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A Better Approach to Promoting Human Rights in Vietnam and Southeast Asia

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In the last few years, Vietnam has gained more importance in US foreign policy. The 2015 National Security Strategy highlighted US partnerships with Vietnam and other Southeast Asian countries.¹ The 2017 National Security Strategy named Vietnam, Indonesia, Malaysia, and Singapore as growing security and economic partners.² The 2019 Indo-Pacific Report viewed Vietnam as one of the key players in the Association of Southeast Asian Nations (ASEAN), which was in turn portrayed as playing a central role in US efforts to safeguard peace and guarantee prosperity in the Indo-Pacific.³ The 2021 Interim National Security

Strategic Guidance indicated that the United States would deepen its partnership with India and work alongside New Zealand, Singapore, Vietnam, and other ASEAN members to address common challenges and advance shared objectives.⁴

However, differences on human rights and the distrust that follows have hindered efforts to advance closer diplomatic and security ties between Hanoi and Washington. Despite Vietnam's substantial improvements in its human rights record in recent years, concerns remain in several areas, including freedom of expression and labor rights. While the US government sometimes downplays human rights issues in its relations with Hanoi, as it did during the Trump administration, the US Congress keeps these issues front and center. America's support for pro-democracy dissidents and its promotion of higher human rights standards have led Hanoi to grow more suspicious about a perceived "peaceful evolution" aimed at overthrowing the Vietnamese Communist Party. This lack of trust and Hanoi's concern regarding Beijing's reaction to this matter have prevented the United States and Vietnam from upgrading their comprehensive partnership to a strategic partnership.

To be clear, Vietnam does recognize and institutionalize human rights. On 2 September 1945, Ho Chi

Minh declared the independence of the Democratic Republic of Vietnam by echoing the Declaration of Independence of the United States of America: “All men are created equal. They are endowed by their Creator with certain unalienable rights, among them are Life, Liberty, and the pursuit of Happiness.”⁵ Meanwhile, Article 3 of the constitution of the Socialist Republic of Vietnam says that “the State guarantees and promotes the people’s mastery; acknowledges, respects, and protects human rights and citizens’ rights; implements the objectives of affluent people, powerful state, democracy, justice, civilization, and that all people enjoy abundant, free, and happy life and are given conditions for all-sided development.”⁶

In practice, however, the Vietnamese government curtails freedom of expression out of fear that some citizens might challenge the regime’s authority. This trend has intensified as the Internet and social media have created numerous platforms for criticizing the Party. Although Vietnam occasionally allows nationalist protests when doing so serves the state’s interests, such as protests regarding the South China Sea disputes, such public expressions of nationalism are usually prohibited for fear that opposing groups can use organized protests to undermine the regime.⁷ Labor rights are also thinly upheld, the

result of an inadequate social protection system. Millions of people in Vietnam migrate from rural areas to cities in search for a better life, but many of these migrants end up working in industrial zones with minimal wages and have no choice but to work overtime. About 79 percent of Vietnam’s labor force is employed in the informal economy with no or little social protection from unemployment, sickness, and retirement.⁸

Like any ruling party, the Communist Party of Vietnam wishes to remain in power. This motivates the regime. In 2017, Vietnam established Task Force 47, a combat unit within the Vietnam People’s Army that consists of 10,000 members, to counter “wrong” views on the Internet.⁹ In 2018, Vietnam adopted the Law on Cybersecurity that includes data localization and controls on content that could affect freedom of speech and dampen foreign investment. Vietnam’s 2018 criminal code includes Article 109 to criminalize activities aimed at overthrowing the people’s administration; Article 117 to criminalize making, possessing, and spreading information, materials, and items for the purpose of opposing the State of Socialist Republic of Vietnam; and Article 331 that makes it a crime to abuse democratic freedoms in ways that infringe upon the interests of the State, the lawful rights and interests of organizations and

individuals.¹⁰ Notably, besides sentences for the organizers, instigators, and people who are found responsible for carrying out these transgressions, the law also punishes “those who prepare to commit” such crimes.

To promote human rights in Vietnam without straining the US-Vietnamese bilateral relationship, Washington first needs to address Hanoi’s suspicion about peaceful evolution. Most basically, the United States should continue to give reassurances—as it frequently has done in the past—that it respects Vietnam’s political system. At the same time, the United States should utilize multilateral mechanisms whenever possible to promote higher human rights standards. Multilateralism is advisable for two reasons. First, it will help to reduce Hanoi’s suspicion about Washington’s intentions toward its political system. Second, multilateral arrangements have actually produced some successes when it comes to enhancing Vietnam’s human rights practices.

During the negotiation of the Trans-Pacific Partnership (TPP), for instance, Hanoi and Washington signed a separate agreement to provide a well-defined framework for how Vietnam must reform its laws and practices to conform with international labor rights standards. The agreement was only abandoned when the Trump administration withdrew

the United States from the agreement, thus nullifying Hanoi’s labor rights commitments. Another example is Vietnam’s 2019 Labor Code, which was passed to comply with the European Union-Vietnam Free Trade Agreement. The new code offers greater protection for employees and marks the first time Vietnam has allowed the establishment of independent trade unions. The United States and like-minded countries should apply the same sort of multilateral approach to the digital economy and convince Vietnam to adjust its cybersecurity law.

In addition, increasing the capacity and independence of Vietnam’s judicial and legislative bodies can help to improve its human rights practices. One way is to increase the clarity of Vietnam’s laws on anti-state crimes. In Article 109 and 331 of the 2018 criminal code, for example, it is unclear what “serious consequences” mean and what constitutes an abuse of the rights to freedom. In the short to medium terms, the United States and other developed countries could offer projects that specifically target this area. In the long term, providing scholarships and training to the next generation of Vietnamese legislative leaders could seed the change.

Improving human rights will benefit Vietnam in many ways. Economically, higher human rights standards will attract foreign investment for

economic development which, in turn, will create a stronger foundation for social protection. Vietnam has been reaching out to the world through proactive economic integration. However, if Vietnam wants the world to view it as a regional hub, it must comply with international standards. In terms of security, Vietnam's improvement on its human rights record will help to bolster its ties with the United States and like-minded countries to counterbalance China in the South China Sea.

In a broader context, the Biden administration should rephrase some of the terms used when approaching the nations of Southeast Asia. Unlike his predecessor, President Joe Biden has pledged to prioritize US commitments in “fighting corruption, defending against authoritarianism, and advancing human rights in their own nations and abroad.”¹¹ Although this helps to set his administration apart from his predecessor's, it might be counterproductive given that several Southeast Asian countries are non-democracies and that Vietnam, in particular, is a one-party state. Instead of security, prosperity, and

human rights, the United States could emphasize shared goals such as trade and investment, regional stability, and human development. This will help the United States build closer ties with Southeast Asian countries with a view to countering Chinese coercion, promoting peace and prosperity in the Indo-Pacific region, and laying the foundation for gradual improvements in human rights. ■

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Notes

¹ “National Security Strategy of the United States of America,” White House, February 2015, <https://obamawhitehouse.archives.gov/>.

² “National Security Strategy of the United States of America,” White House, December 2017, <https://trumpwhitehouse.archives.gov/>.

³ “Indo-Pacific Strategy Report,” Department of Defense, 1

June 2019, <https://media.defense.gov/>.

⁴ “Interim National Security Strategic Guidance,” White House, March 2021, <https://www.whitehouse.gov/>.

⁵ “Declaration of Independence of the Democratic Republic of Vietnam,” *History Matters*, <http://historymatters.gmu.edu/>.

⁶ “The Constitution of the Socialist Republic of Vietnam,” *ConstitutionNet*, <https://constitutionnet.org/>.

⁷ John D. Ciocriari and Jessica Chen Weiss, “Nationalist

Protests, Government Responses, and the Risk of Escalation in Interstate Disputes,” *Security Studies* 25, no. 3 (2016): 546–583.

⁸ “Workers’ Rights,” Oxfam, <https://vietnam.oxfam.org/>.

⁹ “Vietnam Has 10,000-strong ‘Cyber Troop’: General,” *Tuoi Tre News*, 26 December 2017, <https://tuoitrenews.vn/>.

¹⁰ “Bộ luật Hình sự,” *Thu Vien Phap Luat*, 27 November 2015, <https://thuvienphapluat.vn/>.

¹¹ Joe Biden, “Why America Must Lead Again,” *Foreign Affairs* 99, no. 2 (2020): 64–76.