engel (D–IA) and Steve Chabot (R–OH) would, among other things, require

[34] News release, "United States Announces Additional Humanitarian Assistance for Rohingya Refugees," U.S. Agency for International Development, March 5, 2019, https://www.usaid.gov/news-information/press-releases/mar-5-2019-usaid-humanitarian-assistance-rohingya-refugees (accessed July 24, 2019).
[35] Michael R. Pompeo, "Public Designation, Due to Gross Violations of Human Rights, of Burmese Military Officials," U.S. Department of State, press statement, July 16, 2019, https://www.state.gov/public-designation-due-to-gross-violations-of-human-rights-of-burmese-military-officials/ (accessed July 24, 2019).
[36] News relase, "United States Sanctions Human Rights Abusers and Corrupt Actors Across the Globe," U.S. Department of the Treasury, December 21, 2017, https://home.treasury.gov/news/press-releases/sm0243 (accessed October 19, 2018).
[37] "Global Magnitsky Designations," U.S. Department of the Treasury, August 17, 2018, https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20180817.aspx (accessed October 19, 2018).
[38] Rex Tillerson, "Joint Press Availability with Burmee State Counsellor Aung San Suu Kyi", U.S. Department of State, November 15, 2017, https://www.state.gov/joint-press-availability-with-burmese-state-counsellor-aung-san-suu-kyi/ (accessed July 24, 2019).
[39] Nikki Haley, "Remarks at a UN Security Council Birefing on the Situation in Burma" *United State Mission to the United Nations,* September 28, 2017, https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-the-situation-in-burma-3/?_ga=2.158636154.1350877446.1564006699-499730846.1564006699 (accessed July 24, 2019).
[40] 116th Congress, Burma Unified through Rigorous Military Accountability (BURMA) Act of 2019, U.S. House of Representatives, https://foreignaffairs.house.gov/_cache/files/a/9/a938d8f0-9724-4ad0-9442-

the executive branch to impose sanctions against members of the Burmese military and military-owned enterprises. It would also authorize more than $220 million in humanitarian aid. The bill has a companion bill in the Senate and enjoys broad bipartisan support. While a similar bill passed the House in the 115th Congress, it was held up in the Senate.

Interest in Burma has increased in recent weeks and months, however, there remains a general lack of political will at the Treasury and at State to levy financial sanctions against the most senior members of the Burmese military or to issue a determination on atrocities committed.

The Path Forward: Incorporating Values into the Indo–Pacific Strategy

The U.S. government needs to be more consistent in its efforts to promote human rights and freedom in Southeast Asia—especially among Southeast Asia's worst actors: Cambodia and Burma. The Administration should incorporate these priorities as a part of its Indo–Pacific strategy, and put meat on the bones of its rhetorical commitment to promote human rights in the region.

The following actions could be the start of building the values component of the Free and Open Indo–Pacific strategy. The U.S. should:

- **Commit to advancing human rights and values in the Indo–Pacific strategy.** While the security components of the Indo–Pacific strategy are becoming clearer, and the Trump Administration has taken some economic steps (such as the BUILD Act, which created the new U.S. International Development Finance Agency), the values components of the strategy lag significantly behind. It is not clear, for example, who is responsible for making promotion of human rights and democratic values in Asia a priority as a component of the Indo–Pacific strategy. It should be made clearer which agency or inter-agency process is responsible for actualizing the values component of the Indo–Pacific strategy.

  The U.S. has intermittently viewed human rights as a luxury issue to be raised when all other diplomatic issues are addressed—but that is *not* the most strategic way to respond to human rights challenges in Asia.

  This recommendation need not be limited to promoting democratic values and human rights in Southeast Asia, but can also include the promotion of these values in other countries in Asia of strategic importance, including, but not limited to, China, North Korea, and India.[41]

- **Name and sanction Hun Sen and other party cadres for the role they play in undermining democracy in Cambodia.** The U.S. Treasury Department should use all available tools in its toolbox to freeze and seize assets of known individuals actively obstructing freedom in Cambodia. The Treasury should expand its use of existing Global

6924ff846b35/3FA2746182AB6F063236F870544F6DE5.hr-3091-burma-act---as-introduced.pdf (accessed July 24, 2019).

[41] Olivia Enos, "Responding to the Crisis in Xinjiang," Heritage Foundation *Backgrounder* No. 3416, June 7, 2019, https://www.heritage.org/asia/report/responding-the-crisis-xinjiang, and Olivia Enos, "The U.S. Must Discuss North Korea's Prison Camps at the Trump–Kim Summit," Heritage Foundation *Backgrounder* No. 3322, June 1, 2018, https://www.heritage.org/global-politics/report/why-the-us-must-discuss-north-koreas-prison-camps-the-trump-kim-summit.

Magnitsky authorities and use any other relevant authorities to place individuals on the Specially Designated Nationals and Blocked Persons (SDN) list. Such an action would send a clear signal to Hun Sen that the U.S. will intervene in necessary ways to get Cambodia back on the path toward democratic reform.

- **Expand existing visa restrictions on Cambodian officials who are undermining democracy.** The U.S. State Department should follow through on promises made in its condemnation of the July 2018 election to expand existing visa restrictions on Cambodian government officials. One potential way to expand these authorities would be to extend visa restrictions unequivocally to family members, especially to Hun Sen's direct family members. (Current visa restrictions only apply to family members on a case-by-case basis.)[42]
- **Create and convene an emergency meeting of the Cambodia Contact Group comprised of parties to the 1991 Paris Peace Agreement**, including the United States, Japan, Indonesia, Australia, the U.K., and France, to monitor and press for democratic reform. Among the purposes of the Paris agreement was to ensure "the right to self-determination of the Cambodian people through free and fair elections" and "assuring protection of human rights."[43]

  The signatories have a continuing moral obligation in this regard. The contact group should be used to coordinate human rights policies and assistance programs for Cambodia. In short order, leaders from all of the countries at the foreign-minister level should convene to draw up coordinated plans to hold the Cambodian government accountable and get Cambodia back on the path toward reform.

- **Condition assistance to Cambodia on the health of democracy.** The U.S. should adopt stringent metrics for determining whether Cambodia is eligible for key assistance programs.
- **Continue to press for the release of Kem Sokha.** Every U.S. government statement issued in response to deteriorating conditions in Cambodia should continue to reference Kem Sokha's imprisonment and demand that the Cambodian government release him immediately. The U.S. government should also make clear that there will be additional consequences if Kem Sokha continues to be held.
- **Congress and the executive branch should evaluate relevant financial tools to craft an over-arching sanctions policy for Burma.** The Obama Administration's approach toward the country sacrificed much-needed leverage with Burma at a moment of critical change. That leverage needs to be regained, and that is best accomplished through the re-implementation of financial measures targeting the Burmese military and others who are posing obstacles to political reform. A few things should be born in mind as Congress crafts legislative measures to hold the Burmese military accountable:

[42] News release, "Visa Restrictions on Individuals Responsible for Undermining Cambodian Democracy," U.S. Department of State, December 6, 2017, https://www.state.gov/r/pa/prs/ps/2017/12/276288.htm (accessed August 6, 2018).

[43] United States Institute of Peace, "Agreement on a Comprehensive Political Settlement of the Cambodia Conflict," Part I, Section II, United National Transitional Authority in Cambodia, 1991, http://www.usip.org/sites/default/files/file/resources/collections/peace_agreements/agree_comppol_10231991.pdf (accessed August 3, 2018).

- Treasury should use its existing authorities under the JADE Act to sanction individuals in the Burmese military for their role in instigating violence leading to the mass displacement and severe abuse of Rohingya. The JADE Act specifically includes four categories of individuals who fall under potential sanctions authorities. These include: "(A) Former and present leaders of the SPDC [State Peace and Development Council], the Burmese military, or the USDA. (B) Officials of the SPDC, the Burmese military, or the USDA involved in the repression of peaceful political activity or in other gross violations of human rights in Burma or in the commission of other human rights abuses, including any current or former officials of the security services and judicial institutions of the SPDC. (C) Any other Burmese persons who provide substantial economic and political support for the SPDC, the Burmese military, or the USDA. (D) The immediate family members of any person described in subparagraphs (A) through (C)."[44]

- While JADE Act legislation was instituted with the express purpose of countering anti-democratic forces in the country, its authorities were broad enough to encompass other actors who might be over-looked if the designation categories were tailored more narrowly. For example, the JADE Act authorities enabled the U.S. government to sanction entities like the Myanmar Economic Corporation and Myanmar Economic Holdings Limited (military-linked conglomerates that provided financial support that contributed to the military's ability to carry out human rights abuses).[45]

- Legislative and executive branch efforts to craft sanctions legislation should be broad enough to encompass scenarios beyond the violence that has already been perpetrated against Rohingya *and* prepare for additional similar (or even worse) human rights abuses in the future. Sanctions authorities should also be broad enough to encompass entities that materially or financially paved the way for the Burmese military to commit atrocities against Rohingya.

- Legislation should direct the Treasury Department to use all available tools to hold the Burmese military to account. In addition to placing individuals and entities on the SDN list, anti-money-laundering and counterterrorism sanctions can be applied. Global Magnitsky authorities can also be used to target individuals on human rights and corruption grounds.[46] (Current legislation specifies only SDN authorities.)

- Congress should require the State Department to issue a report every six months identifying key entities or individuals in Burma who are either directly responsible for human rights abuses or who enable them, including atrocities committed against Rohingya. This would serve as a useful benchmark against which to measure the executive branch's response.

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[44] Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008.

[45] International Trade Alert, "Burma Sanctions Lifted: Political and Reputational Risks Remain," Akin Gump Strauss Hauer & Feld LLP, October 11, 2016, https://www.akingump.com/en/news-insights/burma-sanctions-lifted-political-and-reputational-risks-remain.html (accessed February 2, 2018).

[46] Donald J. Trump, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," Executive Order, December 21, 2017, https://www.whitehouse.gov/presidential-actions/executive-order-blocking-property-persons-involved-serious-human-rights-abuse-corruption/ (accessed February 1, 2018).

- Just as sanctions should include a clear "on-ramp," or directive, for designating individuals and entities for their role in atrocities, there should be an equally clear "off-ramp." Current legislation lays out criteria under which sanctions could be removed. This is essential to any effective sanctions regime.

- **Make an official, public legal determination on crimes committed against Rohingya.** Refusal to issue a legal determination calls into question the sincerity of the Administration in responding to crimes committed. If the U.S. intends to continue to lead, not just in provision of humanitarian assistance, it should issue a determination.

The U.S. government should refuse to engage in any military-to-military exchanges, training programs, or assistance for the foreseeable future. The U.S. has little to gain from engaging the Burmese military, and there are three critical reasons why the U.S. should not pursue normalization at this time.[47] First, engagement lends undeserved respectability to the Burmese military—an element of the government that has proven subversive to Burma's democratic transformation, that already possesses significant power, and that has a track record of using that power for ill rather than good. Second, the proposed expansion of military-to-military ties would not have the intended effect of countering China's influence in Burma: China's ties are built on a history of engagement, threat, proximity, and interests that are not susceptible to American disruption. Third, the U.S. previously stated that it would not pursue complete normalization of ties with the Burmese until the U.S. demonstrates that Burma has discontinued military-to-military engagement with North Korea.

While the Trump Administration has already made it clear that military-to-military cooperation and exchanges are off the table for the time being, Congress has still intermittently expressed its intent to expand cooperation with the Burmese military. The Burmese Human Rights and Democracy Act that recently passed the Senate Foreign Relations Committee makes an exception for military engagement outlined and permitted in the 2015 National Defense Authorization Act. Given the military's demonstrated role in atrocities against Rohingya and its track record of abuse and impunity against other ethnic and religious minorities in the country, until the Burmese military truly makes progress, Congress should avoid engaging with the Tatmadaw entirely. Current legislation helpfully outlines the criteria for evaluating any change.

- **U.S. government messaging should continue to affirm the legitimacy of the civilian government and express support for the continuation of the peace process.** Such rhetoric should encourage Aung San Suu Kyi and the National League for Democracy to act responsibly and develop a more comprehensive response to the Rohingya crisis. The U.S. should also voice continued support for the Burmese people and recognize their right to self-determination in forging future political outcomes. The U.S. government should especially

[47] Olivia Enos and Walter Lohman, "Why Congress Should Not Pursue Normalization of Military Ties with Burma," Heritage Foundation *Issue Brief* No. 4759, September 5, 2017, https://www.heritage.org/defense/report/why-congress-should-not-pursue-normalization-military-ties-burma.

encourage ongoing efforts by Aung San Suu Kyi to implement recommendations made in the Annan Commission report on Rohingya.[48]

- **The U.S. government should take the lead in funding and organizing international humanitarian assistance.** The U.S. should continue to lead as the primary provider of humanitarian assistance to address the Rohingya crisis. The Trump Administration has expressed an interest in supporting refugees overseas rather than pursuing higher levels of resettlement to the U.S. It can demonstrate the sincerity of those claims by putting significant funding toward alleviating suffering in what is today the world's largest refugee camp in Bangladesh. After all, resettling one refugee to the U.S. is about 12 times costlier than providing for that refugee in a camp closer to his home for five years.[49]

  Proposed funding from the international community and the U.S. falls short of what humanitarian agencies say is necessary. The U.S. should work with humanitarian agencies to ensure efficient allocation of resources and take the lead in ensuring that the basic needs of refugees and internally displaced persons in both Burma and Bangladesh are being met.

- **The U.S. government should press the Burmese government to allow humanitarian actors and journalists to enter Rakhine State and all other areas of concern.** The Burmese government has proven a significant impediment to humanitarian access. It has refused visas to U.N. officials hoping to conduct a fact-finding mission in Burma and prevented most humanitarian aid groups from providing much-needed assistance to Rohingya left behind in Rakhine State. The Burmese government has also historically restricted humanitarian access in Kachin State.[50]

  The U.S. should clearly communicate that there will be diplomatic and political repercussions in the U.S.–Burma relationship if access is continually denied to various humanitarian actors.

- **The U.S. government should continue to condemn efforts to prematurely repatriate Rohingya refugees and reiterate that repatriation must be voluntary for it to be viewed as legitimate by the international community.** At this point, Bangladesh should reconsider its commitment to the repatriation agreement it agreed to with Burma. It is premature to consider repatriation as a viable option for Rohingya. If Rohingya return to Burma, they void their refugee status, ceding the protections that status affords.[51] Given how receptive Bangladesh has been to sheltering those in need, the U.S. should work closely with the Bangladeshi government, the UNHCR (the U.N. refugee agency), and other relevant humanitarian actors to ensure that refugees receive the assistance and care they need.

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[48] Advisory Commission on Rakhine State, "Toward A Peaceful, Fair, and Prosperous Future for the People of Rakhine," Final Report, August 2017, http://www.rakhinecommission.org/app/uploads/2017/08/FinalReport_Eng.pdf (accessed February 9, 2018).

[49] Karen Zeigler and Steven A. Camarota, "The High Cost of Resettling Middle Eastern Refugees," Center for Immigration Studies, November 2015,http://cis.org/High-Cost-of-Resettling-Middle-Eastern-Refugees (accessed October 7, 2016).

[50] Amnesty International, "Myanmar: Lift Restrictions Immediately on Humanitarian Aid," October 20, 2016, https://www.amnesty.org/en/latest/news/2016/10/myanmar-lift-restrictions-immediately-on-humanitarian-aid/ (accessed February 9, 2018).

[51] U.S. Citizenship and Immigration Services, "Can I Travel Back to the Country from Which I Claimed Persecution Once I Have Been Granted Permanent Residence Based on a Grant of Asylum?" https://my.uscis.gov/helpcenter/article/can-i-travel-back-to-the-country-from-which-i-claimed-persecution-once-i-have-been-granted-permanent-residence-based-on-a-grant-of-asylum (accessed February 2, 2018).

- **The U.S. should consider granting Priority 2 (P-2) refugee status to Rohingya refugees.** Refugee resettlement is one of the few ways that the U.S. can meaningfully support countries in the midst of intractable crises. The U.S. Refugee Admissions Program is a useful humanitarian initiative with which the U.S. engages the world and provides relief for a select few during international crises. It supports U.S. interests by enabling the U.S. to assert leadership in foreign crises, assist in the midst of intractable crises, and help allies and partners in need. It also strengthens U.S. public diplomacy and tangibly alleviates human suffering. P-2 status holders do not need to prove "individualized" persecution or be referred by the United Nations Commissioner for Human Rights. They are processed on the basis that they belong to a group with known, established grounds of persecution, such as genocide.[52] Refugees who are granted P-2 status are included in, not in addition to, the quota set by the President. Subsequently, the same number of refugees would be admitted on an annual basis, regardless of whether they are processed through P-2 status or not. Current P-2s include Iraqis who have worked for the U.S., Burmese refugees in Thailand and Malaysia, and politically persecuted Cubans, among others.[53] P-2 status has been granted to individuals previously subject to genocide, including Congolese in Rwanda.[54]
- **Burma should continue to be listed as a "country of particular concern" (CPC) in the *International Religious Freedom* report for its persecution of Rohingya and other religious minorities in the country. Critically, it should also receive *unique* sanctions for violating religious freedom.** CPCs are guilty of severe forms of persecution including torture, discrimination, and denial of religious freedom. Despite Burma's designation as a CPC, sanctions under the International Religious Freedom Act (IRFA) have been waived and subsumed under sanctions that have been imposed pursuant to the Jackson–Vanik Amendment. This strategy has failed to garner compliance. Due to Burma's ongoing violations of religious freedom, it should remain a country of particular concern and face sanctions under the IRFA specifically for its violations of religious freedom.
- **The 2017–2018 Rohingya crisis should factor into determinations regarding Burma's ranking in the State Department's *Trafficking in Persons* (TIP) report, and Burma should be returned to the list of countries with child soldiers.** The Trump Administration's failure to list Burma on the Child Soldiers Prevention Act List in the 2017 TIP report violated U.S. law. The Administration could have exercised national security waiver authority. This would have allowed the Administration to waive sanctions or any other diplomatic repercussions for Burma's designation on the child soldiers list. The State Department, the U.N., and other nongovernmental organizations documented the presence of child soldiers in Burma just months prior to the release of the TIP report, making it impossible to make the case that Burma should not be included on the list.[55]

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[52] Office of U.S. Senator Tom Cotton, "Fact Sheet: Religious Persecution Relief Act of 2016," March 17, 2016, http://www.cotton.senate.gov/files/documents/160316FactSheetonReligiousPersecutionReliefAct.pdf (accessed April 4, 2016), and Refugee Council USA, "Priority Categories," http://www.rcusa.org/priority-categories (accessed April 4, 2016).

[53] Jie Zong and Jeanne Batalova, "Refugees and Asylees in the United States," Migration Policy Institute, October 28, 2015, http://www.migrationpolicy.org/article/refugees-and-asylees-united-states (accessed April 4, 2016).

[54] Refugee Council USA, "Priority Categories."

[55] Human Rights Watch, "U.S.: Return Burma, Iraq to Child Soldier List," June 26, 2017,https://www.hrw.org/news/2017/06/26/us-return-burma-iraq-child-soldier-list (accessed June 30, 2017); United

- **The U.N. High Commissioner for Human Rights should conduct a Commission of Inquiry (COI) report on the Rohingya crisis, paying special attention to identifying perpetrators of violence.** On March 24, 2017, the U.N. Human Rights Council decided to undertake a fact-finding mission in Burm.[56] Thus far, the Burmese government refused to grant access to the U.N. fact-finding mission.[57] Nevertheless, the U.N. should consider stepping up its efforts for accountability by undertaking a COI into the situation in Burma. Such an undertaking has the potential to fundamentally shift the policy debate over human rights conditions in Burma. The COI report conducted by the U.N. regarding human rights conditions in North Korea resulted in a fundamental transition in policymakers' approach toward North Korea—in many ways forcing policymakers to address human rights and humanitarian challenges in addition to the security threat posed by the Kim regime. In contrast to the fact-finding mission, the COI in North Korea did not require entering North Korea, but involved in-depth interviews with defectors or refugees from North Korea. A COI in Burma may result in a similar shift in discourse that could be helpful in shaping perceptions and policymaking toward Burma. Perhaps most critically, it could bring clarity to the question of what type of crimes against humanity were committed in Burma and by which actors.

Nations, "Myanmar: 849 Children and Young People Released from Tatmadaw Since 2012," Office of the Special Representative of the Secretary-General for Children and Armed Conflict, June 23, 2017, https://childrenandarmedconflict.un.org/press-release/myanmar-849-children-and-young-people-released-from-tatmadaw-since-2012/ (accessed June 30, 2017); and United Nations Security Council, "Children and Armed Conflict," April 20, 2016, https://www.un.org/ga/search/view_doc.asp?symbol=s/2016/360&referer=/english/&Lang=E (accessed June 30, 2017).

[56] United Nations Human Rights Council, "Independent International Fact-Finding Mission on Myanmar," September 2018, http://www.ohchr.org/EN/HRBodies/HRC/MyanmarFFM/Pages/Index.aspx (accessed February 2, 2018).

[57] Mike Ives, "Myanmar Vows to Block U.N. Investigators From Entering," *The New York Times*, June 30, 2017, https://www.nytimes.com/2017/06/30/world/asia/myanmar-united-nations-rohingya.html (accessed February 2, 2018), and news release, "Myanmar Refuses Access to UN Special Rapporteur," *U.N. Office of the High Commissioner*, December 20, 2017, http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22553&LangID=E (accessed February 2, 2018).

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Mr. SHERMAN. Thank you, all witnesses, for your testimony. I will now recognize the gentlelady from Pennsylvania for 5 minutes, and then we will go on to Mrs. Wagner.

Ms. HOULAHAN. Thank you very much to all of you guys for your testimony today. I very much appreciate your insight. My questions are for Dr. Huang. I have had the opportunity to be in Burma, or Myanmar, a couple of times within the last decade or two and experienced and seen kind of firsthand what you are talking about.

My questions have to do though with what is happening in the camps particularly and some of the concerns I have specifically for women and girls and the conditions that they are in—sexual assault, a lot of other issues that are very alarming to me—and I was wondering if you could give us any guidance of what could be done to be more helpful in that area, what we can do to be more helpful in that area.

Ms. HUANG. Thank you so much for the question. And I do also want to reaffirm Chairman Sherman's comment at the outset that ultimately the sustainable solution is repatriation and conditions for return; unfortunately, these do not exist today.

And so moving to the camps, yes, it was really a devastating situation and there continue to be, according to the United Nations, almost 7,000 women who remain extremely vulnerable to sexual and gender-based violence. And so some areas—and Refugees International released a report last year with a set of recommendations on what more we can do.

So, first and foremost, is to continue to resource the SGBV and other response that is happening in the camps. And right now the limitation is not the number of structures but, really, the capacity, the human capacity, the trained midwives, the staffing, and also the referral pathways, so that when someone comes with an issue that they are able to be referred to a variety of services whether their health, legal, or other.

Second, I think, you know, some of the recent trouble that women have been having has been around the fact that they are volunteering with NGO's or able to engage in small activities. And so, I think there the response is we must continue to provide those opportunities for women, but also that to have a holistic view and make sure that the entire family has a way to engage.

And so, I think with these measures, and then obviously on just the diplomatic front to continue keeping an eye on the situation, continuing the congressional delegations so that these issues remain elevated.

Ms. HOULAHAN. Thank you. And I have a second question as well for you. I am also, coincidentally, a daughter of a refugee myself, and my dad really raised me to believe in the power and importance of education. In the camps themselves, is there any opportunity for education of any form for the children or adults?

Ms. HUANG. Right. Recently, the Bangladesh Government approved the first few levels of a learning framework for children. It is still an informal education, so there is a lot—they are able to access some. One of the things that I heard in the camps last week is that, you know, most children are only getting about 2 hours of instruction a day and that is not due to any regulation. That is a

space constraint, you know, they are putting several shifts of kids into the school.

So I think to address this we should continue to push for a learning framework that can lead to certification. And I heard from refugees that there is a lot of interest in getting the Myanmar curriculum approved for use in Bangladesh, and the reason is people want to learn a language because they do anticipate returning home. I do think it is really, it seems so practical and basic, but space is a big constraint.

And I want to recognize that Bangladesh has a high population density so space is not easy to find, but there are other ways. I think some additional space for health clinic and education centers would be helpful, and they are also exploring the opportunity to create two-floor structures which would also help to relieve some constraints.

Ms. HOULAHAN. Thank you. And my very last question with my remaining 52 seconds, also for you, Doctor, is are they any—you talked a little bit briefly, I think, about job prospects or opportunities for work. What kinds of opportunities are there? Is there also anything that we can be doing to be more helpful there as well?

Ms. HUANG. Right now, the work opportunities are limited to cash for work, so refugees who help pave the roads or build structures in the camps, but there are some training programs. For example, I got to visit a workshop where women are learning how to sew, so that they can potentially do more tailoring both for themselves and potentially for some work opportunities.

I think that is an area where again, unfortunately, due to the continuing conditions in Myanmar that we should continue to engage on. And we have just learned from global experience, especially in the last 3 years, that when refugees are given that opportunity to contribute, anywhere in the world, they help drive local growth and that also can really assist with moving from the unsustainable year on year humanitarian aid model to an opportunity for people to live with dignity and self-reliance.

Ms. HOULAHAN. Thank you very much. My time has run out, I yield back.

Mr. SHERMAN. Thank you. We will now recognize the gentlelady from Missouri.

Mrs. WAGNER. I want to thank the chairman and the ranking member for organizing this important hearing and caring so much about this issue as we all do on Foreign Affairs and certainly in the Asia Pacific Subcommittee.

As co-chair of the congressional ASEAN Caucus, I understand that Southeast Asian countries are critical U.S. partners. But I remain deeply, deeply troubled by reports of serious human rights abuses in the Philippines, and Vietnam in particular, and by ongoing genocide, genocide against Rohingya Muslims.

The United States must hold its friends and allies to the same high standard it holds itself. In the Philippines, Duterte has used his war on drugs to justify rampant human rights abuses including these what he calls extrajudicial killings and the imprisonment of opposition figures. I am especially concerned about the plight of the indigenous peoples in the Philippines.

In Mindanao, which has been under martial law since May 2017, the Duterte administration has committed these extrajudicial illegal killings, illegal arrests, and attacks on indigenous schools set up in partnership with NGO's. Mr. Bencosme, how can the United States work with the international community to protect indigenous peoples in the Philippines?

Mr. BENCOSME. Yes, thank you so much for that question. I think it is really incumbent on the United States to work with like-minded countries to raise this at the highest levels diplomatically. I think the fact that there is constant harassment of indigenous people as well as other human rights defenders in the Philippines is part of a larger trend where President Duterte sort of attacks most of his critics. Anything that is sort of not seen in the line with his agenda he either imposes, most recently, sedition charges against or tries to sort of incriminate them through the media or through various other tactics.

I think the United States has a very important relationship with the Philippines and that provides leverage for us to be able to raise these at the highest level. The fact that we do not—we just recently got an assistant secretary for East Asia. We have an ambassador who is now going to another post. We do not have an assistant secretary for DRL—are all areas where we need to have the vacancies and sort of full-time senior staff to be able to raise these issues at the highest levels.

Mrs. WAGNER. I could not agree more. I understand that China is financing—they call extractive development projects, which basically means kicking people off and pillaging their land in the indigenous lands in the Philippines. Mr. Bencosme, what is China's role in shoring up the Duterte administration?

Mr. BENCOSME. Yes, so the Chinese and President Duterte have a schizophrenic relationship as well in that particularly with relation to the South China Sea area that has been of, you know, intense interest of the subcommittee, what we have seen is China playing both sides of the peace process. What we have seen is China playing a role in which obviously disregards for human rights issues in the region and where it sort of funds a lot of the——

Mrs. WAGNER. And pillaging their land and their minerals and the things that the indigenous people have as assets and——

Mr. BENCOSME. Right. I mean and so this is where President Duterte who talks a lot about national sovereignty is unwilling to——

Mrs. WAGNER. Right, stand up.

Mr. BENCOSME [continuing]. Really stand up and care about human rights or his own people inside his own country. And so, it is really incumbent upon the United States to raise——

Mrs. WAGNER. In my limited time, thank you very much.

Dr. Huang, Burma refuses to establish conditions for Rohingya refugees living in exile in Bangladesh to return to their homes, as we have discussed here. As a result, I understand that aid providers are beginning to shift toward longer term strategies, although Bangladesh has made it clear that Rohingya settlements on its territory are temporary. Since there are no signs that it is safe

for Rohingya to return to Burma in the foreseeable future, what are the long-term prospects for the Rohingya in Bangladesh?

Ms. HUANG. Yes, and just to affirm again as you said that Myanmar is not creating the conditions of return.

Mrs. WAGNER. Correct.

Ms. HUANG. And so I do think, and I think people, responders on the ground recognize that it is important to transition the response from, you know, to be sitting idle and only be receiving food handouts day after day, you know, that is really the recipe for a lost generation. And so, I think some of the transition that needs to happen, we spoke a little bit about education.

Mrs. WAGNER. Right.

Ms. HUANG. So right now it is just informal, but if we could make it more formal, I think that would give people hope. Then also to improve the living conditions, so both around space and the quality of housing.

Mrs. WAGNER. That they are not so temporary.

Ms. HUANG. Right. And then yes, and finally, I think, for those livelihoods opportunities, I understand that that has to be incremental, you know, but to create opportunities for people to fish, to create small, you know, tailoring items so that they can become more self-reliant. And again, we have seen in other places in the world that this is a more sustainable and dignified——

Mrs. WAGNER. And we know that they want to return home, but we are going to have to look at some kind of long-term prospects. My time has expired and I thank the chairman for his indulgence and I yield back.

Mr. SHERMAN. It has been brought to my attention that Mr. Levin has been here, or got here early in the hearing, and I will recognize him for 5 minutes.

Mr. LEVIN. Thank you, Mr. Chairman. I want to followup on my colleague from Missouri's interest in the Rohingya situation.

Dr. Huang, what aspects of American aid and other international efforts to the Rohingya in Bangladesh are working well in this difficult situation?

Ms. HUANG. Yes, I do feel we truly need to commend Bangladesh, the international community, especially the United States as the largest donor for the response. I mean it really boggles the mind to think about 700,000 people coming in a span of 2 months. And the fact that there has not been a major disease outbreak, for example, is really a sign.

I think in the future people will be learning lessons about how you can mount a rapid—it was not perfect for sure, but I think the basics around getting people food distributions, you know, shelters in the immediate term, there have been successes there.

Mr. LEVIN. And how easy or difficult is it for NGO's to assist Rohingya refugees in Bangladesh and what more can the Government of Bangladesh as strained as the situation is for them to improve that situation?

Ms. HUANG. Yes, for a long time, Refugees International has been calling for the government to create a clear and consistent process for NGO registration because some have experienced delays and hiccups. I think clear processes around registration and project

approval so that people understand what the parameters are. Of course, we want that to be a wider set of parameters——

Mr. LEVIN. Yes.

Ms. HUANG [continuing]. So more services can be provided as well.

Mr. LEVIN. And can you speak to the situation of the five to six hundred thousand Rohingya still living in Myanmar, including the 120,000 living in camps for internally displaced persons?

Ms. HUANG. Yes. The conditions are extremely dire and they are not improving. You know, with the fighting between the Rakhine and the military there has just been further crackdowns and loss of humanitarian access. In particular, in the internally displaced persons' camps the situation, despite other rhetoric, are really getting worse not better. For example, you know, we hear reports of people who are, as I mentioned, kind of moved to a space just next to the camp and said, you know, "OK, you are no longer in a camp." But they have no increased access to livelihoods, ability to move, ability to see their family that they are not with, so it is extremely troubling.

Mr. LEVIN. And who actually has access to those places? What outside groups are there, if any? You say we get reports, from whom?

Ms. HUANG. Right. Right now, it is extremely limited. My understanding is that primarily it is the U.N. agencies such as WFP who do have access, and I think one step forward knowing that Myanmar is not prepared to take more dramatic steps is to increase access of NGO's, organizations like Amnesty International, so that we can have a better understanding of what is happening.

Mr. LEVIN. Thank you. All right, I want to move on quickly to accountability for the perpetrators of this crisis.

Mr. Bencosme, if I am saying that right, on November 22d, 2017, then Secretary of State Rex Tillerson stated that the situation in northern Rakhine State constitutes ethnic cleansing against the Rohingya. A State Department report released on September 24th, 2018, laid out a compelling case for crimes against humanity committed by the Burmese military against the Rohingya while stopping short of a legal determination.

Should the U.S. Government make such a determination? And if it did, what would the impact be?

Mr. BENCOSME. Absolutely. So we have been calling consistently for the United States to make a legal determination. The implication of such a determination is that, one, it would be a rallying cry for the international community to provide more humanitarian assistance. Second, it would set the foundation for future criminal accountability, particularly if the United States signals to other international bodies that, you know, whether credible investigations of genocide, crimes against humanity, or war crimes were committed within Myanmar——

Mr. LEVIN. And last week's action imposing visa bans against four leaders of the military, how significant was that for—it if was?

Mr. BENCOSME. So the fact that Min Aung Hlaing was named as a grave human rights violator was significant, but the JADE Act which is still in place, already imposes visa restrictions on all of these officials. So it was really a public shaming technique, and our

opinion is that they need to go further. There needs to be real criminal accountability. There needs to be real financial assistance. And there needs to be a legal determination.

Mr. LEVIN. OK, thank you.

Mr. Chairman, let me conclude by thanking Mr. Bencosme and Amnesty for your work in support of my Burma Political Prisoners Assistance Act, and I am looking forward to getting that through the full House soon.

Thank you, Mr. Chairman. I yield back.

Mr. SHERMAN. Thank you. We have a few more people to ask questions here. I know that we have not asked Ms. Nguyen anything, but I think several of us will. I certainly will.

At this point, I will recognize the ranking member, Mr. Yoho.

Mr. YOHO. Thank you, Mr. Chairman. I appreciate the panel being here.

Ms. Nguyen, we will start with you. We followed that case pretty closely. There was a lot of interest here in Congress, a lot of members, different congressional districts around the country were involved in that and it started last Congress. And the situation of your husband, Michael, do you feel that he went through a fair process in Vietnam for his trial?

Ms. NGUYEN. I was not there for the trial, so I would not be able to comment for that.

Mr. YOHO. OK. I will not go too much into it on a public platform. I guess the last time you have gotten word he is doing fair? OK?

Ms. NGUYEN. Well, he is doing well in detention center right now, according to the message that I get from the U.S. consulate.

Mr. YOHO. OK. I will talk to you more in private and we can discuss more about that.

I want to move on to things that I hear over and over again. Dr. Huang, you were talking about the situation you mentioned in the refugee camps. Obviously, they are less than adequate and children are only getting education twice a day, if that, and I am sure that is not 7 days a week, that is sporadic; is that correct?

Ms. HUANG. Yes, 2 hours a day, right, because people are going in different shifts.

Mr. YOHO. Right.

Ms. HUANG. Yes, because they are going in different shifts.

Mr. YOHO. And so we look at just that, in that is just with the Rohingyas we are talking about, right?

Ms. HUANG. Yes.

Mr. YOHO. And I know this meeting is dealing with Southeast Asia, but if we look around the world the amount of refugees and then we look in our Western Hemisphere, where we have got the largest exodus of people out of a country that we have ever seen, and you add that all together, we are probably pushing 80 million people, 70 to 80 million people around the world that are in refugee camps. And if there is not order in a society, order with education, the things that we have all done that we have grown up over the last couple hundred years, we are creating a hotbed of just chaos coming if we do not solve these problems.

And so my question, you two are NGO's, right, so you are not directly involved so much in policy, the implementation of policies.

Ms. Enos, you help direct policy. One of the questions I have is as we see things unraveling, we see competition of democracies or alternatives to democracies, socialism with Chinese characteristics, we have to decide as democratic nations or nations that, you know, a republic that has a democratic process, we have to decide who we are doing business with because our foreign policy has to change.

If it does not change, what I have seen—I have been here 7 years—I just see more division, more division, and we have more refugees. I propose, and I want to hear your thoughts on this, that we change our policy not just here in our country, but with the EU and like-minded countries to change how we trade with nations.

Cambodia has claimed to be a democracy, but Hun Sen has bastardized that word. It is anything but a democracy. We have met with Sam Rainsy. We have met with other people from there from the CNRP, but yet we are still doing trade with them. And I can look at several countries in Latin America, other countries that we are doing trade with, and if we really value these positions and these beliefs that we have had in this country that other Western democracies practice, I want to know how we get away from trading with these countries.

Are we bold enough as nations that believe in democracies, liberties, and freedom to say, "Until you change what you are doing, we are not trading with you?" Between us and the EU, if we use just Cambodia we account for 65 percent of that country's trade. I want to know why we do not change that and just say go to elsewhere, we are not trading with you.

And I think if we stick together as like-minded countries, those countries will come around without me telling them what to do. They are going to have to make that decision internally. What are your thoughts on that?

Ms. ENOS. Thank you for asking me about that. As you mentioned, the EU has already temporarily suspended everything but arms trade status for Cambodia and is currently suspending that permanently and——

Mr. YOHO. Did you say everything but arms?

Ms. ENOS. Everything but arms, that is right. The EBA.

Mr. YOHO. So they are trading arms with Cambodia?

Ms. ENOS. Yes. It is the EBA trade agreement and framework. And so that is currently temporarily suspended, and then there is a chance in 12 months from I think about February or March that that will be permanently revoked. The EU is currently undertaking a process where they would consider that. And at the same time, U.S. Congress has the Cambodia Trade Act where we are considering whether the generalized system of preferences needs to be reevaluated for Cambodia.

While I think it would be really wise to look at and investigate whether or not Cambodia merits GSP preferences over the long term, I do fear that doing such a broad-based sort of trade sanction may do more harm to the Cambodian people than it does to the Cambodian Government. And so, I think we need to be careful about the types of policy solutions that we recommend.

This is one of the reasons why Heritage has been very vocal in terms of advocating for the use of Global Magnitsky sanctions, which would enable us to go against Hun Sen directly and other

party cadres who are directly responsible for undermining democracy there.

Mr. YOHO. Well, and I just want to let you know that the Cambodia Democracy Act as you know passed here.

Ms. ENOS. Of course.

Mr. YOHO. We are working it through the Senate and we look forward to having that signed this year. So it is another tool that we can put on a despotic leader of a nation that should not be there. He should put his people ahead of his own personal pleasure or wealth.

Mr. Chairman, I yield back.

Mr. SHERMAN. I now recognize the gentlewoman from Nevada.

Ms. TITUS. Thank you, Mr. Chairman. I will continue kind of that line of questioning.

You know, in the past, the U.S. has often overlooked civil rights abuses in countries when we are trying to have alliances that support our national security. And now that seems to be the case in Southeast Asia. You mentioned, Ms. Enos, about the problems in the Indo-Pacific Strategy. Our strategy is getting more specific on the security aspects and there are some economic things that have been done, but it is pretty silent on what the human rights aspects are.

We have declared Vietnam as a key partner because we want their help in a free and open relationship to kind of counter the Chinese influence in the area. The Cambodian situation is maybe a little bit different. But what can we be doing, all three of you, to kind of step up our attempts to balance support for human rights with the need to counter Chinese influence? And do you think this administration is doing enough of that?

Ms. ENOS. I will take that first. So I think that the administration has made a lot of rhetorical commitments through the Indo-Pacific Strategy to human rights, but we have not seen the actual strategy itself materialize. And I think that there is, not just in this administration but in several preceding administrations, an unnatural divorce between national security and national interest priorities and human rights.

When I think in reality, adopting policies that advance human rights principles have the potential to advance U.S. national interests as well. And so, I think we need to do a better job of articulating what that looks like.

Ms. TITUS. We have not even seen the full report and we do not even know who is in charge, I believe, who is responsible for articulating this kind of policy. I mean we have seen it in Latin America. You see it in Saudi Arabia. We just do not—you are right. We have not married the two.

Doctor, would you add to that or?

Ms. HUANG. I will limit my thoughts to Myanmar, but I think that is a great case example, and I think that there are always many interests to balance. But in the case of Myanmar and, you know, potentially others, we are talking about the most serious crimes that can be committed.

So I think some of the sanctions that have been discussed, for example, new sanctions that could be placed on high-level senior officials, that could be placed or reenacted on military-owned enter-

prises that, you know, we do—we must continue to stand for the facts on the ground and the fact that there is the possibility for greater accountability and justice in this situation, and likely others.

Mr. BENCOSME. I will add that I am not sure how you can have a free and open Indo-Pacific without free societies and ensuring that everyone within the region has the human rights that they deserve.

Last year, Congress, through bipartisan and bicameral means, passed the Asia Reassurance Initiative which Section 4 focused on human rights and good governance, making sure that there is oversight on implementation of those provisions particularly on helping out human rights defenders, making sure that civil society in the region has robust funding and support, making sure that there is exchanges among civil society so that there are regional lessons learned being exchanged through the different human rights activists in the regions.

All of those, I think, are a couple of fantastic low-hanging fruit that the State Department could implement. But unfortunately, we have not seen any of that come to fruition.

Ms. TITUS. We see a lot of concern about a rapper in Sweden, but not some of these other people who are held in places in Asia. Thank you. I will yield back.

Mr. SHERMAN. Thank you. The gentleman from Ohio is recognized for 5 minutes.

Mr. CHABOT. Thank you, Mr. Chairman. I appreciate that. And this is for any members of the panel. We sometimes hear the argument that if we press ASEAN countries too hard on human rights, China will come in, fill the power vacuum, and advance its interests. Unfortunately, I think at least to a limited extent there is validity in that point of view. Nonetheless, I think we should push human rights and human decency as much as possible all over the globe, and I would just like to maybe go down the line if you could comment on that and maybe start down there. Thank you.

Ms. ENOS. That is an excellent question. I think that there has been a lot of focus and concern on the extent to which China can influence countries in Southeast Asia and that concern of course is merited. But I think that the reality is, is that all countries in Southeast Asia are going to economically engage with both the U.S. and China. And they are not going to like it if they are pressed to choose, to be totally frank.

I think where we should express concern is when there is this military cooperation similar to the base-sharing agreement that we see with Cambodia, the news reports emerging just this past week about some of the military cooperation that is there. But all that to say countries in Southeast Asia are going to engage with China regardless of whether we press them on human rights.

And one of the distinguishing factors of U.S. engagement in Asia, historically, through our alliance relationships and otherwise, has been the promotion and commitment to freedom, democracy, human rights and values. And I think that should remain an enduring part of U.S. strategy.

Mr. CHABOT. Thank you very much.

Ms. HUANG. The only thing I would add is that it is important for America to lead, but not act alone. And so, therefore, I think we have to double down on our partnerships with the EU, with the United Nations, with other countries in the region. I think when you add all of that up, there is a lot more progress that can be made and engagement that can be deepened in the region.

Mr. CHABOT. Thank you.

Yes?

Mr. BENCOSME. I wanted to add a specific case in point. I think the United States could be well positioned with other partners to raise the human rights implications of China's Belt and Road Initiative. So as particularly we looked at Vietnam's Binh Thuan Province where they received a power station by the Chinese and where you saw thousands of locals come out in protest because of pollution and environmental issues related to the coal and fire plants. And then in March 2019, the Vietnamese State audit came out with assessing that there was bad pollution as a result of this Chinese power plant.

Where was the United States raising these human rights issues where we could have used human rights to stand with the people of Vietnam of this village and part of Vietnam? We should use those human rights as a comparative advantage vis-a-vis China. It is part of our U.S. national security, not something that prevents us and paralyzes us from speaking on behalf of our values.

Mr. CHABOT. Thank you.

Did you want to comment? If not, I will just move on.

Ms. NGUYEN. I agree with Francisco here, so I have no further comment to anything about it.

Mr. CHABOT. All right. Thank you very much.

I co-chair the House Freedom of the Press Caucus along with our colleague Adam Schiff. Would anyone like to discuss press freedom in Southeast Asia, generally, and specifically could you discuss whether ASEAN countries are adopting Chinese so-called sovereign internet tools?

Mr. BENCOSME. I would be happy to. One of the regional trends we are seeing is enactment of cybersecurity laws which allow for online repression. So we are seeing this in Vietnam where they instituted a new cybersecurity law a couple years ago. Thailand did the same thing. We have seen the criminalization of free speech both online and offline. And so, they are very much using the same tools that the Chinese have used and sort of using that domestically to crack down on protesters.

We have obviously seen a promotion of online hate speech and that is also a very worrying trend. And on the context of press freedom, I will just highlight in the context of Myanmar we have seen an intense crackdown on freedom of the press. In particular, we just saw that recently the Burmese Irawaddy, the editor was recently detained and was pressed charges against them.

There was defamation suits against five people for live streaming a satirical performance mocking the Myanmar military. Ko Ko Gyi was detained in connection with a Facebook post critical of the military who is also a founder of a film festival in Myanmar. These are all things that the civilian government is doing.

And so, while we need to focus on accountability for the Myanmar military, we should not take our foot off the pedal with respect to raising human rights abuses with the civilian government as well.

Mr. CHABOT. Thank you very much. My time has expired. And I want to thank the chair and the ranking member for extending the privileges to ask questions in this committee. I appreciate it.

Mr. SHERMAN. Thank you. With that we will hear from the gentlelady from Virginia.

And, Ms. Nguyen, I will have some questions for you, so thank you for your patience. And you may get some questions from the lady from Virginia as well.

Ms. SPANBERGER. Thank you, Mr. Chair. I would like to first thank Ms. Nguyen for being here today and sharing your story. I commend your strength through this incredibly difficult time and I will continue working with Representative Porter to ensure that we see your husband's safe return.

I had a number of questions related to Burma and the rampant human rights abuses occurring there and the devastating refugee crisis it has created, but I do believe that our witnesses today have given us a lot to think about on this topic and certainly more ideas for us to pursue into the future, so I will pivot toward the Philippines with my question.

Amnesty International's 2017–18 report on the Philippines expressed concern about the "deliberate, unlawful, and widespread killings of thousands of alleged drug offenders," as well as, "reports of increased numbers of arbitrary arrests and detention and extrajudicial executions of political activists." Human Rights Watch has also noted that in previous years it has "documented the killing of numerous activist peasant leaders and labor organizers."

The President of the Philippines, Rodrigo Duterte's allies swept the Senate elections in May, and recent polls seem to show widespread approval for his policies including detentions and extrajudicial killings of drug traffickers. Given these human rights abuses, how can the United States incentivize the Philippines to move away from these policies when they at least appear to be supported by a large portion of the population?

Mr. BENCOSME. Thank you, Congresswoman. You know, it is really troubling that there still remains public support for the so-called war on drugs. I think that is still irrelevant because Philippines made a commitment to abide by international human rights obligations.

And so, I think a couple things that Congress can do first is that there is House Resolution 233 which speaks out against Philippines human rights abuses, particularly in the context of crackdown on human rights defenders like Senator de Lima and Maria Ressa. Second, that there was last year introduced a Philippines human rights accountability bill that is worth reexamining whether it should be introduced into this congress, and there is important provisions there that look to law enforcement, what type of law enforcement assistance that we are providing to make sure that it is not complicit in the human rights abuses that is going on with the Philippine National Police.

I think the fact that the extrajudicial killing has not been raised at the highest level which starts with our own commander-in-chief and the fact that there has been rhetoric almost mimicking the same type of drug killings domestically and sort of lauding the President Duterte, I think is extremely concerning. And so, really, we need to make sure that our first—that our House, here, domestically, is in order before we have credibility in places like the Philippines.

Ms. SPANBERGER. Thank you.

Would anyone else care to comment on that question?

Then from a data perspective I would ask, have there been any fluctuations, have we witnessed any fluctuations in the popular support for Duterte as an individual, as a politician, or in his policies? And, if so, are there any specific things that we can learn from those circumstances?

Mr. BENCOSME. I think one of the things—we just came out with a report last month and one of the main findings was that the center of gravity on the killings actually shifted when particularly police officers were changed to a different part of the Philippines. So it is important to note that we need to hold all of those who have been responsible for these killings in sort of either condemning these killings or not stopping them to account.

And so, really getting at the level of impunity, I think, is at the core of how we resolve this issue. Unfortunately, we have not seen much fluctuation with respect to public opinion on this issue.

Ms. SPANBERGER. Thank you very much.

Mr. Chairman, I yield back.

Mr. SHERMAN. Thank you. I will now recognize myself for 5 minutes since I have not asked questions yet, then we will go on to Mr. Lowenthal, and then we will do a second round for whoever is still here.

Ms. Nguyen, you mentioned, I believe, that your children and you have not been able to have direct contact with Michael. Is that true and have you asked the Vietnamese Government for an opportunity to speak with your husband by phone or visit him?

Ms. NGUYEN. That is correct. We have not had any access to phone or receive any letter from Michael. We only have U.S. consulate, visit him and deliver messages from us to him and they delivered messages back to us from him also. Otherwise, like no direct contact. We did requited, but they asked us to be present, at the detention center so we can be able to talk to him, but not through the phone or have him write anything to send out.

Mr. SHERMAN. So he is not allowed to write you a letter?

Ms. NGUYEN. No.

Mr. SHERMAN. And they will not allow you to talk by phone, and an in-person meeting would then subject whoever goes to Vietnam to the same justice system your husband was subject to. Would you fear for your safety if you went to Vietnam at this time?

Ms. NGUYEN. Correct. At that time, I did not have the fear because of my medical missions. And now is like seeing my husband detained like that, I am fearful for myself because already got detained and I am going to get detained too, then who is going to take care of my children?

Mr. SHERMAN. Yes, this—obviously, international standards would require first that you be allowed to talk to your husband by phone, that your children be allowed to talk to your husband by phone, and that perhaps you be given some form of diplomatic immunity so that you would be beyond the reach of Vietnamese law so that you could visit your husband. Of course, this would all be unnecessary if your husband was released.

Can you describe the impact on you and your kids that you cannot even talk to your husband by phone?

Ms. NGUYEN. My four daughters, they are very close to Michael. He daily taking care of them, and actually, let me describe him. He is a Mr. Mom. I cannot even act as the role he was in at this time. He had been acting for two roles, Mom and Dad, and I cannot even imitate that from him.

So the kids are very devastated, frustrations, scare, frightened, loss of sleep. Their grades have been declining from straight A student to a C student, from a AP honor class to a regular class now. They cannot focus and that is very extremely hard on them.

Mr. SHERMAN. Well, let us hope that the Vietnamese Government understands the importance to the United States of treating Michael fairly according to human law and due process. And I would assume that the Vietnamese foreign policy establishment understands the importance of the United States to Vietnam and its future.

With that let me turn briefly to Cambodia and Ms. Enos. There was a positive event with the Cambodian Government last December where they sounded positive about Radio Free Asia, but in this subcommittee in the past I have raised concern about two Radio Free Asia journalists who were arrested in Cambodia in 2017. Their trial begins, or has begun this week.

Can you comment about Cambodia's suppression of civil society and media freedoms with reference to these two reporters from Radio Free Asia?

Ms. ENOS. Yes. I think we have been seeing a steady decline in terms of democratic freedoms there. I think today it is pretty difficult to call Cambodia a democracy, especially given the sham of the elections. And I think that one of the ways that they have—that Hun Sen has continued to undermine democracy there has been essentially by eliminating the space for civil society to act. This is anywhere from human rights groups that are trying to fight human trafficking to, as you mentioned, the Radio Free Asia journalists. The Cambodia Daily was shut down for a time. There has been a systematic assault on press freedom there and on the activities of civil society members.

Mr. SHERMAN. Thank you. In the second round I will ask questions about Burma/Myanmar and the Philippines. And with that I will yield to the gentleman from California, Mr. Lowenthal.

Mr. LOWENTHAL. Thank you, Chairman Sherman, for inviting me to participate in this hearing on human rights issues in Southeast Asia. I am the co-chair of the congressional Vietnam Caucus. You know, I have been advocating since my time in Congress now, this is my fourth term, on the issue of human rights abuses in Vietnam. I have adopted several. I am a member of the Tom Lantos. I am part of the executive committee at the Human Rights Commission.

I have adopted several prisoners of conscience. Fortunately, three of them have been released. But the fourth is the most venerable Thich Quang Do, who is the supreme patriarch of the Unified Buddhist Church, and it's a horror that he has been under arrest. He is in his early 90's. He is a spiritual leader. He has no danger to the government and yet the government's attempt to quash religious freedom and he is in the center of all of that.

But I want to talk about to Helen, to Helen Nguyen, first, I want to preface this, the questions, by saying that for Representative Porter from your district—I do not know if she has been here—for my dear friend Representative Correa, Representative Green from Houston, my dear friend Representative Yoho, we as a group, and Representative Sherman, but we almost every week or every other week we have been on calls with the Ambassador or the consul general, what is going in Vietnam. This has been a very bad year and a half as we know what is going on.

First, in terms of American citizens who have been arrested, Will Nguyen was arrested as we know right after the demonstrations in June 2018, graduate student, was convicted. Fortunately, shortly after that was deported to the United States. Michael Nguyen, a wonderful resident of Southern California from Ms. Porter's, Representative Porter's district, was just traveling on a bus, had been visiting Vietnam over the years many times visiting friends and family. Was on a bus, I believe, from Da Nang going to Saigon. Was dragged off that bus, was arrested.

Vietnamese broke every covenant. They were supposed to tell us within 96 hours that there was an arrest. They waited 10 days. They did not for almost a year. That was in June 2018 until 2019, they did not really inform the U.S. embassy, the State Department, Helen, Members of Congress, just what the charges were. We did not know. We received very little contact during this process, a horrible process. He was then sentenced to 12 years in prison.

We do not know for what and why this happened, except to say that the Vietnamese Government is cracking down—the word cracking makes it sound like there is a problem. There is not for people going—Americans or anybody speaking out, any public dissent, any issue you are being arrested in Vietnam it is very, very difficult and bad time.

And it is outrageous that Americans who have a Vietnamese background are now becoming frightened to go back to their country of their ancestors. This is unacceptable. And I join with my colleagues in supporting Chris Smith, Representative Smith's Vietnam Human Rights Act which invokes sanctions per the Magnitsky Act. And it imposes both financial and travel restrictions on human rights abusers. We also believe that Vietnam, and as an example of what is going on here should also be not allowed—oh, should be put back as a country of particular concern again because of the issues of going on.

I do not have a lot of time left. I just want to say, ask Helen who—just how—were you satisfied with the legal assistance that Michael received? How did he find out about it? I am very interested. Here, for a year, we heard nothing about why he was being charged, who would help him. I think at the very end, he—I am not quite sure I understand the process by who is lawyers were. So

if you could just illuminate that because I cannot imagine being in a country, a foreign country and not having access to support services and legal services.

Ms. NGUYEN. So when Michael's detention in Vietnam, he not allowed to have any lawyers to represent him until 2 weeks before the verdict they allow him to have lawyer. But when we search around for the lawyer, no one would want to take his case is because they fear for their business. They fear for their family, so we gave up. So the State appointed the lawyer for him, to represent Michael.

Mr. LOWENTHAL. Were you satisfied with the representation you received?

Ms. NGUYEN. Well, I was not there to be able to tell, so I cannot say am I satisfied with the verdict or the trial or the lawyer, because I was not be able to attend.

Mr. LOWENTHAL. Well, I just want to send my support to you, to your family, to tell you we are not going to give up. As I mentioned, Will Nguyen, for the example of it was only after he was convicted that we were able to get the government to deport him. We are going to do the same thing and keep fighting for Michael.

Ms. NGUYEN. Thank you.

Mr. LOWENTHAL. And with that I yield back.

Mr. SHERMAN. Thank you. At this point I will recognize a member of the full committee, Mr. Connolly, and then I see the gentleman from California.

Mr. CONNOLLY. I thank the chairman and welcome to the panel. Ms. Enos, do you believe human rights is an important part of U.S. foreign policy?

Ms. ENOS. Yes.

Mr. CONNOLLY. Do you believe the United States should advocate for human rights when it can?

Ms. ENOS. Yes.

Mr. CONNOLLY. Should we try to be consistent in that advocacy?

Ms. ENOS. Absolutely.

Mr. CONNOLLY. Do you believe that the head of State, the President, can make a vital difference in that advocacy when he uses the bully pulpit of the presidency either overseas or from the Oval Office for that matter with respect to human rights?

Ms. ENOS. I think that the President should be a vocal advocate for human rights. I agree.

Mr. CONNOLLY. And conversely, when the President does not, does not take advantage of that opportunity for advocacy, could it do harm? Could it set back the cause of human rights?

Ms. ENOS. I think that the entire U.S. Government needs to devote significant attention toward highlighting the severe human rights violations.

Mr. CONNOLLY. I agree, but my question had to do with the head of State——

Ms. ENOS. Yes, the President——

Mr. CONNOLLY [continuing]. Because he or she has a unique role. Thank you. I really appreciate that.

Mr. Bencosme, am I pronouncing that right?

Mr. BENCOSME. Bencosme.

Mr. CONNOLLY. Bencosme, sorry. You were talking earlier when I was here, and I had to run to a markup so forgive me for having to run out, about the Philippines. Has the President of the United States, you know, Ms. Enos and I agree that the President has a bully pulpit; it is unique. Human rights is a very important part of U.S. policy and the President has a particularly, a unique role in advocacy with respect to human—he can make a big difference, or not. Has he made a big difference in the Philippines?

Mr. BENCOSME. He has made concerning comments with respect to how drug offenders should be treated, which I think are not in line with international human rights standards, so.

Mr. CONNOLLY. Who has?

Mr. BENCOSME. The President of the United States.

Mr. CONNOLLY. So, correct me if I am wrong. The President of the Philippines, Mr. Duterte, has explicitly embraced vigilantism in the Philippines; is that correct?

Mr. BENCOSME. Correct.

Mr. CONNOLLY. And as a result, thousands of people have, in fact, been murdered either at the hands of vigilantes or sanctioned police groups in the Philippines allegedly for drug dealing; is that correct?

Mr. BENCOSME. Correct.

Mr. CONNOLLY. Without due process of law?

Mr. BENCOSME. Correct.

Mr. CONNOLLY. Without going to a court?

Mr. BENCOSME. Correct.

Mr. CONNOLLY. Without even being arrested and detained——

Mr. BENCOSME. Correct.

Mr. CONNOLLY [continuing]. And charged. By the way, is that the system we have here in the United States?

Mr. BENCOSME. No.

Mr. CONNOLLY. Is that a system you think we ought to be advocating for?

Mr. BENCOSME. No.

Mr. CONNOLLY. So would you say that that is a good example of a human rights issues that is pretty important?

Mr. BENCOSME. Certainly the President should be, you know, using our own system and the laws and judicial system in place and use that as a model of what should happen.

Mr. CONNOLLY. And I want to go back to what your statement earlier now to put that in context. And so, certainly, President Trump spoke out about this terrible situation in the Philippines in blatant violation of the rule of law, international law, human rights, and has spoken out against it and tried to tell President Duterte we do not support that kind of behavior; is that correct?

Mr. BENCOSME. To this day, we have not seen any public comments from——

Mr. CONNOLLY. We have not seen it. Would it be fair, again keeping in light of the sort of philosophical framework Ms. Enos and I established, would it be fair to say that by not speaking out, in fact, it sadly encouraged Duterte and his vigilantes to persist if not expand their illegal activities and their gross violations of human rights in this respect?

Mr. BENCOSME. Every time that we do not speak out on the issue, it green lights other abusers to continue to act with impunity.

Mr. CONNOLLY. So with impunity. So the President went to Hanoi; is that correct?

Mr. BENCOSME. Correct.

Mr. CONNOLLY. Certainly he used that occasion to speak out about human rights violations such as Michael and lots of others. In fact, 128 prisoners of conscience identified by your organization in Vietnam increased by a third since last year, and that number has grown because of a social media crackdown by the Government of Vietnam; is that correct?

Mr. BENCOSME. Correct.

Mr. CONNOLLY. So, certainly, the President used the occasion of visiting Hanoi to speak out about that?

Mr. BENCOSME. We have not seen any public comments about the detention of prisoners of conscience or other——

Mr. CONNOLLY. You are kidding. The President did not speak out about that.

Ms. Nguyen, you are shaking your head. Did you want to comment?

Ms. NGUYEN. I agree with Francisco. I have not heard or seen, our President speak out about, human rights while we was in at the summit.

Mr. CONNOLLY. Mr. Chairman, my time is up. But I do want to simply say I believe, and I am very grateful for Ms. Enos's answers, I believe human rights is a cardinal, foundational part of American foreign policy and has been since the founding of this republic. We have not always been consistent, but we aspire to something and the world looks to us for that advocacy when people do not otherwise have surcease, they do not have succor, they do not have a remedy.

But when the United States speaks it carries weight, even with dictators. And when we choose to be silent or turn another eye in a different direction, there are victims, real victims, human beings who are going to suffer, and that is wrong. Thank you, Mr. Chairman.

Mr. SHERMAN. Thank you, Mr. Connolly. And I will comment that the most eloquent speeches for human rights are those that can be silent but have a real economic effect or geostrategic effect. And when I do the second round, we will focus on actions the United States can take to push the Philippines, push Cambodia, and especially push Myanmar/Burma in the right direction. With that we will recognize the gentleman from California.

Mr. CORREA. Thank you, Chairman Sherman and Rep. Yoho for your invitation to be here today. I want to say it has been an honor to represent in my time as an elected official, Little Saigon, the largest concentration of Vietnamese outside of the country of Vietnam, in Orange County.

And the issue of human rights, religious freedoms is a struggle that continues to be a challenge. Sadly, we have seen the Government of Vietnam crack down—and I use the word crack down—on human rights, religious freedoms by arresting not only American citizens but Vietnamese citizens as well.

And, Ms. Helen Nguyen, thank you for being here today. We all stand with you shoulder to shoulder as we fight for Michael's release, an American citizen whose crime I am still not sure what it was that got him 12 years in prison.

And I am trying to understand the Government of Vietnam and their rationale, because a few years ago, my chief of staff Tammy Tran went to Vietnam, and I do not think she committed any crime yet. After 2 days there she was arrested and then deported. And her crime, I believe, was being my chief of staff and her activities in my office in terms of speaking out human rights, religious freedom.

I am trying to, as Chairman Sherman said, I am trying to figure out how we communicate not only to Vietnam but other countries around the world that if America stands for anything we stand for human rights, religious freedom, our first amendment freedom of speech, and that there may be consequences for doing this. We will continue to fight for Michael's freedom, yet as my colleague Mr. Lowenthal said, there have to be consequences. We will watch, but we will not watch patiently and silently. We will continue to be active.

Remind the Government of Vietnam that there may be some consequences. Trade continues to grow with Vietnam. Our military ties continue to grow with Vietnam. Yet, I would pull back and tell my colleagues in Washington we have to take a pause at what cost. TPP may be back on the table someday, but we have to also precondition our relationships on basic respects for humans, human beings, human rights, religious freedom.

Countries of particular concern, that category, I think we have to look at that not as a threat, but really to look at other countries and say there is a certain level of behavior we are expecting of you as we continue to do trade with you, we continue to work with you militarily.

And, Helen, we will continue to work together. You are not forgotten. Michael is not forgotten. And as I think about when you got your legal help, when you got your attorneys, I am reminded that maybe there is a different legal system in Vietnam and other countries that do not respect due process the way we know due process to be. I would ask you to comment. Thank you.

Ms. NGUYEN. I left Vietnam when I was young, so I do not know their legal system over there. So what happened to my husband, I realize that there is no due process over there. And that is, we take advantage of what we have here, we do not value it. When it comes to this situation that is when we realize due process that we have here, we should value it.

Mr. CORREA. And I would say that that is what I suspect to be the case. I know the case. Again, the American citizens of Vietnamese heritage that have had challenges in Vietnam are essentially those that have essentially expressed themselves, their freedom of speech, and that has caused them in many cases their freedom.

We will continue to watch. We will continue to monitor. And I would ask the Government of Vietnam, work with us. We are watching and we are not forgetting.

Mr. CHAIRMAN.

Ms. NGUYEN. Thank you.

Mr. SHERMAN. Thank you. And I will point out the Government of Vietnam puts a substantial effort into trying to encourage Americans to go visit Vietnam and be tourists and spend money. And they should be aware that Americans are also watching this hearing, that Americans turn to the State Department for advice on where they will be safe and happy on their vacations and I am not sure that we can provide that kind of assurance at this point to those seeking sunny beaches and interesting historical sites. With that I recognize the gentleman from Texas who is not a member of the committee but is very involved in this matter.

Mr. GREEN. I thank you, Mr. Chairman. I thank the ranking member, and I greatly appreciate your allowing me to interlope today and have an opportunity to give my expressions to Mrs. Nguyen for her courage, for her ability to simply continue to hold onto the hope necessary to see her through what are exceedingly difficult, uncomfortable, and unimaginable times.

Ms. Nguyen, I am so honored that you have this photograph of your family. My hope is that it has been picked up by our television cameras. If it has not, I would gladly have it moved such that it can be. But my hope is that it has been. I see that you have your youngest child there with you. How old is this child, please, Ms. Nguyen?

Ms. NGUYEN. As now she is nine, but when her dad was gone she was 8 years old.

Mr. GREEN. She was eight then and she will be nine. So if your husband, her father, if he is gone for 12 years, he will miss her high school graduation. He will miss 12 birthdays. What we have to do is not allow Mr. Nguyen to become a number. He is a person. He has family. He has roots. He cannot be a number. We refuse to allow him to be just another person who has been caught up in a system. If he is away for 12 years, my suspicion is that one of your children will probably marry. He will not be there to present his daughter's hand in marriage as we traditionally do in this country.

It would not surprise me to know that the Nguyen family will grow over these 12 years. He will not be there to see his first grandchild come into the world, the baby take the first step. He will not be there to congratulate children as they move on in life, they acquire jobs, and they acquire lives for themselves outside of the home. He will miss some of the most important times in the lives of his family.

So my appeal, Mrs. Nguyen, is to the Government of Vietnam, to understand that a man who has no criminal record, a person of faith, a person who has been a model citizen in this country where we have laws, a person who has for the most part done the things that we would want a person to do to make the world a better place, that this man is not a number but he is somebody special to us and we want him back. He is ours. He belongs to us. We want him back.

Ms. NGUYEN. Yes, we want him.

Mr. GREEN. And we will not give up. We will not give up on bringing Mr. Nguyen home. We may not bring him home tomorrow, but we will not give up on bringing Mr. Nguyen home. He has been

a model citizen, and it is difficult for us to believe that he would somehow become Mr. Hyde, metamorphosis from the Dr. Jekyll to a Mr. Hyde character and do all of these things that are alleged. It is difficult for us to believe it. We just do not see that happening in the human being, generally speaking.

Itdoes not matter where you are from. Model citizens do not just wake up one morning and decide they are going to try to overthrow a government. It justdoes not happen. We want him back. And I want you to know this, I am going to be with you until he returns. I thank you for allowing me to say a word to you and to others today. And if you have a response, I would yield the rest of my time.

Ms. NGUYEN. Thank you, Congressman, for advocating for Michael and my family.

Mr. GREEN. Thank you. I yield back, Mr. Chairman.

Mr. SHERMAN. I know that the Foreign Ministry of Vietnam is watching. I hope they are listening. And I cannot imagine that they could hear it with any greater emphasis or eloquence than we just heard from the gentleman from Texas.

With that, Mr. Bencosme, I would like to ask some questions about the Philippines. Duterte says that his extrajudicial killings are just of drug dealers. But, that of course would be bad enough because he will brand as a drug dealer anybody he wants to brand as a drug dealer—and, oh, by the way, the way to deal with drug dealers even if they are drug dealers is not through extrajudicial killing. But he is also killing people in indigenous groups. Can you describe the extrajudicial killings that are visited on these people?

Mr. BENCOSME. Absolutely. It is part of a larger sort of crackdown that we are seeing against human rights defenders in the country. The way the Philippine Government acts is that it red tags them, legitimate organizations, or brands them as things like Communist fronts which had led to an increase of harassment and attacks by unknown individuals against them.

And so, one of the stark, you know, findings is that, that I mentioned in my oral statement is that even as of yesterday we have heard of Karapatan members who, human rights lawyers who are being killed, you know, even as recently as this week. And so, what we are seeing is indigenous people who are—who have an obligation under, you know, under international human rights law to be defended to have their universal human rights being violated by this government.

Mr. SHERMAN. Then we have the case of Maria Ressa. Duterte will accuse almost anyone of being a drug dealer. He has accused her of speaking libel. One of the hallmarks of an antidemocratic government is when they criminalize speech. Libel here is only, in our law is only a civil matter. I know some of the most prominent human rights lawyers in the world are focused on this case. This is the journalist who created the very popular news website Rappler. Can you tell us about the case, where it stands, and on what basis, I mean how blatant is this just an attack on the media?

Mr. BENCOSME. There is no basis for any of the charges levied against Rappler and particularly Maria Ressa. I think up to at least eight different charges have been placed on Maria Ressa. It is very clear that it is, in part, a retribution or reprisal because of

the really fantastic investigative reporting that Rappler has done on Duterte's so-called war on drugs and it is, in part, with a larger crackdown on free expression in the country.

Mr. SHERMAN. Thank you.

Ms. Huang, focusing on Myanmar, today as I understand it there are still half a million Rohingya inside the borders of Burma/Myanmar who have not yet fled. What can we do to assist and protect these people and do you expect the Government of Myanmar/Burma to try to ethnically cleanse them as well?

Ms. HUANG. Yes. And I want to start by emphasizing the dire conditions that this half a million people live in. Just yesterday, I was reading reports that there are some credible assessments that show that on former Rohingya villages the military is building bases. You know, so if you want to talk about how systematic, planned, you know, both looking into the past and looking into the future, this situation, the dire situation is, it is, as I mentioned earlier——

Mr. SHERMAN. So they are building bases on empty villages or on villages that are still inhabited?

Ms. HUANG. Villages that have been razed by the military.

Mr. SHERMAN. Got you. So first they used genocide and ethnic cleansing against the people, then they burn the village, then they build something where the village used to be.

Ms. HUANG. Yes. And in terms of how we can push for greater protections of these people, I think we spoke earlier about the need to increase access of various organizations to make sure that the aid is being provided according to international standards, and that is really important. And I think the main set of actions are around accountability and justice, so whether it is State Department determination, increased sanctions, referral to the ICC.

And I want to highlight, we have not spoken at length about the advisory commission that was led by the late Kofi Annan, which came up with a very comprehensive plan about what needs to happen in Rakhine so that people can achieve——

Mr. SHERMAN. I want to go to just one other question and that is——

Ms. HUANG. Yes.

Mr. SHERMAN. I am sure that the leadership of the Rohingya appreciates our efforts. They are far more significant than any other country in the world, far more significant than the Islamic Conference which is over 20 countries. What could the Rohingya do and what leader speaks for them that would be eloquent to explain to the Islamic Conference China's role in enabling this genocide?

Ms. HUANG. You raise a really important point about the need for Rohingya to be given a platform. And examples like Mohib Ullah who was invited to the Ministerial for Religious Freedom last week, that is a great example of someone who——

Mr. SHERMAN. I am sure that they will speak against Burma/Myanmar. I am sure they will speak for their people. But they will not have an effect nor will they be suitably recognizing our efforts unless they point the finger at Beijing. And it is very convenient. I have had Muslim leaders tell me do not talk about the Uyghurs, Pakistan needs that Chinese money. We do not want to talk about

the Uyghurs. And then they go back and talk about how they are protecting Muslims around the world.

What do we do to make sure that the Rohingya effectively communicate the enabling role of China?

Ms. HUANG. I agree that the OIC can do more. They have taken some actions, but I think that what we have talked about in terms of a sustained, international diplomatic campaign to continue pressing these messages are what is needed.

And one last point on, you know, we have also not heard President Trump make a statement on the Rohingya situation, the crisis, and that is something that shows that there is a gap between what we can do and what is being done currently.

Mr. SHERMAN. Obviously. And I think Mr. Connolly was eloquent how this President needs to speak more. We want all of our Presidents to speak more about human rights.

But I will ask also Ms. Enos, is there anything that can be done in conjunction with the Rohingya leadership so that the Muslim world understands what China is doing here?

Ms. ENOS. I have written before in a column that I write bimonthly for Forbes that I think that there should be a formation of a coalition of the willing led principally by the U.S. that includes Islamic voices in strongly issuing condemnations for what took place there. And I think we need to be frank about it, it was genocide. So.

Mr. SHERMAN. With that I will recognize the ranking member for whatever questions he has for this our second round.

Mr. YOHO. Well, I have got many questions, but I have a statement I have to make. I have to say something about Mr. Connolly. I appreciate his passion. I mean it is very evident he did not vote for this President and hedoes not like this President. But to accuse him of not standing up for human rights I think is wrong. We do not know what was said in those meetings. You do not know what was said privately.

He did not go to Vietnam to talk about human rights. It was about North Korea, and I think we need to keep that clear. I think this just clouds it and this is part of the problem with Washington, DC. It is a great political fight and we can put it on TV for our next campaign ad, and that is stuff that makes me sick about this place.

We have to have solutions to these problems and it comes with policy. That is why I feel this committee is the most important committee on the Hill, because if our foreign policies are right, we have good national security, we have good trade, we have good economic policies. And until we come together on a common cause, you are going to see this circus.

Mr. Sherman brought up a great point about if things like this happen in Vietnam or as Mr.—what was his last name, from California?

Mr. SHERMAN. Correa.

Mr. YOHO. Correa. If his chief of staff was in Vietnam and they feel she got picked up because she was the chief of staff for a Member of Congress, that is going to affect the future relationship of that country or any country that does the same thing with the United States of America. And we value our partnership with Viet-

nam now. I mean they are a counter to China. They are our 17th largest trading partner.

We disagree maybe on forms of government. We probably disagree on the human rights issue. I do not think they are totally void, but they are not going in the direction that we want to see. And this goes back to what I said previously, our policies should be tiered, tier 1, 2, 3 is what I propose. Tier 1 countries, we are a hundred percent in alignment. They get the best trade deals. I would recommend free trade agreements. Tier 2, they do not get quite so good. Tier 3, very little. If you are below that you do not trade with the United States or other like-minded countries. Until we change these things, you are going to have despotic leaders.

Burma, right now, last—I think it was 2016, they are our 107th trading partner. We did over three-quarters of a billion dollars in trade with them. This year, already, we are almost at—at the end of May we are about $500 million in trade with them. The biggest port is in California. So we are all against human rights abuses, but yet we keep trading because we do not want to lose the money.

I think it is time we put our values above our pocketbook and send a signal to these countries we are not excluding them from trade, we are just saying we have a higher standard. That if we put that standard, if they want to trade with the United States, a country that has the rule of law that honors contracts, they come to our side without us saying you have to do these things.

And I think that has been a misdirection of our foreign policy over the last 30 years. You have to do these things. They agree to it. We trade with them because it is written in a paper that we are doing these things, but we know darn well they are not doing them but we keep trading them, but the paper says we are doing it and they are supposed to. And then when it is brought to our attention we are like, "Oh well, son of a gun. Please do better on your human rights."

You brought up the rhetoric. One of you brought up the rhetoric. I think it was you, brought up the rhetoric is spoken but the actions aren't there. I think it is time we put the actions. If we truly believe in that—and of course some people say, "Well, that is an isolationist policy." Yes, it could be. But I think it sends a strong message, you either do business with the people that believe in what you believe in or stop doing business. I mean we can go around the world and see all these despotic leaders from Nicaragua to wherever.

Anyways, my question is you had brought up China's effect in Cambodia, China's effect in Burma. What are they doing that are suppressing the human rights? Is it their facial recognition and the CCTV cameras that are grading citizens and living out the 1984 George Orwell's book, or big government is watching?

Ms. ENOS. I think one of the big concerns with China's Belt and Road Initiative is not only that they will export, you know, various forms of investment, but that they will export authoritarianism on a whole. And I think one of the potential concerns of this, of course, is the use of the facial recognition technology and what not. I am not aware of particular instances in either Cambodia or Burma where this technology has already been exported, but I think that the potential for that is extraordinarily strong.

And I think that we should look at the case of the Uyghurs in Xinjiang——

Mr. YOHO. Sure.

Ms. ENOS [continuing]. As a, you know, foretaste of what could be to come, because there is a lot of incentives for, you know, bad actors like the Burmese military to misuse this technology for their own ends.

Mr. YOHO. It really is. And that is where we are going. And my good colleague here, you know, China—he had a good phrase and I want to use it here. But China is offering their form of socialism with Chinese characteristics, but what it really comes down to is dictatorship with Chinese characteristics, because that is really what is being offered. So it gives these countries and their leaders the power to control their citizens so that they fall in line.

They have given it to Maduro. That is why you have seen over five million people leave in Latin America. He is purging his country. He is going to have people that aren't willing to fight or they believe in what he says and the problem is solved for him. And it is a breakdown of democracies in the Western Hemisphere, but this is going on around the world, and the Asia Pacific is probably the most significant area because there is going to be more people living in that Asia Pacific region by the year 2050 in the world than outside of that region.

And so, what kind of a future we want and that is why we need to change our foreign policies to direct—put us in a direction to get the results that we want that we know empower the individual to pursue life, liberty, and the pursuit of happiness on their terms. But you cannot do that with a despotic regime.

Mr. Chairman, thank you for allowing me to bloviate, I guess. Thank you.

Mr. SHERMAN. Always good to hear you.

I will point out that the jurisdiction of this subcommittee, South Asia, East Asia, and the Pacific already has over half the population of the world. And I will pose one question just for the record on Burma/Myanmar, and that is I would like people to review all the sanctions we had before Aung San Suu Kyi got back there and opine on which should be reimposed now until such time as the Rohingya are given citizenship documents.

These include GSP, a general ban on imports from Burma, the specific bans on jadeite and rubies and products containing those gemstones, a ban on certain Burmese companies, the freezing of assets of certain nationals—we have done that to some degree—the prohibition of financial services to certain nationals, restrictions on investment, and especially restrictions on U.S. support for multilateral assistance.

So take a look at what we were doing then and tell me which of those things we should do now. With that I want to thank the witnesses. This hearing has been longer than most, but we have dealt with many important topics. And I especially want to thank Helen Nguyen for being here. Thank you. We are done.

[Whereupon, at 12:11 p.m., the subcommittee was adjourned.]

APPENDIX

SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

Subcommittee on Asia, the Pacific, and Nonproliferation

Brad Sherman (D-CA), Chairman

July 25, 2019

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held by the Subcommittee on Asia, the Pacific, and Nonproliferation in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at https://foreignaffairs.house.gov/

DATE: Thursday, July 25, 2019

TIME: 10:00 a.m.

SUBJECT: Human Rights in Southeast Asia: A Regional Outlook

WITNESSES: Ms. Helen Nguyen
Wife of Mr. Michael Nguyen

Mr. Francisco Bencosme
Asia Pacific Advocacy Manager
Amnesty International

Dr. Cindy Huang
Vice President of Strategic Outreach
Refugees International

Ms. Olivia Enos
Senior Policy Analyst, Asian Studies Center
Heritage Foundation

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON ASIA, THE PACIFIC, AND NONPROLIFERATION HEARING

Day *Thursday* **Date** *July 25, 2019* **Room** *2172*

Starting Time *10:00 AM* **Ending Time** *12:11 PM*

Recesses ____ (____to ____) (____to ____) (____to ____) (____to ____) (____to ____) (____to ____)

Presiding Member(s)
Chairman Brad Sherman

Check all of the following that apply:

Open Session ☑
Executive (closed) Session ☐
Televised ☑
Electronically Recorded (taped) ☑
Stenographic Record ☑

TITLE OF HEARING:
Human Rights in Southeast Asia: A Regional Outlook

SUBCOMMITTEE MEMBERS PRESENT:
See attached.

NON-SUBCOMMITTEE MEMBERS PRESENT: *(Mark with an * if they are not members of full committee.)*
Steve Chabot
*Al Green**
*Katie Porter**
*J. Luis Correa**
*Alan Lowenthal**

HEARING WITNESSES: Same as meeting notice attached? Yes ☑ **No** ☐
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*
QFR Sherman
SFR Lowenthal

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED *12:11 PM*

Mariella Adria
Subcommittee Staff Associate

HOUSE COMMITTEE ON FOREIGN AFFAIRS

ASIA, THE PACIFIC AND NONPROLIFERATION COMMITTEE HEARING

PRESENT	*MEMBER*
X	**Brad Sherman, CA**
X	**Gerald E. Connolly, VA**
	Ami Bera, CA
X	**Dina Titus, NV**
X	**Andy Levin, MI**
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PRESENT	*MEMBER*
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X	**Ann Wagner, MO**
	Brian J. Mast, FL
	John Curtis, UT

RESPONSES TO QUESTIONS SUBMITTED FOR THE RECORD

Question for the Record Submitted to
Mr. Francisco Bencosme, Dr. Cindy Huang, and Ms. Olivia Enos
Representative Brad Sherman (#1)
House Foreign Affairs Committee
July 26, 2019

Question:

Previously, Congress and the executive branch placed several economic restrictions on relations with Burman that have been subsequently terminated, waived, or suspended, including: a general ban on the import of goods, a ban on the import of Burmese jadeite and rubies, a freeze of assets of certain Burmese nationals, a prohibition on providing financial services to certain Burmese nationals, and restrictions on U.S. investments in Burma. Which, if any of these previous economic restrictions should be re-imposed on Burma until the Rohingya are granted citizenship?

Answer, Ms. Olivia Enos: The U.S. should use all available targeted financial measures to target members of the Burmese military, including their family members. This should include newer Global Magnitsky authorities, pre-existing JADE Act authorities, and any new authorities or reaffirmed authorities that should arise from congressional legislation. The U.S. government should also seek to target military-owned enterprises. The U.S. should avoid instituting broad-based trade sanctions which have often proven to do more harm to the people than to the perpetrators of crimes.

Below is an excerpt from a paper of mine that I published at Heritage shortly after the events of August 2017. Please find the link here: https://www.heritage.org/global-politics/report/crafting-successful-us-strategy-toward-burma-beyond-the-rohingya-crisis (Please see the paper for footnotes.)

- A few things should be born in mind as Congress crafts legislative measures to hold the Burmese military accountable.

- Treasury should use its pre-existing authorities under the JADE Act to sanction individuals in the Burmese military for their role in instigating violence leading to the mass displacement and severe abuse of Rohingya. The JADE Act specifically includes four categories of individual who fall under potential sanctions authorities. These include: "(A) Frmer and present leaders of the [State Peace and Development Council] SPDC, the Burmese military, or the USDA[;] (B) Officials of the SPDC, the Burmese military, or the USDA involved in the repression of peaceful political activity or in other gross violations of human rights in Burma or in the commission of other human rights abuses, including any current or former officials of the security services and judicial institutions of the SPDC[;] (C) Any other Burmese persons who provide substantial economic and political support for the SPDC, the Burmese military, or the USDA[; and] (D) The immediate family members of any person described in subparagraphs (A) through (C)."75

- While JADE Act legislation was instituted with the express purpose of countering anti-democratic forces in the country, its authorities were broad enough so as to encompass other actors who might be over-looked if the designation categories were tailored more narrowly. For example, the JADE Act authorities enabled the U.S. government to sanction entities like the Myanmar Economic Corporation and Myanmar Economic Holdings Limited (military-linked conglomerates that provided financial support that contributed to the military's ability to carry out human rights abuses).76

Legislative and executive branch efforts to craft sanctions legislation should be broad enough to encompass scenarios beyond the violence that has already been perpetrated against Rohingya and expect that additional similar (or even worse) human rights abuses may be carried out in the future. Sanctions authorities should also be broad enough to encompass entities that materially or financially paved the way for the Burmese military to commit atrocities against Rohingya.

- Legislation should direct the Treasury Department to use all available tools to hold the Burmese military to account. In addition to placing individuals and entities on the SDN list, anti-money-laundering and counterterrorism sanctions can be applied. Global Magnitsky authorities can also be used to target individuals on human rights and corruption grounds.77 (Current legislation specifies only SDN authorities.)

- Congress should require the State Department to issue a report every six months identifying key entities or individuals in Burma who are either directly responsible for human rights abuses or who enable them, including atrocities committed against Rohingya. This would serve as a useful benchmark against which to measure the executive branch's response.

- Just as sanctions should include a clear "on-ramp," or directive, for designating individuals and entities for their role in atrocities, there should be an equally clear "off-ramp." Current legislation lays out criteria under which sanctions could be removed. This is essential to any effective sanctions regime.

Answer, Dr. Cindy Huang: There are several sanctions that should be reinstated or expanded regarding Burma and its treatment of the Rohingya and other ethnic minorities. Up to July 2019, nearly two years after the horrendous August 2017 attacks, only five individuals and two military units had been sanctioned by the United States. In July 2019, four more high level military officials, including, significantly, Senior General Min Aung Hlaing were banned from travel to the United States. But this is not nearly enough. Refugees International has long advocated for additional travel and financial sanctions on high-level Myanmar military officials, as well as sanctions on military-owned enterprises. A report from the UN Fact-Finding Mission released on August 5, 2019, details the many military-owned enterprises that should face sanction. Other sanctions that should be re-imposed or expanded are included in the bipartisan Burma United through Rigorous Military Accountability (BURMA) Act of 2019, including restrictions on security assistance and cooperation and visa bans and blocking of assets of individuals responsible for serious human rights abuses.

Progress toward full rights and citizenship for the Rohingya will only be achieved as part of a comprehensive diplomatic strategy focused on justice, accountability and conditions for safe,

dignified, and voluntary return. As part of such a strategy, sanctions can be an effective tool in creating pressure for progress, including toward citizenship.

Mr. Bencosme did not submit a response in time for printing.

ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD

Statement for the Record Submitted to
Subcommittee on Asia, the Pacific, and Nonproliferation
Representative Alan Lowenthal
House Foreign Affairs Committee
July 25, 2019

I want to thank Chairman Sherman for inviting me to participate in this hearing on human rights in Southeast Asia.

As a co-chair of the Congressional Vietnam Caucus, I have advocated in Congress on the issue of human rights abuse in Vietnam. During my time in Congress, I have adopted several Vietnamese prisoners of conscience who were unjustly jailed for their political and religious beliefs.

I want to highlight a prisoner of conscience of mine, the Most Venerable Thich Quang Do, the Supreme Patriarch of the United Buddhist Church of Vietnam.

The Patriarch has been jailed numerous times for leading non-violent protests against he Vietnamese government and calling for religious freedom. He is currently under house arrest in Vietnam. Religious freedom violation in Vietnam is worse now than before Vietnam was removed from the list of Countries of Particular Concern. It's time we put Vietnam back on that list.

I also want to talk about Michael Nguyen, and I want to thank his wife, Helen Nguyen, for coming here today to testify.

This is the 2nd time in the last year that an American citizen was detained and imprisoned on allegations by the communist government of Vietnam. Michael was on a trip to Vietnam with friends when he was taken off of a bus on his way from the city of Da Nang to Saigon by public security officials. He was detained, imprisoned, and neither his family, nor the US government, were notified until 10 days after his arrest. Vietnam broke a 1994 agreement between our two countries, in which they must notify US officials within 96 hours after they have arrested an American citizen.

Michael has been sentenced to 12 years in prison on charges that he conspired to overthrow the Vietnamese government.

His case has deeply impacted his family, his four daughters, and Vietnamese Americans across the country. It is outrageous and unconscionable that Americans are afraid to visit a country for fear that they too might be arbitrarily detained and charged.

I join my colleagues in support of Congressman Chris Smith's Vietnam Human Rights Act, which invokes sanctions per the Magnitsky Act to not only impose financial and travel restrictions for human rights abusers, but also calls on the Vietnamese government to release political prisoners and stop arresting pro-democracy activists. This bill would also make the sales of military equipment or services to Vietnam conditional on improvement in human rights.

These incidences continue to occur, and I believe it is time for a serious reevaluation of our economic and diplomatic relationship with Vietnam.