



ENGAGING ASIA  
February 2019

# KEY U.S. POLICY ISSUES IN THE INDO-PACIFIC FOR THE 116TH CONGRESS

The purpose of these briefs is to provide members of Congress and their staff with a concise, readable primer on what are likely to be among the key U.S. policy issues in the Indo-Pacific for the 116th Congress. This is not a comprehensive compendium. Rather, the briefs aim to raise the issues that will likely occupy Congressional interest over the next two years. Our hope is that this primer serves as a “cheat sheet” of critical factors and background on Asia to consider.

Congress must handle U.S. policy in the Indo-Pacific with nuance. To aid in that effort, NBR has commissioned four essays by a bipartisan panel of former Congressional hands who know the business of informing legislative activity. First, Frank Jannuzi examines the security environment in the Indo-Pacific and suggests areas where Congress can exercise oversight to achieve objectives both outlined and omitted in the administration’s National Security Strategy. Second, Walter Lohman provides an overview of U.S. trade policy toward the region during the last Congress and assesses the key trade issues members will likely face this session. Third, Lindsey Ford argues that while the United States has made gains in strengthening ties with ASEAN, Congress must sustain the partnership against current headwinds. Finally, Francisco Bencosme outlines the deteriorating human rights situation across the region and offers recommendations that would help achieve a unified and well-resourced human rights policy in the Indo-Pacific.

A common refrain on Capitol Hill is that outside experts (1) spend more time defining problems than solutions, (2) offer solutions that are politically unrealistic, or (3) offer solutions that are tailored for the powers of the executive, not legislative, branch. These briefs are an effort to bridge that gap.

Dan Aum and Dan Lee, eds.

## BRIEFS IN THIS SERIES

Fluid Dynamics of the Indo-Pacific:  
Congressional Oversight of U.S.  
Asia Policy

*By Frank Jannuzi*

Not by Fate but by Choice:  
Shaping U.S. Trade Policy in Asia

*By Walter Lohman*

The U.S.-ASEAN Partnership in  
the Indo-Pacific

*By Lindsey W. Ford*

Recommendations for the 116th  
Congress on Human Rights  
Issues in the Asia-Pacific

*By Francisco Bencosme*



ENGAGING ASIA  
February 2019



# FLUID DYNAMICS OF THE INDO-PACIFIC: CONGRESSIONAL OVERSIGHT OF U.S. ASIA POLICY

*By Frank Jannuzi*

## EXECUTIVE SUMMARY

### MAIN ARGUMENT

The 116th Congress has a key role to play in exercising oversight on U.S. policy in the Indo-Pacific. As the geostrategic center of power, the Indo-Pacific region requires policy attention to both the vital issues included in the U.S. National Security Strategy—namely the threats emanating from China, Russia, and North Korea—and the omitted but critical issue of climate change. Rather than devising a strategy to win a zero-sum struggle with China or Russia, the U.S. should identify ways to advance its own interests, especially when these goals align with those of other powers. Washington can build on common ground to address the near-term threat of North Korea and the slow-moving but urgent crisis of climate change.

### RECOMMENDATIONS FOR THE 116TH CONGRESS

- Convene hearings on U.S.-China relations to test assumptions and identify potential areas for cooperation.
- Support reconvening the six-party talks to pursue North Korean denuclearization and to coordinate regional security efforts in Northeast Asia.
- Appropriate funds to resource civil-society programs that strengthen U.S. capacity to engage Indo-Pacific nations.
- Hold hearings to consider the provisions of the Green New Deal, which bears implications for energy policy and for U.S.-China relations.

**FRANK JANNUZI** is President and Chief Executive Officer of the Mansfield Foundation. He previously served as Deputy Executive Director (Advocacy, Policy and Research) at Amnesty International, USA. From 1997 to 2012, Mr. Jannuzi was Policy Director, East Asian and Pacific Affairs, for the U.S. Senate Foreign Relations Committee, where he advised committee chairmen Joseph Biden and John Kerry. He has also served as an analyst in the U.S. Department of State's Bureau of Intelligence and Research.



ENGAGING ASIA  
February 2019



# FLUID DYNAMICS OF THE INDO-PACIFIC: CONGRESSIONAL OVERSIGHT OF U.S. ASIA POLICY

By Frank Jannuzi

The Indo-Pacific constitutes the geostrategic center of gravity for the world's economic, political, and security balance of power, and its influence will only grow during the 21st century. The Trump administration has defined the Indo-Pacific as a region marked by the struggle between the forces of freedom and openness, represented by the United States and its allies, and the forces of repression and coercion, represented by China and North Korea.<sup>1</sup> This frame exaggerates the very real differences between the U.S. and Chinese approaches to the region, and by suggesting that nations must choose sides, could hamper U.S. efforts to accomplish the objectives outlined by the Trump administration: strengthening alliances, promoting rule of law, encouraging free trade, and building a “strong defense network” to safeguard vital U.S. security interests. The 116th Congress should view the Indo-Pacific through a non-distorting variable focal-length lens. This lens should have sufficient wide-angle capability to capture a vital issue neglected by the latest National Security Strategy (NSS): climate change. But it must also have adequate telephoto capability to zoom in on other issues of urgent concern, including not only the United States' very real competition with China and to a lesser extent Russia for regional influence but also the opportunities to cooperate on areas of mutual interest, such as climate change and the dangers posed by North Korea's nuclear weapons ambitions.

This brief examines the fluid security environment of a region now being described as the “Indo-Pacific” by many U.S. foreign policy specialists. After identifying key issues on which the 116th Congress could usefully focus as it performs its constitutional role of oversight of the Trump administration's foreign policy, the concluding section attempts to map out the broad parameters of a successful U.S. approach to this dynamic region.

<sup>1</sup> White House, *National Security Strategy of the United States of America* (Washington, D.C., December 2017), 25, <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>.

## OVERVIEW

The area now known as the Indo-Pacific, stretching from Hawaii to the Indian Ocean, from the Arctic Circle and the Russian Far East to Australia and Antarctica, was previously subdivided into different geographic units. Originally known as Northeast Asia and Southeast Asia, the region then morphed into the Asia-Pacific before expanding again to its current scope. No matter precisely how one conceives or defines its boundaries, the Indo-Pacific is vast and diverse. It is home to 36 nations, with people speaking 3,000 languages and comprising roughly half of the world's population. Two of the three largest economies in the world, China and Japan, are in the zone, and by 2030, the region will be home to 3 billion middle-class consumers, two-thirds of the world's total.

The Indo-Pacific is marked not by multilateralism and integration but by nationalism and cutthroat competition. There is no Asian equivalent to the European Union, notwithstanding the efforts of the Association of Southeast Asian Nations (ASEAN) to move toward deeper integration through the adoption of the ASEAN Charter and other accoutrements (e.g., the ASEAN Regional Forum). Absent a reliable U.S. commitment to its treaty allies and other partners, the Indo-Pacific would likely prove strategically unstable. The United States may not be an “Asian” nation, but it is a legitimate Pacific power. Moreover, it has been steadily enhancing its military forces in the region, a process that began long before the Obama administration articulated its “rebalance to Asia” in 2011. The rebalance was meant to have three components—strengthening security partners; embedding the United States in the region's emerging

economic architecture, especially the Trans-Pacific Partnership (TPP); and maintaining a stable and positive relationship with China.<sup>2</sup> But only the first pillar has received significant resources. As the U.S. Senate Foreign Relations Committee noted in a 2014 report, implementation of the rebalance has been itself unbalanced, with the diplomatic, economic, and civil society elements under-resourced and largely neglected.<sup>3</sup> The Trump administration's decisions to withdraw from TPP, suspend the Strategic and Economic Dialogue with China, and abandon the one area where cooperation with China was showing meaningful progress—climate change—underscore the unbalanced nature of the rebalance, drawing into sharper focus the competitive nature of U.S.-China relations and the danger that a peaceful rivalry could morph into a new Cold War or worse.

To get its policy toward the Indo-Pacific region right, the United States must successfully address three drivers of the region's emerging geostrategic landscape: the rise of China, North Korea's ambition to win global acceptance of its status as a nuclear weapons state, and the contentious relationship with Russia. The United States should also not neglect the issue of climate change and the havoc it is certain to cause. These challenges will not be easy to address, but two of them—North Korea and climate change—have a silver lining inasmuch as they afford Washington an opportunity to find some common ground with Beijing and Moscow.

---

<sup>2</sup> Jeffrey A. Bader, “U.S. Policy: Balancing in Asia, and Rebalancing to Asia,” Brookings Institution, Policy Brief, September 23, 2014, <https://www.brookings.edu/research/u-s-policy-balancing-in-asia-and-rebalancing-to-asia>.

<sup>3</sup> *Rebalancing the Rebalance: Resourcing U.S. Diplomatic Strategy in the Asia-Pacific Region* (Washington, D.C.: U.S. Government Printing Office, 2014). <https://www.foreign.senate.gov/imo/media/doc/872692.pdf>.



## COPING WITH A RISING CHINA

The world is nervous about China's growing hard-power capabilities and how Beijing might deploy them. The very term used by Zheng Bijian, chairman of the China Reform Forum, to describe China's meteoric growth—China's peaceful rise—was necessitated by the fact that many observers worried that the country's rise would be something other than peaceful.<sup>4</sup> The Trump administration's tariffs on trade with China, more frequent freedom of navigation patrols in the South China Sea, and use of strong competitive language when discussing China's Belt and Road Initiative have all cast U.S.-China relations in zero-sum terms.

The NSS issued by the administration in December 2017 portrays the Indo-Pacific as a region in which “a geopolitical competition between free and repressive visions of world order” will pit the United States and its allies against a rising China.<sup>5</sup> The new NSS breaks with those adopted by previous U.S. administrations, which supported engagement on issues of mutual concern such as climate change and North Korea and sought to build a constructive strategic partnership with Beijing in hopes that it would become a “responsible stakeholder” in the international community. The tough rhetoric in the NSS and new National Defense Strategy makes clear that many in the United States now consider China to be an adversary—an undemocratic country out to replace the United States as the world's leading power and intent on establishing at least regional hegemony.

The Trump administration's bleak assessment of China's trajectory does not divide Americans along

party lines. Skepticism about the future of U.S.-China relations is deep and bipartisan. If the rise of China has upended 75 years of U.S. global dominance, it has not given China the power unilaterally to rewrite the norms that continue to define the boundaries of acceptable state action in the Indo-Pacific. Viewed through a fine-focus lens, China is behaving exactly as we might expect a normal power to act: building the hard power needed to safeguard its growing global economic interests, to protect the well-being of its citizens abroad, and to prevent disorder at home. Accordingly, any decline of U.S. influence and prestige vis-à-vis China is probably less the result of a Chinese effort to undermine U.S. leadership than it is a natural consequence of China's growing power accentuated by widespread foreign opposition to the “America first” policies of the Trump administration.

Congress has a role to play in charting a realistic, sustainable course on China policy. Congress must ensure that vital U.S. interests such as freedom of navigation, free trade, peaceful settlement of disputes, and respect for international law are defended against any attempt to undermine them, while seeking common ground on those issues where U.S. and Chinese interests align. China confronts six serious challenges to its continued economic growth and stability, and each of them affords the United States a chance to engage Beijing in win-win problem-solving. China's challenges include the following:

- Environmental protection (climate change and pollution)
- Energy security (a reliance on Middle Eastern oil)
- Demographics (an aging population)
- Income inequality (across both regions and social strata)
- Corruption
- Ethnic unrest (especially in Xinjiang and Tibet)

<sup>4</sup> Zheng Bijian, “China's ‘Peaceful Rise’ to Great-Power Status,” *Foreign Affairs*, September/October 2005, <https://www.foreignaffairs.com/articles/asia/2005-09-01/chinas-peaceful-rise-great-power-status>.

<sup>5</sup> White House, *National Security Strategy of the United States of America*, 45.

Delving into these challenges is beyond the scope of this brief analysis, but the key point is that the United States has experience and capacity in all six areas:

- Advanced technology and effective regulations to ensure clean air and water
- Abundant liquefied natural gas supplies and advanced nuclear and renewable energy technologies to substitute for CO<sub>2</sub> and sulfur-emitting coal-fired energy plants
- Market-based life and health insurance markets to provide a safety net for China's aging population
- Experience with progressive taxation and welfare systems designed to reduce inequality
- Expertise on rule of law and constitutional protections for freedom of speech which China might emulate to reduce endemic corruption
- Lessons learned from the ongoing struggle to create a society marked by equal opportunity, regardless of race, religion, gender, or sexual orientation

Rather than relying on punitive measures to persuade China to change its conduct, the United States should draw on its strengths to help both countries succeed. Expanding cooperation would not only help avoid a new Cold War with China, but it would also create enormous opportunities for U.S. businesses. Congress should critically scrutinize any steps to embrace a strategy of containment toward China. Most nations in the Indo-Pacific, even those with strong ties to the United States, now count China as their largest trading partner. They cannot afford to have bad relations with China. This was plain in late 2018 when Japanese prime minister Shinzo Abe—arguably the leader most closely aligned with President Donald Trump's Indo-Pacific strategy—led

a large delegation of Japanese business executives to Beijing. That mission should remind Washington that even its closest partners have options for how to position themselves, and the United States needs to rally both traditional allies and unlikely coalition partners to defend the rules-based international order.

## MANAGING NORTH KOREA'S NUCLEAR THREAT

As the 116th Congress convenes, North Korea's nuclear ambitions remain a top national security concern. Compared with just one year ago, when tensions were high following months of nuclear and ballistic missile tests, the situation today is relatively calm and the outlook more promising. The "Olympic peace" was followed by a flurry of high-level diplomatic contacts culminating in June 2018 with the first-ever summit meeting between the leaders of the United States and North Korea. But while President Trump and Chairman Kim Jong-un agreed in Singapore to "work toward" the goals of denuclearization and peace, that promise has yet to be defined, much less fulfilled. There is no roadmap, no agreement on the scope of denuclearization, no timeline, and no process for verification. The lack of follow-through has begun to erode confidence in the peace process inaugurated by South Korean president Moon Jae-in.

A second Trump-Kim summit meeting is being planned, and its outcome will determine whether the Trump administration emphasizes the "maximum pressure" or "engagement" elements of its North Korea policy. Congress has helped provide the legal infrastructure underpinning the existing tough sanctions regime. The administration will likely be seeking to either strengthen or gradually relax those sanctions in the coming months. Even in

a best-case scenario—one in which North Korea cooperates with the United States and South Korea to dismantle its nuclear weapons program—complete denuclearization will take years. As described by Siegfried Hecker and Robert Carlin in their risk-management approach to North Korea’s nuclear program, some tasks, such as freezing North Korea’s production of fissile material, are more urgent than others. Some will best be performed by the United States, but others will require multilateral cooperation. This provides another argument in favor of avoiding unnecessary tensions in U.S.-China relations, even as Washington should be realistic about the ways in which long-term U.S. and Chinese interests do not neatly align on the Korean Peninsula.<sup>6</sup>

## DEALING WITH RUSSIA-CHINA RELATIONS: AN AXIS OF CONVENIENCE

Russia is sometimes overlooked in the context of U.S. strategy in the Indo-Pacific. In fact, the NSS makes no mention whatsoever of the country’s role in East Asia. Given its geography, military power, and vast untapped energy resources in the Russian Far East, Russia is today, and will remain, a force in the Pacific with which the United States must reckon, if only to prevent it from playing a spoiler role.

The NSS describes both China and Russia as revisionist powers attempting “to shape a world antithetical to U.S. values and interests.”<sup>7</sup> China has tried to make common cause with Russia, most notably in the 70th anniversary year of the end of World War II when President Xi Jinping was flanked by Presidents Park Geun-hye and Vladimir Putin

in Tiananmen Square, demonstrating the hope that continental Asia will look to Beijing for leadership rather than to Tokyo and Washington. But in reality, Russia’s role is more competitive than revisionist. If President Putin can find a formula to solve the Northern Territories dispute with Japan, or if he can carve out a constructive role on the Korean Peninsula, Russia’s gains might undermine U.S. prestige and influence. But this outcome depends a lot on how the U.S. views Moscow’s efforts to preserve a role for itself in the Far East.

Given mounting U.S. anxiety about China’s clout, Washington should try to position Russia as a partner in the Indo-Pacific, and should welcome efforts by Russia and Japan to settle their differences. A peaceful settlement of the territorial dispute over the Northern Territories (known as the Kuril Islands in Russia) would set a good precedent for the negotiated resolution of disputes in the East and South China Seas. A peace agreement would also allow Japan to shift military resources away from the Russian threat and deploy them in pursuit of other global objectives, including freedom of navigation. Russian exports of oil and gas could offset more environmentally damaging consumption of coal by China and Japan. Finally, the United States should appreciate that improved ties between Tokyo and Moscow would have the strategic advantage of making the Russia-China marriage of convenience less appealing to the Kremlin. The periods of greatest strategic convergence between Moscow and Beijing have been those times when Washington has driven the two nations together. The United States should not force China and Russia into a de facto alliance by implementing policies that convey an intent to contain China or strategically undermine and isolate Russia.

<sup>6</sup> “Reexamining North Korea Policy: A Blue-Sky Approach,” Maureen and Mike Mansfield Foundation, March 2017, [https://mansfieldfdn.org/wp-content/uploads/2017/04/Reexamining-North-Korea-Policy\\_A-Blue-Sky-Approach.pdf](https://mansfieldfdn.org/wp-content/uploads/2017/04/Reexamining-North-Korea-Policy_A-Blue-Sky-Approach.pdf).

<sup>7</sup> White House, *National Security Strategy of the United States of America*, 25.

## ADDRESSING INUNDATION: CLIMATE CHANGE'S CLEAR AND PRESENT DANGER

In addition to managing the rise of China, reining in North Korea's nuclear ambitions, and reckoning with a resurgent Russia, the United States must contend with another clear and present danger: climate change. The 116th Congress acknowledged the seriousness of the issue when the House established the special Select Committee on the Climate Change Crisis. When attempting to head off the worst outcomes from this slow-moving train wreck, time is of the essence. A ten-year delay in climate stabilization policy would increase the costs of climate change in 2050 by 60%.<sup>8</sup> The rise of China may have been the most significant event of the 20th century, but climate change will be the defining geostrategic event of the 21st century.

Nowhere will the impact of climate change be more severe than in the Indo-Pacific, where the population of the region is clustered within 50 miles of the coast. In Shanghai, around 18 million people live in areas that will be underwater if the earth warms by four degrees Celsius by 2100.<sup>9</sup> Climate change has the capacity to deprive three billion people of fresh water, displace tens or even hundreds of millions of people living on low-lying coastal plains, shatter nations, and spark major wars between great powers over scarce supplies of fresh water and arable land. The Indo-Pacific is also where the bulk of new greenhouse gases will be emitted, barring urgent action. China's emissions are projected to increase by 50% between

2016 and 2030,<sup>10</sup> and the picture is even bleaker in Southeast Asia, where CO2 emissions are rising faster than in other regions.<sup>11</sup>

Working to mitigate climate change could provide a platform for unified great-power action in the Indo-Pacific. China is the world's leading investor in clean, renewable energy, and Russia's vast natural gas reserves in the Russian Far East could help offset Chinese and Japanese coal consumption. While the United States withdrew from the Paris Climate Accord, the decision is reversible. By leading an international effort, Washington could not only address the greatest long-term geostrategic threat to U.S. interests in the Indo-Pacific but also find common ground with China and Russia.

## CONCLUSION: IMPLICATIONS FOR CONGRESSIONAL ACTION

The chief obstacles to forging an effective strategy toward the Indo-Pacific are those generated domestically—the difficulty of sustaining high-level attention and nurturing strong relations not only with treaty allies and partners but also with China and Russia. The task is made even more daunting by the need to adapt U.S. strategy to suit the unique circumstances at play across the diverse Indo-Pacific region—sometimes working in concert with China or Russia, other times competing for markets, security partners, and political influence. The implicit threat animating much of the U.S. approach to the region—that China might one day supplant the United States as the region's preeminent power—is

<sup>8</sup> David A. Raitzer et al., *Southeast Asia and the Economic Impacts of Global Climate Stabilization* (Manila: Asian Development Bank, 2015), <https://www.adb.org/sites/default/files/publication/178615/sea-economics-global-climate-stabilization.pdf>.

<sup>9</sup> Derek Watkins, "China's Coastal Cities, Underwater," *New York Times*, December 11, 2015, <https://www.nytimes.com/interactive/2015/12/11/world/asia/Chinas-Coastal-Cities-Underwater.html>.

<sup>10</sup> Zhu Liu, "China's Carbon Emission Report 2016," Harvard Kennedy School, Belfer Center for Science and International Affairs, October 2016, <https://www.belfercenter.org/sites/default/files/legacy/files/China%20Carbon%20Emissions%202016%20final%20web.pdf>.

<sup>11</sup> Juzhong Zhuang, Suphachol Suphachalasai, and Jindra Nuella, "The Economics of Climate Change in Southeast Asia," RSIS, Working Paper, December 2010, [https://www.rsis.edu.sg/wp-content/uploads/rsis-pubs/NTS/resources/research\\_papers/MacArthur%20Working%20Paper\\_ADB.pdf](https://www.rsis.edu.sg/wp-content/uploads/rsis-pubs/NTS/resources/research_papers/MacArthur%20Working%20Paper_ADB.pdf).



overstated, especially when one considers the alliances upon which Washington can draw. For the foreseeable future, no one foreign power can hope to expel the United States from the Indo-Pacific or replace the international order that it has long-defended in concert with like-minded nations, unless the United States chooses unilaterally to cede the field. Rather than focus on devising a strategy to win a zero-sum struggle with China or Russia, the United States should instead concentrate on identifying ways to advance its own interests, especially when those goals align with the core interests of other great powers. Washington can build on common ground when addressing the near-term threat of North Korea and the slow-moving but still urgent crisis of climate change.

A few steps worthy of consideration by the 116th Congress to add substance and impact to the administration's emerging Indo-Pacific strategy include the following:

- Congress should convene hearings on U.S.-China relations to test assumptions and identify potential areas for cooperation, including achieving the denuclearization of the Korean Peninsula and mitigating the impact of climate change.
- It should support reconvening the six-party talks both to pursue the complete and verifiable

denuclearization of the Korean Peninsula and to coordinate regional efforts to build a more secure, cohesive, and prosperous Northeast Asia. The newly configured six-party talks should include a working group chaired by Russia examining energy security and climate change.

- Congress should appropriate resources to complement the military pillar of the rebalance to Asia with a robust civil-society pillar, leaning heavily on existing mechanisms—such as USAID, the Asia Foundation, the East-West Center, the Japan-U.S. Friendship Commission, Fulbright fellowships, and domestic investment in foreign languages and area studies—to strengthen U.S. capacity to understand and engage the nations of the Indo-Pacific.
- Congress should hold hearings to consider the provisions of the Green New Deal, with an eye toward moving the United States more rapidly toward renewable energy and fossil fuel-free transportation by 2050.<sup>12</sup> It should also leverage U.S. commitments to extract comparable investments from China, seeking wherever possible to assist Beijing in meeting its commitments through the profitable sale of U.S. goods and services. ∞

---

<sup>12</sup> Greg Carlock, "A Green New Deal," Data for Progress, September 2018, [https://static1.squarespace.com/static/5aa9be92f8370a24714de593/t/5ba14811032be48b8772d37e/1537296413290/GreenNewDeal\\_Final\\_v2\\_12MB.pdf](https://static1.squarespace.com/static/5aa9be92f8370a24714de593/t/5ba14811032be48b8772d37e/1537296413290/GreenNewDeal_Final_v2_12MB.pdf).



ENGAGING ASIA  
February 2019



# NOT BY FATE BUT BY CHOICE: SHAPING U.S. TRADE POLICY IN ASIA

*By Walter Lohman*

## EXECUTIVE SUMMARY

### MAIN ARGUMENT

The U.S. has a major economic stake in Asia that is projected to grow. Six of the U.S.'s top trade markets are in the Indo-Pacific. Chances are that in the next two years, however, Washington will continue cycling in place on trade policy. The key trade challenges facing the 116th Congress will likely be: (1) the Trump administration's unilateral policies to rectify unfair trade practices, including the global tariffs on steel and aluminum, (2) targeted tariffs on Chinese imports stemming from China's violation of U.S. intellectual property rights, and (3) uncertainty around completing new bilateral trade agreements.

### RECOMMENDATIONS FOR THE 116TH CONGRESS

- Increase oversight on Section 232 tariff policies, including more hearings, even though this may not alter fundamentally the trade dynamic in Congress.
- Support a deal with China that addresses its abuse of intellectual property rights, extends access to its markets, and at least prolongs the current truce on tariffs.
- Endorse trade liberalizing agreements with interested governments, such as Japan and Taiwan, that will expand trade access in the region.

**WALTER LOHMAN** is the Director of the Heritage Foundation's Asian Studies Center. He is a policy expert focused principally on Southeast Asia, but also broader Asia policy including relations with America's allies in Japan, South Korea, and Australia. He is also an adjunct professor at Georgetown University, where he leads graduate seminars on American foreign policy interests in Southeast Asia and the role of Congress in Asia policy. He also served as a senior professional Republican staffer advising the ranking Republican on the Foreign Relations Committee on issues affecting East Asia. He holds a bachelor's degree in humanities from Virginia Wesleyan College and a master's degree in foreign affairs from the University of Virginia.



ENGAGING ASIA  
February 2019



# NOT BY FATE BUT BY CHOICE: SHAPING U.S. TRADE POLICY IN ASIA

By Walter Lohman

The last Congress was a challenging one for the United States' Indo-Pacific trade policy. In its first two years, the Trump administration made an aggressive push to address what it saw as unfair treatment by U.S. trading partners—not only strategic rivals like China but also allies like Japan. On the positive side, the administration has proposed new trade deals. Divided by politics and mostly concerned with constituent interests, congressional reactions to these actions were equivocal. The 116th Congress will likely be no different.

This brief considers the impact of trade policy on the United States' position in the Indo-Pacific. The first section explores U.S. economic interests there, followed by an analysis of the Trump administration's approach and the 115th Congress's response. The brief then looks ahead at how the new Congress might approach Indo-Pacific trade issues, including addressing the possible imposition of new tariffs, options for resolving the trade dispute with China, and potential bilateral agreements with Japan, the Philippines, and Taiwan.

## THE ECONOMIC LANDSCAPE

U.S. economic interests in the Indo-Pacific are enormous. Among the United States' top-ten export markets for goods (counting the European Union as a single market), six are in the Indo-Pacific. The situation is similar for imports. Five of the United States' top-ten markets for services are in Asia. In terms of investment, 16% of FDI in the United States comes from the region, primarily Japan. Around the same percentage of direct investment goes the other direction, most of it to Singapore.<sup>1</sup> This cross-investment supports sales in both places and beyond.

<sup>1</sup> U.S. Bureau of Economic Analysis, "Direct Investment by Country and Industry 2017," July 30, 2018, <https://www.bea.gov/news/2018/direct-investment-country-and-industry-2017>.



If it is to remain globally competitive, the United States will require greater access to the region's ever-larger share of global economic activity. Estimates of Asia's share of GDP are as high as over 40% by 2030, and over 50% by 2050.<sup>2</sup> The trends are clear. In terms of purchasing power parity (PPP), China became the largest economy in the world in 2014, and it is projected to become the largest in real terms before 2030. By 2050, four of the five largest economies in the world will be in Asia.<sup>3</sup> Although political and policy changes could alter these trends, betting against a bright economic future for the Indo-Pacific would be extremely risky. The bottom line is that the United States has a major economic stake in Asia today, and as the center of global economic activity continues to shift to the region, that stake will only grow.

## CONGRESSIONAL REACTION TO THE TRUMP ADMINISTRATION'S TRADE POLICIES

President Donald Trump has implemented several very aggressive policies to unilaterally rectify unfair trade practices. The actions that have sparked most attention are global tariffs under Section 232 of the 1962 Trade Expansion Act and China-targeted tariffs imposed under Section 301 of the 1974 Trade Act. These are the main mechanisms that the administration has used to impose indirect costs on U.S. trade partners—the former ostensibly for national security reasons, the latter to compel China's respect for intellectual property rights.

<sup>2</sup> Asian Development Bank, "Asia 2050: Realizing the Asian Century," August 2011, <https://www.adb.org/publications/asia-2050-realizing-asian-century>; and Economist Intelligence Unit, "Long-Term Macroeconomic Forecasts: Key Trends to 2050," 2015, [https://espas.secure.europarl.europa.eu/orbis/sites/default/files/generated/document/en/Long-termMacroeconomicForecasts\\_KeyTrends.pdf](https://espas.secure.europarl.europa.eu/orbis/sites/default/files/generated/document/en/Long-termMacroeconomicForecasts_KeyTrends.pdf).

<sup>3</sup> PWC Global, "The World in 2050, the Long View: How Will the Global Economic Order Change by 2050?" February 2017.

*Global tariffs on steel and aluminum during the 115th Congress.* Under Section 232, the administration has implemented tariffs on steel and aluminum on the theory that reliance on foreign imports impairs U.S. national security. In the Indo-Pacific, these tariffs (25% on steel and 10% on aluminum) mostly affect China, Japan, India, and Taiwan. Treaty allies Australia and South Korea received exemptions—Australia for both metals, and South Korea for steel (in exchange for limits on the amount of steel it exports to the United States).

The legal basis for these moves has been contested by several members of Congress. Several freestanding bills were introduced to give either the Department of Defense or Congress, or both, a greater role in determining whether to impose new tariffs under the statute—requiring, for instance, Congress to explicitly approve them. In this spirit, a motion to instruct conferees on a minibuss appropriations bill passed the Senate by a vote of 88 to 11. The legislation called for Senate negotiators to insist on language in the final bill giving Congress a say in Section 232 determinations. In the end, the vote was largely symbolic and had no impact on the negotiations.

Beyond expressions of concern, the introduction of legislation with no prospect of passage, a partially successful behind-the-scenes effort to exclude very specific products from the sanctions, and the one symbolic vote in the Senate, the Republican-led Congress put up little real resistance to the global tariffs. The argument, even from proponents of free trade, was one of trusting Trump's negotiating instincts. The Republican leadership in both houses also made a more practical case for inaction. They maintained that the president would veto any adjustment to the authority granted to him by the Trade Expansion Act and that they lacked the votes necessary to override it.



*Targeted tariffs on imports from China.* In 2018, using authorities granted to it under Section 301 of the 1974 Trade Act, the administration imposed tariffs on U.S. importers of Chinese products in three tranches to cover roughly \$250 billion in imports—\$50 billion at 25%; and \$200 billion at 10%, which will escalate to 25% if no deal is reached between the two sides before March 2. The legal basis given for these measures was very specific: China’s violation of U.S. intellectual property rights. The charges involve Beijing’s use of joint-venture requirements, foreign investment restrictions, administrative processes to coerce technology transfer, discrimination in licensing, technology transfer facilitated through investment in the United States, and commercial cyberespionage.

The congressional reaction to the Section 301 action has generally been supportive of the aims but critical of the means. For instance, in July 2018, twenty members of the House Ways and Means Committee sent a letter to President Trump acknowledging the threat posed by Chinese trade abuses but encouraging direct dialogue with Chinese president Xi Jinping as the preferred course of action. It made only veiled reference to the negative impact of the tariffs on Americans.<sup>4</sup>

The Chinese practices at the heart of the Section 301 actions are long-standing irritants in the U.S.-China economic relationship. What has elevated them to a crisis level was Made in China 2025, Beijing’s plan to dominate ten strategic technology sectors, including areas such as semiconductors, robotics, and aviation. The unique relationship that the Chinese government and Communist Party have with industry, China’s generally positive economic trajectory, and the broader strategic threat that its

rise poses to the United States have combined with the explicit language of “Made in China 2025” to supercharge American complaints. Congress is highly sensitive to this sentiment.

## LOOKING AHEAD TO THE 116TH CONGRESS

*Global tariffs.* The new chair of the Ways and Means Committee, Richard Neal (D-MA), has been supportive of Trump’s intentions in imposing new tariffs but critical of the process and lack of congressional input. Democrat control of the committee is certain to increase the level of oversight, including more exacting hearings and demands for information. On the Senate side, the new chair of the Senate Finance Committee, Chuck Grassley (R-IA), has also expressed concerns about the president’s use of Section 232 and has vowed to take up the issue in his committee.<sup>5</sup>

High-profile legislation has also been introduced. On the pro-trade side, bills to restrict the authority given to the executive to impose tariffs have been reintroduced. On the other side of the issue, a bill has been introduced in the House entitled the “U.S. Reciprocal Trade Act” to give the president even greater discretion to impose tariffs to address what he sees as unfair trade. President Trump expressed support for the latter in his 2019 State of the Union address.

Neither the changes in committee chair nor the legislative initiatives will fundamentally alter the dynamic that dominated the previous Congress. This is because on the House side Democrats generally support the protection of American industry, but for political reasons they need to publicly oppose Trump. On the Senate side, Republicans generally oppose the

<sup>4</sup> Letter from U.S. House of Representatives to President Trump, Committee on Ways and Means, July 25, 2018; and Inside U.S. Trade, World Trade Online, [https://insidetrade.com/sites/insidetrade.com/files/documents/2018/jul/wto2018\\_0346a.pdf](https://insidetrade.com/sites/insidetrade.com/files/documents/2018/jul/wto2018_0346a.pdf).

<sup>5</sup> Chuck Grassley, “Prepared Remarks by U.S. Senator Chuck Grassley of Iowa,” December 20, 2018, <https://www.grassley.senate.gov/news/news-releases/grassley-senate-finance-trade-priorities-116th-congress>.

president's tariffs and so will not give him authority to impose more, but for political reasons they will not challenge him. Although there will continue to be behind-the-scenes pressure in favor of free trade, it will be muted by the Republicans' loss of control over the Ways and Means Committee.

*Chinese trade practices.* Because concerns about Chinese trade practices—particularly the coerced transfer of U.S. intellectual property—are so widely shared on Capitol Hill, the Trump administration's aggressive approach to China will not likely be as controversial during the 116th Congress. It will become even less so given the 2020 presidential election.

As of this writing, the Trump administration is in negotiations with Beijing on a deal that could result in at least the indefinite freezing of tariff increases on both sides and some liberalization of market access on the Chinese side. Critically, if completed, this agreement would address the underlying intellectual property issues and establish a vigorous process for addressing other issues in the economic relationship. Commercial transactions, such as bulk purchases of produce, will likely also be an element of any deal.

The impact on Congress of such a deal would be a wash. On the one hand, it would lessen pressure on the administration from senators and representatives from agriculture states whose constituencies have been most affected by Chinese retaliation. On the other, election year politics would provoke criticism from Democrats that the president has gone soft on China and failed to deliver for American workers.

*Potential bilateral agreements.* The administration has consistently expressed interest in negotiating bilateral agreements, including with allies and partners in Asia. If they are completed, the 116th Congress will be called to vote on legislation to implement these trade deals.

The first priority for the administration is Japan. On the occasion of a summit meeting between Prime Minister Shinzo Abe and President Trump, the two sides issued a statement committing to negotiations for “a United States–Japan Trade Agreement on goods, as well as on other key areas including services.”<sup>6</sup> The agreement was deliberately not called a “free” trade agreement out of respect for Japanese political sensitivities. The joint statement also very critically caveats the Japanese commitment by restricting outcomes on agricultural access to no greater than the levels set under previous Japanese economic partnership agreements, including the EU–Japan Economic Partnership Agreement and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). The United States, for its part, emphasized “market access outcomes” benefiting the U.S. auto industry.

The Office of the U.S. Trade Representative (USTR) subsequently notified Congress of its intent to enter into trade negotiations with Japan and developed comprehensive negotiating objectives. These objectives include market access for automobiles, agriculture, and services; removal of barriers to investment; protection against currency manipulation; and preservation of U.S. trade remedies.<sup>7</sup> Not referenced in the objectives are the Section 232 tariffs on steel and aluminum that have been imposed on Japan or the prospects of new penalties on automobiles and auto parts. The tariffs, especially on automobiles, are a major concern to both Japan and U.S. businesses.<sup>8</sup>

<sup>6</sup> “Joint Statement of the United States and Japan,” September 26, 2018, <https://www.whitehouse.gov/briefings-statements/joint-statement-united-states-japan>.

<sup>7</sup> U.S. Office of Trade Representative, “United States–Japan Trade Agreement Negotiations: Summary of Specific Negotiating Objectives,” December 2018, [https://ustr.gov/sites/default/files/2018.12.21\\_Summary\\_of\\_U.S.-Japan\\_Negotiating\\_Objectives.pdf](https://ustr.gov/sites/default/files/2018.12.21_Summary_of_U.S.-Japan_Negotiating_Objectives.pdf).

<sup>8</sup> U.S. Chamber of Commerce and U.S.–Japan Business Council, “Negotiating Objectives for a U.S. Japan Trade Agreement,” November 21, 2018, <https://www.uschamber.com/comment/us-chamber-and-us-japan-business-council-joint-submission-ustr-us-japan-trade-negotiations>.

These negotiating objectives, like the joint statement, allow for the possibility that an agreement could be reached on goods first with other areas to follow. Passing a noncomprehensive trade agreement through Congress has never been tried. How the administration would structure such an effort is unclear, as are the prospects for its success.

Passage of any agreement through Congress will not be easy, not least because of its interest in agricultural exports. Congress will not likely hew to Japanese caveats concerning the bottom line for agricultural access set by previous agreements. In fact, the Trump administration itself will find it challenging not to push beyond its commitment to Japan on this issue, as was demonstrated when Secretary of Agriculture Sonny Perdue directly contradicted the joint statement the week after it was reached by calling for access greater than that given to the European Union.

Another potential issue is that the joint statement includes vague language that essentially commits the United States not to impose Section 232 tariffs on Japanese automobiles and auto parts. But this is not carved in stone, and the prospect of new tariffs will likely be part of the negotiation. The tariffs imposed on steel and aluminum could also pose problems, as they did in the negotiation of the North American Free Trade Agreement, which in the end, left them unaddressed.

The only country in Southeast Asia interested in a bilateral trade agreement with the U.S. is the Philippines. This idea was endorsed by the two sides in a joint statement during President Trump's visit to the Philippines in November 2017 and again in the fall of 2018 following regular trade talks under the U.S.-Philippines Trade and Investment Framework Agreement (TIFA). Nevertheless, the Philippines was overlooked in October when the administration

notified Congress of its intentions to enter negotiations with the United Kingdom, EU, and Japan. Concerns on the Hill over the Philippines' human rights record under President Rodrigo Duterte are a major obstacle to forward progress and will intensify in the House under Democratic control. Whatever happens with the notification, it is difficult to see an agreement passing Congress as long as Duterte is president of the Philippines.

The other prospect for a free trade agreement in the Indo-Pacific is Taiwan. Its government has expressed interest in a trade agreement with the United States, and that interest is under consideration by the White House. Anything involving Taiwan, however, is complicated by U.S.-China relations. The priority Washington gives to China and its sensitivity to anything involving Taiwan has prevented movement on an agreement with Taiwan for decades. In more recent times, the U.S. trade bureaucracy has also held trade negotiations hostage to specific issues around market access for beef and pork products. Without a political decision by the White House to remove these roadblocks, this situation will remain the same.

In addition to the specific obstacles these bilateral agreements face, completion and passage are complicated by two broader factors. First, on the U.S. side, an already overtasked trade bureaucracy will find it difficult to find the necessary bandwidth for new negotiations. U.S. Trade Representative Robert Lighthizer is now in charge of striking a deal with China. There are the pending Section 232 processes on automobiles and uranium (mostly affecting Australia in the Indo-Pacific) and prospects for several others. These processes are mainly the responsibility of the Department of Commerce but will require the USTR to negotiate the import quotas associated with any country exemptions. Then there

are the other two trade agreements about which the USTR has formally notified Congress—with the EU and the United Kingdom.

Trade bureaucracies in Asia have their own capacity problems. The ten members of the Association of Southeast Asian Nations (ASEAN) are deeply engaged in negotiation of the Regional Comprehensive Economic Partnership (RCEP), which also includes China, Japan, South Korea, India, Australia, and New Zealand. Several of these countries are also negotiating agreements with the EU. Meanwhile, members of the CPTPP will be negotiating the entry of new members, possibly including South Korea, Thailand, and Indonesia.

Second, as the Trump administration heads into the second half of its term, the uncertainty of entering new negotiations that may not be finished before a new U.S. administration comes into office will further heighten the reluctance of regional countries. This uncertainty can be attributed in part to the United States' withdrawal from the TPP in the first month of the Trump administration. After a decade of difficult negotiations and domestic political tradeoffs, this action left governments in the region exposed.

U.S. opposition to multilateral trade deals is likely to persist. Among some on the Hill, there is a misimpression that the TPP negotiation process allowed the other eleven members to “gang up” on the United States. In reality, alignment on issues changed from issue to issue during the course of the negotiations. On some issues, such as access for

agriculture in Japan, digital trade in Vietnam, and investor-state dispute settlement in Australia, the United States recruited partners to help press its case. In the end, the final text actually reflected U.S. objectives more than those of any other country.<sup>9</sup>

## CONCLUSION

The opportunity for the United States in the Indo-Pacific is enormous. Any real long-term projection of growth points to the region as the future center of global economic gravity. As a Pacific nation itself, this trend should be good for the United States. Nevertheless, chances are that at least in the near term—the two years of the 116th Congress—Washington will continue cycling in place on trade policy.

But nothing is predetermined. There is a positive scenario that involves, among other things, exhaustion of administration interest in Section 232 investigations; a deal with China that addresses its abuses of intellectual property rights, extends international access to its markets, and prolongs the current truce on tariffs; and new access liberalizing agreements elsewhere in the region. As the repository of constitutional power on matters of trade, Congress can push the discussion in this direction. Whether it chooses to do so could make the difference in the role the United States plays in the Indo-Pacific far into the future. ∞

---

<sup>9</sup> Todd Allee and Andrew Lugg, “Who Wrote the Rules for the Trans-Pacific Partnership?” Research and Politics, July–September 2016, 1–9.





ENGAGING ASIA  
February 2019



# THE U.S.-ASEAN PARTNERSHIP IN THE INDO-PACIFIC

*By Lindsey W. Ford*

## EXECUTIVE SUMMARY

### MAIN ARGUMENT

Southeast Asia is of deep strategic and economic importance to the U.S., and its global influence will only grow. The challenge for the 116th Congress will be to sustain U.S. engagement and leadership there in light of four trends: (1) rising repression and authoritarian tendencies, (2) wavering confidence in U.S. leadership, (3) ASEAN disunity, and (4) differing strategic priorities.

### RECOMMENDATIONS FOR THE 116TH CONGRESS

- Call upon the administration to publicly articulate a Southeast Asia strategy and nominate a U.S. ambassador to ASEAN.
- Support the recently passed Asia Reassurance Initiative Act, which seeks to develop a long-term strategic vision for the United States in the Indo-Pacific.
- Enhance funding for civil-society programs that strengthen judiciaries, improve press freedoms, create media literacy, and engage students.
- Take delegations to meet with regional leaders and participate in events such as the Shangri-La Dialogue, as well as encourage local officials to take trade and investment research trips.

**LINDSEY W. FORD** is the Director of Political Security Affairs for the Asia Society Policy Institute, its inaugural Richard Holbrooke Fellow, and Deputy Director of the Washington D.C. Office. She has served in a variety of roles at the U.S. Department of Defense and was the Senior Adviser to the Assistant Secretary of Defense for Asian and Pacific Security Affairs. She holds a Master of Public Affairs and a Master of Arts in Asian Studies at the LBJ School of Public Affairs at the University of Texas and studied abroad at Tsinghua University in Beijing, China.



ENGAGING ASIA  
February 2019



# THE U.S.-ASEAN PARTNERSHIP IN THE INDO-PACIFIC

By Lindsey W. Ford

On his trip to Singapore in November 2018, Vice President Mike Pence reaffirmed the United States' commitment to Southeast Asia, arguing that the Association of Southeast Asian Nations (ASEAN) is an “indispensable and irreplaceable partner” to the United States, one which is “central to our vision for the region.”<sup>1</sup> Pence's language echoed similar statements by officials in previous administrations, including former secretary of state Hillary Clinton, who referred to ASEAN in a 2012 speech as “a fulcrum for the region's emerging regional architecture”<sup>2</sup> and President Ronald Reagan, who argued back in 1987 that “support for and cooperation with ASEAN is a linchpin of American Pacific policy.”<sup>3</sup> Even Cyrus Vance, President Jimmy Carter's secretary of state, suggested that engagement with ASEAN was a centerpiece of the Carter administration's approach toward the region.<sup>4</sup>

Yet for all of the rhetorical plaudits of U.S. leaders, ASEAN remains a relatively little-known organization for most Americans. Moreover, Southeast Asia has rarely featured as a prominent focus of U.S. foreign policy following the United States' retreat from the Vietnam War. U.S. policy toward the region has often appeared episodic, alternating between moments of intense engagement and what some regional experts have described as “an inadvertent policy of benign neglect and missed opportunities.”<sup>5</sup> More recently, growing strategic competition between the United States

<sup>1</sup> Mike Pence (remarks at the 6th U.S.-ASEAN Summit, Singapore, November 14, 2018), <https://www.whitehouse.gov/briefings-statements/remarks-vice-president-pence-6th-u-s-asean-summit>.

<sup>2</sup> Hillary Clinton, “America's Engagement in the Asia-Pacific” (remarks, Honolulu, October 28, 2010), <https://2009-2017.state.gov/secretary/20092013clinton/rm/2010/10/150141.htm>.

<sup>3</sup> See Seng Tan, “Change and Continuity in America's Asia Pivot: U.S. Engagement with Multilateralism in the Asia Pacific,” in *Origins and Evolution of the U.S. Rebalance toward Asia: Diplomatic, Military, and Economic Dimensions*, ed. Hugo Meijer (New York: Palgrave Macmillan, 2015), 58.

<sup>4</sup> See Seng Tan, *Multilateral Asian Security Architecture: Non-ASEAN Stakeholders* (New York: Routledge, 2016), 112.

<sup>5</sup> *Ibid.*, 60.

and China has once again brought Southeast Asia back into the limelight. The result has been a renewed emphasis on U.S. engagement with ASEAN and its member states but also growing questions about ASEAN's ability to maintain unity and relevance amid great-power tensions.

This brief explores the evolution of U.S.-ASEAN ties and highlights near-term challenges and opportunities for this partnership. It argues that while the last decade has seen remarkable progress in strengthening U.S.-ASEAN ties, a combination of domestic pressures, geostrategic competition, and ASEAN disunity are likely to slow or stall this momentum in the coming years. The challenge for U.S. policymakers and the 116th Congress will be to sustain U.S. engagement and leadership in the face of these headwinds. This brief concludes by recommending a series of steps that policymakers could take to prevent the erosion of U.S. leadership in Southeast Asia and sustain the U.S.-ASEAN partnership.

## THE EVOLUTION OF U.S.-ASEAN TIES

*Cold War origins.* ASEAN was established in 1967 at a time of deep regional unrest, amid growing concerns about Communist expansionism in Southeast Asia. The aim of the organization was to bring stability to a tumultuous region and prevent Communist attempts to foment insurgencies. Yet it was not until 1976 that the heads of state from ASEAN's five original members met for the first time. Although the U.S. retreat from the region following the Vietnam War helped spur ASEAN's development, it was not long before the United States moved to establish ties with the new organization, convening the first U.S.-ASEAN Dialogue in Manila in September 1977.

From the beginning, the drivers of the U.S.-ASEAN relationship were both strategic and economic. On the strategic level, ASEAN's strongly anti-Communist orientation provided the United States with an important bulwark against Communist influence in Asia—a valuable commodity at a time when U.S. foreign policy was focused on reducing its overseas commitments. Beyond this strategic rationale, Southeast Asia's rapid economic growth, which outpaced many other developing regions, made it immensely appealing for U.S. policymakers as “a producer of primary commodities, a center for investment, and growing market for U.S. goods.”<sup>6</sup> And for ASEAN member states, an enhanced trading relationship with the United States was essential if they hoped to continue their growth and modernization. These shared strategic and economic interests anchored the bilateral relationship throughout the Cold War, providing the United States with a reliable partner in a previously volatile region and helping ASEAN member states sustain the necessary stability to achieve their economic goals.

*After the Cold War: Growth and setbacks.* The end of the Cold War marked an important transition in Asian regionalism and in U.S.-ASEAN relations. During the 1990s and early 2000s, three important developments shifted the long-term dynamics between the United States and ASEAN. First, China significantly increased its political and economic engagement with its Southeast Asian neighbors, embarking on a “charm offensive” to offer new trade deals, investments, and assistance.<sup>7</sup> In 1980, trade with

---

<sup>6</sup> Central Intelligence Agency, “ASEAN: Prospects for the 1980s and Implications for U.S. Policy,” June 15, 1983, <https://www.cia.gov/library/readingroom/docs/CIA-RDP86T00302R000500850003-4.pdf>.

<sup>7</sup> Joshua Kurlantzick, “ASEAN's Future and Asian Integration,” Council on Foreign Relations, Working Paper, November 2012, 3, [https://www.cfr.org/sites/default/files/pdf/2012/10/IIGG\\_WorkingPaper10\\_Kurlantzick.pdf](https://www.cfr.org/sites/default/files/pdf/2012/10/IIGG_WorkingPaper10_Kurlantzick.pdf).



China accounted for only 2% of ASEAN's global trade, far less than the robust trade flows between ASEAN and both the United States and Japan.<sup>8</sup> Between 1990 and 2010, however, China-ASEAN trade saw a fourfold increase.<sup>9</sup> It grew at an average annual rate of 43% from 2000 to 2010, by which point China had become ASEAN's largest trade partner.<sup>10</sup> This shift moved China from being a relatively marginal to a central economic player in Southeast Asia, creating a more complex calculus for ASEAN states in balancing their long-standing security relationships with the United States and their newfound economic reliance on China.

Second, and related, many Southeast Asian countries were deeply frustrated and disillusioned by the U.S. response to the devastating 1997–98 Asian financial crisis. Specifically, they objected to the strict conditions attached to the International Monetary Fund's assistance. A sense that the United States had once again abandoned its Southeast Asian partners at their moment of greatest need not only reinforced lingering questions about the United States' reliability as a partner, it also accelerated efforts to seek out "Asia-centric" economic forums that would reduce ASEAN's dependence on the United States.

Finally, the shift in the United States' attention toward the Middle East after September 11 created a feeling that the United States was disengaged from Asia and uninterested in some of the regional concerns—for example, natural disasters, climate change, and maritime security—of greatest priority for ASEAN states. The Bush administration's relative

disinterest in attending ASEAN meetings and prioritization of counterterrorism issues further reinforced these perceptions.<sup>11</sup>

*The rebalance within the rebalance: Newly expanded ties.* The impact of these developments continues to resonate today in the U.S. relationship with ASEAN. Nonetheless, the past decade saw a historic expansion and deepening of U.S.-ASEAN ties, primarily motivated by China's growing influence and the U.S. desire to shore up its leadership position in Asia. As part of its "rebalance to Asia," the Obama administration moved early on to prioritize engagement with ASEAN, acceding to the Treaty on Amity and Cooperation and establishing an annual U.S.-ASEAN Leaders' Summit within its first year in office. While largely symbolic, both steps sent an important signal that the U.S. commitment to Southeast Asia began at the top and that the United States was willing to engage ASEAN on a wider set of issues beyond counterterrorism. Over the next few years, the United States created a new ambassadorship to oversee U.S.-ASEAN relations and was the first dialogue partner to establish a new mission to ASEAN in Jakarta. The establishment of both the ASEAN Defence Ministers' Meeting-Plus (a ministerial-level defense forum between ASEAN and eight dialogue countries) and the East Asia Summit in 2011 also opened up new avenues for the United States and ASEAN to engage on defense and security issues.

The pinnacle of this period of renewed engagement came toward the end of the Obama administration, with the elevation of U.S.-ASEAN ties to a strategic partnership in 2015 and the first U.S.-hosted U.S.-ASEAN Leaders' Summit in February 2016.

<sup>8</sup> Ganjar Nugroho, "An Overview of Trade Relations between ASEAN States and China," in *FTA No rekishi riron genjo* [History, Theory, and the Current Situation of FTAs], ed. Tetsuro Shimizu (Tokyo: Waseda University, 2015), 160. <https://www.waseda.jp/inst/oris/assets/uploads/2015/10/i2-4.pdf>.

<sup>9</sup> Ibid.

<sup>10</sup> Javad Heydarian, "Obama's B Grade on ASEAN," *Diplomat*, October 10, 2011, <https://thediplomat.com/2011/10/obamas-b-grade-on-asean>.

<sup>11</sup> Nugroho, "An Overview of Trade Relations between ASEAN States and China."



The summit produced the seventeen-paragraph Sunnylands Declaration that affirmed a shared commitment to a range of regional principles and values, including freedom of navigation, open and inclusive economic growth, and peaceful resolution of disputes. Although nonbinding, the statement nonetheless was important as a means of collectively voicing a shared commitment to sustaining a rules-based regional order.

#### *U.S.-ASEAN relations in the Trump administration.*

The Trump administration entered office inheriting perhaps the strongest U.S.-ASEAN partnership that had existed in decades. Although the change in administration generated questions about whether the United States would shift away from its growing focus on Southeast Asia, to a large extent these fears have not materialized. President Donald Trump has twice traveled to the region, and although his failure to attend the East Asia Summit was a disappointment for regional counterparts, his administration has otherwise been diligent in making it a priority to show up for ASEAN engagements. Beyond just showing up, the administration has made an effort to identify new initiatives that will advance the U.S.-ASEAN relationship in substantive and meaningful ways, including passing the Better Utilization of Investments Leading to Development (BUILD) Act to promote private sector-led infrastructure development, supporting Singapore's efforts to promote digital development through the establishment of a new U.S.-ASEAN smart cities initiative, and producing a new U.S.-ASEAN leaders' statement on cyber norms and cooperation.

*ASEAN and Congress.* The U.S. Congress has also shown a growing focus on Southeast Asian affairs. During the 115th Congress, Representatives Joaquin Castro (D-TX) and Ann Wagner (R-MO) established the first bipartisan ASEAN Congressional Caucus

in an effort to encourage greater legislative attention to U.S. interests in Southeast Asia. Representative Wagner also introduced HR 6828, the Southeast Asia Strategy Act, which encouraged U.S. policymakers to more publicly articulate U.S. interests and priorities for the region. The 115th Congress was particularly vocal on the issue of human rights protection in Southeast Asia, as seen in the Burma Act of 2017, the Burma Human Rights and Freedom Act of 2018, and the Cambodia Democracy Act of 2018.

## CHALLENGES AHEAD

Despite this increased attention to Southeast Asia, U.S.-ASEAN relations may be headed toward a bumpier period in the coming years. While the fundamentals of the U.S.-ASEAN relationship remain strong, U.S. policymakers in the 116th Congress will face four challenges in particular that will make it more difficult to sustain momentum in the bilateral relationship.

*No. 1: Rising repression and authoritarian trends in Southeast Asia.* In response to rising domestic and ethnic unrest and the greater sense of uncertainty created by geostrategic tensions in the region, many Southeast Asian leaders are embracing more populist and authoritarian policies at home. The result has been a wave of crackdowns on the press, human rights abuses, and new restrictions on freedom of speech and other civil rights. The most egregious human rights abuses and worrisome developments have been in Myanmar, where mass atrocities against the Rohingya minority have created over a million refugees and one of the most serious humanitarian crises in the world. But there are more widespread challenges across the region, including Thailand's military coup, Philippine president Rodrigo Duterte's deadly war on drugs, Cambodia's repression of opposition parties and

independent media organizations, and the growing politicization of Islam in Indonesia.

The United States cannot afford to turn a blind eye to these developments while also promoting a more “free and open Indo-Pacific.” U.S. support for human rights, freedom of the press, and good governance in Southeast Asia matters not only because it aligns with U.S. values but also because it promotes the type of rules-based order that the United States is trying to sustain in the region. The recent 1Malaysia Development Berhad scandal in Malaysia highlights the degree to which China has been able to exploit domestic corruption and lack of transparency for its own ends. The challenge for the 116th Congress will be to address these challenges in a way that leads to greater freedom and openness without alienating the United States’ relationships in the region.

*No. 2: Wavering confidence in U.S. leadership.* While regional concerns about the U.S. commitment to Asia are not new, there are growing signs of pessimism about U.S. leadership under the Trump administration. Important shifts in the broader contours of U.S. foreign policy—including the administration’s tariff-heavy economic policy, the president’s obvious ambivalence about U.S. alliances and overseas commitments, and the administration’s preference for bilateral cooperation over multilateral engagement—have heightened concerns that the United States will not be a reliable partner. In a recent survey of Southeast Asian experts, nearly 60% of participants suggested that U.S. influence had either deteriorated or deteriorated significantly under the current administration, while nearly 70% expressed a lack of confidence in U.S. commitment and reliability.<sup>12</sup> Unless the United States takes steps

to reverse these trends, this uncertainty will limit the willingness of ASEAN partners to embrace a closer partnership with the United States and restrict the grouping’s ability to build a stronger coalition of support for regional principles and norms.

*No. 3: ASEAN disunity.* ASEAN’s consensus-based approach to decision-making has come under particular duress in recent years. Geostrategic competition between the United States and China has deepened ASEAN disunity, leaving it unable to find a unified voice or play a meaningful role in resolving some of the region’s most consequential challenges, including tensions in the South China Sea. Frustration with this current state of affairs was evident in the same survey of Southeast Asian experts, who listed an inability to cope with fluid regional developments or to deliver concrete results as among their top concerns about ASEAN. Although member states are wrestling internally with how to address this growing dysfunction, they are unlikely to alter ASEAN’s consensus-based approach anytime soon. U.S. policymakers will need to avoid the temptation to decide that ASEAN is therefore no longer useful or important as a regional partner. It remains the centerpiece of Asia’s regional architecture and an essential component of U.S. efforts to build a strong network of like-minded partners. However, U.S. policymakers will need to have realistic expectations about the degree to which ASEAN can, or will, weigh in on sensitive security issues, which will continue to be handled more effectively through bilateral channels.

*No. 4: Differing strategic priorities.* The Trump administration’s rollout of its new free and open Indo-Pacific strategy received a decidedly lukewarm

<sup>12</sup> Tang Siew Mun et al., “State of Southeast Asia: 2019,” *ASEAN Focus*, January 2019, 10, [https://www.iseas.edu.sg/images/pdf/ASEANFocus%20January%202019\\_FINAL.pdf](https://www.iseas.edu.sg/images/pdf/ASEANFocus%20January%202019_FINAL.pdf).

response in Southeast Asia, where some partners felt that its focus on Asian democracies and the newly restored Quadrilateral Security Dialogue with Australia, India, and Japan signaled an intent to sideline ASEAN institutions and partners. Although the administration went on a messaging blitz to address these concerns, the administration's clear preference for bilateralism over formal multilateral institutions is likely to reinforce skepticism about ASEAN's place in U.S. strategy. Moreover, the United States' focus on strategic competition with China is generating mixed reviews in Southeast Asia. While many countries privately express appreciation for U.S. efforts to push back against Chinese assertiveness, they are also anxious that ASEAN may be forced to choose between its relationships with the United States and China. The U.S. administration's tariff policies, in particular, have had a negative impact on economic growth in many Southeast Asian countries, which also worry about the potential impact of U.S. efforts to "decouple" the U.S. and Chinese economies. While ASEAN states welcome U.S. investment and trade, U.S. policymakers will need to be mindful that a "with us or against us" approach to strategic competition, especially in the economic sphere, will be unsuccessful in Southeast Asia and could actually push partners further away from the United States.

## LOOKING FORWARD: PRIORITIES FOR THE 116TH CONGRESS

Although the U.S.-ASEAN partnership may be facing some difficult headwinds in the coming years, the United States has a vested interest in strengthening its ties with ASEAN and member states. Southeast Asia is a region of deep strategic and economic importance to the United States, and its global influence will only

grow in the coming decades. The region is already the largest destination for U.S. investment in Asia, and with five of the world's twenty fastest-growing economies and nearly 400 million citizens under the age of 35, ASEAN's collective economic heft is poised to explode.<sup>13</sup> Moreover, Southeast Asia's strategic sea lanes and rising military capabilities make regional countries important partners on any number of security issues, ranging from counterproliferation to international peacekeeping operations.

Going forward, U.S. policymakers in the 116th Congress could take several steps to help strengthen the U.S.-ASEAN partnership and support U.S. leadership in Southeast Asia. First, Congress should push the administration to publicly articulate a Southeast Asia strategy, as emphasized in the Southeast Asia Strategy Act, that defines U.S. interests in ASEAN and its members on their own terms and not solely through the prism of U.S.-China relations. This could be an important step in reassuring countries about the United States' commitment to its Southeast Asian allies and partners. Relatedly, Congress should press the administration to nominate a U.S. ambassador to ASEAN, a position that has stood vacant for two years.

Congress can help the United States keep its commitment to Southeast Asia by leveraging the power of the purse. It will be important for congressional appropriators to support the recently passed Asia Reassurance Initiative Act, which seeks to develop a long-term strategic vision for the United States in the Indo-Pacific and ensure that the U.S. budget reflects the strategic priorities laid out by Congress.

---

<sup>13</sup> UN Department of Economic and Social Affairs, "Profiles of Ageing 2017," 2017, <https://population.un.org/ProfilesOfAgeing2017/index.html>; International Monetary Fund, "Real GDP Growth: Annual Percent Change," IMF DataMapper, 2018, [https://www.imf.org/external/datamapper/NGDP\\_RPCH@WEO/OEMDC/ADVEC/WEOWORLD?year=2018](https://www.imf.org/external/datamapper/NGDP_RPCH@WEO/OEMDC/ADVEC/WEOWORLD?year=2018); and ASEAN Statistical Yearbook 2016/2017 (Jakarta: ASEAN Secretariat, 2017), [https://asean.org/storage/2018/01/ASYB\\_2017-rev.pdf](https://asean.org/storage/2018/01/ASYB_2017-rev.pdf).

Congress can also help make certain that human rights and good governance reforms remain an important part of the U.S. foreign policy agenda in Southeast Asia. U.S. policymakers should especially focus on enhancing funding for civil-society programs, judiciary support and training, and programs to promote press freedom and media literacy.

While U.S.-ASEAN ties face some near-term hurdles, the greatest potential for stronger engagement with Southeast Asia lies with its large youth demographic. Congress should build new opportunities for young people in the region to engage with the United States by expanding funding for the Young Southeast Asian Leaders Initiative and considering new scholarships that could encourage more students to study in the United States.

Finally, if the mantra in Asia is that “showing up” matters, Congress can play a valuable role in providing this reassurance to Southeast Asian partners. Showing up need not only be an executive branch responsibility. Congressional leaders can, and should, take delegations to meet with regional leaders and participate in significant events such as the Shangri-La Dialogue in Singapore. U.S. policymakers should also encourage state and local officials in their districts to take trade and investment trips to the region in order to further strengthen the already robust people-to-people and trading relationships between ASEAN and many U.S. states. ~





ENGAGING ASIA  
February 2019



# RECOMMENDATIONS FOR THE 116TH CONGRESS ON HUMAN RIGHTS ISSUES IN THE ASIA-PACIFIC

*By Francisco Bencosme*

## EXECUTIVE SUMMARY

### MAIN ARGUMENT

The deterioration of human rights in the Indo-Pacific directly affects U.S. national security interests. As the U.S. National Security Strategy states, the United States is competing in a geopolitical environment that involves not only military and economic dimensions but also ideas and values. If the United States does not support human rights through political initiatives, the “free and open Indo-Pacific” risks becoming another hollow concept. The key countries that will likely draw the most attention on Capitol Hill are China, North Korea, Myanmar, and India.

### RECOMMENDATIONS FOR THE 116TH CONGRESS

- Establish a \$5 million fund to support Indo-Pacific human rights defenders.
- Follow through on the Asia Reassurance Initiative Act to train a new, young generation of activists in the Indo-Pacific human rights community and increase their networks.
- Support digital journalism both by protecting journalists and by building broadcasting programs that focus on digital content and social media to appeal to the younger generation in Asia.
- Integrate human rights into every level of the U.S. bureaucracy that manages the Indo-Pacific policy, and increase congressional engagement with regional leaders on human rights issues.

FRANCISCO BENCOSME is the Asia Pacific Advocacy Manager at Amnesty International USA (AIUSA). Before AIUSA, he served as a professional staff member on the U.S. Senate Foreign Relations Committee, where he assisted Democratic Senators on issues related to East Asia/Pacific, South Asia, and State Department/USAID oversight. He is a Truman Security Fellow and a Penn-Kemble Fellow. He received his Master of Science in Foreign Service from Georgetown University and his BA from Wake Forest University.



ENGAGING ASIA  
February 2019



# RECOMMENDATIONS FOR THE 116TH CONGRESS ON HUMAN RIGHTS ISSUES IN THE ASIA-PACIFIC

By Francisco Bencosme

---

**T**he 116th Congress will face a multitude of vexing challenges in the Indo-Pacific that will require the United States to have a comprehensive human rights strategy with respect to the region. Whether responding to the humanitarian crisis facing the Rohingya in Myanmar, the egregious human rights violations in North Korea, or the mass detention of Uighur, Kazakh, and other Muslim ethnic minorities in China, Congress has a crucial role in helping shape U.S. policy toward Indo-Pacific human rights issues.

This brief begins by examining the implications of deteriorating human rights across the Indo-Pacific. It then describes the challenges for the United States in combatting this trend. Next, it highlights the key human rights offenders in Asia Congress should watch for. While the countries covered are not meant to be exhaustive of all the human rights issues in the region, the few chosen should be priority areas for the new Congress. The brief concludes with cross-cutting recommendations for policymakers to achieve a unified and well-resourced human rights policy in the region.

## THE COST OF DETERIORATING HUMAN RIGHTS IN THE INDO-PACIFIC

The reasons that human rights matter for U.S. national security interests are clear. Countries in the Indo-Pacific that are more likely to respect the rights of their citizens are more likely to be stable functioning societies and prosper economically. Asia is one of the most ethnically, racially, politically, and economically diverse regions in the world, and if people do not feel empowered to voice their grievances peacefully, then they are more likely to do so violently. When minority groups are not protected and are even actively targeted, such actions not only violate human rights but also exacerbate the political and economic structures that sustain them. Senator Marco Rubio, chairman of

the Congressional-Executive Commission on China, put it well when he said, “When liberty is denied and economic desperation takes root, it ultimately affects us at home as well. It causes instability, which leads to economic threats, human rights abuses, and security concerns that directly concern the interests of the American people.”<sup>1</sup> Senator Robert Menendez, the lead Democrat on the Senate Foreign Relations Committee succinctly observed likewise that “any policy for a ‘free and open’ Indo-Pacific region must have human rights...at its core. For too long in the region, the United States has treated human rights as desirable but dispensable. Instead we should be using our values as a source of strength and comparative advantage over illiberal forces in the region.”<sup>2</sup> The 116th Congress, which is historically the most diverse Congress in U.S. history, should tackle these issues head on.

The United States’ partners, allies, and adversaries are also watching how the United States promotes universal values abroad. At the Munich Security Conference this year, Singapore’s defense minister Ng Eng Hen opined about the United States, “You are a more benign hegemon than most....But you also cannot be a ruler without the moral high ground and that is the test now. Can you rule with just being a military and economic might, without the values that you talked about?”<sup>3</sup> The region is watching closely how the United States defends the human rights–based international order. Failure to

act will undermine the United States’ credibility and its ability to demonstrate leadership.

## A FREE AND OPEN INDO-PACIFIC

The U.S. National Security Strategy released in December 2017 spells out a competitive geopolitical environment where the United States is not just contesting military and economic domains but also competing in ideas and values.<sup>4</sup> This approach is captured as the administration’s “free and open Indo-Pacific” strategy. If the free and open Indo-Pacific concept is to be imbued with the values, principles, and norms that the United States, its allies, and its partners in the region see as underpinning the regional order, then it must also include universal human rights. If the United States does not support a vision of a region that includes human rights through bold new policies and initiatives, the free and open Indo-Pacific risks becoming yet another hollow concept. Thus, policymakers should ensure that efforts to realize this vision include a comprehensive and innovative human rights strategy.

Conceptually, the right pieces exist to make human rights a priority in the strategy. In late 2018, as the head of the U.S. delegation to the East Asia Summit and other regional meetings, Vice President Mike Pence emphasized the role of human rights in implementing the free and open Indo-Pacific strategy, stating that “nations that empower their citizens, nurture civil society...are stronger homes for their people and better partners for the United States.”<sup>5</sup> The National Security Strategy prioritizes actions that support “those who

<sup>1</sup> Marco Rubio (remarks at the Asan Institute for Policy Studies, Seoul, January 24, 2014), <https://www.rubio.senate.gov/public/index.cfm/press-releases?ID=4bb7b5d4-8e70-4921-9905-e1ad2e8c95c8>.

<sup>2</sup> Robert Menendez, “Menendez Remarks on FY19 Budget, Global Challenges at SFRC Nominations Hearing,” Washington, D.C., February 15, 2018, <https://www.foreign.senate.gov/press/ranking/release/menendez-remarks-on-fy19-budget-global-challenges-at-sfrc-nominations-hearing>.

<sup>3</sup> “Speech Transcript by Minister for Defence Dr Ng Eng Hen at the Ministry of Defence Committee of Supply Debate 2018,” Ministry of Defence (Singapore), March 2, 2018, [https://www.mindef.gov.sg/web-portal/mindef/news-and-events/latest-releases/article-detail/2018/march/02mar18\\_speech1](https://www.mindef.gov.sg/web-portal/mindef/news-and-events/latest-releases/article-detail/2018/march/02mar18_speech1).

<sup>4</sup> White House, *National Security Strategy of the United States of America* (Washington, D.C., December 2017), <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>.

<sup>5</sup> “Mike Pence: The United States Seeks Collaboration, Not Control, in the Indo-Pacific,” *Washington Post*, November 9, 2018, [https://www.washingtonpost.com/opinions/mike-pence-the-united-states-seeks-collaboration-not-control-in-the-indo-pacific/2018/11/09/1a0c330a-e45a-11e8-b759-3d88a5ce9e19\\_story.html?noredirect=on&utm\\_term=.0a8a37e70217](https://www.washingtonpost.com/opinions/mike-pence-the-united-states-seeks-collaboration-not-control-in-the-indo-pacific/2018/11/09/1a0c330a-e45a-11e8-b759-3d88a5ce9e19_story.html?noredirect=on&utm_term=.0a8a37e70217).



live under oppressive regimes and who seek freedom, individual dignity, and the rule of law.” When the then national security advisor H.R. McMaster laid out the central pillars of the strategy, he highlighted the “rule of law” and “freedom from coercion.”<sup>6</sup> Alex Wong, deputy assistant secretary of state for East Asia and the Pacific, likewise defined “free and open” as “societies of the various Indo-Pacific countries to become progressively more free—free in terms of good governance, in terms of fundamental rights.”<sup>7</sup>

Despite its rhetoric, the Trump administration has failed to fully implement the human rights dimension of its Indo-Pacific strategy. This is not unique to the Trump administration, as previous administrations have often made human rights desirable but dispensable. However, its freefall in terms of priorities comes at a time when the rights landscape of the Indo-Pacific has rapidly deteriorated. Amnesty International’s most recent 2018 human rights report shows how the region witnessed both a shrinking space for civil society and renewed crackdowns on human rights defenders.<sup>8</sup> Those on the frontlines—such as youth and land activists, women’s rights defenders, and trade unionists—are all too often the target of state repression for speaking out in defense of rights. Governments have displayed increasing intolerance toward peaceful dissent and activism, instead abusing judicial powers to impose and enforce legislation that restricts the peaceful exercise of rights and diminishes civic space. Threats to a free media also continue at a disturbing rate.

## KEY COUNTRIES TO WATCH

*China.* China represents one of the most consequential human rights violators in the region. The government’s campaign to suppress all opposition flying under the banner of human rights combines intrusive surveillance, arbitrary detentions, and forced indoctrination. China has targeted people who have traveled or have contacts abroad, show signs of religious or cultural affiliation judged antithetical to the regime, or otherwise fall under suspicion of being “untrustworthy.” Family members have been kept in the dark about the fate of their loved ones, leaving them desperate for answers but afraid to speak up for fear of also being detained.

Chinese authorities consistently repress human rights defenders, such as lawyers Wang Quanzhang, Yu Wensheng, and Gao Zhisheng, whose whereabouts are unknown, or lawyer Jiang Tianyong and activist Dong Guangping, who have been detained unjustly. All are at risk of torture and mistreatment. The use of national security terms such as “terrorism,” “extremism,” and “separatism” has increased at an alarming rate to justify the stifling and punishing of peaceful activists. In May, for example, Tibetan language activist Tashi Wangchuk was sentenced to five years in prison on spurious charges of “inciting separatism.” In addition, this past year has seen the massive detention of Uighurs, Kazakhs, and other predominantly Muslim ethnic minorities in China’s Xinjiang Uighur Autonomous Region. Almost one million people have been sent for so-called re-education, during which they are held indefinitely without a trial, access to lawyers, or the right to challenge their detention.

In the past five years, the Senate Foreign Relations Committee and the House Foreign Affairs Committee have not hosted a full committee hearing solely focused on China’s human rights record and its

<sup>6</sup> “Press Briefing by Press Secretary Sarah Sanders and National Security Advisor H.R. McMaster,” White House, Briefing, November 2, 2017, <https://www.whitehouse.gov/briefings-statements/press-briefing-press-secretary-sarah-sanders-110217>.

<sup>7</sup> “Briefing on the Indo-Pacific Strategy,” U.S. Department of State, April 2, 2018, <https://www.state.gov/r/pa/prs/ps/2018/04/280134.htm>.

<sup>8</sup> Amnesty International, “Rights Today,” 2018, <https://www.amnesty.org/en/latest/research/2018/12/human-rights-today>.



implications for global security. As 2019 brings the 30th anniversary of the Tiananmen Square massacre, Congress should shine a spotlight on the multiple ongoing human rights issues that Chinese citizens face by holding a stateless event in honor of human rights defenders and considering the bipartisan and bicameral legislative acts on the Uighurs introduced last year as an opportunity to set policy parameters for the executive branch.

*North Korea.* Congress should continue to raise the issue of human rights abuses by the Kim Jong-un regime in the context of the ongoing diplomatic negotiations. Up to 120,000 people continue to be arbitrarily detained in political prison camps, where conditions fall far short of international standards. Severe concerns remain with respect to freedom of expression and movement, as well as the harsh conditions of workers who are sent abroad. The severity of North Korea's human rights issues cannot be underestimated.

However, despite President Donald Trump making human rights abuses in North Korea a signature moment in his first State of the Union address, this issue has not featured in the ongoing diplomacy. Although one might argue that the diplomatic talks should be limited to denuclearization, former North Korea negotiators argue that the "inclusion of human rights is not only a moral imperative...but also a source of leverage and pressure on the North for the nuclear issue."<sup>9</sup> Congress will be well-placed to highlight activists who have left or escaped North Korea and give them a voice to raise the issue in the United States. Hearings should also be held on the issue of restrictions on the shipment of much-needed

humanitarian supplies to North Korea as well as what the United States is doing to work with its allies, including South Korea and Japan, to prioritize human rights.

*Myanmar.* Congress can help address the issue of the reported violent campaign of murder, rape, and arson that caused the flight of more than 720,000 Rohingya women, men, and children from northern Rakhine State. Congress should reintroduce legislation on Myanmar that would hold senior military officials responsible for crimes accountable, authorize humanitarian assistance, and pressure the U.S. State Department to take a position on what crimes were committed under international law. The 115th Congress saw a bipartisan amendment, which was attached as the Burma Unified through Rigorous Military Accountability (BURMA) Act to the National Defense Authorization Act of 2018, be stripped in conference from the final bill. The new Congress has an opportunity to not only pass legislation but also hold public hearings in both the Senate and the House. Through appropriations it also has an important role to play in ensuring that U.S. humanitarian assistance to the Rohingya in Bangladesh, Myanmar, and the region is being used to provide safe and sustainable living conditions.

*India.* If one of the central tenets of the free and open Indo-Pacific strategy is to pivot U.S. focus to India, then Congress must monitor India's commitment to upholding the rights-based international order. Civil society in India has come under attack from multiple areas in what can only be portrayed as an erosion of free expression. In October 2018, for example, Amnesty International's offices endured a ten-hour-long raid as a group of officers from the Enforcement Directorate, a financial investigation agency under the Indian Ministry of

---

<sup>9</sup> Victor Cha and Robert L. Gallucci, "Toward a New Policy and Strategy for North Korea," George W. Bush Institute, 2016, <https://gwbcenter.imgix.net/Resources/gwbi-toward-a-new-policy-for-north-korea.pdf>.

Finance, entered the premises and locked the gates behind them. Despite its compliance with national regulations, Amnesty India's financial accounts have also been frozen. Earlier that summer, ten prominent activists were arrested under a draconian counterterrorism law that has been used to silence government critics. India's expulsion of over a thousand Rohingya who have fled violence raises further questions about the country's commitment to international human rights.

Congress should examine the U.S.-India bilateral relationship through this lens. How can the United States expect India to be a partner in upholding the rules-based order when it cannot live up to its own commitments to international human rights bodies? This should be the subject of congressional hearings, briefings, letters, and legislation to convince the Modi government to stop suppressing human rights in India.

## POLICY OPTIONS

Congress, as usual, will find its toolbox limited to moral suasion done in the form of hearings, letters, speeches, and other ways of putting a spotlight on human rights through legislation that authorizes or appropriates programs, sanctions, funding, or restrictions on military relations and trade. Congress and the executive branch should consider the following options for operationalizing a comprehensive strategy to protect human rights in the Indo-Pacific.

*Establish an Indo-Pacific human rights defenders fund.* The United States should establish a \$5 million human rights defenders fund for activists in the Indo-Pacific. This could be modeled after the Human Rights Defenders' Fund of the State Department's Bureau of Democracy, Human Rights, and Labor

but tailored and flushed with resources for regional activists. The fund would help pay legal and travel fees and utilize expertise from the State Department and members of the NGO community. An important component of this fund would be to help coordinate and galvanize other countries to also help human rights defenders. Congress authorized language for this fund, as per Amnesty International's suggestion, in the Asia Reassurance Initiative Act of 2018, but whether the administration implements such a fund will require congressional oversight.

*Promote youth-to-youth engagement.* The Young Southeast Asian Leaders Initiative (YSEALI) is the United States' hallmark regional exchange program to build leadership development, youth civic engagement, and networking in Southeast Asia. The State Department should build on the model of YSEALI and launch a network of young Indo-Pacific activists who focus on human rights issues. The initiative is correct to target youth, given that 65% of the population in Southeast Asia is under the age of 34, but it should expand in geographic scope and narrow in areas of expertise. These networking opportunities would allow human rights activists to build best practices, share networks, and help train a generation of activists in the Indo-Pacific human rights community. Congress began to lay the foundation for this in the Asia Reassurance Initiative Act, but implementation and appropriations funding for these types of programs remain uncertain.

*Support digital news and online journalism.* The United States should increase its investment in assisting regional activists and journalists to expand digital media platforms as a way of profiling human rights issues in the Indo-Pacific. On the one hand, digital media plays a crucial role in the region—for example, the number of social media users in Southeast Asia

grew by 31% over the past year.<sup>10</sup> Media in general also plays a crucial role in protecting human rights, whether by informing the public or by holding the government accountable. On the other hand, we have seen an alarming crackdown on journalists and news organizations, with censorship prevalent throughout the region. The United States should work with local media and independent journalists both to identify ways to expand their resources and digital reach toward a younger audience and to empower individuals to take actions on human rights issues in new ways. Congress should build broadcasting programs that focus on digital content, work to ensure that U.S. Asia policy rollouts include a social media component, and make protecting journalists and bloggers a crucial component of the United States' Indo-Pacific strategy.

*Integrate human rights into every U.S. Indo-Pacific bureaucracy.* The United States needs to integrate human rights into all aspects of its national security tools when it comes to its Indo-Pacific strategy. This Government Accountability Office report on democracy in Myanmar demonstrates how staffing embassies with human rights personnel who report to the Bureau of East Asian and Pacific Affairs can lead to oversight on important human rights programming.<sup>11</sup> Challenges sometimes arise because raising human rights issues can undermine the access of regional bureaus to governments, but integrating personnel in multiple agencies and bureaus would hedge against that possibility. The United States Indo-Pacific Command should also have a senior-level human rights officer that works with combatant commanders

to integrate security posture with human rights and ensure that the military respects human rights and adheres to international law. This position would best be served by a civilian at an experience level equivalent to a GS-15. This applies to USAID, the Treasury Department, and U.S. financial institutions as well. The State Department's traditional diplomacy is one way to raise human rights challenges, but in the Indo-Pacific defense and economic relationships go farther. As such, the expertise on East Asia and the Pacific of the Bureau of Democracy, Human Rights, and Labor should be cross-cutting into these various other U.S. government bureaucracies. Congress can play a crucial role in making these bureaucratic changes, whether through legislation or oversight briefings and hearings. Section 404 of the Asia Reassurance Initiative Act includes language on this, but again the success of the act depends on follow-through and implementation by Congress.

*Increase engagement with regional countries and institutions on human rights.* There is a saying in the Association of Southeast Asian Nations (ASEAN) that "showing up" is half the work. That is true when it comes to advocating for human rights. When President Trump travels to the Indo-Pacific, he should meet with human rights organizations and other civil society partners. Congressional delegations should frequently visit the region, meet with civil society representatives, and consistently ask to visit regions such as Rakhine State in Myanmar or the Tibet Autonomous Region.

Although the United States has made engagement with ASEAN a diplomatic priority, it has never prioritized progress on human rights within the multilateral body. Working with ASEAN has always been difficult because its strong policies of nonintervention and consensus often paralyze it in

<sup>10</sup> Don Kevin Hapal, "How Big Is Social Media in ASEAN Countries?" Rappler, November 11, 2017, <https://www.rappler.com/technology/social-media/188093-social-media-asean-2017>.

<sup>11</sup> Government Accountability Office, "U.S. Democracy Assistance in Burma: USAID and State Could Strengthen Oversight of Partners' Due Diligence Procedures," 2017, <https://www.gao.gov/assets/690/686272.pdf>.

the face of sensitive issues. The United States should use its convening power to bring human rights groups to the sidelines of the East Asia Summit and various U.S.-ASEAN dialogues, as well as at the foreign minister meetings leading up to them. Human rights need to be discussed in all bilateral and multilateral forums, even those that may not typically touch on human rights, such as the negotiation of trade agreements, the Shangri-La Dialogue, the ASEAN Regional Forum, and even the Asia-Pacific Economic Cooperation, the ASEAN Defence Ministers' Meeting, and the ASEAN Defence Ministers' Meeting-Plus. Section 406 of the Asia Reassurance Initiative Act speaks to this issue, and components of this recommendation should be incorporated into the report that the U.S. State Department owes Congress.

*Encourage innovation, not hesitation.* Human rights promotion by U.S. policymakers should not be seen as “wagging the finger” but as leading by example. As the list of challenges increases, so should the U.S. capacity for innovation in the region. The United States should think creatively about partnering with movie stars, musicians, fashion icons, businesses, and other nontraditional influencers to help promote human rights. As autocratic governments in the region become more hostile to traditional channels for raising awareness of abuses, U.S. policymakers need to explore how new technology tools can be used in the Indo-Pacific to empower activists. ∞



*This briefing paper was made possible by the generous support of Chevron, Korea Foundation, and Pragmatics Inc.*



**THE NATIONAL BUREAU *of* ASIAN RESEARCH**

1414 NE 42ND STREET, SUITE 300  
SEATTLE, WA 98105 • 206-632-7370

1819 L STREET NW, NINTH FLOOR  
WASHINGTON, D.C. 20036 • 202-347-9767

[WWW.NBR.ORG](http://WWW.NBR.ORG)    [@NBRNEWS](https://twitter.com/NBRNEWS)