

“Rules, Norms and Changing Regional Dynamics:
Implications for Mainland Southeast Asia”

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There is now a consensus among practitioners and analysts everywhere that the rules and institutions that have governed international affairs so effectively since the end of the Second World War are increasingly dysfunctional or altogether malfunctioning. This alarming phenomenon is broadly referred to as the ‘unravelling’ and ‘disorder’ of the global system. It afflicts the world trading system, featuring elusive multilateral agreements, and the international financial system, beset with regular bouts of crisis and disruptions. Across regions that constitute international life, from North America and Europe to the Middle East and Asia, centrifugal forces are running amok as global centres of power and authority from the United Nations and myriad other international institutions are coming loose at the seams, no longer accepted internationally as in the past, out of step with newly emergent realities of after 70 years. In many country cases, the forces pulling apart the global system have correspondingly reinforced centripetal drivers in domestic spheres, resulting in nationalist tendencies and authoritarian regimes. What happens at the international level, in other words, impinges on what happens at home, and vice versa.

The mutually reinforcing phenomena of less order abroad and more centralised authority at home is thus a critical challenge of our times. Addressing it requires the revamped, renegotiation and recalibration of the global system as we know it in view of ongoing power shifts and power transitions. The rules of the global system need to be reviewed and refashioned as the roles of its major players shift and change. Bigger powers understandably demand larger roles, but smaller and medium-sized states are unlikely to accept any agreement or system that places them under major-power dominance and undercut their interests. Nowhere is the incongruence between rules and roles more salient and consequential than the Asia-Pacific where proven prosperity has been accompanied by growing insecurity. The rules, norms and institutions that will work effectively in the Asia-Pacific must be reinvented and relaunched.

So far, Asia-Pacific rules and institutions are largely inherited, a systemic post-war legacy of the Bretton Woods era. For example, the regional trade and financial systems have been a function of the World Trade Organisation and the International Monetary Fund. These two established institutions, however, can no longer provide sufficient supervision and support for growth and development of individual economies. In their place, other schemes and vehicles have come into being, led by the 12-member Trans-Pacific Partnership and other preferential trade agreements and China's Asian Infrastructure Investment Bank for development finance in the face of the longstanding Asian Development Bank.

On regional security, the United States relied on its so-called 'hub-and-spokes' system of treaty alliances and strategic partnerships for decades but this geopolitical way has been supplanted by a strategic 'pivot' and 'rebalance' towards Asia under President Obama's two administrations. Partly as a reaction to perceived geopolitical encroachment and encirclement, China has become more assertive. Its three main arenas of geopolitical contestation in Asia are the East and South China Seas and the Mekong region in mainland Southeast Asia. These are Asia-centred but the tensions arising from them adversely affect the entire Asia-Pacific and must ultimately be addressed on a Pacific-wide basis.

The relevant global rules and institutions that large and smaller states operate within revolve around the United Nations, particularly the UN Convention on the Law of the Sea from 1982. The Unclos framework is workable as long as involved parties engage in consultation and negotiation without changing the status quo on the ground. For example, the Japan-China conflicting claims over Senkaku islands (which the Chinese call Diaoyue) and the Japan-Republic of Korea rival ownerships of the Dokdo island (which the Japanese refer to as Takeshima) have so far been contentious and tense but thus far manageable by putting up with the way things have been.

But when realities on the ground change, a new ball game sets in. The South China Sea falls in this category. In a tit-for-tat spat between China and several of the ten Asean members, the Chinese occupation of Scarborough Shoal in 2012 and subsequent construction of artificial islands on reefs and rocks in the South China Sea has been contested but not stopped. The Philippines took the case to the Permanent Court of Arbitration which

overwhelmingly ruled on 12 July 2016 in its favour. Yet Beijing disregards the Arbitral Tribunal's ruling and maintains its new facilities on the artificial islands. Unlike the East China Sea, the South China Sea's physical conditions have changed, and China has effectively occupied land features against a major international ruling while no state and no international institution appears capable of containing or reversing Chinese actions. Old rules have gone out the window, and no new rules can be seen, while only *de facto* actions have counted.

The Mekong mainland is yet another example where rules fall short while the ground keeps moving. China has built a string of upriver dams to the detriment of downstream communities and livelihoods in Cambodia and Vietnam. Laos also has also built dams, much of whose hydropower is sold to Thailand, which in turn provides project financing. Midstream Laos and Thailand have therefore not opposed Chinese dams as much as downstream and downtrodden countries, namely Cambodia and Vietnam. But the latter two have not made much noise as both are beholden to China. To sustain and share the Mekong's water resources, the Mekong River Commission (MRC) came up with a guiding agreement in 1995 but China and Myanmar are decidedly not members. In its place, China has come up with its own framework, inaugurated in March 2016 and named the Lancang Mekong Cooperation (LMC), to deal with Mekong matters. It is either LMC or China will not play game.

The obsolescence of old rules and governing frameworks is likely to become more acute as new realities emerge and rising regional states, particularly China, demand greater roles. Asean is supposed to be linchpin of order-creation and architecture-building in Asia but it has been alarmingly divided on the South China Sea ruling. The mainland states are more supportive and sympathetic towards China, whereas the maritime countries have been more confrontation. In this mix, Japan and Australia have weighed in to shore up the maritime Asean states in the face of China's new assertiveness. Unlike in the mainland where its power and capabilities are limited, the US is preeminent in maritime Southeast Asia because of its naval prowess but Washington remains cautious in siding with any side against China. Without new acceptable rules, such as the Code of Conduct for the South China Sea, Asean's centrality in regional security and peace will be less dependable and

effective. Without Asean's central role, the Asia-Pacific will only see more tension and potential conflict, not less.

It is clear that roles and rules have to be commensurate. China deserves more say in regional rule-making but not from a position of dominance and occupier of areas that are claimed by other countries. The US has a balancing role in the region but not to the point that it leads to confrontation and conflict with China. Japan is the main player in mainland Southeast Asia apart from China. The US needs to step up in the maritime domain and Japan in the Mekong mainland to increase the cost of China's apparent belligerence. Asean's divisions over China may now be irreparable. The Asia-Pacific middle powers, together with non-Asean smaller powers, such as New Zealand, must do more to strengthen Asean's hand and to entice and induce Beijing not to discard old rules and norms completely while working together concertedly towards a broad-based new regime to mitigate, prevent and manage tensions and conflicts. Short of new rules and institutions that can govern a new Asia-Pacific, the regional states will likely be heading towards dangerous outcomes that used to be unthinkable not so long ago. END.