

An Inclusive Rules-Based International Order

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Australia declared in last year's Foreign Policy White Paper that it would promote the rules-based international order. While most countries see it as in their national interest, the challenge is to formulate an order that attracts the widest possible acceptance.

Australia loves the rules-based international order. The 2017 Foreign Policy White Paper makes two mentions in the Ministerial Foreword alone about the challenges to the rules-based international order and the need to strengthen it. In the overview, it states that the government will 'promote and protect the international rules that support stability and prosperity and enable cooperation to tackle global challenges'. While these statements are hard to argue with as a general principle, the White Paper's declaration that Australia will 'continue strongly to support US global leadership' is more complex and potentially contestable.

It immediately begs the question of the nature of the US global leadership we are expecting to support. We see US Freedom of Navigation Operations in the South China Sea as upholding the rules-based international order. But at the same time, in the global trading and investment order—an intrinsic part of the rules-based international order, dating back to the Bretton Woods institutions: the General Agreement on Tariffs and Trade and now the World Trade Organization, not to mention more recent attempts to strengthen that order through new arrangements such as the Trans-Pacific Partnership (TPP)—the current US administration is not at all supportive.

In other words, as soon as we move from principle to practice, the complications begin. Those complications are intensified when Australia uses (as we increasingly do) the rules-based international order as code for other concerns. When we talk about the need to support and strengthen the rules-based international order in our region, it's usually a polite way of saying we're worried about what China's up to; and possibly also worried about the degree and nature of US commitment to continue to uphold the order which has served us so well since the Allied victory at the end of WWII.

Looking beyond our region, those concerns of potential challenges to the rules-based international order also apply, especially, to Russia. Russia and China together are the primary challengers to the sort of rules-based international order that Australia supports; although the nature of their challenge is not identical and the means with which we respond must be differentiated.

Some have said that the difference lies in that Russia is a 'brutal' challenger, whereas China is an 'elegant' challenger: meeting the challenge of the latter may require greater creativity and flexibility backed by strength on our part, than the more traditional Russian challenge. There is still greater prospect of engaging China in ways in which we *might* be able to meet halfway; not least because China, despite increasingly attempting to shape the world in its own interests, is nevertheless a net beneficiary of the post-war order in a way in which the USSR never was, and Russia is still not.

We also need to note that while there are laws and institutions which currently comprise what we can call the rules-based international order, there are a variety of interpretations when we attempt to answer questions to do with broader understandings of what that order is or should be, or in what direction it should continue to evolve. In some liberal democracies, the conception of the order encompasses individual human rights, democratic processes, the rule of law, unfettered market forces, and peaceful resolution of disputes.

In this context, Australian governments, and sometimes those of Japan, and India to a lesser extent, tend to use the potentially contentious expression *liberal* rules-based order. Use of this term raises the question in more obvious terms as to whether this advocacy is not directed at those who appear to oppose liberal values – particularly China and Russia – and in regard to economic policy, at the Trump administration.

An alternative approach to the notion of a rules-based international order, which includes China's – but not just China's – preferred interpretation, emphasises national sovereignty, independence, non-interference and decolonisation, or the removal of any remaining remnants of Western domination. This includes the principle of non-interference in their internal affairs, which is to many states still sacrosanct.

In other words, there are in practice several rule-based orders, all with competing conceptual foundations claiming international legitimacy.

Closer to Australia than to Europe, although including a number of states with significant European ties, ASEAN may offer another form of a rule-based order.

By institutionalising soft law and formalising informality and consensus, it sees rules not necessarily as enforceable by sanctions, but more as concepts around which persuasion and consensus-building can take place.

ASEAN principles and guidelines may be better typified as conventions. Generally, ASEAN doesn't talk much about the rules-based international order. Indonesia, certainly, on those rare moments when the term is used, views it negatively, regarding it as a hollow concept put forward by those who don't necessarily follow the rules themselves: US non-ratification of the UN Convention on the Laws of the Sea and the Convention of the Rights of the Child, and rejection of the International Criminal Court, the Kyoto and Paris accords and the TPP. Until recently Australia was also seen as culpable in the context of the East Timor boundary issue (now finally, happily, resolved).

Despite this, most states would wish to retain the overwhelming bulk of the laws and rules that comprise the rules-based international order, especially those states that have benefitted so much from economic and trade rules, including China. But the emergence of China means that for an evolving rules-based international order to have continuing value, rising states will need to acknowledge their right to help shape those rules which have helped them, but in whose creation they played no part, and to cooperate with others in framing new rules for new situations.

The rules-based international order consists of two basic elements: first, a body of laws, rules and institutions; and secondly, the norms, conventions and guidelines that inform the way the former are understood and applied. What we must ask is to what degree the prevailing liberal interpretation of the rules-based international order is necessary or even intrinsic to the maintenance of a system of global rules and conventions. More specifically, the question remains whether a liberal economic order may have a broader appeal if separated from liberal values and beliefs regarding cultural, social and sovereignty issues. While most countries do see a rules-based international order, in principle, as being in their national interest, the challenge is to formulate an order that attracts the widest possible acceptance.

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