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Foundation



May 10-11, 2004
New York, NY

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US Human Rights Policy in Southeast Asia: New Issues for a New Era

Southeast Asia in the Twenty-First Century: Issues and Options for US Policy

As in other areas of American foreign policy, the events of September 11, 2001, thrust US human rights policy into turmoil. This is especially evident in Southeast Asia, where Washington's designation of the region as a "second front" in the war on terrorism has produced charges that security has eclipsed concern for human rights. If so, this eclipse is only partial: US policy in some countries, particularly Burma, continues to follow goals and strategies of the post-Cold War era, while policy in others (Vietnam, Laos, and Cambodia) reflects lingering Cold War ideology. In this parlous environment, an increasing number of Southeast Asians believe the United States has lost its moral authority.

Regaining moral ground is imperative to improving US human rights policy in Southeast Asia as well as to strengthening American policy in the region across the board. To assess this and other new challenges in relations between the United States and Southeast Asia, the Stanley Foundation launched an 18-month program on "Southeast Asia in the Twenty-First Century: Issues and Options for US Policy." The second roundtable in this project, held in May 2004, examined the premises that drive US human rights policy in Southeast Asia and the strengths and shortcomings of American efforts to promote rights in the region. Central to this discussion were recommendations for formulating

new paradigms and strategies in this highly sensitive area of US relations with Southeast Asia.

Inconsistencies and Incoherencies

The promotion of human rights has been a declared objective in US foreign policy for nearly three decades. Over this span of time, universal norms of human rights have become more prominent in many Southeast Asian systems and political cultures. In the past decade in particular, observers have noted a growing acceptance of human rights in the region as evidenced by more national and regionwide human rights mechanisms, greater political space for nongovernmental organizations, a more active press, constitutional reforms, and more open democratic institutions as authoritarian leaders (such as Suharto) have transitioned out.

It is difficult, if not impossible, to gauge the precise effect that US policy has had on human rights improvements in Southeast Asia or elsewhere. Political change is complex and idiosyncratic. Even the motivations for short-term movements can be difficult to attribute to outside influence. For example, participants were divided over whether stiffer US sanctions on Burma helped persuade the military to convene the 2004 constitutional convention.

Even before the emphasis on counter-terrorism presented new complications

for US policy in Southeast Asia, some problems in American attempts to promote human rights in the region were apparent:

- **Applying criteria and standards unevenly across borders.** US national interests inevitably lead Washington to soften criticism of the human rights practices of some countries (such as China) while maintaining pressure on less significant ones (such as Vietnam). Southeast Asians are sensitive to these discrepancies, particularly within the Asia-Pacific region.
- **Failing to maintain momentum in high-profile policies.** Although major security issues usually enjoy bipartisan support, US human rights policy is more vulnerable to shifts when power changes hands in Washington. This trend was evident in US policy on a war crimes trial for the Khmer Rouge in Cambodia. The Clinton administration vigorously pursued prosecution of the Khmer Rouge in the late 1990s. However, in the first year of the Bush administration the United States dropped the issue and negotiations on a trial faltered. The administration reengaged only when the United Nations halted talks with Phnom Penh altogether. In recent years, the exception to this sporadic approach has been US policy toward Burma.
- **Miscalculating the pace of political change.** In many Southeast Asian countries, improving human rights is a gradual process. However, US policy is rarely calibrated to match this pace, and policymakers are often reluctant to acknowledge incremental gains that fall short of US-defined benchmarks.
- **Signaling a preference for specific individuals and select groups.** When the rights of individuals such as political dissidents trump those of everyday citizens in human rights policy, it can be difficult for the United States to gain support for

its policies among the domestic populations of Southeast Asia. Many Southeast Asians interpret US championing of individual opposition leaders as an overly narrow focus on political rights and an attempt to create mirror images of American political ideals and icons in Asia. Allegations that the United States is projecting its own political priorities on the region also extend to the growing emphasis on religious rights in US policy. Several participants pointed out that evangelical Protestants are given disproportionate attention while the treatment of Shiites in Malaysia, for example, is ignored. This practice only strengthens perceptions in Southeast Asian Muslim communities that the United States is anti-Islam.

- **Underestimating or undervaluing Southeast Asian efforts.** Washington often fails to acknowledge that governments are trying to address difficult issues of social or political change even if the results are not instantaneous or optimal. Southeast Asian policymakers may be well intentioned but state capacity is often weak at both the national and local levels. By failing to acknowledge these factors, the United States may be missing opportunities to make common cause with Southeast Asian governments to improve human rights protection.

The Complications of Counterterrorism

Thus far, American efforts to stem terrorism on a global basis and in Southeast Asia invite more conflicts than support for US human rights goals in the region. Southeast Asians criticize Washington for remaining silent when counterterrorism allies use the terrorist framework to discredit political opponents and draconian antiterrorist laws to control them. For example, the United States has not vigorously challenged Malaysia or Singapore for their open-ended detention of terrorist suspects outside judicial channels.

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These actions reflect poorly on the United States in Southeast Asian human rights communities. They represent a reversal from previous high-profile positions and undermine the efforts of advocates to create more open and transparent democratic processes. For example, Washington appeared to drop its objection to the treatment of former Malaysian Deputy Prime Minister Anwar Ibrahim after 9/11 in favor of closer cooperation with Prime Minister Mahathir.

However, in the eyes of many Southeast Asians, US policies and actions outside the region have an equal or greater impact on the credibility of the United States as a human rights defender. Aspects of the Patriot Act (and related immigration policies), the treatment of prisoners at Guantanamo and in Iraq, and US policies in other corners of the Muslim world—particularly in the Israeli-Palestinian conflict—have all undercut US moral standing in the region.

Although these factors affect the United States' ability to promote human rights, the bottom line effects of counterterrorism policy on human rights in Southeast Asia are unclear. Obviously, stronger internal security laws give governments the means for greater oppression, but they have thus far not resulted in the widespread crackdowns on political opposition groups many analysts had expected. However, this situation could change as more governments (Jakarta most prominently) consider introducing or strengthening internal security acts. One participant argued that these internal security laws could ultimately be counterproductive in the war against terrorism in Southeast Asia if they are used more widely to hobble or eliminate political opposition. Democratic space allows freedom of expression and some moderates could turn to radical resistance if this avenue is blocked.

Internal Tensions, Perception Gaps, and Other Obstacles

Human rights in foreign policy are particularly sensitive to domestic factors. Although there has been a bipartisan human rights caucus in Congress since the end of the Cold War, the US legislative and executive branches have clashed over policy in response to several human rights issues in Southeast Asia. One of the most longstanding disputes is over policy toward the Indonesian military in light of abuses in East Timor in the 1990s. The congressional tendency in these disagreements is to legislate restrictions on the executive branch and, at times, sanctions on the target country in Asia.

These disputes can give US human rights policy a short-term focus and a punitive quality, with an emphasis on “sticks” over “carrots.” However, the view of US policy as stick-driven is not entirely accurate. Encouragement and incentives to improve human rights are offered through US assistance programs, particularly working through nongovernmental organizations. Nevertheless, this window gets far less public attention, in Southeast Asia or the United States, than sanctions and other coercive policy measures.

Another complicating factor in the policy-making process is the role of Southeast Asia ethnic lobbies, particularly those groups that immigrated because of Cold War conflict in their homelands. Participants were divided over the extent to which these groups should influence US policy. Some believed that broader US interests, including the opportunity to promote human rights with present-day governments, are sacrificed in favor of narrow policies that replicate partisan battles in these communities. Others argued that the American democratic system is designed to aggregate and express the interests of citizens, and that it is important to protect that process even if it results in lopsided policy at times.

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The United States is not the only external power attempting to promote human rights in Southeast Asia, but US tactics in this policy area often differ from those of Australia, Japan, and the European nations. These countries are more inclined toward long-term strategies and multilateral mechanisms. They rely less on public criticism and annual scorecards that rate human rights in individual countries, and so they are less vulnerable to charges of applying double standards. However, this is not a hard-and-fast rule across the board. For example, the European parliament has followed US policy in applying some sanctions to Burma. Moreover, in some instances these differences have been useful in applying a “good cop/bad cop” approach to human rights issues in Southeast Asia. Increasingly, however, the United States is isolating itself in the region with a “bad cop” image.

The tendency to work through multilateral means has led these other powers to give more attention to promoting human rights through the Association of Southeast Asian Nations (ASEAN). At the present time, ASEAN is not a driving force in the improvement of human rights in the region, although a nascent human rights framework has been slowly building in the organization over the past decade. However, by emphasizing ASEAN, Europe, Australia, and Japan have acknowledged the need for a Southeast Asian approach to rights. In the past few years the United States appears to have moved in the opposite direction with, for example, congressional threats to apply secondary sanctions on Southeast Asian countries that do not support US policy in Burma.

Finding a New Focus

If the post-9/11 era of US policy in Southeast Asia reveals the flaws in Washington’s approach to human rights, it also offers opportunities to correct and

redirect policy. However, this cannot take place without a frank dialogue within the US policy community and the political will to bridge differences—particularly between Congress and the executive branch—that make it difficult to forge effective policies.

Recommendations

- 1. Find commonalities in US and Southeast Asian priorities to improve human rights protection and emphasize these in US policy.** The most promising areas are likely to be those that reinforce Southeast Asian efforts to improve rights. At the present time, for example, there is a broad intersection between US and Southeast Asian concerns over human trafficking, but there is not a similar broad common interest in religious rights. In identifying commonalities, however, the United States should not sacrifice its own principles.
- 2. Place greater emphasis on capacity-building rather than on short-term gains focused on individuals.** A policy that concentrates primarily on seeking the release of high-profile individuals from detention will do little to change the broader political system even if those immediate efforts are successful. More attention should be given to the capacity needed to safeguard human rights on an ongoing and permanent basis. US policymakers should reconfigure human rights policy to give greater attention to building the scaffolding—enlarged legislative capacity, improved judiciaries, stronger civil society watchdogs—that will enable human rights improvements to take root. Moreover, building a human rights policy around the treatment of individual political dissidents creates the impression with Southeast Asians that the United States cares only for political surrogates and not for the rights and welfare of the broader population.

3. Make the US State Department annual reports and human rights ratings by watchdog groups more balanced by examining and acknowledging progress in the protection of rights as well as human rights performance deficiencies.

This will require moving away from a static “snapshot” approach to one that considers a longer time frame. For example, in Southeast Asian countries emerging from strict authoritarian rule, the personal rights of everyday citizens typically improve before the political rights of dissidents do, but evaluations by US governmental and nongovernmental institutions often ignore these significant shifts.

4. Support movement toward the development of a human rights framework in ASEAN when those openings appear.

With its expanded membership and the principle of noninterference in the internal affairs of member states, it is inevitable that attempts to form a collective human rights framework in ASEAN will be slow, with periods of backsliding. However, societal pressure is gradually building for ASEAN to address rights issues. For example, a working group dedicated to promoting a human rights agenda within ASEAN has proposed creation of an eminent persons group on human rights as well as a regional human rights institute. The United States should encourage and support ASEAN human rights initiatives where possible but take care not to overwhelm the regional process in play.

5. Involve corporations in human rights strategies. In the United States, human rights policy is usually the purview of official agencies, human rights watchdogs, and other special interest groups. Increasingly, however, the processes of globalization and innovation give the business community greater influence in

Southeast Asia. Corporations have a role to play in human rights as they formulate their own frameworks of social responsibility. Bringing business more fully into human rights policy could strengthen the nexus between political and economic rights in US relations with Southeast Asia. Excluding them could exacerbate the disconnects in US policy in the region.

6. Avoid self-congratulation in the face of Southeast Asian progress in human rights. With the high-profile position the United States has taken on human rights in some Southeast Asian countries comes a sense of ownership of any gains that are made. In reality, such connections can seldom be proven; even if such a link could be established, it would be unwise to claim credit for it.

7. Hang a lantern on US human rights problems, especially those that the United States shares with other countries in the pursuit of a counterterrorism agenda. The United States cannot maintain its bona fides as a human rights advocate if it does not acknowledge its own deficits in the protection of rights. This is particularly important in sensitive areas, such as the treatment of Muslims, that may involve Southeast Asians. Admitting the greater problems (as well as the necessity) of protecting human rights in the United States when counterterrorism concerns are high will help to lay a foundation for dialogue with Southeast Asian nations facing similar difficulties. To this end, the United States should accept—even welcome—international criticism for violation of human rights at home and abroad. Ultimately, however, the best policy to restore confidence in US human rights is to prosecute cases of abuse by Americans to the fullest degree.

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