

INDO-PACIFIC PERSPECTIVES

from the Journal of Indo-Pacific Affairs

FEBRUARY 2022

Can Human Rights Survive in the Indo-Pacific Order?





***Indo-Pacific Perspectives* series**

The *Journal of Indo-Pacific Affairs*' Indo-Pacific Perspectives series, edited by Dr. Peter Harris, brings to publication roundtable discussions offering answers to complex geopolitical (and “geolegal”) questions. As the name suggests, this new series of will showcase viewpoints from across the Indo-Pacific megaregion (and sometimes beyond). The goal is to facilitate a dialogue between academicians and policy practitioners that will be of great interest to readers, policy makers, and decision makers.

Our Staff

Dr. Ernest Gunasekara-Rockwell, editor in chief

Dr. Peter Harris, series editor

Dr. Achala Gunasekara-Rockwell, art and design

Liam Casey, Dr. Hyun Ji Rim, Donna Budjenska, and Ryan Dradzynski, editors



Indo-Pacific Perspectives

February 2022

1

Introduction

Dr. Peter Harris, editor

4

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

Bich T. Tran

2

A Free versus Repressive Vision

Dr. Frédéric Krumbein

5

Australia's "Rules-Based Order" and the Contradictions of Liberalism

Dr. Priya Chacko &
Dr. Bec Strating

3

International Headwinds for Human Rights in Southeast Asia

Dr. John D. Ciorciari

6

Human Rights and Diplomacy in the Indo-Pacific

Elaine Pearson

from the Journal of Indo-Pacific Affairs

1 Introduction: Can Human Rights Survive in the Indo-Pacific Order?

Dr. Peter Harris, editor



To say that the emerging international order in the Indo-Pacific will be “rules-based” is to convey precious little about its likely contents or normative appeal. It is true that rules will be a primary constituent of the coming regional order in the Indo-Pacific, just as rules are a primary constituent of all such international orders. The more important point is that, today, regional actors are in severe disagreement over which rules ought to apply in the Indo-Pacific, how, when, and on whose authority. This is what makes the Indo-Pacific’s rules-based order a

contested framework, not the fact that it will be rules-based *per se*.

The purpose of this roundtable is to draw attention to the (non)inclusion of human rights in the “rules-based” Indo-Pacific order. In most official descriptions of the incipient Indo-Pacific rulebook, principles such as state sovereignty, noninterference, and territorial integrity take center stage—a formulation of international order that Sung Won Kim, David Fidler, and Sumit Ganguly once called “Eastphalia.”¹ Yet if such norms are made cardinal to the Indo-Pacific then the future of human rights must surely be regarded as unsafe at best. This is because human rights protections invariably place constraints on states; any international order that exists primarily to uphold state sovereignty will be one in which human rights struggle to flourish. So, should proponents of universal human rights be pessimistic about the trajectory of the Indo-Pacific order?

The roundtable’s contributors tackle these questions from a range of perspectives. First, Frédéric Krumbein provides an overview of the contested place that human rights occupy in the larger Indo-Pacific order. He points out that human rights are rarely included in core definitions of the rules-based order but that, paradoxically, support for human rights is something that binds together some

of the Indo-Pacific order's largest proponents.

John Ciorciara complements Krumbein's analysis by exploring the challenge of promoting human rights in a region that is home to an array of illiberal, semi-authoritarian, and outright undemocratic regimes. Actors like the United States and European Union have demonstrated an interest in promoting human rights, Ciorciara argues, but operate under unpropitious international conditions. How can the West strengthen strategic ties with regimes amenable to resisting Chinese influence in Asia while simultaneously pressing these regimes to democratize, liberalize, and uphold human rights?

Bich T. Tran takes up exactly this question with a focused examination of US policy toward Vietnam. Tran explains that authoritarian countries such as Vietnam are open to international cooperation with Washington—especially in the shadow of China's rise—but are nervous about the West's commitments to human rights, which is viewed as a threat to regime security. She argues that there are some strategies available to those who wish to promote human rights without provoking the ire of regimes like Vietnam's, including working via multilateral institutions and making tactical concessions in terms of rhetoric and framing.

Next, Priya Chacko and Bec Strating

offer an arresting take on the viability of building a "liberal" rules-based order in the Indo-Pacific. They point out that some of the staunchest supporters of liberal order are, in fact, responsible for some high-profile violations of human rights. Focusing on Australia, they argue that these inconsistencies and contradictions might well point to a larger problem with using liberalism as slab foundation for international order.

Finally, Elaine Pearson provides a practitioner's view of human rights in the Indo-Pacific. Pearson joins a sober reckoning of the grim human rights abuses that have marred the region in recent years with an optimistic argument for how countries such as Australia might help turn the tide in favor of enshrined protections for human life and dignity.

The five contributions make clear that there will be "a" rules-based order in the Indo-Pacific. That much, at least, is beyond doubt and does not depend upon which regional actors are in the ascendancy. But it remains to be seen whether "the" rules-based order will be substantially different from the state-centric types of international order that have been typical in world politics for the past 200 years or more. That is, it is an open question as to *which rules* will prevail in the Indo-Pacific, *why*, and *for whom*. In particular, the future of human rights laws in the emerging

Indo-Pacific order is far from assured. The purpose of this volume is to assess the trajectory of the region's emerging rules-based order, draw conclusions about the current and future place of human rights in the regional architecture, and lay down markers for what a more human rights-friendly regional order might look like. ■

Notes

¹ Sung Won Kim, David P. Fidler, and Sumit Ganguly. "Eastphalia Rising? Asian Influence and the Fate of Human Security," *World Policy Journal* 26, no. 2 (2009): 53–64.

Dr. Peter Harris

Dr. Harris is an assistant professor of political science at Colorado State University and editor of the *Indo-Pacific Perspectives* series.

Disclaimer

The views and opinions expressed or implied in *Indo-Pacific Perspectives* are those of the authors and should not be construed as carrying the official sanction of the Department of Defense, Air Force, Air Education and Training Command, Air University, or other agencies or departments of the US government or their international equivalents.

2

A Free versus Repressive Vision: The Role of Human Rights in Indo-Pacific Strategies and Policies

Dr. Frédéric Krumbein



International relations in the Indo-Pacific region are increasingly shaped by “great power competition” between the United States and the People’s Republic of China (PRC). What matters most are the power and interests of these two states and their allies and partners. Values, such as human rights, are only of secondary importance. However, domestic political systems and the values that underpin these domestic orders play a crucial role in defining how states large and small view themselves and “the Other” on the

world stage.

For the most part, the United States and its closest allies in the Indo-Pacific region share the same values of democracy and human rights. Importantly, they tend to define competition with China in terms of these values. The 2017 US National Security Strategy, for example, stated that “a geopolitical competition between free and repressive visions of world order is taking place in the Indo-Pacific region.”¹ Thus, there is a recognizable first group of states in the Indo-Pacific that not only views democracy, human rights, and the rule of law as part of their own identity but also wishes to promote these values in their foreign policies as well. These are mainly the “Western” countries, including the United States, European countries,² and Japan.

A second group of Indo-Pacific states shares, to varying degrees, the same values as the first group, but they are more reluctant to promote human rights in their relations with other countries in the Indo-Pacific region. The Asian democracies (with the exception of Japan) fall under this category, such as India, South Korea, and Taiwan. These actors either do not wish to provoke China and the other authoritarian regimes in the region by promoting human rights and democracy³ or else they adhere to the principle of

noninterference and want to avoid criticism of their own human rights situation.⁴ The Quadrilateral Security Dialogue (Australia, India, Japan, and the United States) share some commonalities with this group in that they collectively emphasize shared democratic values but, when acting as the Quad, exhibit a primary concern for upholding the rules-based order in the region, not the promotion of human rights and democracy.⁵

A third group of states does not necessarily share the values of democracy and human rights but does nevertheless advocate respect for international law and the rules-based order in the Indo-Pacific region. ASEAN is the most notable proponent of this approach. Due to the political diversity of its members and its traditional principles of neutrality and noninterference, the organization rarely interferes in the domestic affairs of its members and other countries. Consequently, the “ASEAN Outlook on the Indo-Pacific” mentions neither human rights nor democracy. On the other hand, ASEAN has explicitly called for respecting international law (including the UN Charter) and promoting good governance and the rule of law.⁶

Of those that have been put forward by national governments and regional organizations like ASEAN, most Indo-Pacific strategy documents and policies aim to maintain the

political status quo in the region. At least implicitly, most also seem to be directed against China’s authoritarian influence and Beijing’s territorial claims over Taiwan, the South China Sea, and the Diaoyu/Senkaku Islands. Even though human rights play only a secondary role in the Indo-Pacific strategies and policies of most stakeholders, the democracies in the region—and China—view human rights as an area of competition.

Human rights are not part of the PRC’s identity. Nevertheless, the PRC has a well-developed conception of human rights and has published over 100 white papers about human rights in China, as well as international human rights policy.⁷ The PRC’s conception of human rights comprises three pillars: authoritarianism, social and economic development, and relativism. First, the one-party dictatorship is portrayed as the foundation for human rights in the PRC: “The Party’s leadership is the fundamental guarantee for the people of China to have access to human rights, and to fully enjoy more human rights.”⁸ Second, social and economic human rights (such as the rights to social security, shelter, education, food, or healthcare) take priority over civil and political human rights; the two most important human rights from the PRC’s perspective are the collective rights to subsistence and development.⁹ Finally,

the PRC government argues for human rights relativism and the related concept of “human rights with Chinese characteristics.”¹⁰

China does not promote human rights, whether in the Indo-Pacific region or elsewhere. Rather, the main objectives of the PRC’s human rights policy are to discourage other states and international actors from criticizing the PRC’s human rights record, to weaken the international human rights regime, and to propagate its own relativist conception of human rights as opposed to rival definitions.

To achieve the objectives of its human rights policy, the PRC has used both hard and soft power. On the one hand, the PRC has built alliances with so-called like-minded countries—that is, authoritarian and developing countries—in international forums such as the United Nations with a view toward shielding each other from human rights criticism. The PRC also signals cooperation and nominal acceptance of human rights to the international community by signing and ratifying human rights treaties, by being an active member in UN human rights institutions, and by conducting human rights dialogues with (mainly Western) states. If the PRC criticizes other countries’ records on human rights, it is almost always directed against Western states to counter

their criticism of the PRC’s dismal human rights situation. Most of the time, however, China refrains from criticizing human rights in other countries and expects not to be criticized in return.¹¹

On the other hand, when confronted with criticism of its own human rights situation, the PRC usually denies the accusations and accuses the critics of not knowing the facts or of being biased against the PRC. If this tactic is not successful, the PRC government initiates a counter-narrative that portrays the alleged human rights violation as a lawful policy. Many of the PRC’s white papers on human rights describe a rosy human rights situation in Tibet and Xinjiang or in areas such as freedom of expression or religious freedom.¹² Sanctions are another typical reaction against countries, companies, or other actors that speak out for human rights in the PRC; states that openly criticize the PRC’s human rights situation are punished, often by impeding their access to the vast Chinese market.¹³ Given that China is a larger trading partner than the United States for every country in the Indo-Pacific except Bhutan, these threats of economic punishment are significant.¹⁴ The PRC’s vast hard power resources are the major reason why a lot of countries refrain from “naming and shaming” the PRC in their Indo-

Pacific strategies in favor of talking about upholding the rules-based order in more vague terms, without pointing the finger at the PRC as the “norm-disrupting elephant in the room.”

In sum, the PRC is often successful in limiting criticism directed against its human rights record by other Indo-Pacific stakeholders. At the same time, balancing against the PRC is largely shaped by shared values and norms among democracies and human rights-abiding countries in the region. At least, such nations have shown the strongest resolve to confront China in recent years. Whether this dividing line will result in human rights becoming a core pillar of the so-called rules-based order remains to be seen, however. ■

Dr. Frédéric Krumbein

Dr. Krumbein is the Heinrich Heine Visiting Professor, Tel Aviv University, Tel Aviv, Israel.

Disclaimer

The views and opinions expressed or implied in *Indo-Pacific Perspectives* are those of the authors and should not be construed as carrying the official sanction of the Department of Defense, Air Force, Air Education and Training Command, Air University, or other agencies or departments of the US government or their international equivalents.

Notes

¹ “National Security Strategy of the United States of America,” White House, December 2017, 45, <https://trumpwhitehouse.archives.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>.

² High Representative of the Union for Foreign Affairs and Security Policy, “The EU Strategy for Cooperation in the Indo-Pacific,” 16 September 2021, https://eeas.europa.eu/sites/default/files/jointcommunication_2021_24_1_en.pdf.

³ This is the case with South Korea and Taiwan, for

example. Wongi Choe, “The Quest for Strategic Balance and South Korea’s Indo-Pacific Conundrum,” *The Diplomat*, 13 August 2021, <https://thediplomat.com/2021/08/the-quest-for-strategic-balance-and-south-koreas-indo-pacific-conundrum/>; and Frédéric Krumbein, “Two Chinese Tales of Human Rights— Mainland China’s and Taiwan’s External Human Rights Strategies,” *The International Journal of Human Rights*, forthcoming.

⁴ This is the case with India. See Arkoprabho Hazra, “Why Is India Silent on China’s Human Rights Record at the UN?,” *The Diplomat*, 27 October 2020,

<https://thediplomat.com/2020/10/why-is-india-silent-on-chinas-human-rights-record-at-the-un/>.

⁵ “Quad Leaders’ Joint Statement: “The Spirit of the Quad,” White House, 12 March 2021,

<https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/12/quad-leaders-joint-statement-the-spirit-of-the-quad/>.

⁶ “ASEAN Outlook on the Indo-Pacific,” Association of Southeast Asian Nations, 23 June 2019,

<https://asean.org/speechandstatement/asean-outlook-on-the-indo-pacific/>.

⁷ “Archive - White Papers,” State Council of the People’s Republic of China, n.d., <http://english.www.gov.cn/archive/whitepaper>.

⁸ “70 Years of Progress on Human Rights in China,” State Council Information Office of the People’s Republic of China, n.d., 4,

http://english.scio.gov.cn/node_8014390.html.

⁹ “National Report Submitted in Accordance with

Paragraph 5 of the Annex to Human Rights Council Resolution 16/21 - China: A/HRC/WG.6/31/CHN/1,” UN Human Rights Council, 18 May 2021, 7,

<https://www.ohchr.org/EN/HRBodies/UPR/Pages/CNindex.aspx>.

¹⁰ “National Report,” UN Human Rights Council, at 2.

¹¹ Ann Kent, “China and the International Multilateral Human Rights System,” in Sarah Biddulph and Joshua Rosenzweig, eds., *Handbook on Human Rights in China* (Cheltenham: Edward Elgar Publishing, 2019): 61–83.

¹² “Archive - White Papers,” State Council of the People’s Republic of China.

¹³ Krumbein, “Two Chinese Tales of Human Rights.”

¹⁴ Yu Jie, “Indo-Pacific Is Rigorous Test of China’s Foreign Policy,” Chatham House, 26 April 2021,

<https://www.chathamhouse.org/2021/04/indo-pacific-rigorous-test-chinas-foreign-policy>.

3

International Headwinds for Human Rights in Southeast Asia

Dr. John D. Ciorciari



In many Indo-Pacific countries, human rights and democracy are in recession. This is particularly true in Southeast Asia, which lies at the core of the Indo-Pacific area, both geographically and in terms of its strategic significance. In recent years, the region's residents have endured military coups and crackdowns in Thailand and Myanmar; abuses by populist authoritarian strongmen in Cambodia and the Philippines; continuing suppression of civil liberties in Laos and Vietnam; and significant human rights violations elsewhere. Although domestic forces certainly have contributed to human rights erosion in many countries,

international politics also have played a vital role. Chinese backstopping of illiberal regimes has helped to insulate them from local and international opprobrium and has reinforced norms of non-interference and Westphalian sovereignty. At the same time, concerns about surging Chinese influence have induced caution from the United States and its allies in pressing for reform in authoritarian states. Regional institutions remain highly constrained on human rights issues.

Countercurrents exist, including US and European sanctions and Myanmar's *de facto* suspension from the Association of Southeast Asian Nations (ASEAN). However, the overall international environment presents serious obstacles to the advancement of human rights in the region.

China's ascent, the dynamics of a budding "new Cold War," and regional institutional sclerosis all tilt the playing field in favor of Westphalian norms and against a liberal human rights agenda.

Several factors at the international level have contributed to human rights backsliding in Southeast Asia over the past decade or more. One is China's emergence as the top trading partner and a major source of investment for every country in the region. China's economic heft brings many benefits to Southeast Asia, but by offering reliable assistance with few

governance strings attached, Beijing has made it easier for Southeast Asian governments to stifle domestic dissent at an acceptable cost. Chinese aid has become a reliable bulwark against Western sanctions for governments that choose to confront domestic challenges with violent repression and politicized justice.

After US officials criticized the 2014 coup in Thailand and suspended military assistance, for example, Chinese officials embraced Thai military leaders and promptly offered aid.

China has stepped forward to offer aid to Cambodia whenever Western governments or multilateral institutions have sought to impose costs on the Hun Sen government for its human rights abuses—such as the forced displacement of residents around Boeung Kak Lake in 2010, the repression of opposition protesters in 2013–2014, or the shuttering of civil society organizations and disbanding of the main opposition party in 2017. In Myanmar today, Chinese aid helps an abusive junta stay afloat and hold opposition protesters under heel, countering the effects of US and European sanctions since the February 2021 coup. Chinese assistance does not dictate Southeast Asian repression but makes the expected consequences much easier to bear.

In this context, the United States and its allies have struggled to promote human rights effectively in the

region and to reconcile that objective with their strategic interest in countering Chinese influence. The concept of a “free and open Indo-Pacific” (FOIP), introduced in 2016, suggested the possibility of US and Japanese Indo-Pacific strategies that would attempt to marry these two objectives—that is, confronting China while giving added priority to human rights. The FOIP concept’s progenitor, Japanese Prime Minister Shinzo Abe, initially envisaged an area that “values freedom, the rule of law, and the market economy, free from force or coercion.”¹ US Secretary of State Mike Pompeo conveyed a similar vision in a 2018 address, saying:

When we say “free” Indo-Pacific, it means we all want all nations, every nation, to be able to protect their sovereignty from coercion by other countries. At the national level, “free” means good governance and the assurance that citizens can enjoy their fundamental rights and liberties.²

The emphasis on fundamental domestic freedoms suggested a liberal logic of promoting democratic norms in Indo-Pacific societies, in part by challenging Westphalian sovereignty and the norm of non-interference. The emphasis on preventing coercion suggested a realist logic of curbing Chinese influence, potentially by accommodating illiberal regimes rather than seeking their reform.

The latter logic has tended to prevail as the members of the “Quad”

(Australia, India, Japan, and the United States) have implemented their respective national policies and strategies in the Indo-Pacific. This reflects the challenges of promoting human rights while seeking to strengthen strategic ties in a region home to an array of mostly illiberal or semi-authoritarian regimes. As one important illustration, Vietnam was invited to the first meeting of the “Quad Plus” in 2020 alongside South Korea and New Zealand. Although Quad members continue to put rhetorical emphasis on building a region “anchored by democratic values,”³ the inclusion of autocratic Vietnam would seem to betray the Quad’s greater focus on constraining China. US policy has followed a similar pattern. President Donald Trump generally downplayed human rights in Southeast Asia. Trump applauded Philippine President Rodrigo Duterte’s ruthless “war on drugs” despite mounting evidence of myriad extrajudicial killings, for example, and said little about human rights during his 2017 trip to Asia. In an October 2018 speech, Vice President Mike Pence made clear that the US priority was to confront China. Like the preceding administration of President Barack Obama, the Trump administration dealt gingerly with human rights concerns in key US strategic partners such as Vietnam, Thailand, and Singapore. The Trump

administration did impose sanctions for human rights abuses in Cambodia and Myanmar, two countries long subject to US criticism, but even those sanctions were tempered by concerns about driving Naypyidaw and Phnom Penh further into China’s embrace.

The administration of President Joe Biden pledged to elevate values in US Asia policy but has struggled to do so while pursuing closer strategic partnerships. The Biden administration has doubled down on sanctions against Myanmar, demanding an end to repression and the release of political prisoners. In neighboring countries, however, US criticism has been more restrained. Deputy Secretary of State Wendy Sherman raised human rights issues with Cambodian Prime Minister Hun Sen in July 2021, for example, but bundled that message between concerns about strategic Chinese investment and the need for the US government to work with Cambodia as the latter assumes the 2022 ASEAN chair. Senior US diplomats also have expressed human rights concerns to Thailand and Vietnam, but substantive engagement reflects more continuity than change from the Trump administration’s approach. In December, the Biden administration was flayed for inviting Duterte to its “summit for democracy” alongside just two other ASEAN member states, Indonesia

and Malaysia (the latter represented by its second consecutive unelected government). Singapore, a crucial US strategic partner, was excluded, adding to the general unpopularity of the initiative across Southeast Asian capitals. Similar challenges have induced caution in Canberra, Brussels, and elsewhere.

Japan also backed away from Abe's initial plan to prioritize values-centric diplomacy as Southeast Asian misgivings became apparent. Notably, the 2019 "ASEAN Outlook on the Indo-Pacific" refers in passing to "good governance" but lacks any explicit reference to democracy or human rights.⁴ Japanese lawmakers and the administrations of Yoshihide Suga and Fumio Kishida have decried Chinese human rights violations in Hong Kong and Xinjiang, but they have been less assertive in advancing rights protections in Southeast Asia. Japan has condemned the Myanmar coup and subsequent repression but was slow to suspend new aid programs and quietly has worked to build a relationship with the governing junta, mindful of countering Chinese influence.⁵ Japan also has been quiet on the Rohingya crisis, refrained from joining sanctions against Cambodia, and otherwise kept a low regional profile on human rights promotion.

Within ASEAN, important counter-currents are apparent. The abuses in

Myanmar prompted an unprecedented move in October 2021, when the other nine members excluded junta leaders from a virtual summit hosted by Brunei. More recently, some Southeast Asian governments declined to attend an ASEAN foreign ministers meeting when they learned that Cambodia, the Association's current chair, planned to invite Myanmar's foreign minister to attend.⁶ Indonesian, Singaporean, and Philippine officials have demanded more progress before Myanmar is brought back into the fold, and the ASEAN Parliamentarians for Human Rights, a network of national legislators, has flayed Cambodian Prime Minister Hun Sen for reaching out to Myanmar military chief Min Aung Hlaing and seeking to draw Myanmar back into ASEAN. Yet no ASEAN member has an interest in expelling Myanmar, which would likely propel it toward China, and most are reluctant to set precedents of strong and sustained collective action to address domestic governance failures. In general, ASEAN member governments are less concerned about human rights than the effects of disunity and discord on regional stability and the organization's external influence. These factors help to explain why ASEAN members have not moved beyond diplomatic shaming to level sanctions against Myanmar.

In sum, international politics in

Southeast Asia and the surrounding Indo-Pacific region are evolving mostly in a manner that exacerbates the difficulty of advancing human rights. These currents are neither insuperable nor irreversible, but they are likely to endure for some time to come. If Southeast Asian human rights conditions are to improve markedly in the years ahead, this analysis suggests that local movements are likely to be the primary drivers. That is often the case even in more favorable international environments, and one important policy implication is the need for continued investment in social development and local civil society organizations even as high-level international politics appear less conducive to positive change. ■

Dr. John D. Ciorciari

Dr. Ciorciari is an associate professor and director of the Weiser Diplomacy Center and International Policy Center at the Gerald R. Ford School of Public Policy, University of Michigan. He is the author of *Sovereignty Sharing in Fragile States* (Stanford University Press, 2021) and co-editor with Kiyo Tsutsui of *The Courteous Power: Japan and Southeast Asia in the Indo-Pacific Era* (University of Michigan Press, 2021).

Disclaimer

The views and opinions expressed or implied in *Indo-Pacific Perspectives* are those of the authors and should not be construed as carrying the official sanction of the Department of Defense, Air Force, Air Education and Training Command, Air University, or other agencies or departments of the US government or their international equivalents.

Notes

¹ Address by Prime Minister Shinzo Abe at the Opening Session of the Sixth Tokyo International Conference on African Development, Nairobi, Kenya, 27 August 2016, <https://www.mofa.go.jp/>.

² Michael Pompeo, “America’s Indo-Pacific Vision,” US Mission to ASEAN, Washington DC, 30 July 2018, <https://asean.usmission.gov/>.

³ “Quad Leaders’ Joint Statement: “The Spirit of the Quad,” White House, 12 March 2021, <https://www.whitehouse.gov/>.

⁴ “ASEAN Outlook on the Indo-Pacific,” Association of Southeast Asian Nations, 23 June 2019, <https://asean.org/>.

⁵ Teppai Kasai, “Japan Plays a Diplomatic Double Game on Rights in Myanmar,” Human

Rights Watch, 2 December 2021, <https://www.hrw.org/>.

⁶ Siti Rahil, “ASEAN May Face Bigger Challenge On Myanmar Under Cambodia’s Chair,” *Asia Times*, 22 January 2022, <https://www.japantimes.co.jp/>.

4

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

Bich T. Tran



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. ■

Bich T. Tran

Bich T. Tran is a PhD candidate at the University of Antwerp, a fellow at Verve Research, and a nonresident fellow at the Center for Strategic and International Studies. Her research interests include Vietnam's grand strategy, Southeast Asian states' relations with major powers, and political leadership. Her work has appeared in outlets such as *Asia Pacific Issues*, *Asian Perspective*, and *Asian Politics & Policy*.

Disclaimer

The views and opinions expressed or implied in *Indo-Pacific Perspectives* are those of the authors and should not be construed as carrying the official sanction of the Department of Defense, Air Force, Air Education and Training Command, Air University, or other agencies or departments of the US government or their international equivalents.

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.

5

Australia's "Rules-Based Order" and the Contradictions of Liberalism

Dr. Priya Chacko and
Dr. Bec Strating



In a 2021 speech to the Perth USAsia Centre, the Australian Prime Minister Scott Morrison argued that “our countries can support, defend, and (where necessary) renovate a liberal, rules-based international order that supports universal human rights and opportunities for all. A world order that favors freedom over autocracy and authoritarianism.”¹ The speech was a departure from earlier iterations of Australia’s rules-based order (RBO) rhetoric in its explicit espousal of liberalism. Earlier versions of the RBO avoided the mention of liberalism to give the appearance of normative neutrality. This was useful in a diverse and

rapidly changing region, in which key partners in countering, deterring, and opposing revisionism have not just been resistant to Western posturing on values but have even put forward communitarian notions of “Asian values” as alternatives to liberal rights. Yet, the RBO has become increasingly political and normative, with liberal and democratic values coming to the fore in government discourse. In the process, however, this change in emphasis has exposed the deep contradictions of Australian liberalism.

Liberalism is a slippery concept constituted of contradictory ideas and a fraught history of political practice. It is generally agreed, however, that liberalism’s central ideas are the protection of universal individual rights and the reduction of violence in human relations. These foundations support various tenets such as the protection of private property, the rule of law within and between states, the promotion of civil society, an enlightened sovereign in the guise of a minimal state, rationalism, secularism, tolerance, and opposition to autocracy and totalitarian collectivism.

Yet, these liberal ideas are potentially contradictory in practice. Not all individuals own private property, for example, and so the elevation of that right (as in economic liberalism) can lead to the differential treatment

of individuals. Similarly, force and unequal treatment have been legitimized in the theory and practice of liberalism when meted out against those deemed irrational or intolerant. Internationally, this has led to liberal imperialism. Domestically, it has permitted punitive welfare systems designed to punish the so-called undeserving poor. Meanwhile, it has often proved difficult to curtail state authority in practice; states often reserve the right to abrogate self-limitations on executive power, which allows them to exercise power beyond normal rules.

Australia's RBO rhetoric reflects liberal ideas, but its practices reflect liberalism's internal contradictions. Australia's RBO is a proxy for a regional order built upon the primacy of the United States: an idealized liberal status quo overseen by a benign sovereign dedicated to protecting its liberal allies with minimal force. The RBO's unspoken illiberal "Other" is the People's Republic of China, with the obvious subtext of phrases such as "challenges to the rules-based order" being that rising and authoritarian China is attempting to revise and rewrite the regional order that has long served Australia's interests. Support for an idealized status quo centered on US regional hegemony was expressed in the 2017 *Australian Foreign Policy White Paper*, which noted that China was challenging the

post-Second World War liberal international order "built, contributed to and led" by the United States.² This "liberal" RBO is seen to be "premised around human rights, democracy, and free trade, taking the world towards deeper integration, interdependence, and cross-border cooperation."³

The declining power of the United States and doubts about its commitment to the Indo-Pacific region have spurred a desire to create new regional liberal institutions such as the Quadrilateral Security Dialogue ("Quad"), consisting of Australia, the United States, Japan, and India. Recent Quad proclamations highlight their role as rule-abiding maritime democracies in the Indo-Pacific and express a desire to limit China's economic power through the creation of China-free "resilient supply chains."⁴ The statement announcing the AUKUS trilateral security partnership between the US, UK, and Australia began by emphasizing their "enduring ideals and shared commitment . . . to the international rules-based order," as well as their shared traditions as "maritime democracies." Throughout his leadership, Prime Minister Morrison's speeches have focused on sovereignty and democratic values as part of a simplistic, binary vision of an Indo-Pacific split between democracies and autocracies.⁵

The apparent threat posed by

illiberal China has been used to justify the curtailing of individual freedoms and civil society autonomy. Several key pieces of legislation—from the Espionage and Foreign Interference Act 2018, Foreign Influence Transparency Scheme Act 2018, to Australia’s Foreign Relations Act 2020—all purport to be country-neutral, but political leaders have made clear that the laws are intended as a response to Chinese “foreign interference.” The broad and vague scope of such legislation targets mere contact with foreign actors rather than improper conduct. As such, these laws threaten civil liberties, effectively criminalizing actions as indeterminate as sharing information about “political, military or economic relations with another country,” linking on social media, or purchasing laptops.⁶

The portrayal of China as Australia’s main geopolitical challenge has also led to ignoring the illiberal actions of Australia’s allies and partners, who are described as “like-minded states.” While Australia forcefully criticized China’s rejection of the South China Sea arbitral tribunal ruling, for instance, there has not been a similar willingness to question US transgressions.⁷ India, too, has been embraced as a democratic ally despite its increasing illiberal and antidemocratic government.⁸

Australia’s refugee policies also expose the internal contradictions of liberal governance. Australia’s adoption of economic liberalism in the 1980s occurred alongside the introduction of restrictive migration and refugee policies, which have become more so with time. This “liberal paradox” can be understood as the result of political leaders seeking to assuage the disaffection produced by liberal economic policies among significant parts of the electorate with the assertion of sovereign border protection.⁹ Immigration policy since the 1980s has been built on differential categories of treatment for migrants, with refugees who have arrived in unauthorized ways treated as criminals, wealthy migrants given fast-tracked residency and citizenship, and low-skilled migrants subjected to laws that create workplace insecurity and mistreatment.¹⁰ Australia’s migration and refugee policies have become increasingly punitive. Immigration ministers now have unchecked power to determine entry, which can be denied on character grounds including expressing nonviolent political opinions contrary to government policy and popular opinion, as the tennis player Novak Djokovic recently discovered.¹¹ Indeed, the criminalization of dissent and protest has become a general feature of Australian governance, with the federal and state governments passing antiprotest laws to protect the agricultural and mining

industries.¹²

Australia's immigration policies not only erode domestic civil liberties but have resulted in noncompliance with international human rights law via the use of offshore processing centers. In 2012, the Australian Government began transferring asylum seekers who had arrived in Australia by boat to Nauru and Papua New Guinea. Asylees' claims for protection were then processed under the laws of those third countries. Australia's Human Rights Commission held serious concerns that the regional processing regime would risk violation of core human rights principles, including "the prohibition on arbitrary detention, the right to claim asylum, and the rights of children and the family."¹³

In 2014, the Australian Human Rights Commission conducted an inquiry into Australia's practice of placing asylum-seeking children in detention. It found that, since 1992, Australia's detention practices (especially as applied to children) have breached the right not to be detained arbitrarily.¹⁴ In the same year, then-Immigration Minister Scott Morrison steadfastly defended his border protection policies during the inquiry, arguing that when it came to the issue of child detention, "sentiment cannot be indulged at the expense of effective policy."¹⁵

Significant international attention

has also been devoted to Australia's failure to ensure the human rights of asylum seekers, including those housed abroad and those detained on Australian soil. In its sixth periodic report on human rights in Australia, the UN Human Rights Committee (UNHRC) noted that Australia's policies and legal framework concerning non-refoulement, mandatory migration detention, and the use of offshore processing centers (and Christmas Island) failed to meet international standards.¹⁶ In 2013, the UNHRC argued that Australia's detention of people in immigration was arbitrary and in violation of the International Covenant on Civil and Political Rights.¹⁷

The Office of the UN High Commissioner for Human Rights working group on arbitrary detention has also criticized Australia's indefinite incarceration of asylum seekers in immigration detentions on mainland Australia.¹⁸ This continues to be an issue, as asylum seekers who arrive in Australia without a visa are subjected to "punitive measures" that impact "their ability to meaningfully engage in the refugee status determination process" even if they are released into the community. These measures include waiting up to four years to be granted permission to apply for protection, inability to be reunited with family or apply for permanent residency, and, in many cases,

the removal of free legal assistance. The UNHRC estimates that there are approximately 30,000 asylum seekers affected by these measures, described by the Australian government as a “legacy caseload.”¹⁹

Australia has sought to defer some of its international legal obligations to smaller regional states. Offshore regional processing centers have been central to the border policies of both Labor and Coalition governments. In 2016, however, a court in Papua New Guinea declared the detention centers unconstitutional under section 42 of that country’s constitution, a human rights provision that prohibits arbitrarily depriving an individual of “personal liberty.” Australia’s position was that it did not exercise “effective control” of asylum seekers in regional processing centers and so should not be held accountable. The UNHRC refuted this, however, arguing that Australia’s establishment, funding, and servicing of detention centers met the standard of “effective control,” even if located in a third country.²⁰ As such, Australia was viewed as responsible for the severe conditions in the camps. Such policies raised criticisms that Australia was seeking to “pick and choose” the rules it wanted to follow, particularly when human rights norms (and international refugee law) conflicted with a political interest in maintaining “sovereignty” over

Australia’s borders.

Given the multitude of problems in abiding by domestic and international rules that promote individual rights among even avowedly liberal democratic states in the Indo-Pacific, effusive appeals to liberalism as a core feature of a “free and open Indo-Pacific” strain credulity. Australia’s vigorous promotion of a liberal RBO at the same time as its own liberal-democratic credentials are being called into question is a case in point. Increasingly, it is becoming clear that liberalism’s internal contradictions provide a shaky foundation upon which to build regional cooperation. ■

Dr. Priya Chacko

Dr. Chacko is Senior Lecturer in International Politics at the University of Adelaide. She is the author of *Indian Foreign Policy: The Politics of Postcolonial Identity from 1947 to 2004* (Routledge, 2012) and editor of *New Regional Geopolitics in the Indo-Pacific: Drivers, Dynamics and Consequences* (Routledge, 2016).

Dr. Bec Strating

Dr. Strating is Director of La Trobe Asia and Associate Professor of Politics and International Relations at La Trobe University. She is the author of *Defending the Maritime Rules-Based Order: Regional Responses to the South China Sea Disputes* (East-West Center, 2020), *The Post-Colonial Security Dilemma: Timor-Leste and the International Community* (ISEAS, 2019), and *Social Democracy in East Timor* (Routledge, 2016).

Disclaimer

The views and opinions expressed or implied in *Indo-Pacific Perspectives* are those of the authors and should not be construed as carrying the official

sanction of the Department of Defense, Air Force, Air Education and Training Command, Air University, or other agencies or departments of the US government or their international equivalents.

Notes

¹ Scott Morrison, "Address to the Perth US Asia Centre," 9 June 2021, <https://www.pm.gov.au/media/address-perth-usasia-centre-perth-wa>.

² Commonwealth of Australia, *Foreign Policy White Paper* (Canberra: Department of Foreign Affairs and Trade, 2017), 80.

³ Lee Jones, "Does China's Belt and Road Initiative Challenge the Liberal, Rules-Based Order?" *Fudan Journal of Humanities and Social Science* 13, no. 1 (2020): 113–133.

⁴ "Joint Statement from Quad Leaders," White House, 24 September 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/09/24/joint-statement-from-quad-leaders/>.

⁵ Morrison, "The Beliefs that Guide Us," address to Asia Briefing Live, 1 November 2018, <https://www.pm.gov.au/media/keynote-address-asia-briefing-live-beliefs-guide-us>.

⁶ Melissa Conley Tyler and Julian Disting, "What Should Australia Do About Its Foreign Interference and Espionage Laws?" *China Matters*, May 2021, <https://chinamatters.org.au/wp-content/uploads/2021/05/CME-May-2021-Foreign-Interference-Melissa-Conley-Tyler-and-Julian-Disting.pdf>.

⁷ Gregory V. Raymond, "Advocating the Rules-Based Order in an Era of Multipolarity," *Australian Journal of International Affairs* 73, no. 3 (2019): 219–226, at 223.

⁸ Soutik Biswas, "'Electoral Autocracy': The Downgrading of India's Autocracy," BBC News, 16 March 2021, <https://www.bbc.com/news/world-asia-india-56393944>.

⁹ Anne McNevin, "The Liberal Paradox and the Politics of Asylum in Australia," *Australian Journal of Political Science* 42, no. 4 (2007), 611–630.

¹⁰ Shanti Robertson, "Status-Making: Rethinking Migrant Categorization," *Journal of Sociology* 55, no. 2 (2018), 219–233.

¹¹ Paul Sakkal, "'Dangerous in a Democracy': Civil Rights Groups' Alarm at Government's Djokovic Case," *The Age*, 16 January 2022, <https://www.theage.com.au/sport/dangerous-in-a-democracy-civil-rights-groups-alarm-at-government-s-djokovic-case-20220116-p59omd.html>.

¹² Isabelle Reinecke, "The jailing of a young climate protester is a prime example of Australia's authoritarian

drift," *The Guardian*, 25 November 2021, <https://www.theguardian.com/commentis-free/2021/nov/25/the-jailing-of-a-young-climate-protester-is-a-prime-example-of-australias-authoritarian-drift>.

¹³ "Asylum Seekers and Refugees," Australian Human Rights Commission, n.d., <https://humanrights.gov.au/our-work/rights-and-freedoms/publications/asylum-seekers-and-refugees#:~:text=Seeking%20asylum%20in%20Australia%2C%20or,%20in%20any%20other%20country>.

¹⁴ "The Forgotten Children: National Inquiry into Children in Immigration Detention," Australian Human Rights Commission, November 2014, https://humanrights.gov.au/sites/default/files/document/publication/forgotten_children_2014.pdf.

¹⁵ Anna Henderson, "Scott Morrison clashes with Human Rights Commission head amid defence of child detention on Christmas Island," ABC News, 22 August 2014, <https://www.abc.net.au/news/2014-08-22/moral-burden-will-not-impede-border-policies-morrison/5687820?nw=0&r=HtmlFragment>.

¹⁶ "Concluding Observations on the Sixth Periodic Report of Australia," United Nations Human Rights Committee, 9 November 2017, 6–8, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/AUS/INT_CCPR_COC_AUS_29445_E.pdf.

¹⁷ "Casenote: FKAG v Australia and MMM v Australia," Australian Human Rights Commission, 15 October 2013, <https://humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/casenote-fkag-v-australia-and-mmm-v-australia>; and "Examination of the Migration (Regional Processing) Package of Legislation," Australian Human Rights Commission, January 2013, https://humanrights.gov.au/sites/default/files/20130211_migration.pdf.

¹⁸ "Opinions adopted by the Working Group on Arbitrary Detention," United Nations Human Rights Office of the High Commission, n.d., <https://www.ohchr.org/EN/Issues/Detention/Pages/OpinionsadoptedbytheWGAD.aspx>.

¹⁹ "Monitoring Asylum in Australia," United Nations High Commission for Refugees, 25 January 2022, <https://www.unhcr.org/en-au/asylum-in-australia.html>.

²⁰ "Concluding Observations on the Sixth Periodic Report of Australia."

6

Human Rights and Diplomacy in the Indo-Pacific: A View from Australia Elaine Pearson



What is the future of human rights in the emerging Indo-Pacific order? With the many challenges to human rights across Asia, it is easy to feel pessimistic. The current trend seems to be toward authoritarianism, and we see an erosion of democracy, rule of law, and human rights.

People have, however, been taking to the streets and standing up for their rights across the region, providing a cause for hope. Governments including middle powers such as Australia, politicians, and civil-society organizations have an array of foreign policy tools they can use to defend human rights. It is essential that they do so. From Australia's perspective, it is firmly in Australia's interests to exist in a region alongside

governments that are transparent and accountable and that respect human rights and the rule of law.

There is no doubt that the Indo-Pacific region is facing grave challenges when it comes to human rights. Last year alone produced several reasons for despair. In Myanmar, a February 2021 military coup presaged a brutal crackdown resulting in the deaths of more than 1,400 protesters. Many thousands more were arrested, detained, beaten, and abused in custody. United Nations investigators have concluded that the junta should be investigated for crimes against humanity.¹

Six months later, the Taliban's return to power in Afghanistan was a horrific reminder that advances in human rights can be perilously fragile. The Taliban pose a clear and grave threat to the rights of Afghanistan's women and girls, journalists, and civil society activists. The current humanitarian crisis—precipitated by the abrupt cut-off of foreign aid to a country whose budget is almost entirely funded by donors—has pushed over 24 million Afghans into acute hunger. Meanwhile, armed groups affiliated with the Islamic State carry out devastating attacks targeting the Shia minority.

Authoritarianism has been on the march elsewhere, too. In China, the central government has been dismantling human rights in Hong

Kong following the imposition of its draconian national security law in 2020. Hong Kongers who advocated for human rights and democracy, such as Jimmy Lai and Joshua Wong, are now in prison. At the same time, Chinese leaders defend their arbitrary detention of more than a million Uyghurs and other Turkic Muslims in re-education camps under the so-called “Strike Hard campaign against violent extremism.”²

Vietnam, too, has escalated crackdowns on democracy campaigners, activists, independent journalists, and bloggers for exercising their basic civil and political rights. More than 150 political prisoners languish behind bars, and dozens more face trial in the country’s politically controlled courts.

Even in countries that call themselves democracies, the world has witnessed what Kenneth Roth, the executive director of Human Rights Watch, calls “zombie democracies.”³ In countries like Cambodia and Thailand, for instance, political parties that represent a legitimate challenge to ruling elites have been banned from operating on bogus legal grounds, and elections that are far from free and fair have entrenched the powers that be. In Cambodia, political activists have been forced into exile, imprisoned, or barred from running for office.

In Thailand, hundreds of youth

face years in prison for taking part in protests, speaking up, and demanding reforms to politics and the monarchy. Recently, the Thai government aggressively pushed to introduce draft laws to tightly control all civil-society organizations, including by restricting foreign funding, which will become a chokehold on the country’s vibrant civic space. Squeezing democratic institutions comes alongside efforts across the region to monopolize the media, restrict and control civil society, punish critical expression on the internet, and manipulate state institutions.

Across the Indo-Pacific region, civil society organizations are under threat. Even in an established democracy like India, the national government has intensified a crackdown on freedom of speech and peaceful assembly. The government of Prime Minister Narendra Modi has enforced new information technology rules that are ostensibly meant to curb misuse of social media and the spread of “fake news” but, in fact, allow greater governmental control over online content. Similar developments have taken place in Singapore, Vietnam, Thailand, and Malaysia—countries that all seem to be going down the path of weakening freedom of expression online and undermining their citizens’ rights to privacy.

These are grim trends, but this is not a time for defeatism. Governments in

the Indo-Pacific that believe in stronger human rights protections do have tools at their disposal to bring this about. This is certainly true of Australia, a country with a strong stake in the region's political trajectory. Australia has its own human rights problems. But as one of the oldest democracies in the region, it has rights-respecting institutions, an independent judiciary, and a vibrant civil society and media.

What specific steps can the Australian government take to defend human rights values that are under attack?

First, Australia should advance human rights in coalition with like-minded democratic governments. As a middle power, Australia can amplify its voice by working through multilateral institutions to stand against crimes against humanity and push back against authoritarian governments.

This is already happening to some degree. Last June, for example, Australia joined with 43 other governments to condemn China's human rights record at the United Nations.⁴ In the future, Australia should do more to mobilize international condemnation of human rights violations by other governments in our region, not just China.

Second, Australia should impose targeted sanctions, including travel

bans and asset freezes, against those commit serious human rights abuses or corruption with impunity. In December, the Australian parliament passed new amendments to make this happen, like the Global Magnitsky Act in the United States. The United Kingdom, Canada, and European Union all have their own versions of such legislation.

Such laws make sense given that diplomacy is about both carrots and sticks. Targeted sanctions raise the cost of serious human rights violations. Now, it is up to the Australian government to use these provisions without delay and sanction serious human rights violators, starting with the abusive generals in Myanmar.

Third, Australian officials should engage in robust diplomacy on human rights, both in public and behind closed doors. Officials should articulate a consistent and principled position on human rights violations wherever abuses occur. The Australian government has shown courage in speaking up at the UN Human Rights Council on abuses committed by China and Saudi Arabia, but a more consistent approach is needed. The point here is not for Canberra to lecture other countries, but Australia's leaders should never be reluctant to have frank discussions with their counterparts about their obligations to respect international human rights law.

If Australian officials meet with the leaders of governments implicated in serious human rights abuses, the Australian government should issue strong public statements accompanying those meetings to make its concerns crystal clear. Without such statements, it is too easy for an abusive government to turn a photo op into an expression of support for their rule. This is important not only for transparency with the Australian public but also for the public in other countries to get an accurate picture of Australia's interests and values.

Fourth, to be most effective in advancing human rights around the world, the Australian government should set a positive example by strengthening its commitment to human rights at home. Australia can do much better in its treatment of marginalized people, especially First Nations people, refugees, and asylum seekers.

The importance of this relationship between domestic politics and credibility on the world stage cannot be overstated. When Myanmar forcibly displaces ethnic Rohingya to Bangladesh and Bangladesh responds by rounding up many of those Rohingya and putting them on Bhasan Char, a flood-prone island in the Bay of Bengal, it is hard for Australia to have moral authority when Canberra's policy is to send refugees to Papua

New Guinea and Nauru.

Similarly, it is difficult for Australia to call on countries like Pakistan and Iran to open their borders to fleeing Afghans when Australia has shown a distinct lack of humanity and compassion in its treatment of those who arrive at its borders fleeing persecution.

An overlooked part of improving Australia's record on human rights is the need to safeguard the rights of Australian citizens abroad. This includes working harder for Australians who are arbitrarily detained abroad, such as Cheng Lei and Yang Hengjun in China, Chau Van Kham in Vietnam, and Sean Turnell in Myanmar. These are political cases that require a firm government response.

One lesson of the tragedy unfolding in Afghanistan is that effective international human rights monitoring is essential. Australia can promote such monitoring work through a stronger voice at the United Nations Human Rights Council. In the past, Australia has been good at joining statements of concern when they are prepared by others, but Canberra could show more leadership by helping to establish mechanisms for accountability for human rights violations. Traditionally, the Australian government has tended to focus attention on thematic issues, but the Human Rights Council is most useful when it comes to holding states to account through

country-specific reporting mechanisms.

At this point Australia is not leading on a single resolution at the Human Rights Council regarding rights violations in another country. It needs to do more on this front. It could, for example, join a core group on the Philippines to advance accountability for the thousands of unlawful killings carried out in the name of President Rodrigo Duterte's murderous "war on drugs." It could ensure follow-up to its joint statement on rights abuses in Saudi Arabia or demonstrate much-needed leadership to address Egypt's relentless crackdown on civil society.

Finally, Australia can do better at building relationships with civil society and young people across the Indo-Pacific region. At minimum, this means increasing support for civil society groups. However, it also means being better at public diplomacy by engaging foreign and domestic media (and being active on social media) to advocate for human rights.

Ultimately, ordinary people—especially young people—will determine the future of human rights in our shared region. Canberra can assist young people across the region by making it clear at every opportunity that Australia stands in support of human rights and of those who are doing the important work of building

a more human rights-friendly Indo-Pacific.

For Australia and other like-minded countries, the Indo-Pacific's tilt toward authoritarianism and away from democracy and human rights is a cause for concern. This is part of the reason why Australia has strengthened its trade and security relationships with partners in Southeast Asia and the so-called Quad grouping of Australia, India, Japan, and the United States. Developing foreign policies that are directly aimed at promoting human rights needs to be part of the solution, too. There are options in this regard—ones that Canberra and other regional capitals should take seriously.■

Elaine Pearson

Ms. Pearson is the Australia Director of Human Rights Watch. This article is based in part upon her 2021 Sir James Plimsoll Lecture at the University of Tasmania.

Disclaimer

The views and opinions expressed or implied in *Indo-Pacific Perspectives* are those of the authors and should not be construed as carrying the official sanction of the Department of Defense, Air Force, Air Education and Training Command, Air University, or other agencies or departments of the US government or their international equivalents.

Notes

¹ Edith Lederer, “UN investigator: Crimes against humanity under Myanmar junta,” *Associated Press*, 6 November 2021, <https://apnews.com/article/crime-myanmar-united-nations-c8d30050193ccc2affc15c508ee4be3d>.

² Casey Quackenbush, “Human Rights Watch Warns of ‘Massive Crackdown’ on China’s Muslims,” *Time*, 10 September 2018, [https://time.com/5391300/china-hrw-](https://time.com/5391300/china-hrw-muslim-ughur)

[muslim-ughur](https://time.com/5391300/china-hrw-muslim-ughur).

³ Kenneth Roth, “The Age of Zombie Democracies: Why Autocrats Are Abandoning Even the Pretense of Democratic Rituals,” *Foreign Affairs*, 28 July 2021, <https://www.foreignaffairs.com/articles/americas/2021-07-28/age-zombie-democracies>.

⁴ John Feng, “China Backed by 65 Nations on Human Rights Despite Xinjiang Concerns,” *Newsweek*, 23 June 2021, <https://www.newsweek.com/support-chinas-human-rights-polices-doubles-among-un-members-1603246>.