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## HUMAN RIGHTS IN ASEAN

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



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**February 15-16, 2016**

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## Summary

When US President Barack Obama first articulated his administration's goal of a diplomatic rebalance to Asia, he outlined three areas in which the US government would focus its attentions: increased strategic and military ties, better economic integration, and greater attention to promoting democracy and human rights.

Obama outlined the last prong of the rebalance in a speech in Australia on November 17, 2011:

Every nation will chart its own course. Yet it is also true that certain rights are universal; among them, freedom of speech, freedom of the press, freedom of assembly, freedom of religion, and the freedom of citizens to choose their own leaders.

These are not American rights . . . or Western rights. These are human rights. They stir in every soul, as we've seen in the democracies that have succeeded here in Asia. Other models have been tried and they have failed – fascism and communism, rule by one man or rule by committee. And they failed for the same simple reason: they ignore the ultimate source of power and legitimacy – the will of the people.

On February 15-16, 2016, President Obama will host 10 government leaders from the Association of Southeast Asian Nations (ASEAN) for a summit at the Sunnylands estate in California.

For decades, the United States government has viewed ASEAN as an important economic, security, and political partner, and has forged closer ties with ASEAN countries as they have undergone major economic and political changes. In recent years, some countries, such as the Philippines and Indonesia, have made steady though uneven progress toward becoming democratic states with increasing respect for basic human rights. Most recently, in November 2015 the military junta in Burma allowed the opposition to contest elections and accepted the landslide victory of Aung San Suu Kyi's National League for Democracy—though it still maintains broad constitutional powers and de facto control over security forces and large parts of the economy.

Many ASEAN countries, however, continue to be plagued by deep-seated political and economic problems. As the chapters below outline, most of ASEAN's 10 members have extraordinarily poor human rights records. Beyond the lack of basic freedoms of expression, association, and peaceful assembly in many countries, problems across ASEAN include restrictions on civil society, failures on women's rights, the political use of courts, high-level corruption, lack of protection of refugees and asylum seekers, human trafficking, and abuses against lesbian, gay, bisexual, and transgender people.

For President Obama, the February 2016 US-ASEAN summit represents another chapter in the continuing efforts to rebalance attention to the Asia region. For many of ASEAN's leaders—in particular those who have not come to power through free and fair elections—the summit represents an unearned diplomatic reward: a robust US reaffirmation of their sought-for legitimacy as leaders of the 615 million people who live in ASEAN.

One particularly egregious example is the invitation to the summit for Thai Prime Minister Gen. Prayut Chan-ocha, who took power in a 2014 military coup, dismantled democratic institutions, and has led a relentless crackdown on critics and dissidents. Prayut has consistently delayed the date for a return to democratic rule, making it clear that he expects the army to manage the country's affairs even after a vote for a new parliament is held.

Prime Minister Nguyen Tan Dung of Vietnam and President Choummaly Sayasone of Laos preside over one-party authoritarian states that deny basic freedoms and use censorship, detention, and torture to maintain their party's hold on power. The communist party of each country has been in power since 1975 and have shown no interest in moving towards pluralism or genuine elections.

The sultan of Brunei, Hassal Bolkiah, is one of the world's few remaining hereditary government leaders and has imposed a near complete ban on freedoms of expression, association, and assembly. He plans to increase the imposition of Islamic law punishments, including whipping and stoning, for adultery, sex between unmarried persons, and homosexual activity.

The prime minister of Malaysia, Najib Razak, retained power in 2014 after a deeply flawed electoral process in which his party, which has been in power since 1967, lost the popular vote. Implicated in a major corruption scandal, he has engaged in a broad crackdown on Malaysia's political opposition, civil society organizations, and media.



Prime Minister Hun Sen of Cambodia has ruled for over 30 years, maintaining power through intimidation, violence, stolen elections, a coup against a coalition partner, and politically motivated prosecutions. He is also implicated in possible crimes against humanity committed in the mid-1970s when he was a commander in the Khmer Rouge. It had been longstanding US policy not to invite Hun Sen on an official visit to the United States.

The summit also takes place before Burma can be represented by a democratically elected leader, who will only take office in March or April 2016 after the country's historic November 2015 elections. Instead of meeting Aung San Suu Kyi or the person she nominates to lead the next government, President Obama will be giving a platform to the current president of Burma, Thein Sein, a former general put in power by the country's military junta. And the meeting comes only weeks after the Vietnamese Communist Party selected the country's next leaders at a January 2016 Party Congress—with no pretense of a democratic election.

ASEAN as an institution remains stubbornly hostile to the promotion of human rights. Founded in the 1960s as an anti-communist partnership among US allies in Southeast Asia countries, ASEAN's founding documents espouse regional cohesion and partnership and emphasize a principle of sovereignty stressing that members would not interfere in each other's "internal" affairs, which in practice has meant avoiding discussions of democracy, governance, and human rights.

Under pressure from an increasingly vocal public, only in 2007 did ASEAN members adopt a charter that mentioned human rights principles, although relevant provisions were heavily outweighed by language emphasizing the importance of "non-interference in the internal affairs" of ASEAN members. In 2009 ASEAN inaugurated an Intergovernmental Human Rights Commission, but it has no real powers: each government appoints its representative to the commission and it works through consensus, a procedural arrangement that makes it impossible to ever report on a human rights issue in any one country, since that country would object.

While ASEAN pretends to promote human rights, the United States has forged ahead with closer trade, political, or security ties with ASEAN as an institution and with each ASEAN member. In November 2015, the United States signed the Trans-Pacific Partnership (TPP), an economic and trade agreement that includes Vietnam, Malaysia, Singapore, and Brunei. The United States funds election observation, human rights nongovernmental

organizations, and legal reform efforts. It publishes generally strong annual human rights reports on ASEAN members as part of its annual global report. Yet the message of the United States to ASEAN and its members in recent years appears to have been: Please reform and improve your human rights record, but we'll reward you with closer ties regardless of what you do.

A better approach, one that would more appropriately hew to Obama's stated intention to use the Asia rebalance to promote democracy and human rights, would be for the United States to link its diplomatic rewards more explicitly to concrete improvements on human rights, for instance, by stating clearly what the costs are for governments that fail to reform.

In practice, this would mean telling a country like Vietnam that the US will not allow it to join the TPP or purchase additional military hardware until it releases political prisoners and repeals draconian penal code provisions. It would mean telling Malaysia that economic and security ties will stall or go into reverse unless the government stops prosecuting opposition political leaders and critics. It would mean telling Burma that still-remaining sanctions will be strengthened if the military does not honor its promises to disassociate from politics and the Burmese economy. It would mean ending military exercises with Thailand and Cambodia, which provide political cover and international legitimacy to Prayut and Hun Sen.

It would also mean urging ASEAN as an institution to drop its anachronistic preoccupation with "non-interference in internal affairs" and begin reforming its human rights commission so that it can actually report on human rights problems in ASEAN countries. It would mean allowing civil society to participate in ASEAN summits, starting with the Sunnylands summit.

An Asia rebalance that relegates human rights and civil society to the margins, as sideline issues or separate pillars, is a morally hollow diplomatic exercise. The better message would be for the United States to make it clear that its intensifying engagement will not merely be with ASEAN's leaders, but with the people of ASEAN countries. It should make it clear that it will insist on the strengthening of institutions that safeguard rights and livelihoods, such as independent courts and professional security forces, and provide increasing support to civil society groups that help promote the standards and values those institutions are meant to uphold.

The best way for President Obama to send that message would be to speak publicly about the very serious human rights problems that exist in ASEAN countries, offer assistance in reform efforts, and press ASEAN leaders to work directly with civil society leaders and the general public to build rights-respecting democracies.

## I. Burma

The transition from military to civilian rule in Burma that started in 2011 slowed down and reversed in some sectors in 2015. Despite a significantly improved environment for freedom of expression and media, in key areas the outgoing Thein Sein government's commitment to improving its human rights faltered or failed. The landslide victory of the opposition National League for Democracy (NLD) in November elections, the first freely contested national elections in 25 years, is expected to lead to reforms in many areas.

### Elections

Nationwide parliamentary elections were held on November 8, with 91 parties and hundreds of independent candidates contesting over 1,100 seats. The NLD won a majority of seats in both national houses of parliament and in regional and state assemblies, with more than 77 percent of elected seats.

But the elections were not without serious flaws. The Union Electoral Commission (UEC) lacked independence and impartiality in the lead-up to elections. Its chairman repeatedly said he hoped for victory by the military-backed ruling Union Solidarity and Development Party (USDP), and the commission itself issued guidelines prohibiting political parties from criticizing the military in policy platform speeches broadcast over state-controlled media.

Due to changes in political party laws and enforcement of the draconian 1982 Citizenship Law, the applications of more than 50 Muslim candidates were disallowed during candidate eligibility screening, including those of two sitting ruling party members of parliament who identify as Rohingya Muslims, although a small number were permitted to run after appeals to the UEC. Neither the USDP nor the NLD fielded a Muslim candidate anywhere in Burma, and no Muslim citizen was voted into parliament nationwide.

The nationwide repeal of temporary citizenship cards (the so-called white cards) disenfranchised over 800,000 people who had previously been permitted to vote in the 2008 constitutional referendum and the 2010 elections, many of them Rohingya in Arakan State.

Despite these serious defects, the two-month campaign was surprisingly open, with few reports of intimidation, violence, or irregularities. Party rallies were conducted peacefully throughout the country, and there were no significant curbs on freedom of expression or media. Polling was conducted in a transparent manner with large numbers of domestic and international observers, and political parties observing the count. The UEC acted professionally through the tallying period with daily updates on results.

In February, the new parliament will convene and elect the president and two vice-presidents, one of whom will be selected by the military bloc. The NLD government will be formed in March and assume formal governmental duties on March 30.

## Constitution

Despite calls from ethnic communities and opposition parties, the Burmese military refused to permit consideration of any amendments to the 2008 constitution in the national parliament in June and July. The constitution allocates 25 percent of parliamentary seats to the military and requires 75 percent of parliament to vote to approve constitutional changes, giving the military an effective veto.

Amendments that were rejected included a proposed change to section 59(f) on eligibility for the presidency, which bars opposition leader Aung San Suu Kyi from the position because she has children that hold foreign citizenship, and proposed changes to sections 261 and 262, giving the president rather than state and regional assemblies the authority to select the influential chief ministers of 14 of Burma's 15 states and regions.

## Religious Minorities

Discrimination and threats against the Muslim minority in Burma, a manifestation of growing ultra-nationalism, has intensified in Burma since 2013 with the increased prominence of the Buddhist-monk-led Association for the Protection of Race and Religion, known by its Burmese acronym *Ma Ba Tha*.

*Ma Ba Tha* successfully urged the government to draft and pass four so-called “race and religion protection laws” in 2015: the Population Control Law, passed in May; and the Buddhist Women’s Special Marriage Law, the Religious Conversion Law, and the Monogamy Law, passed in August. The four laws are discriminatory and violate religious

freedom by, for example, creating special rules for Buddhist women who marry—or seek to marry—non-Buddhist men; introducing vaguely defined acts against Buddhism as grounds for divorce, forfeiture of child custody and matrimonial property, and potential criminal penalties; and empowering authorities to limit the number of children that members of designated groups can have.

In contrast, the parliament did not pass the comprehensive Violence Against Women Law, a bill that would have strengthened women’s rights protections.

Burmese civil society organization leaders who publicly criticized the laws were accused of being “traitors” by senior *Ma Ba Tha* officials and some reportedly faced death threats. In September, nine embassies in Rangoon made a public statement against the misuse of religion in the 2015 elections, sparking a rebuke from the Ministry of Foreign Affairs. No embassy of any ASEAN member state was a signatory, nor were any statements issued by ASEAN members expressing concern over rising anti-Muslim rhetoric or the discriminatory nature of the race and religion protection laws during the election period.

While some political parties, notably the NLD, voted against the laws, other political figures promoted the laws as protecting Burma from Muslim threats. President Thein Sein took credit for the laws in a social media video as election campaigning began in September. *Ma Ba Tha* held a series of nationwide victory rallies lauding the laws as protecting the Buddhist faith against an Islamic “invasion” and in some cases declared its support for the USDP, marking its growing involvement in electoral politics.

A prominent *Ma Ba Tha* member and leader of the “969” anti-Muslim boycott movement *U Wirathu* threatened the UN special rapporteur on Burma, Yanghee Lee, during her January visit to Burma, calling her a “bitch” and a “whore,” and exhorting followers to assault her. The government took no steps to respond to this incitement, and no prominent public figure in Burma has openly criticized the rising discrimination and threats endorsed by *Ma Ba Tha* or its intimidation of civil society.

## Freedom of Association and Assembly

The numbers of political prisoners in Burma rose over the last year as the Thein Sein government's commitment to ending the imprisonment of activists waned. At year's end, an estimated 112 people were incarcerated for alleged violations of the flawed Peaceful Assembly Law and other political offenses, a notable rise in cases since the large prisoner amnesties of 2012. At least 486 more were facing trial.

The leadership of the joint committee overseeing political prisoner releases—composed of representatives of the government, former political prisoners, and political parties—was changed in February 2015 with the hardline deputy minister of home affairs, a serving military officer, made chair. Prominent activist Ko Bo Kyi was removed from the committee.

In March 2015, plainclothes police auxiliaries, suspected to be members of the *Swann Arr Shin* (Masters of Force), which had not been deployed against protesters since 2007, assaulted a small group of student protesters and activists from the 88 Generation Peace and Open Society Group who were peacefully assembling to criticize the government's education law. Police then arrested the protesters.

Five days later, on March 10, security forces blocked a small group of student protesters in the town of Letpadan from marching on Rangoon. When students attempted to tear down the barricades, police forces abandoned all discipline and violently assaulted the students, arresting over 80 of them. Students who were injured in the assault say they received only rudimentary medical care. 50 students remain in custody in Tharrawaddy Prison on charges of rioting, assaulting police officials, and illegal assembly.

After the March violence, the European Union, which has been providing technical assistance to the Burma police force as part of a community policing and crowd control project, criticized the authorities and called for an investigation. In September, the Myanmar National Human Rights Commission issued a report calling for abusive police to be punished, as well as any student demonstrators who may have acted to provoke officials. No police officers have yet been prosecuted.

Land rights activists in Burma are regularly arrested and charged with unlawful assembly and trespass for protesting land appropriation and displacement. Authorities arrested a

number of land rights activists and farmers in Karen State in June and August 2015 who had been calling for compensation and redress for land they claim was unlawfully seized. Prominent activists such as Su Su Nway were also arrested last year, and authorities sentenced a number of leaders of the long-running protests in the Letpadaung copper mine case in Monya, including veteran activist Naw Ohn Hla, to four years in prison for peaceful protests they led outside the Chinese embassy in Rangoon.

Rising intolerance against Burma's LGBT communities was voiced by senior government officials, including a security minister in Mandalay Region who called on police to arrest and "educate" transgender people.

## Refugees

The maritime exodus of Rohingya Muslims dramatically increased in 2015, with Rohingya families departing from Burma and Bangladesh on smuggling vessels, at times joined by large numbers of Bangladeshi migrant workers.

The United Nations estimates that 94,000 people made the journey between January 2014 and May 2015. In May 2015, some 5,000 people on boats were abandoned by smugglers and denied entry to Thailand, Malaysia, and Indonesia, with at least 70 dying during the ordeal. After intensive international media coverage, Malaysia and Indonesia finally permitted boats to land, and then promptly interned the new arrivals.

Thailand did not formally allow landings, but when boats made it to shore anyway, authorities detained those on board. Boats intercepted by authorities in Burma were towed to Maungdaw in Arakan State, and Bangladeshi citizens were repatriated back to Bangladesh.

A regional conference in Bangkok on May 29 hosted by Thailand and attended by 17 countries failed to adequately address the dispossession and abuse of Rohingya in Arakan State that continues to fuel the maritime crisis. The United Nations is forecasting a resumption in maritime flight by desperate Rohingya, accompanied by serious human rights abuses, when sailing conditions improve in the Bay of Bengal and the Andaman Sea. So far, only small numbers of Rohingya have fled since October 2015, probably owing to last year's interdiction of trafficking networks, and wider awareness in Burma and



Bangladesh over the dangers, although the maritime flight is forecast to slowly resume. ASEAN member states failed to design a regional approach to responding to these flows, and Burma especially, as an ASEAN member, denied categorically that the Rohingya are a recognized ethnic group from Burma and do not leave their shores.

Some 140,000 mostly Rohingya Muslims remain in internally displaced person camps in Arakan State, subject to strict restrictions on movement and access to basic services. Although access by humanitarian agencies to the camps improved somewhat in 2015, allowing for provision of limited health and education services, the situation remains dire. Poor conditions in the camps and the threat of renewed violence against the Rohingya are an important driver of maritime exodus. On the positive side, the government assisted an estimated 10,000 internationally displaced persons (IDPs) in 2015, helping them rebuild homes in the areas from which they had been displaced in 2012.

An estimated 110,000 refugees who fled Burma during decades of civil war remain in nine camps in northwest Thailand. UNHCR, international and national nongovernmental organizations, and the Thai government continue to discuss a plan for voluntary repatriation of members of this group. Refugees continue to express concerns about insufficient participation in planning for their return and the uncertain security situation in Burma, including the prevalence of land mines in some of the areas to which they may return.

## **Ethnic Conflict and Forced Displacement**

Armed conflict between the Burmese military and non-state armed groups escalated in 2015. Clashes between the Burmese army and Kachin Independence Army (KIA) troops continued sporadically, reportedly involving disputes over natural resource extraction.

In northern Shan State, fighting between the army and the Ta-ang National Liberation Army (TNLA), often in conjunction with insurgents from the Arakan Army and Shan State Army-North, continued throughout the year and several thousands of civilians were displaced by conflict. In central Shan State, fighting between the Burmese army and Shan rebel forces escalated around the November elections, displacing some 10,000 civilians.

On February 17, two volunteers from the Myanmar Red Cross Society were injured when their convoy was attacked by unknown assailants. They were part of a marked Red Cross convoy that was evacuating civilians displaced by fighting in Shan state. Four days later, a Myanmar Red Cross volunteer was injured in an attack on a marked Red Cross convoy traveling from Laukkai.

In March, fighting began in the northern Shan State special region of Kokang between the army and forces of the Myanmar National Democratic Alliance Army (MNDAA). Burmese forces used airstrikes and heavy artillery bombardments, allegedly indiscriminately, during the fighting against the MNDAA. Tens of thousands of civilians were displaced in Kokang areas, with many fleeing to China.

The government sought to conclude a nationwide ceasefire with 16 non-state armed groups in 2015, signing a 'partial nationwide ceasefire with 8 groups in Naypyidaw in October last year. Despite this, armed conflict escalated to levels not seen since before the fighting in Kachin State entered an uneasy truce in 2013. Some 130,000 Kachin civilians remain internally displaced in camps, with many IDPs in KIA-controlled areas receiving little international assistance, largely due to Burmese army obstruction.

## **Child Soldiers**

The Burmese military continues to recruit and use child soldiers, as do many paramilitary and militia forces under Burmese army command, and child soldiers have reportedly been recruited and deployed by many non-state armed groups as well. The Burmese military has maintained its support for the 2012 Action Plan agreed to with the UN and international groups to end child soldier recruitment, and has allowed monitors to visit army and militia camps, including granting occasional access to ethnic non-state armed group areas.

## Key International Actors

Influential bilateral partners of Burma including the United States, United Kingdom, European Union, and Australia maintained their support for the limited reforms of the Thein Sein government despite increased concerns over renewed assaults on basic freedoms. Numerous governments praised the relatively open November elections and the conduct of parties and the UEC.

ASEAN failed to voice any public criticism of Burma's still serious human rights situation, especially over treatment of Rohingya Muslims and intensifying ultra-nationalist threats against the broader Muslim community throughout Burma.

The EU continued to sponsor Burma resolutions in the UN Human Rights Council (HRC) and General Assembly in 2015. In July, the HRC passed a resolution condemning persecution of Rohingya and other minorities in Burma and called on the government to ensure human rights protections for all groups.

China did not raise human rights concerns in 2015 but sharply criticized Burma for its failure to stem fighting in Kokang that spilled over the border, particularly for air strikes that killed a number of Chinese civilians.

Russia continues to sell Burma conventional arms, and there are reports that Burma and North Korea maintain military links. The US, UK, and Japan engaged in limited military-to-military engagement with Burma in 2015.

## II. Cambodia

Prime Minister Hun Sen's government launched new assaults on human rights in Cambodia, especially during the second half of 2015, arresting and jailing members of the political opposition and activists, and passing a draconian new law on nongovernmental organizations (NGOs) that the government rushed through the National Assembly on July 13. Other repressive laws were also proclaimed or proposed, including laws or regulations on the Internet, as Hun Sen, who has ruled since 1985, increasingly undermined fundamental human rights.

Opposition leader Sam Rainsy attempted to establish a "culture of dialogue" with Hun Sen and the ruling Cambodian People's Party (CPP), but his initiative failed to stem arrests or attacks on the opposition, and on November 13 and December 9, 2015, politically motivated arrest warrants were issued for him in connection with his exercise of the right to freedom of expression. Because of these and other politically-motivated legal actions, Sam Rainsy went into exile and has been stripped of his parliamentary immunity and his seat in the National Assembly.

Land confiscations also continued in 2015, and corruption remained rampant. Cambodia is a party to the United Nations Refugee Convention, but authorities refused to register more than 300 Vietnamese Montagnard asylum seekers for determination of their claims and summarily deported at least 54 of them to Vietnam.

### Politically Motivated Prosecution and Assault

On July 13, a Phnom Penh court launched an investigation to consider bringing defamation and interference with justice charges against prominent NGO figure Ny Chakriya, who had raised questions about the independence of the judiciary in a land-grabbing case.

On July 21, 11 opposition Cambodia National Rescue Party (CNRP) organizers, on trial since 2014 on trumped-up charges of leading or participating in an anti-government "insurrection," were suddenly convicted and sentenced by a Phnom Penh court to 7 to 20 years in prison. Despite the absence of evidence connecting them to any criminal acts, they were found responsible for crowd violence that erupted when government security

forces broke up a peaceful CNRP-led demonstration calling for the reopening of Phnom Penh's "Freedom Park" on July 15, 2014. The convictions were accompanied by official warnings that seven CNRP National Assembly members also charged with insurrection in connection with the same incident could be convicted and imprisoned despite their parliamentary immunity. Following this, Hun Sen convened a closed meeting of almost 5,000 of the top CPP security force officials, at which he issued an "absolute order" that security forces must "ensure there would be no color revolution" in Cambodia by "eliminating acts by any group or party" deemed "illegal."

On August 4-5, following Hun Sen's public call for more arrests of those allegedly responsible for the July 2014 Freedom Park violence, police detained three CNRP activists who were then charged with participating in the purported insurrection, while arrest warrants were issued for several others.

On August 13, Hun Sen ordered the arrest of Hong Sok Hour, an opposition party senator who the previous day had posted a video clip on Facebook including footage of the Cambodia-Vietnam border and a badly translated excerpt from the 1979 Cambodia-Vietnam friendship agreement. Disregarding the senator's parliamentary immunity, a "counter-terrorism" security force contingent under the authority of Hun Sen's son-in-law detained him. More arrests followed between late August and early October 2015, including of a student who posted a Facebook message advocating a "color revolution."

On October 26-27, following public encouragement by Hun Sen to conduct anti-CNRP demonstrations, civilian auxiliaries of his bodyguard unit and armed forces in uniform staged gatherings in Phnom Penh and the provinces demanding the removal of CNRP deputy leader Kem Sokha as a vice-chairperson of the National Assembly. In Phnom Penh, elements of the prime minister's bodyguard unit and others in civilian clothes brutally assaulted two CNRP parliamentarians outside the National Assembly. Three persons were arrested and charged with the attack, but others who were photographed while participating in the attack were not taken into custody. Those arrested reportedly "confessed" that they had acted entirely on their own, contrary to strong evidence suggesting the attacks were orchestrated by government actors. Kem Sokha was removed from his post as assembly vice-chairperson on December 30, but he remains a member of the assembly.

On November 13, following repeated warnings by Hun Sen that Sam Rainsy was liable to criminal prosecution, the Phnom Penh court issued an arrest order to belatedly enforce a judicial ruling of March 2013 confirming a two-year sentence related to Rainsy's allegation that Cambodian Foreign Minister Hor Namhong was implicated in crimes committed when the Khmer Rouge ruled Cambodia. The French Supreme Court, citing international human rights standards, had previously ruled that these comments were a legitimate exercise of freedom of expression. On November 19 and December 1, the Phnom Penh Court targeted Rainsy with additional trumped-up criminal actions, accusing him of being an accomplice to the purported crimes of Senator Hong Sok Hour and of defaming the CPP chairperson of the National Assembly, Heng Samrin. On December 9, 2015, the court issued a warrant for his arrest after he declined to return to Cambodia to face the charges in the Hong Sok Hour case. Two of Rainsy's staff were also charged in this case after having gone into exile, fearing arrest.

## **Legislation Restricting Civil Society**

The new NGO law allows the authorities to arbitrarily deny NGOs registration and shut them down. The law is aimed at critical voices in civil society and could seriously undermine the ability of many domestic and international associations and NGOs, as well as community-based advocacy movements, to work effectively in Cambodia.

Its restrictions on the right to freedom of association go well beyond the permissible limitations allowed by international human rights law. The law gives the interior, foreign affairs, and other ministries sweeping, arbitrary powers to shut down domestic and foreign membership groups and organizations, unchecked by judicial review, and allows them to prohibit the creation of new NGOs. It requires registered groups to operate under a vaguely defined obligation of "political neutrality," on pain of dissolution, and criminalizes activities by unregistered groups.

After passage of the law, Hun Sen and other government officials launched a campaign against human rights-oriented NGOs, including those focusing on land disputes and women's rights. The authorities began to insist that grassroots civil society activities could no longer be carried out unless those involved had registered with the government in

accordance with the new provisions, giving the government wide authority to decide what activities can and cannot take place.

On August 19, the government issued a sub-decree upgrading the status of an anti-cybercrime unit and empowering it to “investigate and take measures in accordance with the law with regard to actions via the internet of instigation, insult, racial discrimination, and generation of social movements,” particularly those that might lead to a “color revolution.”

On November 30, the government put a draft telecommunications law before the National Assembly, even though doing so was not inscribed in the legislature’s agenda. The draft had never been made available for discussion by concerned civil society organizations. The CPP adopted it without parliamentary debate. The law gives government authorities arbitrary powers to issue orders to telecommunications operators, to secretly monitor and record telecommunications, and to imprison people for using telecommunications in a manner deemed to endanger “national security.”

On December 28, Hun Sen warned his “opponents” not to use social media to “insult” him, declaring the government had the technological means to identify them and the security force capacity to arrest them “within hours.”

### **Arbitrary Detention, Torture, and Other Ill-Treatment**

The authorities, especially in Phnom Penh, launched repeated street sweeps that detained hundreds of alleged drug users, homeless people, beggars, street children, sex workers, and people with disabilities in so-called drug treatment or social rehabilitation centers. Detainees never saw a lawyer or a court, nor had any opportunity to challenge the legality of their detention. Detained individuals received no meaningful training or health care, and faced torture, ill-treatment, and other abuses including, in some centers, forced labor. During 2015, at least three died in suspicious circumstances.

## **Khmer Rouge Tribunal**

Numerous public statements by Cambodian officials and the publication, which began in June, of previously confidential court materials, revealed numerous instances of government non-cooperation with the United Nations-assisted Extraordinary Chambers in the Courts of Cambodia (ECCC), set up to prosecute those most responsible for crimes committed by the Khmer Rouge from 1975-79.

While the government allowed a trial of two former leaders of the Khmer Rouge government, Nuon Chea and Khieu Samphan, on charges of crimes against humanity, genocide, and war crimes, it refused to carry out orders by a UN secretary-general-nominated investigating judge to arrest two other former Khmer Rouge leaders, Meas Muth and Im Chem.

This violated the 2003 UN-Cambodia agreement establishing the ECCC and continued a long pattern of opposition by Hun Sen to additional prosecutions. The government's non-cooperation has seriously undermined possibilities for investigating suspects whom Hun Sen, himself a former Khmer Rouge commander, does not want brought to justice.

## **Asylum Seekers and Refugees**

Since late 2014, a wave of Montagnard ethnic minority asylum seekers from Vietnam has arrived in Cambodia. Most of them practice forms of Christianity that Vietnamese authorities characterize as "evil way" religion. In early 2015, Cambodia recognized 13 as refugees but refused to allow more than 300 other Montagnards to register as asylum seekers. At least 54 were summarily returned to Vietnam in violation of the Refugee Convention, while those remaining in Cambodia faced the threat of similar deportation, and some decided their best option was to return "voluntarily" to Vietnam.

In June 2015, the government implemented a deal with Australia to resettle some of the refugees held on the island of Nauru, but conditions for refugees in Cambodia were so inadequate that only five refugees agreed to relocate. In September, one of the five decided to leave Cambodia.



## Key International Actors

China, Vietnam, Japan, and South Korea were Cambodia's leading foreign investors in 2015, while Japan, the European Union, and the United States were the leading foreign donors. Vietnam was by far Cambodia's most important partner in security matters, followed by China. The US provided limited military training, and was more outspoken than others about human rights violations in Cambodia. The EU only rarely commented on human rights in public, and almost all others were silent.

The World Bank, which suspended new lending to Cambodia in 2011 because the government had forcibly evicted people in a manner violating the bank's policy, considered resuming funding for government land projects in 2015 but at time of writing had not done so. The bank said nothing publicly about government repression of land rights advocates.

### III. Indonesia

President Joko Widodo's record during his first year in office was mixed. His administration signaled it would more actively defend the rights of Indonesia's beleaguered religious minorities, victimized by both Islamist militants and discriminatory laws, but made few concrete policy changes. He granted clemency in May to five of Papua's political prisoners and released another one in October, but at time of writing had not freed the approximately 70 Papuans and 29 Ambonese still imprisoned for peaceful advocacy of independence.

In May, the president—commonly referred to as Jokowi—announced the lifting of decades-old restrictions on foreign media access to Papua but did not follow through, allowing senior government officials to effectively defy the new policy without consequences. In August, Jokowi announced that the government would form a “reconciliation commission” to address gross human rights abuses of the past 50 years, but left out the details.

Jokowi's outspoken support for the death penalty and his decision to make execution of convicted drug traffickers a symbol of his resolve reflected serious backsliding on his reform agenda. Indonesia executed 14 convicted drug traffickers in 2015, including a Brazilian who reportedly had severe mental disabilities, in the face of intense international criticism. Under Jokowi's predecessor Susilo Bambang Yudhoyono, Indonesia had executed only 20 people in 10 years.

Indonesia's two largest Muslim organizations, the Nahdlatul Ulama and Muhammadiyah, declared their commitment to promote human rights, campaign against violence committed in the name of Islam, and dampen Sunni-Shia sectarian divisions.

Starting in August and continuing through November, thick haze from fires set during annual forest clearing produced an environmental and health crisis in Sumatra, Kalimantan, Singapore, and Malaysia. In response, the National Police arrested seven plantation executives, including one from Singapore-based Asia Pulp and Paper, and fined dozens of other palm oil companies.

## Religious Freedom

There were 194 incidents of violent attacks on religious minorities in the first 11 months of 2015, according to the Setara Institute, a nongovernmental organization that tracks religious intolerance. That number equals the total for all of 2014, demonstrating that religious violence remains a serious problem.

Minister of Religious Affairs Lukman Saifuddin took steps in 2015 to more actively counter harassment of religious minorities, a welcome change after a decade of passivity and at times complicity by officials. In January 2015, Saifuddin took to Twitter to defend an academic in Aceh province who had been falsely accused of committing blasphemy on campus. In August, Saifuddin announced that his ministry was drafting a bill to ensure religious freedom for all Indonesians, "including those outside the six main religions of Islam, Catholicism, Protestantism, Hinduism, Buddhism and Confucianism."

On June 15, after the Aceh Ulama Council declared the Gerakan Fajar Nusantara sect to be "heretical," the Banda Aceh district court convicted the sect's leader and five members of blasphemy, sentencing them to prison terms of three to four years. In October, local authorities in Singkil regency, Aceh, forced Christians to close 10 churches after Muslim militants burned down one church. A Muslim was shot to death in a clash outside one of the churches.

Also in June, the Constitutional Court rejected a petition to allow inter-religious marriage, ruling that the 1974 Marriage Law was valid because it legalized marriage "in accordance with the respective religious beliefs of the bride and groom."

On July 8, the South Jakarta district administration ordered the closure of an Ahmadiyah mosque in Bukit Duri in response to pressure from Sunni militants. That same month, three churches were forced to close in Bandar Lampung, Yogyakarta, and Samarinda.

On July 17, ethnic Papuan Christian militants demanded that a mosque in Tolikara district, Papua, not use a loudspeaker to broadcast its Idul Fitri prayer, burning down the mosque and dozens of nearby food stalls when mosque authorities refused to heed their demand. Security officers fired at the protesters, killing one and wounding 11 others.

On September 2, the Islamic People's Forum (Forum Umat Islam), a militant group connected to the Indonesian Ulama Council, declared that Sapta Darma traditional faith believers in Rembang, Central Java, were “blasphemers” and forced them to stop renovations to their temple. Police and government officials refused to intervene and instead persuaded the Sapta Darma to delay the renovations for an unspecified period of time.

## Women’s and Girls’ Rights

Indonesia's official Commission on Violence against Women reported that as of October, national and local governments had passed 31 new discriminatory regulations in 2015, leaving Indonesia with 322 discriminatory local regulations targeting women.

The Indonesian armed forces and police require female applicants to undergo abusive, discriminatory, and unscientific “virginity tests.” After Human Rights Watch research put a spotlight on the issue in 2015, some officials criticized continued use of the tests but did not ban them. “We need to examine the mentality of these [female] applicants. If they are no longer virgins, if they are naughty, it means their mentality is not good,” said Indonesian military spokesman Maj. Gen. Fuad Basya.

In July, the Ministry of Defense issued a regulation allowing male employees to take second wives if their first wives are unable to bear children. The regulation forbids female personnel from practicing polygamy. The United Nations Human Rights Committee has emphasized that “polygamy violates the dignity of women,” constitutes “inadmissible discrimination against women,” and “should be definitely abolished wherever it continues to exist.”

In June, the Constitutional Court rejected a petition to increase the minimum age of marriage for girls from 16 to 18. Only one judge, the sole woman on the nine-member panel, dissented. The Convention on the Rights of the Child, which Indonesia ratified in 1990, defines a child as anyone under age 18, and the CRC Committee has determined that 18 should be the minimum age for marriage regardless of parental consent.

## Papua

The Jokowi government has sought to take a new approach to the provinces of Papua and West Papua (“Papua”), home to a low-level insurgency and a larger peaceful pro-independence movement. On May 9, Jokowi visited the Abepura prison and released five political prisoners, promising to release other Papuans imprisoned for political crimes in consultation with the parliament. There were at least 45 political prisoners in Papua at the end of September, according to the monitoring group “Papuans Behind Bars.” Papua’s most famous political prisoner, Filep Karma, was released in October.

Meanwhile, suppression of the rights to freedom of expression and association in Papua continued. On May 20-22, police detained dozens of activists of the West Papua National Committee, a pro-independence group, during peaceful rallies in the cities of Jayapura, Manokwari, and Merauke. Police subsequently arrested four of those activists—Alexander Nekenem, Yoram Magai, Mikael Aso, dan Narko Murib—on charges of “public incitement.” In November, they were sentenced to one-and-a-half year jail terms.

New incidents of security force violence also continue to be reported. Two allegedly drunken soldiers opened fire on a crowd in Koperapoka, Mimika regency, on August 27, killing two people and wounding two others. In December 2014, security forces allegedly shot and killed five peaceful protesters in the town of Enarotali; a year later, the government had still not released the results of official investigations into the shootings or arrested any suspects.

On May 10, President Jokowi announced the lifting of restrictions on foreign media access to Papua. A month later, the Foreign Ministry announced the abolition of the “Clearing House” that had screened Papua access applications of foreigners for decades. But numerous senior government and security forces officials balked and openly resisted the change. In August, the Ministry of Home Affairs unveiled a new regulation that would have imposed onerous new reporting restrictions on foreign media nationwide. Jokowi ordered its cancellation the next day. However, the National Police still require accredited foreign journalists to apply for a travel permit to visit Papua, and the Ministry of Foreign Affairs also still requires such journalists “to notify” the ministry of their schedules and activities in Papua.

## **Military Reform and Impunity**

In June, the government announced it would establish a “reconciliation commission” to seek a “permanent solution for all unresolved human rights abuses,” including the 1965 anti-communist massacres that killed an estimated one million people, and numerous other gross human rights violations since that time.

The government did not provide details about how the commission would work, apart from saying it would not conduct investigations into specific abuses but focus on creating a “settlement mechanism” for victims and their survivors. As such, it appeared highly unlikely it would include powers to pursue criminal accountability for the most responsible senior officials, despite continuing demands for justice from victims.

In August Brig. Gen. Hartomo was promoted to become governor of the Military Academy in Magelang. In 2003, Hartomo, then Special Forces commander in Papua, was tried and convicted by a military tribunal for his involvement in the killing of Papuan leader Theys Eluay.

## **Disability Rights**

Tens of thousands of Indonesians with psychosocial disabilities spend their lives chained or locked up in homes or institutions instead of receiving community-based mental health care. The government passed a new mental health law in 2014 to address Indonesia’s dire mental health care situation but has yet to implement it.

The Rights of Persons with Disabilities Bill, pending in the Indonesian parliament at time of writing, was expected to pass in 2016. While the bill represents a major advancement, activists say it does not fully comply with the Convention on the Rights of Persons with Disabilities, which Indonesia ratified in 2011.

## Refugees and Asylum Seekers

In May, the government acceded to international pressure and began rescuing boatloads of ethnic Rohingya from Burma and Bangladesh stranded at sea for weeks on poorly provisioned, unseaworthy vessels. Although Indonesia agreed to bring rescued asylum seekers and migrants ashore, it said that they would only be sheltered temporarily and would need to be resettled to third countries after a year.

As of August, there were 13,110 refugees and asylum seekers in Indonesia, all living in legal limbo because Indonesia is not a party to the Refugee Convention and lacks an asylum law. This included 1,095 children detained in immigration centers, of which 461 were unaccompanied minors.

## Key International Actors

The United States, an important trade partner, continued to seek closer military ties with Indonesia. President Jokowi made his first state visit to the US in October, but it was cut short because of the Asian haze crisis, and neither side publicly addressed human rights issues. Jokowi focused largely on attracting US-based companies to invest more in Indonesia. In April, the US Commission on International Religious Freedom again placed Indonesia in Tier 2, the second worst category, where it has been since 2003.

In June, the Melanesian Spearhead Group, a regional organization largely made up of southern Pacific island nations, gave observer status to the United Liberation Movement for West Papua, the umbrella organization of pro-independence Papuans.

Brazil and the Netherlands recalled their ambassadors after Indonesia executed citizens of the two countries on January 18 for drug crimes. Australia similarly recalled its ambassador after Indonesia executed two Australians, Andrew Chan and Myuran Sukumaran, on April 29.

## **IV. Laos**

The government of Laos continues to severely restrict fundamental rights including freedom of speech, association, and assembly. Since 2010, the government has arbitrarily arrested and detained, and in at least two cases, forcibly disappeared civil society activists and those deemed critical of the government. In September 2014, the government adopted a decree on the Internet that severely limits the type of information that can be shared. This measure, compounded with a history of government control over all newspapers, television, and radio in the country, ensures that the fundamental right to freedom of speech cannot be exercised. In addition, the government is in the process of amending legislation and decrees to further strengthen control over the activities of local and international nonprofit associations. The draft legislation reveals plans to require burdensome permissions for local nonprofits to receive foreign funds.

While there are many human rights abuses within Laos, the most serious are (1) enforced disappearances; (2) freedom of speech, association, and assembly; (3) the treatment of detainees in drug detention centers; and (4) labor rights.

### **Enforced Disappearances**

Laos has signed, but not ratified, the International Convention for the Protection of all Persons from Enforced Disappearance. Enforced disappearances violate a range of fundamental rights protected under international law, including prohibitions against arbitrary arrest and detention, torture and other cruel, inhuman or degrading treatment, and extrajudicial execution. The Lao government has an obligation to conduct a transparent, thorough, and impartial investigation in all cases of alleged enforced disappearances to resolve them and bring those responsible to justice.

The Lao government has failed to make progress on at least 10 cases of enforced disappearance. Emblematic of the government's failure to act in line with its international obligations is the case of prominent civil society activist Sombath Somphone. Sombath was detained at police checkpoint and subsequently disappeared on the evening of December 15, 2012. Close-circuit television (CCTV) footage obtained by Sombath's family from the Vientiane police shows that Sombath's jeep was stopped by the police at a police



post. The police then took Sombath into the checkpoint, after which he was escorted to a different vehicle and driven away.

Lao authorities have repeatedly denied that the government took Sombath into custody and have failed to conduct a serious investigation into his enforced disappearance or provide any other credible information on his fate or whereabouts. Furthermore, the government has repeatedly rejected all offers of technical assistance for the investigation from various governments, including offers to analyze the original CCTV footage to assist with determining the identities of the individuals in the videotape or gathering additional details of the vehicles that were involved.

In another instance, the Lao government has failed to make progress in the case of Sompawn Khantisouk, the owner of two ecotourism businesses in Luang Namtha province, who was forcibly disappeared on January 23, 2007. Sompawn received a call from a local police officer to visit the police station concerning an alleged arson attack on his home the previous day. Riding his motorcycle, Sompawn received another phone call from the same police officer.

A few minutes later, as he was driving to the police station, witnesses saw an SUV signal to Sompawn to pull his motorcycle over. Witnesses stated that four men wearing police uniforms then forced Sompawn into the car and drove away. A rudimentary police investigation ensued that focused on discrediting the witnesses, and concluded without further evidence that Sompawn's disappearance was the result of an unspecified personal or business conflict.

Laos is obligated under international human rights law to prevent and remedy any enforced disappearances. Despite widespread calls for accountability, both regionally and internationally, questions about enforced disappearances are met with denial or silence by the government of Laos.

## Freedom of Speech, Association, and Assembly

Laos has failed to protect the rights to freedom of speech, press, and assembly and is taking legislative measures to further entrench a culture of censorship and government control. All TV, radio, and printed publications are strictly monitored and controlled by the government. The constitution prohibits all mass media activities that run contrary to “national interests” or “traditional culture and dignity.” While the constitution also recognizes that citizens of Laos have fundamental freedoms of speech, press, assembly, association, and demonstration, article 44 severely restricts those rights by requiring that their exercise does not run contrary to the penal code. The penal code contains broad limitations that prohibit “slandering the state, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the state.” This effectively gives authorities sweeping powers to limit basic rights and fundamental freedoms for anyone they deem critical of the government and the authorities. Harsh prison sentences, ranging from one to five years for anti-government propaganda, and up to 15 years for journalists who fail to file “constructive reports” or who seek to “obstruct” the work of the government, are provided for in article 59.

The adoption of the Internet decree in September 2014 places significant restrictions on freedom of expression online. The language of the decree is vaguely worded and can effectively be used to prohibit speech on a wide range of political, economic, and social subjects. For instance, the decree forbids spreading “false information” about the ruling Lao People’s Revolutionary Party. It further states that it is impermissible to send information that could be conceived of as “divid[ing] solidarity” among ethnic groups and between Laos and other countries. Any information that could prompt involvement in “social disorder” is forbidden under the decree. Any information that “distorts truth or tarnishes the dignity and rights of individuals, sectors, institutions, and organizations” is banned. The decree also prohibits the creation of anonymous identities or accounts with pseudonyms online, thereby denying the right to privacy.

Laos has also undertaken a worrisome step to tighten government control in the operating guidelines for the Non-Profit Associations (NPAs), the civil society organizations organized by Lao people, as well as the decree overseeing the activities of international nongovernmental organizations. These restrictions set out greater requirements to provide notification and seek permission to receive or spend international development funds;

limitations on areas of permitted work; limitations or prohibitions on any speech or activities deemed to offend government defined notions of peace and social order. The result is likely to be greater bureaucratic scrutiny over programs and budgets of nonprofit groups working in development and other grassroots projects in the country.

Restrictions on freedom of expression mean that self-censorship is common, and as mentioned previously, the media remains tightly controlled by the authorities. For example, in January 2012, the Ministry of Information, Culture and Tourism cancelled the popular radio program “Talk of the News” without explanation. The show encouraged political and social debate on a range of topics, including land grabs and corruption. In a separate instance, the authorities arbitrarily detained activists Thongpaseuth Keuakoun, Bouavanh Chanhmanivong, and Senaloun Phengpanh for trying to hold a peaceful protest in 1999. Both were sentenced to 15 years in prison and remain incarcerated today. Ethnic Hmong Thao Moua and Pa Phue Khang were arrested in 2003 after serving as guides for foreign journalists reporting on the situation of the Hmong in Laos. They were sentenced for 12 and 20 years respectively for obstruction of justice.

## Drug Detention Centers

The arbitrary detention of people suspected of using drugs, along with beggars, homeless people, children, and people with mental illnesses in compulsory drug detention centers across Laos remains of grave concern. As of mid-2011 (the last year for which data is publicly available), there were at least eight such centers across the country, of which the Somsanga detention center on the outskirts of Vientiane is the oldest and largest. Somsanga functions as a detention center, and persons who are sent there (as well as to other drug detention centers) are detained administratively, without any judicial due process or oversight, and no mechanism for appeal. None of the persons whom Human Rights Watch interviewed had seen a lawyer or been sent to a court prior to their detention in Somsanga.

Human Rights Watch found that detainees at the Somsanga center are locked in cells inside barbed wire compounds. Former detainees told Human Rights Watch that they were held for periods of three months to more than a year. Police who guard the facility’s main gate are responsible for security and are a constant presence among detainees. Detainees live in a punitive and heavily controlled environment. Those who try to escape are

sometimes brutally beaten by “room captains”—trusted detainees whom police and center staff designate to play a central role in the daily control of other detainees, including serving the center’s as adjunct guards and punishing detainees who infringe center rules. One former detainee told Human Rights Watch that “room captains” beat detainees who had attempted escape “until they were unconscious.” The detainee stated that guards witnessed the beatings and encouraged the “room captains.” Former detainees also reported being punished by being tied up in the sun for hours without food or water.

Somsanga offers little effective, evidence-based treatment for drug addiction to those who need it. Confinement is Somsanga’s central operating principle: most detainees remain in locked cells inside compounds with high walls topped with barbed wire. Human Rights Watch found that Somsanga holds most of its detainees against their will. Police or village militia (tamnautbaan) detain and bring people to Somsanga. Other detainees enter because their family members “volunteer” them to go out of a mistaken belief that the center offers therapeutic treatment, or because they feel pressure from authorities to help make their village “drug free.”

The treatment of individuals in compulsory drug detention centers violates a wide range of human rights, including the right to freedom from torture and cruel, inhuman and degrading treatment; the right to freedom from arbitrary arrest and detention; the right to a fair trial; the right to privacy; and the right to the highest attainable standard of health. Despite new reports of arbitrary detention and cruel, inhuman or degrading treatment or punishment at Somsanga, the Lao government has not investigated these reports, held any person responsible or taken steps to close the center down. In March 2012, 12 UN agencies—the International Labor Organization, UN Office of the High Commission for Human Rights, UN Development Program, UNFPA, UNHCR, UNICEF, UNODC, UN Women, World Food Programme, WHO, and UNAIDS—issued a joint statement condemning compulsory drug detention centers in the region and calling for their immediate closure.

## Labor Rights

Laos violates the right to freedom of association for workers in law and in practice. The Trade Union Law 2008 defines a trade union as a “mass organization in the political system of the democratic centralism unified leadership under the Lao People’s Revolution Party” and requires that unions affiliate to the Lao Federation of Trade Unions (LFTU), which is controlled by the government and the ruling party. Article 5 of the law requires trades unions to “organize and conduct activities in line with the unified leadership under the Lao Revolution Party.” Preventing workers from establishing or joining a union of their own choosing violates Laos’ obligations under article 22 of the International Covenant on Civil and Political Rights and article 8 of the International Covenant on Economic, Social and Cultural Rights.

The LFTU is so close to the government that the president and two vice presidents of the LFTU are given status equal to a minister and vice ministers in the government and are paid salaries by the government. In public statements, the LFTU has regularly said that it plays a role in helping the government enforce “labor discipline” in line with the law. The LFTU’s quasi-state function compromises its ability to represent workers, since it plays a dual, and sometimes conflicting, role as a controller as well as a potential protector of workers’ interests.

Laos also effectively prohibits workers from exercising the right to strike. Article 65 of the Labor Law 2007 strictly prohibits workers or their representatives from calling a work stoppage in a wide variety of situations, including disputes regarding implementation of the labor law or regulations, or over workers benefits under the law. Work stoppages are also forbidden when the matter in dispute is currently being discussed in a negotiation that both sides have agreed to participate in, or during the period when the dispute is being considered by government labor authorities, or is being considered by the labor disputes settlement procedures of the courts. Any person or organization that engages either “directly or indirectly” in a stoppage, or who “verbally or materially incites workers” to conduct a stoppage “thus causing damage...or social disorder” is subject to prosecution. The penal code provides for between one and five years’ imprisonment for those who join an organization that encourages protests, demonstrations, and other actions that might cause “turmoil or social instability.”

## V. Malaysia

Malaysia's respect for human rights plummeted in 2015, with increased harassment and persecution of human rights defenders, activists, political opposition figures, and journalists. The government reacted to rising public discontent over issues ranging from allegations of corruption to the treatment of former political opposition leader Anwar Ibrahim with a wave of repression, often relying on broad and vaguely worded criminal laws to target its critics.

### Freedom of Expression

The biggest threat to free speech remains the Sedition Act, which has been used to prosecute those who criticize the government or the judiciary, or make remarks the government considers to be derogatory toward the sultans (traditional Malay state rulers) or disrespectful of religion.

The Federal Court rejected a constitutional challenge to the law in October. More than 33 people, including seven opposition parliamentarians and several academics and journalists, have been charged with sedition since 2013. Parliamentarians who receive fines of more than 2,000 Malaysian ringgit (US\$475) or are sentenced to more than a year in prison lose their seats and are banned from politics for five years. Trials in a number of those cases began in January 2016 and are ongoing.

In April, the ruling Barisan Nasional, or National Front, coalition passed amendments to the Sedition Act to increase the penalties for violations and to make it easier to use the law against online speech. The amendments created a new offense of "aggravated sedition," providing a penalty of up to 20 years in prison for "seditious" statements that result, even indirectly, in harm to property or bodily injury. The strengthening of the law was a major reversal by Prime Minister Najib Razak, who had repeatedly promised to revoke the Sedition Act and replace it with what he called a "Harmony Act," the details of which remain unknown.

The government continued to use the Printing Presses and Publication Act (PPPA) to suppress publications and limit content. The PPPA requires all publishers to obtain a

license and enables the government to ban publications “likely to be prejudicial to public order,” or “likely to alarm public opinion.” In July, the Ministry of Home Affairs used the PPPA to suspend the publication of two newspapers for three months after they reported on allegations of corruption involving the government-owned investment fund 1 Malaysia Development Berhad (1MDB), whose board of advisors is chaired by Prime Minister Najib. The High Court overturned the suspension in September.

The government also used the PPPA to ban “any yellow coloured clothing” bearing the logo of the Coalition for Free and Fair Elections (known as Bersih, meaning “clean” in Malay) and any publications about a planned Bersih rally. Despite the ban, which came into effect two days before a major rally Bersih organized in downtown Kuala Lumpur, tens of thousands of people wore yellow Bersih t-shirts to the peaceful 34-hour rally August 29 to 30. The government has instituted criminal investigations of several opposition politicians for wearing Bersih t-shirts.

The government has also used laws criminalizing defamation and statements that could lead to a breach of the peace to arrest and prosecute opposition politicians and activists for critical speech. Article 233 of the Communications and Multimedia Act, which outlaws any communication the government considers “obscene, indecent, false, menacing or offensive,” has been used to prosecute users of social media, investigate media, and block websites reporting on the 1MDB scandal or publishing information about the Bersih rally in August.

Lena Hendry, a manager for the Pusat Komang Freedom Film Fest, went on trial in December 2015 for allegedly violating the Film Censorship Act for her involvement in screening the documentary film “No Fire Zone: The Killing Fields of Sri Lanka” in Kuala Lumpur in July 2013. The Malaysian Federal Court in September 2015 had rejected Hendry’s constitutional challenge to the Film Censorship Act. The trial is ongoing as of February 2016.

## Freedom of Assembly and Association

A series of major demonstrations took place in Malaysia during 2015. In most instances, the police did not interfere with the rallies, but subsequently arrested and charged many of those involved with “unlawful assembly” or other offenses under the penal code, or with sedition, for statements they made during the rallies. Authorities declared the rallies “illegal” at least twice before they even took place.

In October, the Court of Appeals upheld the provision of the Peaceful Assembly Act that allows for criminal prosecution of rally organizers who fail to give police 10 days’ advance notice, directly contradicting an April 2014 decision by the same court. After the decision, the government promptly charged opposition politician Nik Nazmi, who had successfully challenged the law in 2014, for failure to give notice of the very rally that was the basis for his constitutional challenge. That case is set for trial in June 2016. The authorities also charged two of the organizers of the August Bersih rally with failure to give proper notice, even though Bersih organizers twice met with the police more than 10 days before the rally.

The Societies Act restricts the right to freedom of association by requiring that organizations with seven or more members register with the registrar of societies. The law gives the minister of home affairs “absolute discretion” to declare an organization illegal, and also gives the government supervisory authority over political parties. As of January 2015, the registrar remained locked in a dispute with the opposition Democratic Action Party, refusing to recognize the party’s central executive committee or its 120 branch offices after more than two years of investigation. According to the Registry of Societies’ website, the registrar rejected more than 38 percent of the applications submitted in 2015 to form organizations.



## Political Prosecution of Anwar Ibrahim

The government's politically motivated prosecution of former opposition leader Anwar Ibrahim on sodomy charges—a textbook example of the political use of discriminatory laws—culminated in February, when the Federal Court upheld his conviction and sentence of five years' imprisonment. Since entering prison he has suffered from a variety of health problems, including a shoulder injury and back problems. In October, the United Nations Working Group on Arbitrary Detention determined that Anwar was being arbitrarily detained and demanded his immediate release and reinstatement of his political rights.

## Police Abuse and Impunity

Police torture of suspects in custody, in some cases resulting in deaths, and excessive use of force in apprehending suspects continued to be serious problems in 2015. Human rights NGO Suara Rakyat Malaysia documented at least 10 suspicious deaths in police custody in the first nine months of the year, despite promises by Home Minister Ahmad Zahid Hamidi in May 2014 to install closed circuit television equipment in all places of police detention.

The government continues to ignore calls from the Malaysian Bar Council and civil society groups to establish an Independent Police Complaints and Misconduct Commission with the power to receive complaints about police conduct, independently investigate abuses, and sanction those found to have engaged in misconduct. The Yang di-Pertuan Agong appointed a new chairman and new commissioners for the existing Enforcement Agencies Integrity Commission in November 2014.

On November 3, 2015, the commission for the first time issued a report finding that the police were responsible for a death in custody, holding that physical violence during custody and interrogation was the cause of the death of a young man from Johor detained in November 2014. The inspector general of police has stated that the police officers responsible will not be shielded from criminal charges, but at time of writing had done little to implement that promise.

## Criminal Justice System

In December 2015, the government rushed through a broad and vaguely worded National Security Council Act that empowers the prime minister to declare security areas within which restraints on police powers would be suspended and the authorities would have the ability to conduct arrests, searches and seizures without warrants. In April, the government passed a new, restrictive Prevention of Terrorism Act, which gives a government-appointed board the authority to impose detention without trial for up to two years, renewable indefinitely, to order electronic monitoring, and to impose other significant restrictions on freedom of movement and freedom of association, with no possibility of judicial review. The authorities invoked the similarly restrictive Security Offenses Special Measures Act, which allows for preventive detention of up to 28 days with no judicial review, to detain two people involved in efforts to expose government corruption. Khairuddin Abu Hassan and his lawyer Matthias Chang were arrested on September 18 and October 8, respectively, for filing police reports about 1MDB in several foreign countries.

They were subsequently charged with attempting to commit economic sabotage of the state under Penal Code section 124L. If convicted, they could be sentenced to up to 15 years in prison.

Malaysia retains the death penalty for various crimes, including drug trafficking, and is not transparent about when and how decisions are made to carry out executions. Nearly 1,000 people are estimated to be on death row.

## Refugees, Asylum Seekers, and Trafficking Victims

The discovery of mass graves on the Thai-Malaysia border containing the remains of suspected victims of trafficking highlights the continuing problem of trafficking in Malaysia. Approximately 99 bodies, many reportedly ethnic Rohingya from Burma, were found in May, and another 24 graves were discovered in August. Little information has been made public about progress in identifying and investigating suspects involved in these trafficking camps or government officials who may have aided and abetted operations.

The Malaysian government has failed to effectively implement the amendments passed in 2014 to Malaysia's 2007 anti-trafficking law, in particular by taking the necessary administrative steps to provide assistance and work authorization to all trafficking victims who desire it, while ensuring their freedom of movement. Despite these failures, the United States government in July upgraded Malaysia in its annual Trafficking in Persons Report in what appeared to be a political move connected to the Trans-Pacific Partnership Agreement for trade.

## Sexual Orientation and Gender Identity

Discrimination against lesbian, gay, bisexual, and transgender people is pervasive in Malaysia, and that discrimination reaches the highest levels of government. Prime Minister Najib was reported to have asserted at an international seminar on August 18 that sexual and gender minorities pose a threat to Malaysian society, arguing that "groups like the Islamic State and lesbians, gay, bisexuals, and transgenders (LGBT) both target the younger generation and seem successful in influencing certain groups in society."

The Federal Court decided in October to reverse a lower court ruling that the state of Negeri Sembilan's prohibition on "a male person posing as a woman" was unconstitutional. The ruling seriously undermined the rights of transgender people. In June, nine transgender women were convicted by a Sharia court in Kelantan under a similar state prohibition.

On September 10, two men wielding iron bars brutally beat one of Malaysia's most prominent transgender activists, Nisha Ayub, outside her apartment building, requiring her hospitalization. She reported the apparent hate crime to the police, but at time of writing the police had not identified any suspects.

## **National Human Rights Commission**

In November, the Malaysian government announced plans to cut its funding to Suhakam, the national human rights commission, by 50 percent, in what is widely seen as retaliation for the commission's independent reporting.

## **Key International Actors**

Malaysia was the chair of the Association of Southeast Asian Nations (ASEAN) and the East Asia Summit in 2015 and is a member of the UN Security Council. The country positions itself in the UN and the international community as a moderate Muslim state prepared to stand up to Islamist extremism, earning support from the US and its allies. Malaysia also has continued its engagement with China, its largest trading partner.

## VI. Philippines

President Benigno Aquino III's final full year in office was marked by numerous instances of local intimidation and violence—reminiscent of past election periods—by often unidentified assailants against politicians, their supporters, and outspoken voices in media and civil society groups. The Philippine government took little effective action to hold to account those responsible, including security force personnel.

Aquino's six-year term ends in June 2016. In 2014, he brokered a peace process on the southern island of Mindanao that seeks to bring a measure of autonomy to the region's Muslim minority. His term saw a sharp reduction in extrajudicial executions compared to the prior administration of Gloria Macapagal-Arroyo, though local government-backed "death squads" remained a major problem. His administration has also seen some measure of success in enforcing the reproductive health law passed in 2012. In addition, Aquino deserves some credit for a Supreme Court initiative that addresses the massive backlog of criminal cases, which condemns suspects to often years-long pretrial detention.

Overall, however, Aquino's record on human rights has been disappointing due to the failure to address impunity for the government's rights violations. Among the reasons were lack of political will to investigate and prosecute abuses by state security forces; a corrupt and politicized criminal justice system; and a traditional "patronage politics" system that protects officials and security forces.

### Attacks on Indigenous Peoples

Data compiled by indigenous peoples' advocacy groups indicate that assailants often linked to the military or paramilitary groups killed at least 13 tribal leaders and tribal community members in the first eight months of 2015.

On August 26, soldiers raided the tribal village of White Kulaman in Bukidnon province and arrested 17 residents, accusing them of being rebels belonging to the communist New People's Army (NPA). On September 1, gunmen allegedly linked to a paramilitary group killed three tribal leaders in Lianga town, Surigao del Sur province. The paramilitary group Alamara was implicated in numerous attacks during the year, including nine killings in the town of Cabanglasan.

The killings in Cabanglasan followed the evacuation of hundreds of tribal residents from the adjacent Davao del Norte province after the Philippine military deployed in the region to fight NPA rebels.

The United Nations High Commissioner for Refugees has determined that the large-scale military deployment in areas heavily populated by indigenous peoples has contributed to the displacement of 243,000 since January. Military activity against suspected NPA members displaced hundreds of students in several tribal schools in four provinces in Mindanao.

Similar attacks and displacement by the military in tribal domains have occurred in other provinces in the southern Philippines on the grounds of combating the NPA insurgency, as well as acting as paid security for mining and plantation operations.

Paramilitary groups, some of them funded and supplied by the military, are frequently deployed as “force multipliers” against insurgents in these areas, spawning abuses against the local population.

## **Children’s Rights**

Hazardous child labor remained a serious concern in 2015. Thousands of children worked in small-scale gold mining at great risk. They dived for gold in underwater mines, dug gold in underground pits, and processed gold with mercury. Child labor laws are poorly enforced. In March, the government banned underwater mining and mercury use for gold processing, but did little to implement it.

In November, authorities rounded up hundreds of poor and homeless children, along with street vendors and homeless adults, and detained them in social welfare facilities in Manila in an attempt to “beautify” the capital for the Asia-Pacific Economic Cooperation summit. The government denied that the arrests were meant to clear the streets of Manila of vagrants. Many of these street dwellers were back on the streets a day after the summit.

## Attacks on Media

2015 was another deadly year for Filipino journalists, with nine journalists killed. August was a particularly bloody month as unidentified gunmen killed three journalists in a span of 10 days.

Victims included Cosme Maestrado, a hard-hitting commentator for DXOC radio station, who was shot dead in front of a shopping center in Mindanao's Ozamiz City on August 28. Eight days earlier, unidentified gunmen killed another broadcaster, Teodoro Escanilla of radio station DZMS, in Sorsogon, a province south of Manila. On August 18, unidentified gunmen killed Gregorio Ybanez, a newspaper publisher, in Mindanao's Tagum City. At time of writing, police had arrested only one suspect in these killings.

Most victims of media killings in the Philippines are radio broadcasters; many are linked to politics since many radio stations in the Philippines are owned by local politicians or interest groups who hire broadcasters to produce content sympathetic to their employers.

Task Force Usig, a unit created by the Philippine National Police in 2007 to investigate these murders, has not been able to fully investigate most of these killings, mainly due to the lack of witnesses willing to publicly identify themselves and share information with police.

Although the task force has secured the conviction of suspects in eight of the 51 cases it has documented since 2001—a conservative figure since Usig does not classify videographers and producers as “journalists”—no one responsible for planning and executing such attacks has been arrested or convicted.

## Death Squads and Extrajudicial Killings

Summary killings are rampant in several urban areas across the Philippines. Popularly known as “riding-in-tandem” killings because they often involve gunmen on motorcycles, Philippine media report such incidents on an almost daily basis.

Many of these killings have been by guns for hire, contracted by local politicians or criminal syndicates, often with the complicity of police to target petty criminals, drug dealers and others.

The Justice Department began an investigation into the “death squad” in Tagum City Mindanao in 2014 after it was reported on by Human Rights Watch and announced that they would file charges against the former mayor and several others. However, at time of writing, the Department of Justice had not filed a complaint, and the suspects had not been detained or brought to trial.

Rodrigo Duterte, the mayor of Davao City, has popularized the perception of death squads as valuable tools of “swift justice” against crime. The Aquino government has failed to investigate Duterte’s claims of masterminding the Davao City death squad. Duterte announced his presidential election bid in 2016 on a platform espousing vigilante justice as a crime control technique.

Nearly 300 leftist activists, human rights defenders, and other alleged NPA supporters have been killed since Aquino took office in 2010, with 65 killed in the first 10 months of 2015, according to domestic human rights groups. Killings implicating the military and paramilitary groups almost never result in prosecutions.

## **Key International Actors**

The United States, which in 2009 conditioned some financial military aid to the Philippines on improvements of the human rights situation, resumed aid in 2015 as part of its so-called Asia pivot. That strategy involves engaging the Philippine navy in particular as part of a US counter-strategy to China’s incursions into the West Philippine Sea (or South China Sea).

The US, Japan, Canada, and the European Union have continued providing capacity-building assistance, notably to improve local governance and bureaucracy, fight corruption, and institutionalize human rights monitoring. Key beneficiaries of this aid are Muslim areas in the southern Philippines.



## VII. Singapore

Singapore uses overly broad legal provisions on public order, morality, security, and racial and religious harmony to limit fundamental civil and political rights.

On March 23, Lee Kuan Yew, the founding prime minister of Singapore, died at age 91 after a short illness. In September, the ruling People's Action Party (PAP) won 83 out of 89 seats in general elections. The PAP has ruled Singapore since 1959.

### Freedom of Peaceful Assembly, Association, and Expression

The government maintains restrictions on the right to freedom of peaceful assembly through provisions of the Public Order Act, which require a police permit for any “cause-related” assembly in a public place or to which members of the general public are invited. Grounds for denial are broad.

Associations of more than 10 people are required to register with the government, and the Registrar of Societies has broad authority to deny registration if it is determined that the group could be “prejudicial to public peace, welfare or good order.”

Protests and rallies conducted at the Speakers' Corner in Hong Lim Park do not need a police permit provided that the topics discussed do not touch on religious or racial issues, and the organizer and speakers are Singaporean citizens. Foreigners who are not permanent residents may not participate unless they have a police permit.

During the year, the government continued its prosecution of activists relating to a Hong Lim Park protest on September 25, 2014. Officials charged Han Hui and Roy Ngerng Yi Ling with holding a demonstration without a permit based on authorities' assessment that, although the two had a permit, it allowed speeches but not marching or other protest activities. Ngerng decided to plead guilty and paid a hefty fine; Han's trial was continuing at time of writing. Ngerng and Han, along with four others—Janet Low, Ivan Koh, Goh Aik Huat, and Chua Siew Leng—were also charged with creating a public nuisance. Three of them pled guilty to the charge, but Hui, Low, and Koh were still contesting the charges in court at time of writing.

The government's Media Development Authority (MDA) compels online news websites covering domestic political issues to register under the Broadcasting Act. Registration requires posting a monetary bond, paying fees, undergoing annual registration, and, on notification, immediately removing anything the MDA deems to be against "public interest, public order or national harmony" or to offend "good taste or decency." Registered websites are also prohibited from receiving any foreign funding.

In February 2015, Singaporean police arrested a Singaporean and an Australian who were co-editors of the news portal The Real Singapore, and charged them in April with seven counts of sedition for publishing articles that authorities claimed had a "tendency to promote feelings of ill-will and hostility between different groups of people in Singapore." In May, the MDA decided to suspend the operating license of The Real Singapore. In September, a court sentenced Filipino national Ed Mundsel Bello Ello, who worked in Singapore as a nurse, to four months in prison for comments he posted online disparaging Singaporeans.

The Newspaper and Printing Presses Act requires local newspapers to renew their registration every year and empowers the government to limit circulation of foreign newspapers.

Government officials continue to use criminal and civil defamation as a means to silence critics. At time of writing, Roy Ngerng Yi Ling was awaiting a court decision on the damages he would have to pay to Prime Minister Lee Hsien Loong for a 2014 blog post criticizing Lee's management of the government's central provident fund. Lee successfully sued Ngerng, arguing that the blog post suggested Lee had criminally misappropriated funds.

The Films Act authorizes the banning, seizure, censoring, or restricting of written, visual, and musical offerings on vague and overly broad grounds. All films and videos to be shown in Singapore must be approved by the Board of Film Censors.

On March 27, Amos Yee Pang Sang, a 16-year-old blogger, released an online video "Lee Kuan Yew is Dead" on YouTube, and then the next day published an image of two cartoon figures having sex, with photos of Lee and the late British Prime Minister Margaret Thatcher superimposed on their heads.

Singapore prosecutors promptly charged Yee with violating penal code article 298 (“uttering words with deliberate intent to wound the religious or racial feelings of any person”) for derogatory references to Christianity in the video, and penal code article 292(1)(a) for transmitting obscene materials. Bail conditions—which Yee violated—restricted his right to free expression by stipulating he could not post anything online while his trial was ongoing. In total, Yee spent 53 days in detention and was sentenced in July to four weeks in prison, equivalent to time served. In October, the High Court dismissed Yee’s appeal of his conviction.

During legislative debate in parliament, Singapore’s Protection from Harassment Act (POHA) was explained as a law designed to protect individuals and civil servants from “indecent, threatening, abusive, insulting words or behavior.” In May, a court ruled in favor of the Ministry of Defense, which claimed that it was being harassed by entrepreneur Ting Choon Meng and the directors of *The Online Citizen*, an online news portal which carried a story about Dr. Ting. The doctor had alleged that the Ministry of Defense had stolen his patent for an emergency medical care vehicle. On December 9, however, the High Court overturned the lower court decision, ruling that only individuals, not corporations or the government, can seek redress under POHA.

## Criminal Justice System

Singapore uses the Internal Security Act (ISA) and Criminal Law (Temporary Provisions) Act to arrest and administratively detain persons for virtually unlimited periods without charge or judicial review.

Singapore retains the death penalty, which is mandated for many drug offenses and certain other crimes. However, judges continued to apply legal provisions that give them discretion to bypass the mandatory penalty and sentence low-level offenders to life in prison and caning where prosecutors attest that offenders have been cooperative. Use of corporal punishment is common in Singapore. For medically fit males ages 16 to 50, caning is mandatory as an additional punishment for a range of crimes, including drug trafficking, violent crimes (such as armed robbery), and even immigration offenses. Sentencing officials may also order caning for some 30 additional violent and non-violent crimes.

Singapore maintains the archaic offense of “scandalizing the judiciary,” which can be imposed for any criticism of the judiciary or a specific judge. In January 2015, a court convicted Alex Au, a popular blogger and lesbian, gay, bisexual and transgender (LGBT) activist, for scandalizing the judiciary in connection with a post on his online blog. The post referenced the court’s scheduling of two constitutional challenges to section 377A of the penal code, which criminalizes sex between male persons. Au argued in court that his writings constituted fair criticism consistent with the right to freedom of speech and expression. In March, the court fined him S\$8,000 (US\$6,000). Au has appealed the verdict.

## **Sexual Orientation and Gender Identity**

In 2014, top government leaders reiterated that Singapore society is not yet ready to accept LGBT rights. In October of that year, the Supreme Court rejected a claim that the ban on gay sex is unconstitutional. The court said the legislature, not the judiciary, needs to address this issue. A constitutional challenge that would have prohibited employment discrimination against LGBT individuals also failed.

The pro-LGBT Pink Dot festival was held for the seventh consecutive year, with an estimated 28,000 people attending at Hong Lim Park in June 2015. However, prior to the event, the MDA banned a Pink Dot promotional advertisement to be shown in movie theaters, ruling that it was “not in the public interest to allow cinema halls to carry advertising on LGBT issues.” In May, the MDA ordered TV and radio broadcasters to not air Jolin Tsai’s song and music video “We’re All Different, Yet The Same” because of the song’s lyrics on homosexuality.

## **Human Rights Defenders**

In February, the Law Society of Singapore filed four misconduct complaints against human rights lawyer M. Ravi, demanding he cease practicing until he underwent a medical examination. Ravi—who receives treatment for a psychosocial disability, specifically bipolar disorder and hypomania—frequently takes up causes unpopular with the government, including legal challenges to the death penalty, caning, and anti-LGBT laws. In November, a Law Society disciplinary tribunal ruled against Ravi and sent the matter to a Court of Appeal to decide possible punishments.

## **Migrant Workers and Labor Exploitation**

Foreign migrant workers are subject to labor abuse and exploitation through debts owed to recruitment agents, non-payment of wages, restrictions on movement, confiscation of passports, and sometimes physical and sexual abuse. Foreign domestic workers are still excluded from the Employment Act and many key labor protections, such as limits on daily work hours. Labor laws also discriminate against foreign workers by barring them from organizing and registering a union or serving as union leaders without explicit government permission.

## **Key International Actors**

Singapore is a regional hub for international business, maintains good political and economic relations with both the United States and China, and plays a central role in the Association of Southeast Asian Nations (ASEAN). Singapore has been an increasingly close security ally of the US.

## VIII. Thailand

The ruling National Council for Peace and Order (NCPO)—led by Prime Minister Gen. Prayut Chan-ocha—seized power in a coup in May 2014. Despite initial promises to restore democracy within one year, the junta in 2015 exercised increasingly dictatorial power and continued to systematically repress fundamental rights and freedoms.

### Deepening Authoritarianism

Instead of paving the way for a return to democratic civilian rule as promised in its so-called “road map,” the junta has created a political system that seems designed to prolong its grip on power.

On March 31, 2015, nationwide enforcement of the Martial Law Act of 1914 was replaced with section 44 of the interim constitution. Section 44 provides unlimited administrative, legislative, and judiciary powers to Prayut in his capacity as the NCPO chairman without any oversight or accountability. The interim constitution also absolves anyone carrying out actions on behalf of the NCPO of all legal liability.

Growing opposition to military rule prompted junta leaders to claim that Thailand was not ready for a constitutional referendum or a general election. The National Reform Council rejected the draft constitution on September 6, 2015, extending the junta’s rule to at least until 2017. In November 2015, the NCPO proposed that the new constitution should guarantee blanket amnesty for the use of military force to “protect national security.”

## Freedom of Assembly and Expression

The NCPO has banned political gatherings of more than five persons. Since the coup, at least 80 people have been arrested and sent to military courts for organizing or taking part in peaceful public gatherings.

Restrictions on public assembly were, however, exempted for pro-junta groups led by Buddhist monk Buddha Isara to stage protests against international criticisms about human rights situations in Thailand—including a protest on October 1, 2015, calling the government to expel Human Rights Watch representatives, and a protest on November 27 targeting the new US ambassador, Glyn Davies, after he publicly raised concerns about the stifling effects of *lèse majesté* laws on freedom of expression.

At time of writing, at least 27 people had been arrested and charged with sedition for criticizing military rule and violating the junta's ban on public assembly, including 14 activists from the New Democracy Movement in Bangkok arrested in June 2015. On December 8, Thanakorn Siripaiboon, a 27-year-old factory worker, was arrested and charged with sedition and computer crimes for sharing Facebook infographics alleging corruption by Prayut and other junta leaders in the army's Rajabhakti Park project.

Amidst the surge of sedition charges against critics and dissenters, the Bangkok Military Court ruled on December 21 to disqualify the sedition case against activist Rinda Paruechabutr—saying that she should instead be prosecuted in a libel case for making a Facebook posting accusing Prayut's wife of transferring a large sum of money abroad.

The junta has also aggressively restricted free expression, using section 44 of the interim constitution. In April, authorities suspended broadcasts by Peace TV and TV 24, accusing the stations of violating the NCPO's ban on criticism of the military. In November, Fah Hai TV was shut down by authorities on the same grounds. Human Rights Watch's Thailand webpage remains blocked in the country because authorities deem it a threat to national security.

Military units in Bangkok and other provinces forced the cancellation of more than 60 political events, seminars, and academic panels on political and human rights issues in 2015 on the grounds that the events threatened stability and national security. The police

and military enforced an NCPO order canceling report launch events by Human Rights Watch, Amnesty International, and the Thai Lawyers for Human Rights at the Foreign Correspondents Club of Thailand (FCCT) in Bangkok.

In September 2015, Prayut ordered the revocation of former Deputy Prime Minister Chaturon Chaisaeng's passport to punish him for his criticisms of military rule.

Criticizing the monarchy is a serious criminal offense in Thailand, and Prayut has made *lèse majesté* (insulting the monarchy) prosecutions a top priority of the NCPO. Since the coup, 56 *lèse majesté* cases have been brought, 43 against individuals for online commentary. Military courts have imposed harsher sentences than civilian courts did prior to the coup. In August 2015, the Bangkok Military Court sentenced Pongsak Sriboonpeng to 60 years in prison for alleged *lèse majesté* Facebook postings (later reduced to 30 years when he pleaded guilty). It was the longest recorded sentence for *lèse majesté* in Thailand's history.

The United Nations special rapporteur on freedom of expression stated in October 2011 that Thailand's *lèse majesté* laws were "vague and overly broad, and the harsh criminal sanctions are neither necessary nor proportionate to protect the monarchy or national security." That trend has become more worrying under military rule. The NCPO junta has arbitrarily and aggressively used the *lèse majesté* laws to prosecute people for any speech found objectionable.

In December, the junta announced that individuals who share, comment on, or click "Like" on Facebook contents that authorities deem offensive to the monarchy would be prosecuted for *lèse majesté*. Junta leaders also strongly criticized foreigners who commented on Thailand's increasingly harsh and arbitrary enforcement of the *lèse majesté* law, including remarks by the United States ambassador, deeming the commentary interference in Thailand's domestic affairs.

On December 14, 2015, police filed *lèse majesté* charges against Thanakorn Siripaiboon in the Bangkok Military Court based on a complaint made by Thai military authorities that he was spreading sarcastic Facebook images and comments deemed to be mocking the King's pet dog, Thong Daeng.



## Arbitrary Detention

At time of writing, the NCPO had summoned at least 751 people for questioning since the coup. Most were affiliated with the ousted Pheu Thai Party and the activist group United Front for Democracy against Dictatorship (UDD), known as the “Red Shirts,” but they also included politicians, activists, and journalists accused by the junta of involvement in anti-coup activities or insulting the monarchy. Failure to report to authorities following an NCPO summons is considered an offense subject to trial in military court. The junta has issued arrest warrants and revoked the passports of at least 10 exiled dissidents for failing to report to the authorities when summoned.

Under the provisions of martial law and, later, section 44 of the interim constitution, the military can secretly detain people without charge or trial and interrogate them without access to lawyers or safeguards against mistreatment. The NCPO has summarily dismissed allegations that the military has tortured and ill-treated detainees but has provided no evidence to rebut those serious allegations.

Human Rights Watch submitted a letter to the Thai government on November 24, raising serious concerns regarding conditions at the 11th Army Circle military base after the recent deaths of fortuneteller Suriyan Sucharitpolwong and Police Maj. Prakrom Warunprapa—both charged with *lèse majesté*—during their detention there.

The use of military courts, which lack independence and fail to comply with international fair trial standards, to try civilians—mostly political dissidents and alleged *lèse majesté* offenders—increased significantly in 2015.

## Impunity

Prime Minister General Prayut has frequently stated that soldiers should not be condemned for violence connected to the military dispersal of UDD street protests in April and May 2010—in which 90 people died and more than 2,000 were injured—despite evidence that most casualties resulted from unnecessary or excessive use of lethal force by soldiers. No government or military personnel have been charged for killing and wounding civilians at that time.

On December 29, the National Anti-Corruption Commission (NACC) dropped the case against former Prime Minister Abhisit Vejjajiva, his deputy Suthep Thaugsuban, and former Army Chief Gen. Anupong Paojinda regarding their failure to review the use of military force that resulted in the loss of lives and the destruction of property, and dereliction of duty.

The government has expedited investigations into cases in which persons connected to the UDD used violence in 2010, and UDD leaders and supporters face serious criminal charges. In contrast, there has been little progress in investigating or prosecuting alleged rights abuses and criminal offenses committed by the People's Alliance for Democracy (PAD), the so-called "Yellow Shirts," and by the People's Democratic Reform Committee (PDRC) during political confrontations in 2008 and 2013-2014, respectively.

## **Violence and Abuses in Southern Border Provinces**

Since January 2004, more than 6,000 ethnic Malay Muslims and ethnic Thai Buddhists have been killed in armed conflict in Thailand's southern border provinces.

Even though there was a drop in violent incidents after a peace dialogue started in August 2015 between the Thai government and Barisan Revolusi Nasional (BRN) and other armed separatist groups in the loose Majlis Syura Patani (Mara Patani) network, both sides have committed serious human rights abuses and violations of the laws of war.

Separatists have killed at least 175 teachers during 11 years of insurgency and continued to target civilians in bomb attacks, roadside ambushes, drive-by shootings, and assassinations.

Thai security forces have not been prosecuted for numerous illegal killings, torture, and other abuses against ethnic Malay Muslims. In many cases, Thai authorities provided financial compensation to the victims or their families in exchange for their agreement not to pursue criminal prosecution of abusive officials.

## Enforced Disappearances

There has been no progress in the police investigation to locate ethnic Karen activist Por Cha Lee Rakchongcharoen, known as “Billy,” who was forcibly disappeared after officials at Kaengkrachan National Park arrested him on April 17, 2014, in Petchaburi province.

Until today, Thai authorities have failed to satisfactorily resolve any of the 64 enforced disappearance cases reported by Human Rights Watch, including the “disappearance” and presumed murder of prominent Muslim lawyer Somchi Neelapaijit by a group of police officers in March 2004.

Thailand signed the International Convention for the Protection of All Persons from Enforced Disappearance in January 2012 but has not ratified the treaty. The penal code still does not recognize enforced disappearance as a criminal offense.

## Human Rights Defenders

In September 2015, the Phuket Provincial Court acquitted Chutima Sidasathian and Alan Morison—journalists from the online newspaper *Phuketwan*—who had been put on trial for criminal defamation and breach of the Computer Crimes Act for publishing a paragraph from a Reuters special report on Rohingya boat people that the Thai navy alleged had implicated their personnel in human trafficking.

In June 2015, the Yala provincial prosecutor issued a non-prosecution order in a criminal defamation case against Pornpen Khongkachonkiet and the Cross Cultural Foundation, ruling that their open letter calling for an investigation into torture allegedly committed by paramilitary troops of the 41st Taharnpran Unit had been published in good faith.

Despite positive outcomes in the above-mentioned cases, Thai authorities and private companies have continued to use defamation lawsuits to retaliate against those who report human rights violations. On August 24, 2015, the Southern Bangkok Criminal Court indicted migrant rights activist Andy Hall on criminal charges in a lawsuit filed by Natural Fruit Co. Ltd., one of Thailand’s biggest pineapple processors, for a report alleging serious labor rights abuses at one of its factories.

## Refugee Rights

Thailand is not a party to the 1951 Refugee Convention and its 1967 Protocol. Asylum seekers are treated by Thai authorities as illegal migrants, and subject to arrest and deportation.

Thai authorities continue to violate the international prohibition against refoulement (forcible return) by forcing refugees and asylum seekers back to countries where they are likely to face persecution. On July 9, 2015, defying pleas to the contrary from the United Nations Refugee Agency (UNHCR) and several foreign governments, Thai authorities forcibly returned at least 109 ethnic Uighurs to China. Their current whereabouts and well-being are unknown. In November, the Thai government repatriated human rights activists Dong Guangping and Jiang Yefei, both of whom were recognized as refugees by UNHCR and accepted for resettlement in Canada, to China.

In May 2015, Thai authorities discovered at least 30 bodies at an abandoned human trafficking camp in Songkhla province close to the Thai-Malaysian border. Police reports indicated the dead were ethnic Rohingya from Burma and Bangladesh who starved to death or died from abuses or disease while held by traffickers who were awaiting ransom payments before smuggling them into Malaysia.

The case led to the arrest of army Lt. Gen. Manas Kongpan together with 52 local politicians, community leaders, businessmen, and gangsters for trafficking. In November, Police Maj. Gen. Paween Pongsirin—the chief investigator in the case—resigned and left Thailand to seek asylum in Australia, claiming he was fearful of retaliation and that he had received no protection from his supervisors.

On May 22, Thailand hosted an international meeting to address the thousands of Rohingya asylum seekers and migrants stranded at sea in small boats, but, unlike Malaysia and Indonesia, refused to work with UNHCR to conduct refugee status determination screenings or set up temporary shelters for those rescued.

Despite the peril faced by those on the boats, Thai authorities regularly took action to prevent boats carrying Rohingya from landing in Thailand. On many occasions, boats were

intercepted and pushed back to sea after receiving rudimentary humanitarian assistance and supplies from Thai authorities.

Migrant workers from Burma, Cambodia, and Laos are vulnerable to abuses by police and government authorities and to exploitation by employers and criminals, including sexual violence and extreme labor exploitation. Trafficking of migrants into sex work or onto Thai fishing boats remained pressing concerns in 2015.

Thailand also continues to detain unaccompanied children and families with children, in violation of international standards.

### **Anti-Narcotics Policy**

The junta has shown no interest in investigating extrajudicial killings related to past anti-drug operations, especially the more than 2,800 killings that accompanied then-Prime Minister Thaksin Shinawatra's "war on drugs" in 2003.

Drug users are sent to "rehabilitation" centers, mostly run by the military and Interior Ministry, where "treatment" consists mainly of military-style physical exercise with little or no medical assistance for drug withdrawal symptoms.

### **Health**

Residents of lower Klity Creek in Kanchanaburi province continue to be exposed to toxic lead from a now-defunct lead processing factory. On January 10, 2013, Thailand's highest administrative court ordered the government to remove the lead from the creek, but Thailand's Pollution Control Department has yet to begin a proper clean-up.

### **Sexual Orientation and Gender Identity**

Thailand's Gender Equality Act, a national non-discrimination law that specifically protects against discrimination on the grounds of gender expression, came into effect in September.

## Key International Actors

The UN and Thailand's major allies—including the US, European Union, and Japan—continued to urge the junta in 2015 to respect human rights and return the country to democratic civilian rule through free and fair elections as soon as possible. However, no international action has been taken against the junta for its failure to do so.

In November 2015, an international accrediting body recommended downgrading the status of Thailand's National Human Rights Commission based on concerns about its lack of independence, ineffectiveness, and flawed processes for selecting commissioners. A downgrade would result in the commission losing its privileges to present views at the UN Human Rights Council.

After an August 17 bomb attack in Bangkok killed at least 20 people and wounded 125 others, Thai authorities arrested Bilal Muhammed and Meiraili Yusufu, ethnic Uighurs from China. The two suspects were put on trial in a military court trial for offenses including murder and illegal weapons possession.

The Trafficking in Persons Report of the US State Department kept Thailand in Tier 3 for another year for failing to combat human trafficking. In April 2015, the European Commission put Thailand on formal notice for not taking sufficient measures in the international fight against illegal fishing.

## **XI. Vietnam**

Despite renewed economic growth and progress on a number of social indicators in 2015, Vietnam's record on civil and political rights remained dismal. The ruling Communist Party has a monopoly on political power and allows no challenge to its leadership. Basic rights, including freedoms of speech, opinion, press, association, and religion, are restricted. Rights activists and dissident bloggers face constant harassment and intimidation, including physical assault and imprisonment. Farmers continue to lose land to development projects without adequate compensation, and workers are not allowed to form independent unions.

Analysts suggested that the government was trying to keep the number of political arrests and trials to a minimum in 2015 because it faced scrutiny from the United States Congress as negotiations over the Trans-Pacific Partnership (TPP) neared completion. Even so, there were many notable instances of government persecution of critics.

Police abuse received increasing attention from local media in 2015, but police still frequently torture suspects to elicit confessions and sometimes use excessive force in responding to protests over evictions, land confiscation, and other social issues. The government took no steps in 2015 to repeal laws criminalizing peaceful expression.

In November 2015, the National Assembly passed new laws to legalize sex reassignment surgery and gender recognition for transgender people who have undergone such surgery. A provision in the revised criminal procedure code that will allow suspects to refuse to make statements against themselves was also passed by the National Assembly during the same session. Other positive articles include the requirement of interrogations of suspects being taped and/or videoed, and the elimination of the requirement of lawyers to obtain certificate of defender for every single case they defend.

### **Government Critics and Activists**

The government's crackdown on independent writers, bloggers, and rights activists deemed threatening to Communist Party rule continued in 2015. In November, Police General Tran Dai Quang publicly admitted that within the last three years the government had "received, arrested, and dealt with cases involving 2,680 people who violated

national security” and during the same period noted that “opposition persons” had illegally established more than 60 human rights and democracy groups.

Instead of repealing its draconian laws, Vietnam’s National Assembly passed a revised penal code on November 27, 2015 which appeared to extend liability even further for bloggers and rights activists. Among the harsher provisions are new clauses in article 109 (originally article 79), article 117 (originally article 88), and article 118 (originally article 89), that states, “The person who takes actions in preparation of committing this crime shall be subject to between one and five years of imprisonment.” The amendments will become effective on July 1, 2016.

In February 2015, the People’s Court of Dong Nai province put rights activists Pham Minh Vu, Do Nam Trung, and Le Thi Phuong Anh on trial for “abusing the rights to freedom and democracy to infringe upon the interests of the state,” an offense under penal code article 258. They were sentenced to 18, 14, and 12 months in prison, respectively.

In April, the authorities arrested Nguyen Viet Dung for participating in a “pro-tree” peaceful march at Hoan Kiem lake in Hanoi and charged him with disrupting public order under article 245 of the penal code. During the march, Nguyen Viet Dung and his friends wore black shirts saying “People should not be afraid of their governments. Governments should be afraid of their people.” In December 2015, the People’s Court of Hoan Kiem district (Hanoi) trialed Nguyen Viet Dung and sentenced him to 15 months in prison.

In August, police in Thanh Hoa province arrested Dinh Tat Thang for sending out letters criticizing provincial leaders and police. He was charged under article 258. In September, police in Thai Binh province arrested former political prisoner Tran Anh Kim for “activities aiming to overthrow the people’s administration” under penal code article 79. Tran Anh Kim had recently finished a five-year, six-month prison sentence in January 2015, also under article 79, for his alleged connection with the banned Vietnamese Democratic Party.

In September, the government temporarily suspended the sentence of prominent blogger Ta Phong Tan, who was then escorted directly from prison to Noi Bai airport for the US. As with legal activist Cu Huy Ha Vu and blogger Nguyen Van Hai (known as Dieu Cay), who



were similarly exiled to the US in 2014, Ta Phong Tan would have to serve the rest of her 10-year sentence were she to return to Vietnam.

In November, police in Khanh Hoa arrested Nguyen Huu Quoc Duy for alleged violation of article 88 after he posted comments critical of the government on Facebook. In December, the police arrested prominent rights campaigner Nguyen Van Dai and charged him with “conducting propaganda against the state” according to article 88 of the penal code. Nguyen Van Dai’s fellow activist Le Thu Ha (a.k.a as Ha Suri) was also arrested on the same day for an unknown charge.

Vietnamese dissidents say that violence or harassment by plainclothes police thugs is the new norm. Thugs, who appear to be government agents in civilian clothes, have been attacking dissidents at an increasing rate, often in public, and with complete impunity. Uniformed police officers do not intervene, most likely because they believe the attackers are state agents.

In January 2015, bloggers Nguyen Huu Vinh (known as Anh Ba Sam) and Nguyen Thi Minh Thuy, first arrested in 2014, were put on trial; the case is ongoing. Another blogger arrested with them, Nguyen Dinh Ngoc (known as Nguyen Ngoc Gia), remains in custody but has not yet been charged.

In 2015, at least 45 bloggers and rights activists were beaten by plainclothes agents. They included Pham Doan Trang, Nguyen Tuong Thuy, Nguyen Huu Vinh, Tran Thi Nga, Nguyen Chi Tuyen, Trinh Anh Tuan, Dinh Quang Tuyen, Nguyen Ngoc Nhu Quynh, Chu Manh Son, Dinh Thi Phuong Thao, Nguyen Van Dai, Ly Quang Son, Vu Duc Minh, Ta Tri Hai and Tran Minh Nhat. No one involved in the assaults was held accountable.

With the spotlight on labor rights in the TPP negotiations, in June 2014 Vietnam released labor activist Do Thi Minh Hanh, who was arrested and charged in 2010 under article 89 of the 2009 penal code for helping to organize a wildcat strike. Other labor activists, including Nguyen Hoang Quoc Hung and Doan Huy Chuong, continued to serve harsh prison sentences. In November 2015, the police of Dong Nai province detained and assaulted Do Thi Minh Hanh for helping workers at Yupoong Company to exercise their rights.

## Freedom of Religion

The government restricts religious practice through legislation, registration requirements, harassment, and surveillance. Religious groups are required to gain approval from and register with the government, as well as operate under government-controlled management boards.

While authorities allow many government-affiliated churches and pagodas to hold worship services, they ban religious activities that they arbitrarily deem contrary to the “national interest,” “public order,” or “national great unity.” In 2015, authorities interfered with the religious activities of unrecognized branches of the Cao Dai church, the Hoa Hao Buddhist church, independent Protestant and Catholic house churches in the central highlands and elsewhere, Khmer Krom Buddhist temples, and the Unified Buddhist Church of Vietnam. In January 2015, UN Special Rapporteur on Freedom of Religion or Belief Heiner Bielefeldt issued a report identifying “serious problems” in Vietnam’s approach to religion, notably “legal provisions that tend to give broad leeway to regulate, limit, restrict or forbid the exercise of freedom of religion or belief.”

In April 2015, the Ministry of Interior published the fourth draft of a Law on Belief and Religion, scheduled to be approved by the National Assembly in 2016. Although the draft contains a few marginal improvements on the existing legal framework, it maintains mechanisms allowing authorities to persecute religious groups they dislike and could even give such mechanisms greater legal force.

In January, April, and July, police prohibited unsanctioned Buddhist Hoa Hao groups from commemorating the anniversaries of the birth and death of Hoa Hao founder Huynh Phu So and of his establishment of the Hoa Hao faith. Participants were intimidated, harassed, and assaulted.

In January 2015, local authorities prevented members of an independent Mennonite church in Ho Chi Minh City from gathering to pray. Mennonite Pastor Nguyen Hong Quang was repeatedly assaulted during the year. Thugs also attacked other religious figures, including Mennonite pastors Huynh Thuc Khai and Le Quang Du, Hoa Hao Buddhist activist Vo Van Thanh Liem, and Buddhist monk Thich Khong Tanh.

The Vietnamese government continues to persecute ethnic Montagnard Christians in Vietnam's Central Highlands, part of a broader pattern of rights violations against religious minorities in the country. Accused of practicing "evil way" religions, Montagnard practitioners of the De Ga and Ha Mon forms of Christianity are persecuted pursuant to high level government policy. Religious minorities continue to be subjected to surveillance and other forms of intimidation, arbitrary arrest, and mistreatment while in custody. In detention, the authorities often question them about their religious and political activities and possible plans to flee Vietnam. Over the past year, hundreds have fled to Cambodia and other parts of Southeast Asia. The Vietnamese authorities have responded to the flight of Montagnards into Cambodia by pressuring Cambodian authorities to prevent border crossings and deny those who do cross the right to seek asylum; Cambodian authorities, in turn, refuse to register more than a handful as asylum seekers.

## Criminal Justice System

Vietnamese courts remained firmly under the control of the government and Communist Party, and trials of political and religious dissidents consistently failed to meet international fair trial standards. Police regularly intimidated and in some cases detained family members and friends who tried to attend trials.

Deaths in police custody continued to be reported in 2015. In July, Vu Nam Ninh died in Detention Center No.1 (Hanoi). According to the victim's family, "there were serious injuries all over his body; his face, chest and arms were swollen; his nose, collarbone and fingers were broken ... there was a deep stab on his left leg and blood in his nose. There were serious bruises on the shoulders, nape and underarms." The police told media that the case is under investigation.

There were other reports of excessive force by police. Several survivors described being beaten to extract confessions for crimes they said they did not commit. Although the government promised improvements after Human Rights Watch published findings about police brutality, it appears that many officers who have committed serious, even lethal, abuses have only rarely faced consequences.

People who are dependent on drugs, including children, continued to be held in government detention centers where they are forced to perform menial work in the name of "labor therapy." Violations of center rules and failure to meet work quotas are punished by

beatings and confinement to disciplinary rooms where detainees claim they are deprived of food and water. In 2015, the government reduced the overall number of detainees, but confirmed plans to leave some 15,000 detainees in the centers by 2020.

## **Key International Actors**

Vietnam's most important foreign relations were with China and the US, but linkages with Japan, Cambodia, the European Union, the Association of Southeast Asian Nations, and Australia were also significant.

Vietnam's relationship with China continued to be complicated by maritime territorial disputes, though perhaps more important for both was the shared commitment by each country's communist party to maintain its rule. Chinese President Xi Jinping visited Vietnam in November 2015.

The US continued to deepen ties with Vietnam across the board. It made some efforts to press Hanoi to improve its human rights record, but the issue was not prominent in the meeting between President Barack Obama and Communist Party General Secretary Nguyen Phu Trong during Trong's visit in to the US in July 2015, the first-ever White House visit by the head of the Vietnamese Communist Party.

The EU made few efforts to promote respect for rights. In August, the EU and Vietnam reached an agreement in principle on a free trade agreement. Japan failed to use its status as Vietnam's largest bilateral donor to publicly press for reforms even as, in July, it completed TPP bilateral negotiations with Vietnam.

Australia's relationship with Vietnam continued to grow, also with little attention to human rights. The two countries signed the Declaration on Enhancing the Australia-Vietnam Comprehensive Partnership in March and held their 12th human rights dialogue in August.

Vietnam maintained close security ties with Cambodia, despite some border friction between the two countries. Vietnam successfully pressured Cambodia to refuse to register hundreds of Vietnamese Montagnards as asylum seekers and to return dozens of Montagnards back to Vietnam where many have been subjected to persecution.

## **Appendix I: Letter from HRW to President Obama re: ASEAN Summit**

January 11, 2016

President Barack Obama  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear Mr. President:

We are writing on behalf of Human Rights Watch to express our serious concerns about the upcoming summit with leaders of the 10-country Association of Southeast Asian Nations (ASEAN) scheduled for February 15-16, 2016, at the Sunnylands estate in California.

While we recognize that your administration has an interest in forging closer ties with ASEAN members, we question whether those interests are served by hosting a high-profile summit in the United States. As you know, several ASEAN leaders preside over states that deny basic freedoms, and use intimidation, torture, and unlawful violence to maintain their hold on power. Many of these leaders and their governments routinely engage in crackdowns on civil society organizations and the media, while allowing high-level corruption and cronyism to flourish.

This summit contradicts previous US policy not to issue official invitations to the United States to leaders such as Prime Minister Gen. Prayuth Chan-ocha of Thailand, who seized power in a 2014 military coup, and Prime Minister Hun Sen, who carried out a coup in 1997 and has ruled abusively in Cambodia for over 30 years.

Instead of strengthening US policy to ensure it robustly promotes human rights and democracy in ASEAN countries, this summit is likely to empower abusive and authoritarian leaders, while serving as a propaganda coup for them in their own countries. We are also concerned that the summit undermines other US government commitments on human rights,

sending the message to ASEAN governments that human rights are a lower priority than other economic, political, or security issues.

For these reasons, we regret that this summit is going forward. But it is not too late for you to ensure that the agenda gives priority to obtaining commitments to improve human rights in the ASEAN region. To ensure that human rights are a core component of the summit, we offer these key recommendations:

First, we urge you as host to place human rights and democracy squarely and officially on the summit's agenda. Relevant agenda items should include: free and fair elections in all ASEAN countries; excessive restrictions on civil society groups; freedom of expression, association, and assembly; abuses against human rights defenders and other activists, including environmental campaigners; women's rights; political use of the courts; high-level corruption; protection of refugees and asylum seekers; human trafficking; and the rights of lesbian, gay, bisexual, and transgender (LGBT) people.

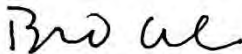
Second, consistent with your administration's *Stand With Civil Society* initiative, you should take steps to ensure civil society participation in the summit, by holding sessions in which governments hear directly from leaders of civil society, including human rights and environmental groups from the region, as you directed during the August 2014 US-Africa Summit in Washington, DC. The agenda for these sessions should include the human rights issues noted above. Civil society groups should also be invited to attend the government forums as observers.

Third, the US government should communicate to ASEAN governments that they will need to undertake, ahead of the summit, immediate steps to release significant numbers of political prisoners and drop charges against those facing politically motivated prosecutions. We urge you to communicate to these governments that if they do not take significant actions before the summit, you and other US government officials will raise specific prisoners' cases during the summit and publicly discuss relevant cases with the media. (We are sending a list of key cases under separate cover.)

Finally, we urge you to make sure ASEAN governments understand that all summit participants will be vetted under the Presidential Proclamation of August 4, 2011, which bars entry into the United States to individuals who have participated in “serious human rights and humanitarian law violations and other abuses.” We also encourage you to ensure there is greater public understanding as to why and under what auspices Prime Ministers Prayuth and Hun Sen have been invited and why they meet the proclamation’s requirements.

The US government’s increasing diplomatic involvement in Asia can be a force for positive change if the promotion and protection of human rights and democracy are made a consistent priority. The US rebalance toward Asia will stand the test of time only if it integrates these values and principles. In the ASEAN context this means making tough decisions about raising human rights issues even when others do not want those issues raised, and ensuring that US diplomatic partnerships go beyond traditional government-to-government relations, so that the United States is not only making common cause with ASEAN leaders but also with the 615 million people who live in the ASEAN region.

Sincerely,

A handwritten signature in black ink that reads "Brad Adams". The signature is written in a cursive, flowing style.

Brad Adams  
Executive Director  
Asia Division

# HUMAN RIGHTS IN ASEAN

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



*Prime Minister Hun Sen has ruled over Cambodia for more than 30 years, using violence, intimidation, and politically motivated arrests and prosecutions against all perceived opponents.*

© 2015 Reuters/Olivia Harris



*Prime Minister Gen. Prayut Chan-Ocha of Thailand, who took power in a 2014 military coup, has presided over a relentless crackdown on peaceful dissent and assembly.*

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