



**DATE:** July 13, 2017

**SUBJECT:** American Leadership in the Asia Pacific, Part III: Promoting Democracy, Human Rights, and the Rule of Law | Senate Foreign Relations Committee Hearing

### MAIN POINTS

- The promotion of democracy and human rights in Asia has made progress but still faces tremendous challenges in Burma, Myanmar, Thailand, Vietnam, and especially in China and North Korea.
- American withdrawal is paralleled by a rising China, which could further complicate the effort to democratize Asia despite economic sanctions. Soft power must thus go hand in hand with hard power to make a difference.
- Reform in North Korea is difficult though its citizens do seek to consume information from the outside. Thumbdrives and radio must therefore continue to be sent into North Korea to stimulate change from within.

This event can be viewed at: <https://www.youtube.com/watch?v=CAJkV3xkgRM>.

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### EVENT OVERVIEW

**Date:** Wednesday, July 12, 2017

**Time:** 2:15 p.m. – 3:30 p.m.

**Location:** 423 Dirksen Senate Office Building

#### Attendees

- **Murray Hiebert**, Senior Advisor and Deputy Director, Southeast Asia Program, Center for Strategic & International Studies, Washington, DC
  - **Derek Mitchell**, Senior Advisor to the Asia Center, U.S. Institute of Peace, Washington, DC
  - **Robert R. King**, Senior Adviser (Non-resident), Korea Chair, Center for Strategic & International Studies, Washington, DC
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## SUMMARY

### **Mr. Murray Hiebert's Testimony**

Mr. Murray Hiebert addressed the following questions during his testimony, summarized below:

*Why is it important to promote American values of democracy, human rights, and the rule of law in the Asia Pacific?*

First, human rights have long been part of the U.S. national identity, along with democratization. Promoting these values sends a clear signal to authoritarian governments that the U.S. is watching how they treat their citizens and serves as international police for human rights violations. Second, democratic and human rights respecting governments are more reliable, making them better partners according to the democracy peace principle. Third, the U.S. substantially benefits from liberal international institutions and can have a beneficial impact on them.

*What are the main challenges of adhering to these values, and where should U.S. efforts and resources be better focused to achieve the most effective outcome?*

Support for human rights and democratic reform has dwindled in Southeast Asia, even when its middle class has been actively fighting for it. In the Philippines, police and vigilantes killed over 9,000 suspected drug dealers and users in an effort to eradicate illegal drug dealing activity. Meanwhile, the 2015 elections in Myanmar were viewed as a credible reflection of the people's wishes. However, the country still faces three major human rights problems: 1) continuing abuses against the Rohingya Muslim population; 2) minority conflict with the military; and 3) political prisoners who continue to face restrictions following their release. Numerous decrees were also established in Thailand by the military government after a 2014 coup limited civil liberties. The government continues to censor online content and dozens of people are tried for criticizing the Thai royal family too harshly. In Vietnam, human rights violations include severe restrictions on citizens' political rights, including arbitrary arrests of political activists and bloggers. The virtual world is also censored as no tolerance is given to criticism against the Vietnam Communist Party. Cambodia, under Prime Minister Hun Sen, has also experienced higher levels of restriction on the freedom of speech. Violence and intimidation are used to silence civil society and political opponents of the ruling Cambodia People's Party.

*What tools are available to the U.S. to incentivize governments to adhere to these values and principles? Has the Trump administration used these tools effectively?*

The Trump administration has made it clear that it intends to downplay the promotion of human rights, democracy, and the rule of law as tools of U.S. foreign policy. Secretary of State Rex Tillerson said that when it comes to foreign policy, national and economic interests trump human rights, adding that promoting values is often seen as "an obstacle" to advancing other interests. That being said, the U.S. government may engage the following to promote human rights:

- 1) Foreign Aid (USAID), which was vastly successful in enabling the 2015 free elections in Myanmar.

- 2) Interagency decision-making process in the NSC to overcome tensions between U.S. short-term security interests and long term human rights goals.
- 3) Leahy Amendment of 1997, which prohibits U.S. aid to military forces that violate human rights; the importance of U.S. intelligence, equipment, and advice in dealing with threats like the Islamic militant uprising that erupted in May makes this important.
- 4) Annual Trafficking in Persons report. E.g. frustration with being relegated to the lowest tier prompted the Thai military government to step up its investigations, prosecutions, and convictions of traffickers to rise to tier 2.
- 5) Trade negotiations: The TPP, for instance (which was jettisoned by the Trump administration), uses the U.S. market as leverage to compel infringing states to respect human rights.
- 6) Private diplomacy, such as in the Philippines, drastically toned down Duterte's anti-American rhetoric.
- 7) Development of a legal system, such as the revision of Vietnam's criminal code. U.S.-Vietnam relations now also feature legal exchanges, as the former helps the latter train more judges to uphold international human rights.
- 8) Look to Congress since the executive branch has largely abandoned the promotion of human rights.

### **The Honorable Derek Mitchell's Testimony**

The Honorable Derek Mitchell discussed human rights as an element that is interdependent upon other areas of examination such as security and the economy. He observed that human rights respecting countries are more functional and stable, while acknowledging that many regions in the world regard American "moralism" as hypocritical and unwelcome. Following this view, the new administration has decided to tone down such promotion and turn to salient national interests instead. His testimony is given in the following categories:

#### *East Asia*

East Asia is most prone to the perspective above and has traditionally been a "realist," prioritizing power balances and economic growth over liberal political values. In this context, America has largely maintained power and credibility in the region through economic and security related contributions. Asia's colonial past makes it sensitive to external involvement, reflected in Southeast Asia's foundational "Five Principles of Peaceful Coexistence." Another theory that goes hand in hand with the above is Asian exceptionalism, which holds that "Western" values of democracy and human rights are alien to Asian culture and thus unnatural to Asian society. While Western traditions focus on individual rights, personal liberties, and democratic governance, Asian culture and history focus on collective responsibilities, strong central governance, social harmony, and economic over political rights (ICCPR vs. ICESCR).

#### *Soft Power*

It is one thing to promote human rights with authoritarian regimes; it is another to do so with the citizens under these regimes. Ultimately, it will be up to the citizens to decide whether they want democracy. Soft power is not synonymous with weak, and should not be excluded from hard power

when evaluating a country's influence. The U.S. should also consider engaging businesses in the effort, as corporations share a social responsibility around the world and further exemplify U.S. soft power. In East Asia, trade is also a way to promote American values, and the TPP was a landmark achievement of the kind. In addition, the U.S. military demonstrates to regional militaries that (hard) power and principle are not mutually exclusive, and that the values of transparency, accountability, and civilian control have strategic benefit. In the end, human rights and democracy must yield practical outcomes and connecting other countries to U.S. norms will facilitate cooperation.

### *Expectations Management*

We must effectively manage countries' self-interested expectations to discourage them from expecting too much and getting disillusioned and frustrated in return, since countries tend to democratize in the belief that democracy will make them strong like the U.S. When such does not become the case, states will react and often regress. Therefore, the U.S. must advise other countries on the difficulty of reform. In return, the U.S. should also be open to new institutions in the knowledge that successful elections mark not the final destination.

### *State of Play in East Asia*

Asia is too diverse for a one-size-fits-all approach. Nonetheless, people have an innate desire for human rights. The U.S.'s two allies in Northeast Asia are both successful democracies and demonstrate the positive impact of U.S. engagement in promoting human rights in East Asia. Even now the U.S. is experiencing greater turbulence with its two Southeastern allies, Thailand and the Philippines, it must not sacrifice such promotion despite the fact that the U.S. has profound security interests in maintaining stable bilateral relations with these two countries. Additionally, the U.S. should not ignore national elections in Cambodia in 2018. Given that Prime Minister Hun Sen intends to hold power past 2018 through any means necessary, the situation requires international engagement to ensure democratic processes are safeguarded. In Southeast Asia, ASEAN is beginning to pay more attention to the internal affairs of its neighbors by establishing a human rights council. For example, the refugee flows and human trafficking networks in Burma severely impact the regional stability in the areas. Outside of Burma, there is also tremendous difficulty in balancing majoritarian nationalism and minority rights. Such a phenomenon threatens regional cohesion because the majority in one country is the minority in another. The hardest of East Asian cases concerns China and North Korea. However, the issue is not adequately addressed due to rising U.S.-China interests that downplay human rights violation as a foreign policy priority.

### *Case Studies: The Republic of Korea, Taiwan, and Burma*

These cases exemplify the value of U.S. promotion of human rights and democracy in East Asia.

- 1) Korea: Prior to democratization 30 years ago, South Korea suffered assassinations, civil unrest, and violent repression. Were South Korea still undemocratic, the U.S. would be facing a nuclear North Korea and a rebellious South Korea at the same time. The U.S. is taking the stability of the democratic South Korean society for granted, but should never do that.
- 2) Taiwan: Due to geopolitical factors, Taiwan is considered a negative factor in regional security, but in reality, it is a success story. That China demands the world ignore the

island due to its own nationalist attitudes should not obscure Taiwan's substantial political, economic, social, and cultural achievements. Taiwan is a peaceful, stable, and developed democratic society, which in and of itself challenges the incompatibility of "Chinese culture" and democracy. The U.S. should thus work to further extend the Taiwan model.

- 3) Burma: The Burmese people have much respect for U.S. democracy and stand to uphold democracy and human rights over economic or geopolitical gain. That being said, the transition in Burma is not complete, but there is no doubt that U.S. pressure and engagement in support of Burma's reform have contributed to the hope and opportunity of the Burmese people. We must end the world's longest civil war, and such end could not come without respect for human rights, which in turn could not take place absent internal peace and reconciliation. Though Burma's transition will be difficult, it is essential for broader U.S. interests in regional security.

#### *Clarifying and Communicating Intent*

Since World War II, the U.S. has believed its success and security are linked to the success and security of others. Is it important for skeptics of U.S. civil liberty to not misunderstand the intention behind such policy, and in turn the U.S. should not pursue policy by virtue of perceived moral superiority. The U.S. should maintain a degree of humility and and not seek to remake the world in its own image. In addition, the U.S. should not seek to go it alone, but continue to pursue partnerships with allies and other like-minded nations in Asia and elsewhere. The U.S. must uphold the fundamental human truth that there is more to life than politics or economics.

#### *Recommendations/Final Observations*

Several recommendations follow:

- 1) Consistent Commitment and Messaging within the U.S. Government: State Department diplomats, Defense, Treasury, and Commerce Department bureaucrats and members of Congress should all get on the same page to ensure discipline, consistency, and integrity in word and action over time, even if such is difficult to do.
- 2) Attention to National Context: Demonstrating due respect for local contexts is essential for U.S. credibility and integrity. There must be understanding of both countries' history and culture to establish respectful partnerships.
- 3) U.S. Embassy Leadership: Ambassadors should cultivate and enforce a "one mission" attitude that integrates and shapes the work of not only State Department components but also USAID.
- 4) Demonstrating Openness and Humility: The U.S. must be humble when pursuing its human rights agenda overseas, thus preventing others from dismissing U.S. human rights and democracy promotion as cynical or hypocritical.
- 5) Patience, Constancy, Resources: The U.S. must be consistent over time in supporting institutions and processes that promote human rights. Congress should sufficiently fund both the State Department and USAID to this end, as well as other leading institutions that conduct related work in Asia, including the National Endowment for Democracy, Radio

Free Asia, Voice of America, The Asia Foundation, the East-West Center, and the U.S. Institute of Peace.

- 6) Partnerships: Interest in fostering human rights is not just a U.S. concern, but one that spreads across Asia. The U.S. should build partnerships with governments and civil society organizations alike in Asian democracies such as Japan, South Korea, Taiwan, and Australia. The U.S. should also consider how to integrate business into human rights responsibilities.

Finally, the U.S. should promote human rights because they are fundamentally part of the U.S. national identity: Wilson's 14 Points, FDR's Four Freedoms, Reagan's Westminster speech, Lincoln's Gettysburg Address, and most importantly, the Declaration of Independence. Without a principled element to our foreign policy, the U.S. will become just another self-interested major power that will be soon forgotten. If the U.S. does not lead in helping shape these norms and values, no one else can or will take its place, much to its lasting detriment.

### **The Honorable Robert R. King's Testimony**

Amb. King discussed the significance of human rights, which run complementary to security issues in North Korea. He cited the alarming consistency with which North Korea would treat both its own citizens and those of other countries, especially in its propensity to utilize weapons of mass destruction. King reminded the committee that Congress has been instrumental in advancing legislation promoting North Korean human rights (see: NK Human Rights Act of 2004). In 2014, a UN Commission of Inquiry was established, confirming systematic human rights violations in North Korea. With that introduction, Amb. King proffered five recommendations to continue the fight for human rights in North Korea.

- 1) Continue active participation in UN bodies, including the UN Human Rights Council, in Geneva, the UN General Assembly in New York, and the UN Security Council. The U.S. must sustain discussion and introduction of resolutions pertaining to NK human rights. Such international legitimacy is crucial in bringing attention to human rights efforts.
- 2) Encourage free flow of information to the North, especially through channels including: Radio Free Asia, Voice of America, and other related programs. This is a long-term effort to inform norms within North Korea.
- 3) Maintain support for refugees in South Korea, the U.S., and especially China, which persists in its legal rejection of refugees.
- 4) Identify and provide for legitimate humanitarian needs in the North for those who are most in need. This includes assisting private American humanitarian organizations who operate in North Korea.
- 5) Strategically limit travel to the North. With multiple Americans detained in North Korea and the recent tragedy of Otto Warmbier, travel excluding medical and other humanitarian efforts ought to be restricted.



## Q&A

**Q (Gardner):** Amb. King, could you clarify your suggestion of a travel ban to North Korea?

**A (King):** A ban excepting those entities that meet the requirements to be considered humanitarian, or other kinds of work.

**Q (Gardner):** Mr. Hiebert, could you expand on the interagency decision-making body that you recommend to resolve tension between economic, security, and human rights obligations, or would such a panel result in overemphasis of security concerns?

**A (Hiebert):** To avoid such over-reliance, a good moderator would be necessary, not to prioritize human rights concerns, but to keep it in the conversation.

**Q (Gardner):** Burma ought to be attended to much like Africa has in the Power Africa Act, in terms of building up electrical infrastructure. What do you think, Amb. Mitchell?

**A (Mitchell):** There needs to be a plan to tackle electrical infrastructure. Aung San Suu Kyi needs to deliver electrical infrastructure to maintain legitimacy. In the bigger picture, there needs to be tangible change that accompanies democracy in order to confirm to constituents that it is politically superior. Electricity is key to offering people equitable development, education, and other human rights.

**Q (Gardner):** Amb. King, please share your thoughts on South Korea's recent invitation of the North to co-host the Olympics and how such statements impact the need to hold the North accountable for human rights.

**A (King):** President Moon has been careful about speaking on human rights, as his background is human rights law. There is a commitment in South Korea to the rule of law and democracy, as well as reconciliation with the North. I don't think that reconciliation will be at the cost of human rights.

**Q (Markey):** Mr. King, when there is criticism of human rights policy in North Korea, they consider it an attempt to externally begin a process of regime change. I think we need to directly negotiate with North Korea about their nuclear program, but as a result human rights would be implicated. How do we deal with nuclear weapons in the context of human rights in a situation that is similar to that of the Soviet Union and Russia in the 1980's? Ultimately, the freedom resulting from that situation was achieved via arms negotiation.

**A (Hon. King):** I think we need to emphasize that a policy respecting human rights does not necessarily entail regime change. We should increase information in North Korea about the rest of the world so the regime is pressured domestically. I think we also need to continue pressure in the UN to question North Korea's legitimacy. This has led to at least peripheral changes. The issues of nuclear weapons and human rights are not either/or problems, our policies on both need to work together. In

terms of the Soviet/Russia example, the Soviets were much more willing to negotiate than North Korea is. We must continue sanctions to make nuclearization more expensive. We need other countries' cooperation, and must use the UN as a channel. We must continue to press China. They hold the majority of the bargaining power with the North. From 2016 to 2017, there was a 37% increase in trade between China and North Korea, while the South Korean economy suffered from a 10 billion dollar hit.

**Q (Markey):** I'd like to continue the back and forth about the bill. How would you address in legislation, the issue of nations accepting labor out of North Korea?

**A (King):** We've had some success in pressing countries in Europe and the Middle East to cease their dependence on North Korea. However, countries whose legal systems are murky, like Russia and China, harbor the most workers. In the case of China it is difficult to pinpoint the official from whom the approval to use workers came down, thus making it near impossible to apply individual sanctions.

**Q (Gardner):** Amb. Mitchell, talk about your experience in Burma: should we be more patient, have we been too patient, and how should we balance that patience with additional actions to have better results?

**A (Mitchell):** Democracy does not start and end with elections. Aung San Suu Kyi's election in 2015, though a remarkable moment, just inherited the structural problems of this country that existed before. Having said that, we have seen progress in electricity and economy though it is very slow, so we do have to be patient. On the human rights side, legacy laws punishing those who exercise free speech are still in place and must be readdressed.

**Q (Gardner):** In Thailand, do we have an opportunity to convince the military to lessen restrictions on the freedom of expression, and what leverage do we have in terms of rights in Thailand?

**A (Hiebert):** Thus far they have not taken criticism very well. There is also a lot of sensitivity as we are partaking in a change in monarchy. The former king will be cremated in October, and the new king will be coronated at the end of December. As a result, they have been really hard on freedom of speech, especially given what has been happening on Facebook and other social media. We are hoping to get the Prime Minister here so that we can make some trade deals, mil-to-mil cooperation, in order to push them towards elections in the end.

**Q (Markey):** What is your assessment to Indonesia's threat to democracy coming from the rising religious and ethnic intolerance inside that country? What can the U.S. do in response?

**A (Hiebert):** You might have seen the treatment with the governor and the mayor, a hawk at Jakarta. An ethnically Chinese Christian was sentenced to two years imprisonment for jokingly questioning whether a Muslim could live in a non-Muslim state. As for the U.S., we can send



Congressmen to Indonesia but it will be hard to influence a country that is already a democracy. Negotiation must persist to remind all of the danger of dictatorship.

**Q (Markey):** In 2016, the freedom of the net survey ranked China, Vietnam, Myanmar, and Thailand as not free, and Cambodia, Malaysia, Indonesia, Singapore, and South Korea as partly free. Our challenge in promoting free internet in Asia is complicated by the fact that China vigorously promotes strict state control of cyberspace across the region. What are your perspectives on how the U.S. can meet this challenge?

**A (Mitchell):** The U.S. should meet it face-on and let Asian countries know that we are seeking their success and that without democracy, things will end badly for them. We must first convey the positives of free information, and that the absence of it will create more instability, as well as condemnation that would affect partnerships.

**Q (Markey):** Continued American engagement is essential, but now we have a competing China model. What is your view on this dynamic tension and this aggressive strategy that China has put together?

**A (Mitchell):** If you are an autocratic government you have motivation to do this. But we need to support actors who want to open up their country through civil society and free media. We must demonstrate that open information is what a free society looks like and that free societies succeed. The challenge I found in Burma is trying to measure what progress looks like.

**Q (Markey):** If the U.S. retreats (this administration has illustrated that to be an alternative path), what does that mean in terms of the Chinese regime propounding an alternative authoritarian model?

**A (Hiebert):** With China putting pressure on neighbors to drift towards it, you do have a situation where the Chinese model is being looked at. Vietnam, due to economic development purposes, realizes that it needs to keep the internet open.

**Q (Markey):** Vietnam has just announced a one billion dollar deal with a company in Massachusetts to purchase scanning and detecting equipment, a pure capitalist deal.

**A (King):** An interesting thing is that Chinese information is not permitted in North Korea because it is far too open. It is illegal to listen to Chinese radio in North Korea. Compared to what they are getting domestically, Chinese radio is much more open. One thing we can do especially in a place like North Korea where access to information is basically not available, is to get information into North Korea on thumb drives and particularly through radio, so that there are alternative information sources available to the people in North Korea.

**Q (Gardner):** The new administration is trying to mend fences with some of our treaty allies in Southeast Asia, but we know that the extrajudicial killings create very significant obstacles for the

U.S., a nation that respects human rights. How do we address extrajudicial killings and human rights violations in the Philippines?

**A (Hiebert):** It is a tough situation when Duterte does not take criticism. You can talk to him privately but he does not want to hear criticism publicly. When the U.S. criticizes him, he goes to Beijing and says that he will separate from the U.S.. So the U.S. has challenges, but the good thing is that the U.S. has continued to work on an enhanced defense cooperation agreement to give the Philippines access to bases to help them come to terms with what China has been up to in the South China seas. We must further negotiate with President Duterte and cannot isolate the whole country because of him. The situation is tricky because there is only so much we can do under a guy who is so mercurial and who does not handle criticisms at all.

**A (Mitchell):** He is not just mercurial but also very popular at home. Given public opinion and democracy, it is a lot more difficult to prevent someone from continuing such behavior when there are no negative political repercussions for his actions.

**Q (Gardner):** Regarding sending information into North Korea, have we envisioned additional avenues for information or are radio and thumb drives still the norm?

**A (King):** Radio and thumb drives are still key elements. It is not easy because the North Koreans are very savvy on cyber issues, and cell phones in North Korea are incredibly difficult to use (illegally). There is no access to internet inside North Korea but only state propaganda. In spite of that fact, people do want to know about what happens outside of North Korea. South Korean soap operas are very popular in North Korea and all over Asia. So there is information getting in and we just need to continue to probe though it is not a cheap process. Based on defector pollings, there is great interest in the lives of defectors in South Korea and the U.S.

**A (Gardner):** I think that all of us concur with the last administration's pivot to Asia (over U.S. withdrawal perpetuated by this administration), but what we lack in this country is a long term strategy when it comes to Asia, something that exceeds a four or eight year term of the president. The purpose of these hearings is to pass legislations for long-term strategy in Asia.

**Q (Markey):** Is there any way we can engage the funds addressed to the Philippines to intervene with the kind of conduct happening there that we are not happy with?

**A (Hiebert):** About a third of the killing is done by the police, and 60% or so is done by the vigilante groups. On the police side, there has been effort to cut weapon sales. These vigilante groups do some work for the police, who kill through them to avoid getting their own hands dirty. Cutting off provision of equipment to the police might be one thing, but looking for ways to deal with drug addicts is another way to move forward.

*Report by: Lisa Lee & Sabrina He, Research Interns*