

Securing the ‘Rules-Based Order’ in the Indo-Pacific: The Significance of Strategic Narrative

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The rules-based order is under challenge on a number of fronts. China as a rising power is naturally a major challenger, and its rise has created significant uncertainty about the kind of order that will prevail within the Indo-Pacific into the future. Other external forces at play — from the shifting nature and multipolar distribution of power across the region, to the emergence of new demands and sites for political contest, and the impact of new threats including climate change — are all exerting different pressures on the rules-based order. Add to this the fact that rules are not intended to be static fixtures of global order. They shift and evolve to meet the needs and expectations of those that set, enforce and comply with them. Amid this context of re-ordering, this paper argues that there is a more significant contest underway in the Indo-Pacific: the contest for strategic narrative. It is a contest of leadership, influence and ideas, whereby success is ultimately demonstrated through the ability to set the political agenda, while also framing the rules and terms of compliance for that agenda; thus, shaping the future of regional order in the Indo-Pacific.

Establishing the Rules-Based Order

The ‘rules-based order’ refers in a general sense to the body of rules, norms and institutions that regulate the behaviours and interactions of sovereign states and other actors in the global system.¹ It is an order that is most visibly founded on the United Nations (UN) and Bretton Woods institutions under the global stewardship of the United States. The grand aim of the rules-based order today is to ensure, to the greatest extent possible, that all nations can share in the benefits of peace and prosperity. Importantly, and despite arguments to the contrary, Robert Kagan reminds us that such grand aims are not born of naive optimism but, instead, from hard experience and pessimism sourced from “two catastrophic global wars, the Holocaust, man-made famines, the rise of fascism and communism and near death of liberalism and democracy in Europe”.²

The existing ‘rules-based order’ neatly encapsulates the “transatlantic moment”,³ and has gained political currency as a strategic narrative, particularly amongst Western political leaders over the past decade, with many advocating today for its preservation and

1 Malcolm Jorgensen, ‘Equilibrium & Fragmentation in the International Rule of Law: The Rising Chinese Geo-legal Order’, *KFG Working Paper no. 21*, Berlin Potsdam Research Group “The International Rule of Law – Rise or Decline?”, November 2018.

2 Robert Kagan, ‘The World America Made — and Trump Wants to Unmake’, *Politico*, 28 September 2018.

3 William W. Burke-White, ‘Power Shifts in International Law: Structural Realignment and Substantive Pluralism’, *Harvard International Law Journal*, vol. 56, no. 1 (2017), p. 4.

promotion. Middle power nations including Australia and Japan, having benefited from underlying principles of freedom of navigation, open and fair trade and peaceful settlement of disputes, today locate the ‘rules-based order’ at the heart of their declaratory strategic policy. Such moves signal their commitment to the existing order, their alliance to the United States and their more active strategic role in the region.⁴

The narrative surrounding the ‘rules-based order’, though not without contention,⁵ speaks most commonly to an era in which the United States and its European allies wielded such power and influence that they “embedded their particular preferences into the substance of international law”.⁶ Greg Raymond notes that they have continued to wield influence to get their way within the established architecture.⁷ As such it is not surprising that the ‘rules-based order’ might also be seen as a euphemism for preserving the entrenched interests of the status quo. Malcolm Jorgensen further observes that the rules-based order is predicated on an uncritical universal view of international law embedded in policy and practice in the post-World War Two era, which presumes a similarly universal view of enforcement; “that is, that it should be capable of being enforced equally in respect of all members of the community”.⁸ Though critical, Jorgensen’s views reflect the underlying assumptions and ideals of the ‘rules-based order’ as strategic narrative, and suggest “the qualities of unity or coherence of international law as a single normative system”. While it may be simplistic to contest the legitimacy of the ‘rules-based order’ on the strength of these arguments alone, it is worth noting that in today’s world the broad narrative and assumptions underpinning it are deserving of greater attention and critique.

‘Rules-Based Order’ under Challenge

Recent structural shifts in the global system have exposed vulnerabilities within the practice and narrative of the ‘rules-based order’. China’s rise is the dominant feature of this shift, and China has been cast, particularly by the United States, as the primary antagonist towards the established order.⁹ Not without cause. In certain contexts, China is operating in violation of international law, and setting its own strategic narrative in the process. Persistent militarisation efforts in the South China Sea (SCS), for example, sit in contravention of the UN Convention on the Law of the Sea (UNCLOS). China’s rejection of international arbitration on these matters puts it at odds with the established order,

4 Nick Bisley and Ben Schreer, ‘Australia and the Rules Based Order in Asia’, *Asian Survey*, vol. 58, no. 2 (March/April 2018), p. 302.

5 For example, Patrick Porter challenges the existence of a unitary order; while others like Peter J. Katzenstein argue that there are different orders in different world regions. See for example, Patrick Porter, ‘A World Imagined: Nostalgia and the Liberal Order’, CATO Institute, 5 June 2018; and Peter J. Katzenstein, ‘The Second Coming? Reflections on a Global Theory of International Relations’, *The Chinese Journal of International Politics*, vol. 11, no. 4 (2019), pp. 373-90. See also Carl Ungerer, ‘Who’s Rules? In Which Order?’, *Australian Outlook*, 25 May 2018.

6 Burke-White, ‘Power Shifts in International Law’, pp. 4-5.

7 Greg Raymond, ‘Fragile and Fracturing or Evolving and Adaptive: Prospects for the Rules-Based Global Order’, *Centre of Gravity Series* no. 34 (Canberra: Strategic and Defence Studies Centre, ANU, 2017), p. 6.

8 Arthur Watts, ‘The International Rule of Law’, *German Yearbook of International Law*, vol. 36, no. 15 (1993), p. 39 cited in Jorgensen, ‘Equilibrium & Fragmentation in the International Rule of Law’, p. 7.

9 See for example, United States, *National Security Strategy of the United States of America*, (Washington DC: President of the United States, 2017), p. 25; and Department of Foreign Affairs and Trade, 2017 *Foreign Policy White Paper* (Canberra: Commonwealth of Australia, 2017), p. 1.

and, with the notable exception of the Philippines, with the expectations of nations within the region.¹⁰ While Beijing argues claims of historical maritime usage, interpretation and jurisdiction, the clear intent of its message is that China's national interests will trump negotiated regional approaches. Reinforced by increasingly assertive, sometimes disruptive, and at times coercive diplomacy, and cast against the backdrop of intense military modernisation and national ambition, it is a message that strikes an ominous tone.

Yet it might also be argued that China is seeking to innovate the 'rules-based order'. The establishment in 2016 of the multilateral Asian Investment and Infrastructure Bank (AIIB) is, according to the UN, "reshaping the landscape of development finance" and mobilising capital for much needed infrastructure projects in the developing world.¹¹ President Xi's Belt and Road Initiative (BRI) launched in 2013 offers a further example of innovation, again promoting infrastructure and connectivity projects in the region. However, criticisms of BRI's opaque, debt-financed approach and characterisations that it represents "a new form of colonialism" have been damaging.¹² Perpetuating concerns about debt entrapment, unfair labour practices and poor environmental standards in the developing regions while advancing China's strategic advantage, the BRI has lost some of its initial gloss.¹³ While outwardly refuting such criticisms, Chinese officials acknowledge, internally at least, the need to improve on BRI project delivery; a response that is consistent with the nature and process of innovation. For example, National People's Congress spokesman and former foreign affairs vice-minister Zhang Yesui addressed the second session of the 13th National People's Congress noting:

Obviously, like other international cooperation initiatives, there will be some difficulties, problems, risks and challenges during the implementation of the Belt and Road Initiative. However, ... with continued overall improvement, ... the Belt and Road Initiative will certainly bring better development and even more rewards to participating nations.¹⁴

And yet on other matters, China's contribution to maintaining the 'rules-based order' through global governance, peacekeeping, disaster recovery, counterterrorism, anti-piracy operations, global public health and development assistance is notable.¹⁵ Indeed, closer examination of China's rhetoric and action on the regional and global stage reveals a more complex picture. It is neither unsurprising nor entirely unreasonable that China might seek to contest and innovate particular rules underpinning the established order, "like all great powers, China will seek to influence the region to suits its own interest".¹⁶

10 Raymond, 'Fragile and Fracturing or Evolving and Adaptive', p. 5.

11 UN Conference on Trade and Development (UNCTAD), 'Keep an Eye on China's Innovations in Development Finance', UNCTAD, 26 February 2018. <https://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=1671> [Accessed 19 May 2020]

12 Lucy Hornby, 'Mahathir Mohamad Warns Against "New Colonialism" During China Visit', *Financial Times*, 20 August 2018.

13 Thitinan Pongsadhirak, 'China Must Be Persuaded to Keep BRI within the International Rules', *Nikkei Asian Review*, 19 September 2018.

14 Laurie Chen, 'China Defends Belt and Road Strategy against Debt Trap Claim', *South China Morning Post*, 5 March 2019.

15 David Shambaugh, 'All Xi, All the Time: Can China's President Live up to His own Top Billing', *Global Asia*, vol. 13, no. 3 (September 2018); Raymond, 'Fragile and Fracturing or Evolving and Adaptive'.

16 Department of Foreign Affairs and Trade, *2017 Foreign Policy White Paper*, p. 26.

Furthermore, China is not the only challenger. An increasingly insular and introspective United States — whose leader prefers ‘deals’ to rules, and the company of rogues over allies — appears intent on withdrawing from, or at least disrupting, the ‘rules-based order’ it once championed. At the same time, emerging multipolarity, particularly in the Indo-Pacific region, will see other powers, including Russia, openly challenge the rules. As Jorgensen observes, the signs of fragmentation are now conspicuously playing out in the region, further jeopardising the resilience of the existing ‘rules-based order’.¹⁷

The rules constituting the ‘rules-based order’ raise further tensions. They are amorphous, inconsistent and unevenly enforced. In part this is due to the fact, as Raymond suggests, “that all Great Powers intermittently junk adherence to international law when unsuited to their perceived interests”.¹⁸ At the same time of course, rules are not intended to be fixed. They morph and evolve as they are interpreted, tested, enforced, ignored or overturned. Shifting dynamics in the current global landscape will generate more of this movement.¹⁹ Some of it unanticipated. For example, increasing demand for resources, coupled with the impacts of a changing climate — from receding icecaps to rising sea levels — will open up existing sets of rules to new challenge. The emergence of unregulated frontiers — from space to cyber — will create new forms of competition demanding the formulation of new rules. While non-traditional transnational threats — from urban terrorism to climate crisis — will intensify pressure on the rules, and the order they seek to underpin.

Significance of Strategic Narrative

Against the backdrop of contest and turmoil, the imperative to set the strategic narrative that might best shape the nature of regional order is not to be understated. It is a matter of leadership. Chung In Moon and David Plott note, “It matters immensely who leads a nation, particularly in periods of major transformation, when long dormant tensions or trends assert themselves and begin to reshape political discourse”.²⁰ Indeed, Joseph Nye makes the point that effective leaders should be attuned to the fact that “political power ... comes from being able to set the agenda and determine the framework for debate”.²¹ Embedded in this leadership role is the contemporary imperative to engage and influence wider audiences — those within and beyond the boundaries of the nation-state.

China’s leaders have long understood the significance of narrative. Today President Xi, having firmly located himself as producer and director of the ‘Great Rejuvenation of the Chinese Nation’ is crafting a narrative for China’s return to its rightful place, at the centre of the middle kingdom order. Leveraging his leadership persona on the domestic and global stage, President Xi is actively seeking to establish China’s credibility as a global power that contributes to selective global goods, where it is in China’s interests to do so.

17 Malcolm Jorgensen, ‘Equilibrium & Fragmentation in the International Rule of Law’.

18 Raymond, ‘Fragile and Fracturing or Evolving and Adaptive’, p. 5.

19 For example, the International Seabed Authority (ISA) is negotiating a mining code to regulate deep seabed mining while receding icecaps expose previously inaccessible mineral deposits in the Arctic to possible mining activity. Rising sea levels challenge the traditional formulation of rules from the demarcation of Exclusive Economic Zones to the recognition of ‘climate refugees’.

20 Chung In Moon and David Plott,

21 Joseph Nye, ‘Donald Trump and the Decline of US Power’, *The Strategist*, Australian Strategic Policy Institute, 12 February 2018.

The BRI, for example, cast as a grand strategy of investment, infrastructure and connectivity, offers the broad platform for China's narrative of benevolent regional leadership.

There are obvious economic incentives incorporated in the Chinese narrative for those that choose to follow it. But, increasingly it is becoming clear that China's narrative is founded in principles of patronage, tilted towards China's strategic advantage and bound by asymmetric systems of influence and control.²²

Providing a counter-narrative for the future regional order in which all players and powers — great, middle and small — might benefit, is critical. As it currently stands, the established 'rules-based order' is insufficient to counter China's ambitious model. Imperfections arising from its outdated Western bias, inconsistent application and visible impotence in the face of challenge continue to undermine the appeal and credibility. However, moves to reframe that narrative, anchoring the 'rules-based order' at the core of the 'free and open Indo-Pacific' vision, first articulated by Japan's Prime Minister Shinzo Abe, may prove to be more successful.

Drawing on the collective leadership of Abe alongside Indian Prime Minister Narendra Modi and recent Australian Prime Ministers Malcolm Turnbull and Scott Morrison, the narrative of 'a free and open Indo-Pacific' has found its way into mainstream foreign policy discourse at a surprising pace.²³ Malcolm Turnbull promotes the compelling idea that the "adherence to rules delivers lasting peace, where the rights of all states are respected, and where open markets facilitate the free flow of trade, capital, and ideas". Oriented towards shared maritime interests of the region and led by a collective leadership voice, the 'Indo-Pacific vision' offers a contemporary framework for shaping and reinforcing the rules that will contribute to regional order. Provided it is calibrated to the interests and expectations of nations across the region, it has potential to generate wider purchase in a 'rules-based' approach. But, its effectiveness demands clarity and consistency in language, substantiated through policy and demonstrated in cooperative action. At this stage the 'Indo-Pacific' narrative falls short on all counts. Additionally, the potential conflation of an 'Indo-Pacific' vision with a strategic design intended to overtly contain or exclude China is problematic. Nations across the Indo-Pacific are sensitive to the delicate balance that is required in their complex interdependent relationships with China. At the same time, engaging China in the narrative of an Indo-Pacific, underpinned by accepted rules, is critical. While incompatibilities between China's aspirations and those of a free and open Indo-Pacific remain, there may also be points of convergence. As others have argued, China might well be cast as "the quintessential Indo-Pacific power".²⁴ Yet, to date, too little emphasis is placed on identifying and negotiating common areas of interest, and making the case for collaboration over competition.

22 Caitlin Byrne, 'Political Leaders and Public Diplomacy in the Contested Indo-Pacific', *The Hague Journal on Diplomacy*, vol. 14, no. 1 (2019), pp. 1-16.

23 While many credit President Trump with mainstreaming the Indo-Pacific concept during his 2017 extended tour of Asia, the credit belongs primarily to Prime Minister Abe, whose consistent championing of the narrative through multiple forums and channels saw it embedded in US strategic and foreign policy language.

24 Rory Medcalf, 'A Term Whose Time Has Come: The Indo-Pacific', *The Diplomat*, 4 December 2012.

Conclusion

The ‘rules-based order’ is a complex, imperfect and evolving institution. Securing its future demands a more coherent, contemporary and inclusive narrative, underpinned by policy substance, and reinforced through cooperative action. Notions of a ‘free and open Indo-Pacific’ might offer a strategic narrative that is a better fit for our time. The contest to influence narrative is a test of leadership. Leadership matters more in times of crisis, strategic vulnerability and when international conditions are fluid. That time is now. Yet, it is also a test of diplomacy in its many forms — traditional and public, external and domestic — to engage with conventional and less conventional audiences. Carefully calibrated diplomacy that delivers a compelling narrative, supports multifaceted engagement, and substantiates words through deeds will matter in shaping and securing the future of the ‘rules-based order’ in the Indo-Pacific.

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