THE JOURNAL OF DIPLOMACY AND FOREIGN RELATIONS

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Freedom of Expression in Unpredictable Times: Stakeholders' Perceptions of Malaysia's Track Record in the 3rd UPR Cycle

Murni Wan Mohd Nor, Sh Fatimah AlZahrah Bt Syed Hussien Al-Attas, Lubna Sheikh Ghazali, Farah Mursyieda Mohammad Fuad, Shahir Ab Razak and Mohd Firdaus Mohamed Khairi

ABSTRACT

Since Malaysia's involvement in the 3rd Universal Periodic Review (UPR) in 2018, there have been some improvements related to freedom of expression which reflects the government's commitment to enforce accepted UPR recommendations. However, the unpredictable political situation from 2018-2021 resulted in two government changes and three different Prime Ministers. These changes have obstructed intended human rights reforms, which afforded more opportunities for state intervention in freedom of expression—particularly during the height of managing COVID-19. All these developments have made it even more challenging to evaluate human rights reforms by the government. This paper discusses Malaysia's human rights track record in general and freedom of expression in particular via in-depth interviews with 23 stakeholders in related fields. Findings indicate notable progress such as legal reforms, bolder media practices, heightened public awareness of freedom of expression, and increased activism of CSOs. However, the study also identified problems which manifested in restrictions on freedom of expression such as the questioning of journalists, crackdowns on migrants and refugees, as well as investigations against leaders of CSOs and activists. Implications of these findings on the implementation of accepted UPR recommendations are also discussed.

Keywords: Human rights, freedom of expression, free speech, reform, Universal Periodic Review (UPR)

INTRODUCTION

Malaysia's effort to fulfil its commitment to the Universal Declaration of Human Rights (UDHR) alongside 192 other countries is upheld through its Federal Constitution. Within Article 10 (1) of the constitution, every citizen is guaranteed the right to freedom of speech and expression,[1] the right to assemble peacefully,[2] and the right to form associations.[3] All of these are vital for citizens' individual development and the overall democratic process.

These prescribed rights are not absolute, much like the practice in other countries. Under Article 10 (2), (3) and (4) of the Federal Constitution, freedom of speech, assembly and association can be restricted by Parliament through law to protect national security, friendly relations with other countries, public order or morality, and limitations designed to preserve the privileges of Parliament or any Legislative Assembly, or to provide against contempt of court, defamation or incitement to any offence.

Justifiable restrictions on fundamental freedoms are a necessary part of those very same rights.[4] However, Parliament does not have the right to simply impose restrictions on freedom of expression without just cause. Adherence to the rule of law must guide the legislative bodies and the judiciary in their actions and decisions related to human rights and freedom of expression. In this regard, the courts play an essential check and balance role in examining whether restrictions imposed by the legislative are reasonable.[5]

Since Malaysia's involvement in the 3rd UPR cycle in 2018, several reforms were implemented to uphold constitutional principles by affording better protection of fundamental rights. This may be observed through the manifestos of several political parties that have called for changes to Malaysia's legal framework. For example, the former Education Minister, Maszlee Malik from the Pakatan Harapan (PH) party had successfully pushed for greater political rights for university students.[6] In addition, Malaysia has seen some progress in terms of a more diverse, and critical media—which was not always the case before 2018. These reforms are significant milestones toward achieving a vibrant and functioning democracy.

The multiple changes in the serving government in Malaysia within the last few years have undeniably been one of the obstacles that have impeded freedom of expression. The first change occurred when the PH coalition won over Malaysia's administration against Barisan Nasional (BN), the coalition that ruled the Federal Government since the country's independence, in the May 2018 general election. However, the new administration was replaced by the Perikatan Nasional (PN) coalition in February 2020. Not long after, the 8th Prime Minister, Muhyiddin Yassin resigned resulting in the appointment of the 9th Prime Minister by the Yang Di-Pertuan Agong (YDPA) on the 20th of August 2021, resulting in three changes of administration within three years.

The uncertainty within the political situation in Malaysia between 2018-2022 has led to abrupt changes in policies and laws that impact freedom of expression, which has affected Malaysia's ability to fulfil its obligations as set in the UDHR. This is supported by The Human Rights Measurement Initiative (HRMI)'s survey to assess Malaysia's human rights performance. Specifically, Malaysia's 2021 score on civil and political rights was 4.9 out of 10. This implies that "many people are not enjoying their civil liberties and political freedoms (freedom of speech, assembly and association, and democratic rights)."[7]

It does not help that certain weaknesses within the present legal framework have not been addressed. Human rights scholars, practitioners and activists have observed that the loopholes within the system have opened the opportunity for abuse of power.[8]

Therefore, the main objective of this research is to analyse the government's track record in enforcing freedom of expression since Malaysia's participation in the last UPR cycle of 2018. This is done through wide consultation with various stakeholders who are cognisant of the human rights initiatives (or lack thereof) brought by the government,[9] which is an integral step in preparation for the UPR.[10] Our analysis is limited to the developments that took place during the administration of both the PH and PN coalition up to the leadership of Muhyiddin in 2021. This is due to the political and administrative changes that occurred during COVID-19, which have had an adverse effect on freedom of expression, particularly in implementing the UPR recommendations.

CONTROVERSIES POST-2018: TESTING THE LIMITS OF FREEDOM OF EXPRESSION

The right to freedom of expression as guaranteed under Article 10 has been greatly tested since Malaysia's 3rd UPR cycle in 2018. Several controversial incidents which occurred have elicited strong responses from the government, members of civil society, the public, as well as international bodies. Furthermore, the transition from PH to PN government happened during the height of managing COVID-19 which resulted in a declaration of emergency by the YDPA. Thus, the PN administration had the responsibility to address the tumultuous situation. Due to the multiple forms of movement control orders (MCOs) implemented to curb the spread of COVID-19 and restrictions on fundamental rights enforced throughout Malaysia, there were questions on whether the suppressions of freedom of expression were carried out under the guise of an 'emergency' and 'national security'.

For example, intimidation and investigations by law enforcement against media organisations and practitioners that published articles on the alleged mistreatment of migrant workers raised concerns that freedom of the press was being unjustifiably restricted. Following a mass May Day immigration raid in 2020,[11] an article entitled *"Coronavirus: Hundreds arrested as Malaysia cracks down on migrants in COVID-19 red zones"* was published by the South China Morning Post, after which its writer was called in for questioning. Civil society members including Amnesty International Malaysia,[12] Article 19,[13] and PEN Malaysia voiced their disagreement on the matter. Anwar Ibrahim, the opposition leader at the time, commented that the media was fast becoming a government target and that any form of punishment was contradictory to the spirit of democracy and the rule of law.[14]

The increased legal enforcement against the media, investigation of journalists, as well as a series of troubling measures following publications of certain views critical of the new Government may have contributed to Malaysia's poor standing in the 2021 World Press Freedom Index, which suffered a drop from 101st place to 119th place. The RSF commented that "the restoration of more authoritarian rule in 2020 has led to prosecutions, police searches, expulsions, and flagrant violations of the confidentiality of journalists' sources".[15] Although certain restrictions on media freedom may be legitimate

measures to protect public interest or national security, it is our opinion that these trends of intimidation, raids, and prosecution against media organisations and practitioners indicate a reversion to media censorship practised before 2018.

In addition, laws that restricted freedom of expression were also enforced against opposition members. In May 2021, the police questioned the opposing Member of Parliament, Fahmi Fadzil from Parti Keadilan Rakyat (PKR) Under Section 4(1) of the Sedition Act (SA) and Section 233 of the Communications and Multimedia Act (CMA) for participating in the solidarity protest for activist Fahmi Reza over several social media postings including the *"Dengki Ke"* Spotify playlist that the latter started.[16] Earlier in 2020, former Minister of Youth and Sports Syed Saddiq was also investigated under Section 4(1) of the SA and Section 233 of the CMA over an interview he gave to Al Jazeera, voicing out his disappointment that the previous Prime Minister Muhyiddin Yassin had chosen to side with "the kleptocrats".[17] Both political leaders were from the opposition team at that time.

Civil society leaders and bloggers who voiced out their dissent were not spared probes by authorities. In 2020, lawyer and activist Fadiah Nadwa Fikri was investigated under Section 4 of the SA and Section 233 of the CMA for participating in two peaceful rallies to show protest and disappointment over the change of government and urged people to join the rally on her Twitter account.[18] All the allegations of human rights abuses occurred during a time of great political and administrative changes. Hence, different stakeholders were consulted to allow a balanced perspective on the progress and problems with respect to freedom of expression within the national framework. This is an invaluable process in assessing the government's track record when it comes to freedom of expression and will assist in the evaluation of Malaysia's commitment to uphold the accepted UPR recommendations.

METHODOLOGY

This social-legal research adopted methods from social sciences to generate empirical data to meet the research objectives.[19] We employed qualitative methods of data collection through (i) document analysis; and (ii) in-depth interviews. Firstly, document analysis of primary documents (related to international treaties, national legislation, speeches of politicians, human rights

reports, etc) and secondary documents (literature by scholars, researchers, and newspaper reports) was conducted to derive meaning, form a better understanding, and gain empirical knowledge of the data gathered.[20]

Secondly, the study gathered the perceptions of different stakeholders in Malaysia who were directly involved in or impacted by human rights enforcement, specific to issues on freedom of expression. This allowed us to gain significant insight from informants regarding the complex issues[21] related to freedom of expression in Malaysia. As such, informants were purposively selected to represent diverse viewpoints. This criterion is necessary to meet the objectives of our study[22] and avoid a subjective or one-sided evaluation.[23][24] Data was gathered from 23 informants (within and outside of the government sector) by way of in-depth, semi-structured interviews. Table 1 reflects the informants' information and respective pseudonyms. Of these informants, only one has agreed to retain his real name throughout the research and its publications. The details of the informants are as follows:

Table 1: Details of Informants

Organisation	The number of informants interviewed	Names and pseudonyms for quoted informants quoted in text
Deputy Minister from the Ministry of Unity, Officers from the Ministry of Home Affairs, the Ministry of Foreign Affairs, The Attorney General's Chambers, and the Judiciary	5	Wan Ahmad Fayhsal (real name), Amir, Mastura, Harun
Human rights lawyers and activists	3	Shazwan, Anita, Aida
Actors within media corporations	4	Sarvesh, Maria, Cindy, Suhaila
Academicians and researchers	5	Dr Suriya, Dr Hamzah, Irene
Civil Society Organisations (CSOs), Activists/bloggers/artists	6	Watika, Farah, Tanveer

Before conducting the interviews, we explained the objectives of the study, including the ethical considerations—an imperative aspect when conducting any research.[25] A set of documents were shared with the informants including the interview guide, consent form, and information sheet. Due to the sensitive nature of the subject and possible repercussions, we have not identified the informants in the study according to their real names except for the one informant who has consented.

The interviews were then transcribed and analysed for recurring themes in line with the thematic analysis method.[26] The interview questions were limited to issues related to freedom of expression from 2018 to 2021. Our analysis is limited to the developments that took place since Malaysia's participation in the 3rd UPR cycle, specifically related to the accepted recommendations related to freedom of expression reflected below in Table 2 (per the relevant paragraphs of the Report of the Working Group on the UPR dated 7 January 2019):[27]

Table 2: Malaysia's Accepted Recommendations

Para.	Recommendation	Country	Malaysia's position
151.136	Enact legislation guaranteeing the right of access to information and ensure its full implementation	Slovakia	Accepted
151.139	Take further steps to ensure a free, independent, pluralistic, and diverse media landscape, including by reducing political influence on media outlets	Austria	Accepted
151.143	Accelerate consultations within the government to review the following legislation: the Sedition Act, the Printing Presses and Publications Act, the Prevention of Crime Act, the Special Offence Act, the Peaceful Assembly Act, and the Prevention of Terrorism Act	Georgia	Accepted

This has allowed us to evaluate the extent of the government's commitment to uphold the accepted UPR recommendations. Based on the findings from the document analysis and the in-depth interviews conducted, we have identified the major progress and problems related to freedom of expression. The next section elaborates on the progress which we have broadly categorised as i) legal reforms; ii) bolder media; and iii) increased awareness and activism.

LEGAL REFORMS

Most of the informants reported that between 2018 and 2020, there was increasing interest and effort to improve FOE through legal reforms. This includes engagement between government offices and CSOs that transformed into a lasting relationship even after the change of administration in 2020. However, many of the informants described the progress as unsubstantial, and both the PH and PN governments were perceived as having a weak political will to exercise meaningful change.

It was clear to many informants that the direction related to human rights and FOE taken by PH and PN were quite different. Here, Aida (2024), a lawyer explained: "I think because we're talking about two different governments right, so we also have to look very carefully and try to analyse this because both governments have very different stances." Almost all the informants emphasised that they felt the progress came to a halt during PN's administration. Some of them argued that it was because PN did not prioritise FOE, while others claimed that managing the pandemic distracted PN from implementing human rights reforms. Some of the informants also pointed out that with the change in administration in 2020, there was a regression in the progress experienced, and this is discussed in the later section. That said, the improvements related to legal reforms as observed by the informants were mainly in two main areas which were (i) the repeal and amendments of certain laws, and (ii) the reduced enforcement of certain laws.

I.   Repeal and Amendment of Certain Laws

During the PH administration from 2018-2020, several laws were repealed or amended such as the Fake News Act, Peaceful Assembly Act (the PAA), and the

Universities and Universities College Act. These positive changes reflect the government's commitment to upholding the accepted UPR recommendation 151.143 and was noted by some informants. Harun (2024), a former high-ranking member of the judiciary mentioned,

> There's some slight improvement during the short reign of the Pakatan Harapan government, for example, the repeal of the Fake News Act, and then there's the amendment to the Universities College Act, giving student's right to be involved in political activities on campus…

Other changes were also made which afforded greater freedom of expression. Mastura (2024), an officer from the Ministry of Foreign Affairs stated that:

> Another example [apart from the repeal of the Fake News Act] is in the amendment to the Peaceful Assembly Act 2012 in July 2019, whereby organisers of peaceful assemblies or street protests are no longer required to obtain police approval. Instead, they need only to notify the Officer in Charge of the Police District (OCPD) concerned five days before the event."

This is a welcome development for the nation. Previously it was an offence for three or more people to 'assemble' in a manner that is deemed in contravention of the Police Act,[29] and street protests were often dispersed using water cannons and tear gas.[28] Notably, the latest amendments to the PAA have resulted in street protests no longer being an offence.[30] However, as mentioned by Mastura, organisers that seek to conduct an assembly must submit a notification to the authorities. The time frame for the said notification was formerly 10 days, but the latest amendments to the PAA have reduced the time to five days before the date on which the planned assembly is to take place.[31] In addition, the police are now required to respond faster when a notification is submitted, which is three days instead of the previous five. The police are also required to inform the organisers of the assembly regarding any restrictions and conditions imposed (if there are any).[32]

Another significant change has made certain offences compoundable under the PAA, instead of the previous position of incurring a fine or imprisonment. When certain offences can be made compoundable, this means they are no

longer criminal offences, and there will be no criminal record. This can be seen as a means of watering down offences and allowing street protests. In this regard, we welcome this improvement that highlights the government's commitment to carrying out the accepted UPR recommendation 151.143 which affords the people the right to peaceful assembly.

It is important to note that the *process* of addressing the weaknesses in the legal framework also experienced improvement according to some of the informants. Cindy (2024), a media practitioner and activist mentioned that "in 2018, we saw this possibility where those in civil service and the bureaucrats were more willing to engage with civil society organisations. There was an opportunity to build trust, and it enabled us to carry forward a lot of very concrete work around law reform, not just within the FOE cluster." This was also confirmed by another informant, Mastura, who stated that the Ministry of Foreign Affairs has intensified its collaboration and engagement with other ministries, civil society organisations, and international organisations in recent years. She provided specific examples:

> The Ministry has collaborated closely with international human rights organisations such as the Office of the High Commissioner for Human Rights (OHCHR) and the UN in Malaysia in promoting and strengthening the culture of human rights in Malaysia, including through the UPR process. In addition, the Ministry has implemented numerous initiatives to promote and advocate the culture of human rights by engaging with civil society as well as academia through inclusive dialogue and other programmes. For example, during the 2020 International Human Rights Day celebration, the Ministry and the Legal Affairs Division of the Prime Minister's Department (BHEUU) collaborated with SUHAKAM and the UN in Malaysia to organise a virtual forum with the theme "Recover Better – Stand Up for Human Rights".

This indicates not only progress in law reform but also the engagement and consultation process in which it happened. The PN government had actively increased its collaboration and engagement with relevant stakeholders in Malaysia-which was not as apparent before 2018. This included institutionalising

a multi-stakeholder biannual consultation involving various stakeholders. It can be concluded that the government had attempted to realise two of the accepted UPR recommendations (151.136 and 151.143) by direct and indirect means, which were to uphold the right of access to information and accelerate consultation for the review of certain laws that impinge on FOE.

II. Reduced Enforcement of Certain Laws

Between 2018 and 2020, the informants observed there was less enforcement of certain laws (such as the SA), fewer arrests and harassment relating to FOE, and lower numbers of defamation cases brought to the courts. Several informants reflected the change was particularly apparent compared to the position before the 14th General Elections in May 2018 in which the BN government helmed the administration. Wan Ahmad Fayhsal (2024), former Deputy Minister of National Unity from the PN government stated:

> Although we are in an emergency at the moment because of COVID.. but as we all know, people are free to criticise the government ..to call the government on Twitter *"Kerajaan gagal"* [failed government] with no action taken by MCMC to silence the critics. So, we are taking care of human rights in this aspect.

However, Watika (2024) who is an activist from a media-based CSO argued that the reduced number of investigations and arrests related to the SA after 2020 could have been attributed to the pandemic because conversations shifted online, thus there was more use of the CMA. As Shazwan (2024) who works as a human rights lawyer, agreed that arrests related to FOE were still made, but those instances were quite sporadic. He attributed the change in government response and the reduced number of arrests to the human rights movement galvanised by the people:

> I think people are braver now and are more aware of their rights, so I would say that there is an improvement from the government response but this is simply because they [the people] have tasted this freedom and no government after this I think, would actually think about clamping down hard on freedom of speech and expression, at least not like what it used to be prior to 2018.

Another progress reported was the reduced enforcement during peaceful assemblies. Irene (2024), a researcher mentioned that there was less use of tear gas and archaic suppression tactics during assemblies by the authorities. While there were still instances of laws being used to curb FOE, we note the decrease in its usage by both PH and PN—demonstrating the attempt to realise accepted UPR recommendations on FOE.

BOLDER MEDIA

Within the media sector, major progress in terms of the expansion of media platforms can be observed. Shazwan reflected that:

> I think that in 22 months at the very least, we have seen that there's been a bit more freedom in terms of media and reporting matters. Again, there have been setbacks after the 22 months, which can be seen in the recent [drop in] press freedom rankings, but at the same time, I think there's still that critical stage in the media which I think started in that 22 months where there were some openings of democratic spaces when it comes to social media.

In addition to the development of the media space, we observed that many new independent media have been formed and welcomed by the public. Well-established media houses (including mainstream media) have also improved their practice and extended their presence to social media platforms such as Twitter, Facebook, Instagram, and TikTok to engage different target audiences. Suhaila (2024), a journalist from the media sector explained that "...when there is an intervention or outcry from NGOs and the public, the media will feel responsible to address the issues that they highlight."

According to the informants, the public now appreciates and welcomes independent media to report on current issues due to the diversity in the perspectives offered. Some of the informants feel that the public still does not trust the mainstream media as much. As such, media platforms (both mainstream and independent) have taken bolder moves to address issues more objectively and critically. This indicates that the environment post-2018 is more encouraging of critical media which has a dynamic relationship with the public. This is a good reflection that the government is observing the accepted UPR recommendation

151.139 to encourage an environment for a free, independent, pluralistic, and diverse media landscape.

INCREASED AWARENESS AND ACTIVISM

All informants confirmed that public awareness and activism have seen significant growth and progress. They attributed this to the use of social media—given that more members of society have access to technology and the Internet. There is also much more awareness and education about human rights and FOE, especially among the younger generation. For example, the issue of unequal living conditions, particularly during the pandemic gave rise to robust conversations on social media. Sarvesh (2024), a reporter highlighted that despite the differences in socioeconomic levels, technology and media played a role in channelling people's frustrations and bringing people together in the online space. This encouraged public debate and created a more interactive relationship between media channels and the public. However, Anita (2024), a lawyer and activist, argued that on social media, although it may seem that people are more open to expressing their opinions and thoughts on issues relating to human rights, this is not representative of the wider community. She stated that most of the public is still not aware, confused, or not ready to discuss human rights issues.

In terms of activism, we find that the public is more aware of their freedom and its limitations. Some informants agree that there appears to be more space to criticise the government with fewer repercussions, especially during the PH administration. Sarvesh explained that the public intentionally uses acronyms, nicknames, or pseudonyms to not blatantly criticise the government so that it is harder for the government to prosecute them. However, such progress is not without problems, which we have identified and expounded on in the later section.

Although the increased awareness and activism was not one of the recommendations made during the previous UPR cycle, it reflects the public's progress in accessing and sharing information—which is indirectly related to recommendation 151.136. This situation forms a lively ecosystem for human rights and FOE for the Malaysian public, which is a prerequisite for further improvements to materialise.

REGRESSION IN FREEDOM OF EXPRESSION

The improvements on FOE are a great departure from the situation before 2018 under the BN government. However, several informants stated that the change to the PN government in 2020 meant that "the government is back to the old ways, to the old habit of curbing restrictions."

Reflecting on the three UPR recommendations that were accepted by Malaysia, we find that the main problems related to FOE fall under four categories; (i) weaknesses within the legal framework; (ii) restrictions and intimidation against the media; (iii) intimidation and investigations against speech and publication; and (iv) increase of hate speech and hostile reactions within the community. We have analysed these problems and supported our analysis with the informants' observations.

I.   Weaknesses Within the Legal Framework

This research revealed that there are three main elements identified as the weaknesses within the legal framework, which are (i) inconsistent enforcement and implementation of laws, (ii) conflict of human rights framework with local context, and (iii) delayed legal reform.

i.   Inconsistent Enforcement and Implementation of Laws

Due to the general and broad nature of many laws which have the effect of regulating FOE, we find that across both PH and PN administrations, there have been differing interpretations of certain provisions and inconsistency in the implementation of laws. The informants observed that enforcement of laws has been largely made against those within the Opposition. An informant, Tanveer (2024), from a youth-based CSO mentioned that "the government is never consistent with implementing FOE. Some politicians can get away with saying inflammatory statements if they are with the ruling government and vice versa."

As previously mentioned, most of the informants reported *reduced* arrests related to FOE by PH compared to the subsequent PN administration. Nevertheless, we still observed several problems. For example, during PH's time, the highly contentious SA and CMA were still used by both the PH and PN

administrations to investigate statements made by persons in a manner that may potentially be seditious.

The researchers are not opposed to the SA in its entirety but object to the selective prosecution of the Act. Previous studies have identified the weaknesses of the SA which have yet to be addressed. For example, the SA still allow wide requirements of proving if one's words have a seditious tendency. As such, the law may not be used in cases of sedition that are truly deserving of penalisation or prosecution.[33] The researchers propose for the SA to be amended to include more specific drafting with proper definitions of key terms and employ the use of illustrations to give a better explanation as to what certain terms mean. Such legal amendments would follow Malaysia's accepted obligation of UPR recommendation 151.143, which is to speed up consultation for the review of certain laws, including the SA. Implementing these changes would leave little room for uncertainty as compared to the current position and reduce the possibility of abuse of power.

The present legal framework still has inherent weaknesses which cause inconsistent implementation. This hinders freedom of expression from being enforced effectively. As such, the government of the day could be perceived as not fulfilling the UPR recommendation to review certain provisions of laws such as the SA, the PPPA, and others.

ii.   <u>Conflict of human rights framework with local context</u>

The Malaysian framework for human rights also lacks clarity and certain aspects have not been suited to the sensitivities of the local context. As such, human rights reforms are often misunderstood by Malaysians, which leads to controversies. This can be seen in many instances, such as the public backlash against certain human rights initiatives, including the signing (and eventual withdrawal from ratifying) of the Rome Statute.[34] Watika reflected on this incident and said "the 3R things are being completely capitalised now right…it was quite unbelievable how that platform was hijacked during the Pakatan Harapan time, with the ratification of the Rome Statute and the discussion around ICERD." Among the reasons this initiative could not proceed was due to the perception that it would threaten the position of the Monarchy and the special position of Malays.[35] This is also mentioned by Wan Ahmad Fayhsal who reflected that the discussion of

human rights is still taboo in Malaysian society due to the perception that human rights are a Western invention, and the concept clashes with the cultural or religious values of the local people. This problem continued into the administration of PN.

Some of the informants highlighted that the 3R issues (Race, Royalty, and Religion) remain largely sensitive and are often avoided. According to the informants, arrests and investigations have centred largely on these issues. Farah (2024), an informant from a CSO focused on constitutional awareness stated:

> To me, that's also the biggest challenge when it comes to 3R, which is race, religion, and royalty of course.... These three issues concerning 3R are labelled as sensitive and therefore your views on 3R should not be expressed, that labelling and taboo are still there but I think it's slowly being peeled away, especially by the younger generation......."

The perceived conflict that human rights are inconsistent with the cultural and religious values of Malaysians contributes to the resistance to adopting and implementing human rights reforms at the national level. Informants have expressed that a lack of awareness of human rights exacerbates the problem. Thus, there needs to be a consistent effort by the government to educate all levels of society on the importance of human rights in a balanced and moderate way that would not exclude their concerns and reverence for cultural and religious values. Amir (2024), an officer from the Attorney General's Office, expressed that "...human rights and freedom of speech must be fought for, but I observe there is a clash in views and perceptions, what I mean is from the government's side, the interpretation of rights may be too strict. On the other side, some NGOs are too extreme in their views."

iii. <u>Delayed Legal Reform</u>

While there were discussions that took place between government offices and civil societies about legal reforms, we found that the process has either been largely delayed, or there is not much progress at all. Understandably, much of the PN administration's focus has been invested in addressing and managing the global pandemic COVID-19 and its impact on the country. As such, FOE may not have been one of the main focuses of the current ruling government.

Therefore, this resulted in the postponement of legal reforms related to human rights and FOE.

The informants also argued that the delay in legal reforms is a result of the lack of political will within both the PH and PN administrations. We note that there were certain promises made regarding human rights reforms, specifically FOE which the PH and PN governments did not (or could not) implement. This is reflected in the ratification of international treaties such as the Rome Statute and the repeal of the Sedition Act (which remains in force today). The lack of political will has greatly contributed to the challenges in executing the intended reforms. Shazwan mentioned, "I think if a government has the political will to implement and allow freedom of speech and expression, I think freedom of speech and expression will flourish."

Additionally, some of the informants highlighted that the top-down approach by the administration also caused delayed legal reforms. Despite the effort and pressure made at the grassroots level, the disapproval from the top deferred or stopped the progress altogether. These factors became setbacks in implementing all the accepted UPR recommendations such as reviewing controversial laws which are intended to address unreasonable limits on FOE, creating an environment for free and diverse media with minimal political influence, and facilitating access to information to the public. Until the necessary legal changes that have been promised are fulfilled and effectively enforced, the present legal framework may still be open to abuse and misuse of power.

II. Restrictions and Intimidation Against the Media

Although some informants felt that there was a slight improvement during PH and PN's term, they also observed certain restrictions and intimidation made against the media incidences reflect a regression of recent progress. Some informants described the actions of the government as an ongoing "psychological warfare", and they perceived that media restriction was more apparent by PN than PH. Maria (2024), a media practitioner expressed:

> The more you read about police investigating someone for a Twitter comment or a Facebook post, the more you self-censor and it has this really weird cycle of a chilling effect and I know even the journalists feel

that so every time the police investigate a fellow colleague, journalist circle are very small, we all know each other, so every time police call up your friend or investigate your friend or confiscate her phone and laptop, she cannot do work for a week, every time you hear that, you think oh man I [hope I] don't go through all that trouble.

For example, action was taken against Malaysiakini[36] and Al Jazeera[37] in certain cases during the time of PN. Journalists were still fearful of publishing materials that may be considered controversial, as such issues are tightly controlled by politicians. Maria explained:

First of all, there is no political culture in Malaysia that allows for accountability, you cannot go up to your Minister and say please answer this question, they will ignore you, they don't feel accountable to answer this question, and they are more than happy to say no, I don't want to answer this question, I don't want to come on your show, I don't need to respond, that's one. Secondly, whenever they do interviews or press conferences, it's so tightly controlled, absolutely everything is controlled for interviews and edited afterwards and for press conferences, they either don't allow media in, or things are recorded beforehand or it's a press conference that only allows BERNAMA and RTM to be in the room so everyone else has to watch …there's no two-way communication, you can't raise your hand and ask a question, too.

The government have also been perceived as policing comments left by readers on media websites. This suggests that the media is not entirely free from governmental controls, and its independence may be influenced by the concern of possible legal action taken against the media. In this regard, we observed that the UPR recommendation 151.139 (a free media that is not affected by political interference) has yet to be fully committed to by the government.

III. Intimidation and Investigations against Speech and Publication

Similar problematic patterns are noticeable not only against the media but also targeted towards the community at large. The informants shared that activists

and individuals have been intimidated from expressing opinions on certain issues. Almost all the informants agree that the 3R issues are deemed sensitive in the local context. The present legal framework acknowledges this position, and the Constitution provides Parliament with the power to enact laws for the protection of these sensitivities in the interest of public order and public morality.

However, that should not invite persecution for all forms of expression deemed 'critical' or 'offensive', as the law should not be enforced without just cause.[38] Informants perceived that any form of criticism on these three issues may increase the likelihood of intimidation or investigation. Dr. Hamzah (2024), an academic in Islamic international law mentioned that "we have not found a good balance between freedom of expression as well as the need to protect certain core elements in Malaysian society." He goes on to provide an example that the law must distinguish between critical comments related to religion/religious matters, versus mocking or abusing religion. The latter, depending on the seriousness of each case, may warrant certain restrictions.

Some of the informants also highlighted the lack of academic freedom for scholars and academics to publicly address issues that may be in opposition to the decision of the ruling government. Academics mentioned that they do not enjoy the freedom to comment on certain issues considered sensitive, or against government policies during the time of PH and PN. Dr. Suriya (2024), an academic in constitutional law explained that there is some restriction on academic freedom, even when academics are exercising their right to express their views on matters of public interest on the appropriate platforms. She explained that the fear of institutional or legal repercussions can result in academics' self-censorship.

Dr. Suriya suggested that the implementation of FOE can be made more effective if there is a proper mechanism provided to allow for the right channel of communication with less bureaucracy. Dr. Suriya still believes that certain limitations on freedom of expression are necessary, but guidance as to these limits must be made known, and "the action taken must be proportionate to whatever means that they use for the expression".

IV. Increase of Hate Speech and Hostile Reactions Within the Community

Although there are positive changes that happened within the community on FOE, we have identified several concerning issues, and these very same issues are consistently brought up by the informants interviewed. The increased awareness of FOE within the community and active public engagement—all of which occurred rapidly, lacked emphasis on educational intervention. This may have resulted in a more *reactive* society and irresponsible practices of expression, which have manifested in forms of cyberbullying, hate speech, and extremism. Upon analysis, it reveals that some voices of the public seemed to demonstrate a level of proliferation of hate speech that may, on occasion, have been influenced or provoked by speech and statements made by authority figures, including politicians, community, and grassroots leaders.[39]

Without proper ethical guidelines and reasonable restrictions in journalism and political speech, as well as continued education for the public, the anxiety and stress induced by the socio-economic impact of the pandemic may escalate incidents of cyberbullying, hate speech, and extremism.[40] This can be seen in the example of the worst act of terrorism committed on Malaysian soil, whereby a terrorist recruiter managed to manipulate his followers into adopting an extremist mindset until it had exhibited actual violence such as the bombing of a nightclub.[41] Such instances highlight the importance of educational intervention and awareness programmes, which can and should be properly established at different societal levels to ensure healthy public participation in Malaysian society.

RECOMMENDATIONS

Based on our analysis of Malaysia's implementation of accepted UPR recommendations related to FOE and the input from the informants, we highlight recommendations to be made within four main segments, namely (i) improve the legal framework; (ii) increase judicial activism; (iii) develop a proper framework and mechanism of human rights; (iv) improve media regulations and practices; and (v) continued education and activism.

The positive changes made to the laws affecting freedom of expression, which has progressed far compared to the situation before 2018, are duly

acknowledged. However, there are inherent weaknesses that remain unaddressed, such as the ambiguous nature of legal provisions and wide powers given to the Executive, which can be subjected to abuse of power. For example, the way terms like sedition are defined does not bring clarity as to what constitutes acts that have a "seditious tendency." The situation is made worse when certain terms (such as hate speech) are not defined at all. As such, we recommend that laws that have the effect of limiting expression be worded in a narrow and specific way to avoid widely differing interpretations. The usage of illustrations would also be useful to clarify what situations may fall under the ambit of the law. This would also reduce the instances of inconsistency in implementation.

In addition, the legal reforms that were promised must be committed to. At the very least, a thorough consultation with various stakeholders in the related areas must be done to review which laws and policies must be amended according to the order of priority. The lack of political will to see these reforms through is quite apparent and gives the impression that the government is not serious enough in expediting consultations that would result in the necessary legal reforms, in line with Malaysia's accepted UPR recommendations.

We also observe that there have been several cases in which the courts have started to depart from the former position of judicial passiveness to that of judicial activism in favour of protecting and realising human rights. This has resulted in judges invalidating certain executive decisions of Ministers who have exercised their powers beyond the boundaries afforded to them under certain laws. That said, more can be done to encourage a robust interpretation of laws to uphold the true spirit of the Constitution. In doing so, judges who display judicial activism should not be penalised, demoted, or relegated to the background. This was a practice of the past that instilled fear of Executive repercussions among members of the judiciary and encouraged the practice of judicial passivity.

There is also a need to have a unified framework of human rights. This is a major setback in the implementation of freedom of expression, as the foundational aspects of what constitutes fundamental freedoms, as well as necessary but reasonable restrictions, are generally not agreed upon. The government's attempts to carry out human rights reforms have been met with resistance by certain members of the public due to perceived conflict with cultural and religious values. This problem is exacerbated by the poor explanation of intended human

rights initiatives from the top down. In this regard, the researchers recommend that nation-wide consultation must be held with various stakeholders to solidify a national human rights framework that would celebrate the shared values of Malaysia's multi-cultural and multi-religious people. Previous studies have recommended that the human rights framework in Malaysia should focus on the *commonalities* of religious, moral, and ethical values of the major religions practised within the nation to encourage a deeper appreciation for and better enforcement of human rights,[42] and we support this recommendation.

We also feel the media landscape can be improved by empowering *self-regulation* among media corporations. There must also be a clear guideline on how media corporations manage the way their business, promote a high code of ethics and ensure adherence to quality. This would directly facilitate Malaysia's commitment to implement the UPR recommendation in guaranteeing the right of access to information.

Lastly, the researchers recognise the need for continued education and activism on human rights issues among the public. It is a positive development that Malaysians are more aware of their rights post-2018 and are willing to defend what is fundamentally owed to them. However, awareness of rights alone has caused significant problems, such as the increased usage of hate speech, incidences of cyberbullying, and even acts of extremism. As such, there must be initiatives to educate the concept of rights that go together with responsibilities, particularly considering the complexity of living in a multi-cultural and multi-religious society like Malaysia.

CONCLUSION

Since the last UPR review in 2018, Malaysia has gone through unprecedented times, two changes in government administrations, and three Prime Ministers within three years. There were progressive attempts to repeal, amend, and introduce laws to protect and strengthen human rights, but 2020 was an unpredictable year that was tested with many political, social, and economic challenges. This resulted in reduced prioritisation of human rights reforms, particularly FOE. We also observed problematic developments such as intimidation and restriction by the government on certain categories of people who exercised FOE, such as some members of the Opposition, the media, and

other affected groups. It can be said that the government's lack of political will has greatly impeded legal reforms from being executed.

At the community level, there is a steady increase in cyberbullying, hate speech, and even incidences of extremism among the public. Thus, there needs to be a consistent and comprehensive effort to raise awareness and educate the public on human rights issues to avoid confusion and negative perceptions and increase understanding of the conception of rights as well as responsibilities. In doing so, those in authority must work collaboratively with relevant stakeholders despite the challenges and obstacles. Fundamental liberties, when exercised within the limits of just and necessary laws, should benefit *all* members of Malaysia's multi-racial and multi-religious community.

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ASEAN's Strategic Role in Asian Geopolitics: Case Study of Vietnam and Indonesia

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ABSTRACT

Southeast Asia is a strategic region in global geopolitics and economy, with the Association of Southeast Asian Nations (ASEAN) playing a crucial role in managing inter-country relations in this area. This study explores ASEAN's strategic role in Asian geopolitics through case studies of Vietnam and Indonesia, two countries with significant but differing economic developments. Focusing on the downstreaming of natural resources in Indonesia and technology investments in Vietnam, this research reveals how these countries leverage ASEAN regional cooperation to enhance economic growth and geopolitical stability. The study employs a qualitative method with secondary data from official publications and related literature. The results indicate that ASEAN has successfully created an effective platform for dialogue and cooperation among its members, contributing to political stability and regional economic progress. Vietnam demonstrates rapid economic growth through technology investment and has become a global production hub, while Indonesia focuses on downstreaming natural resources to increase economic value-added. Both strategies highlight the crucial role of ASEAN in supporting its members to face global and regional challenges. This study suggests that the synergy between national initiatives and ASEAN regional cooperation could be key to achieving sustainable progress in Southeast Asia.

Keywords: ASEAN, Asian geopolitics, Vietnam, Indonesia, downstreaming, technology investment.

INTRODUCTION

The Southeast Asian region is rich in diversity, spanning culture, ethnicity, and economic status. This diversity includes countries with varying levels of economic development, from high-income nations like Singapore to upper-middle-income economies such as Malaysia and Thailand, and lower-income countries like

Myanmar and Cambodia. By categorising these ASEAN Member States (AMS) by income levels, it becomes clearer how economic disparities shape the region, influencing policy approaches and development strategies across Southeast Asia.

One factor contributing to the economic diversity in Southeast Asia is the history of colonialism and the influence of various cultures. All countries in the region, except Thailand, have experienced colonial rule by European nations, including Britain, the Netherlands, France, and Spain. Colonialism has significantly shaped economic development patterns; colonial powers often established export-oriented economies focused on resource extraction, creating dependencies that hindered industrial diversification. For instance, British colonial rule in Malaysia centred around tin mining and rubber production, while Dutch rule in Indonesia prioritised plantation economies. These practices contributed to entrenched economic structures that continue to influence each country's development trajectory today. Research suggests that colonial institutions have lasting impacts on economic performance, often leading to long-term disparities across post-colonial states (Acemoglu, Johnson, & Robinson, 2001).

Today, Southeast Asia is a focal point in global geopolitics and economy. ASEAN plays a crucial role in managing inter-country relations in the region. It has successfully created a platform for political and economic dialogue and cooperation among its member states. This is vital for maintaining political stability and security in Southeast Asia, addressing common challenges like climate change and maritime security, and managing relations with major powers outside the region.

Moreover, technological and industrial advancements have a significant impact on the Southeast Asian economy. For example, Vietnam has shown rapid economic growth and become an attractive investment destination for global technology companies like Apple Inc. These investments have aided Vietnam in enhancing its industrial infrastructure and creating new jobs.

Similarly, Indonesia is striving to increase the added value of its natural resources through downstreaming measures. Nickel production, as one of Indonesia's primary natural resources, is a major focus in this effort. By strengthening the nickel processing industry, Indonesia aims to create more jobs and increase the value of exports.

Overall, economic diversity, geopolitical developments, and industrial innovation are key aspects related to the progress in Southeast Asia. These developments have a significant impact not only on the region itself but also on the global stage. The synergy between regional cooperation, investment, and development initiatives will be crucial for achieving sustainable progress in this region.

ASEAN (ASSOCIATION OF SOUTHEAST ASIAN NATIONS)

ASEAN, or the Association of Southeast Asian Nations, is a regional cooperation organisation established by five countries in Southeast Asia on August 8, 1967. Its membership expanded from the initial five countries (Indonesia, Thailand, the Philippines, Malaysia, and Singapore) to ten with the inclusion of Brunei Darussalam, Vietnam, Laos, Myanmar, and Cambodia. This organisation has a rich history, beginning from the post-World War II period when the international world was dominated by two major powers, the United States and the Soviet Union, engaged in a global competition known as the Cold War.

Before ASEAN's establishment, the Southeast Asian region often witnessed various conflicts and disputes between countries, such as the confrontation between Indonesia and Malaysia, as well as territorial disputes between Malaysia and the Philippines over Sabah. The awareness of the need for cooperation to resolve conflicts, build trust, and promote regional development was a major driving force behind ASEAN's formation. (Purwandoko 2012).

Over time, ASEAN evolved beyond its political mandate to become a significant regional platform for economic, social, and security cooperation. The organisation's expansion in membership marked a critical step in this evolution. In stages, ASEAN welcomed additional member states, nearly encompassing all Southeast Asian countries. Brunei Darussalam joined as the sixth member on January 7, 1984, followed by Vietnam on July 28, 1995. Laos and Myanmar became members on July 23, 1997, and Cambodia joined on December 16, 1998. With these five additional countries, ASEAN today represents a comprehensive regional body, committed to fostering cooperation and development across Southeast Asia.

In legal terms, the ASEAN Charter, adopted in 2007, serves as the primary constitution of ASEAN, providing a formal and legally binding framework for the organisation's functions, values, and institutional structures. The Charter articulates ASEAN's objectives, including the promotion of economic growth, social progress, cultural development, and the preservation of regional peace and stability. This document formalises ASEAN's commitment to regional cooperation and its decision-making processes, establishing the guiding principles for member states.

Additionally, foundational documents like the Bangkok Declaration of 1967 and the Treaty of Amity and Cooperation (TAC) of 1976 remain significant in shaping ASEAN's identity and priorities. The Bangkok Declaration originally set forth ASEAN's goals to foster economic growth, social progress, and cultural development, while TAC underscored the importance of maintaining regional peace and stability through principles of mutual respect and cooperation among member states. Together, these documents complement the ASEAN Charter, reinforcing ASEAN's core mission and commitment to peaceful coexistence and shared prosperity in the region.

Despite playing a significant role in regional cooperation, ASEAN's status as a subject of international law has not always been clear. Its initial constitutive documents, such as the Bangkok Declaration and TAC, did not explicitly establish ASEAN's personality or position as a public international organisation. However, in 2007, the ASEAN Charter was signed at the 13th ASEAN Summit in Singapore. This Charter strengthens ASEAN's position as a regional international organisation by granting it legal personality both domestically and internationally, thus recognising ASEAN as an international legal subject with inherent international rights and obligations.

Therefore, in a practical context, ASEAN has become a primary engine for regional cooperation in Southeast Asia. Through various forums, meetings, and initiatives, ASEAN aims to enhance dialogue, promote peace and stability, and encourage economic and social development in the region. Additionally, ASEAN plays a vital role in facilitating relations between the countries in the region and external parties, whether with major countries or other international organisations.

ASEAN'S DEVELOPMENT

Furthermore, ASEAN continues efforts to extend its reach by inviting other countries in the region to become members. Currently, Timor-Leste is in the process of joining ASEAN, demonstrating the organisation's ongoing growth and its intention to embrace more countries in the region.

ASEAN's success in uniting the countries in the region is an extraordinary achievement, considering the challenges faced, including the diversity in culture, religion, language, political systems, and histories among the member countries. ASEAN also overcame the failure of previous regional organisations in Southeast Asia, such as the Association of Southeast Asia (ASA), Malaya, Philippines, Indonesia (MAPHILINDO), Southeast Asia Treaty Organization (SEATO), and Asia Pacific Council (ASPAC), which could not endure due to insufficient support from the countries in the region.

However, the effort to unite differences among Southeast Asian countries remains a significant challenge for ASEAN. The region's countries are highly diverse in terms of race, ethnicity, religion, political systems, and economic development. Furthermore, there are differences in values, historical experiences, and cultures among the member states. Despite this, ASEAN continues to strive to build a stronger and more integrated community in the region.

The institutional evolution journey of ASEAN is also noteworthy. Although progress has been slow, ASEAN has achieved several key milestones, such as the establishment of the ASEAN Secretariat and the Treaty of Amity and Cooperation in Southeast Asia (TAC). For instance, TAC reaffirms ASEAN's new vision to build a strong and sustainable ASEAN community foundation based on an emphasis on regional resilience.

Moreover, ASEAN continues to develop visions and action plans for the future. ASEAN Vision 2020 and the Hanoi Plan of Action (HPA) are two critical initiatives affirming ASEAN's commitment to strengthening regional integration and building a closer community in Southeast Asia. While challenges remain, ASEAN continues to advance towards its ambitious goals, maintaining stability and prosperity in the Southeast Asian region. (Simela Victor Muhamad 2011).

ASEAN'S ROLE IN GEOPOLITICS

Geopolitics examines the complex interactions between geographical, political, economic, and social factors and their impact on state sovereignty and international relations. In the context of geopolitics, strategic geographical factors such as location, natural resources, and trade routes are critical. For instance, nations situated along major trade routes can leverage these positions to enhance economic security and influence, while resource-rich countries may use their natural wealth to strengthen their political and economic stance (Rauf, Rado, & Law, 2021).

In Southeast Asia, geopolitics has become increasingly significant due to the region's strategic location in the Indo-Pacific, a hub for global trade and a focal point of major power competition. The Indo-Pacific region connects the Indian and Pacific Oceans and is vital to global economic activity. As a central player in this region, ASEAN recognises the importance of establishing a stable and cooperative framework for managing this space. ASEAN's strategy is encapsulated in the ASEAN Outlook on the Indo-Pacific (AOIP), which seeks to promote peace, security, stability, and shared prosperity through regional cooperation and open dialogue, mitigating the risks associated with rivalry among global powers like the United States and China.

I.   ASEAN's Role Amid Great Power Rivalry

Following the Cold War, the global political landscape shifted from a bipolar to a multipolar structure, leading to competition among various powers. The rise of the Indo-Pacific region as a focal point of influence has drawn attention from the US and China, each advocating distinct approaches to regional governance. The US has adopted a geopolitical approach in the region, emphasising security alliances and partnerships, whereas China's strategy is more geoeconomic, focusing on investment, trade, and infrastructure projects under initiatives like the Belt and Road Initiative.

ASEAN has responded by reaffirming its ASEAN Outlook on the Indo-Pacific (AOIP), prioritising open dialogue, peaceful dispute resolution, and cooperation. Through the AOIP, ASEAN advocates for a rules-based approach

that discourages unilateral actions and emphasises ASEAN's centrality in addressing regional security challenges. ASEAN also serves as a neutral platform for dialogue, hosting forums like the ASEAN-China and ASEAN-US dialogues.

II.   ASEAN's Strategic Partnerships and Economic Initiatives

To strengthen its position, ASEAN has expanded its partnerships with countries and regions beyond Southeast Asia. For example, Australia, strategically located south of Southeast Asia, is a key ASEAN partner in political, economic, and security matters. These partnerships not only enhance bilateral relations but also contribute to regional stability and economic growth. The Regional Comprehensive Economic Partnership (RCEP), ASEAN+3, and other multilateral collaborations reinforce ASEAN's commitment to promoting inclusive growth and economic resilience.

At the 43rd ASEAN Summit held in Jakarta on September 5-7, 2023; ASEAN emphasised several priorities aligned with its AOIP principles. These included formulating a long-term collective vision for ASEAN, enhancing resilience to meet emerging challenges, establishing ASEAN as a significant centre of economic growth, and ensuring the Indo-Pacific remains peaceful and secure. These goals reflect ASEAN's commitment to fostering stability and economic progress in a region often affected by external geopolitical pressures.

Through the AOIP and strategic partnerships, ASEAN continues to play a vital role as a mediator and a bridge between great powers, striving to maintain peace, security, and economic development in the Indo-Pacific. ASEAN's unique position as a neutral, regionally representative organisation enables it to pursue a balanced approach in the US-China rivalry, prioritising regional stability over alignment with any single power.

In conclusion, ASEAN's proactive approach in the Indo-Pacific, guided by the AOIP, underscores its role in addressing geopolitical shifts and supporting global economic stability. As a competitive and influential organisation, ASEAN remains committed to ensuring that the Indo-Pacific is a region marked by cooperation, not confrontation, leveraging its neutrality and economic strategies to navigate the complexities of great power rivalry.

DEVELOPMENT OF VIETNAM IN THE TECHNOLOGY INDUSTRY WITHIN A GEOPOLITICAL CONTEXT

The global geopolitical landscape significantly impacts the economy, technology, and various other sectors in every country, including Vietnam. In this context, Vietnam has effectively responded to changing conditions with substantial adaptation in its technology sector. One of the most significant developments has occurred due to the U.S.-China trade war, which has prompted numerous companies to relocate production from China to Vietnam. This shift has benefited Vietnam through increased foreign direct investment (FDI) and expanded market access (Truong & Malesky, 2023).

A notable example of Vietnam's technological adaptation is the Loc Troi Group's innovations in agriculture. Since 2019, Loc Troi has built a sustainable agricultural value chain by distributing thousands of smartphones to farmers, enabling them to connect directly with markets. This initiative allows approximately 80% of operational processes, including planting practices, production monitoring, and marketing chains, to be managed through software (Nguyen et al., 2022). Additionally, Loc Troi Group has pioneered carbon certification for rice, underscoring its commitment to a sustainable and eco-friendly agricultural sector.

Vietnam has also seen substantial benefits from the reshoring of technology manufacturing, with several companies relocating operations from China. Apple, for instance, moved a significant portion of its iPad and MacBook production to Vietnam as part of a strategy to reduce dependence on Chinese supply chains (Liu & Woo, 2018). Apple's collaboration with Foxconn in Vietnam serves as a risk mitigation strategy amid the supply chain disruptions caused by the COVID-19 pandemic (Cao & Nguyen, 2023).

Moreover, Vietnam's electric vehicle manufacturer, VinFast, has expanded its domestic and international market reach, including investment in Indonesia for electric vehicle production. This expansion positions Vietnam as a competitive player in the global technology and transportation sectors (Lin, 2023).

The Vietnamese government has played a crucial role in supporting these technological advancements. Through favourable policies, Vietnam

provides various fiscal incentives, such as tax exemptions and import duty relief for production components, creating a conducive environment for foreign investment. This increases competitiveness and opens export opportunities to new markets, such as Europe (Don & Beliaiev, 2023).

Overall, Vietnam's gains from the U.S.-China trade war illustrate how global geopolitical policies can serve as opportunities for countries prepared to respond with agility. The influx of investment and technology transfer has not only bolstered Vietnam's economy but also positioned it as a competitive manufacturing hub in Southeast Asia (Huyên, 2023).

VIETNAM'S ECONOMIC GROWTH

Vietnam's economy is expected to perform better than other countries in the Southeast Asian region this year, with the potential to attract more foreign investment. Vietnam's success in controlling the COVID-19 pandemic and its flexibility in responding to production base relocations from China have been crucial factors.

Vietnam is one of the few countries that recorded positive growth last year. Although economic growth decreased compared to the previous year, Vietnam still recorded an expansion of 2.9 percent. The Vietnamese Parliament has set an economic growth target of 6 percent for this year, but Prime Minister Nguyen Xuan Phuc aims for higher growth, around 6.5 percent. (National, National Secretariat 2021)

Analyses indicate that Vietnam's economic strength lies in several key factors. Vietnam's ability to handle the pandemic allowed the country to recover quickly, especially compared to its neighbours in Southeast Asia. The signing of two free trade agreements in 2020 also provided an additional boost to Vietnam's economy.

Vietnam's economy continued to grow for two consecutive quarters, driven by improved performance in the manufacturing sector and exports, which are the main drivers of growth. Data from the General Statistics Office of Vietnam shows that the Gross Domestic Product (GDP) increased by 5.33 percent in the third quarter of 2023 compared to the same period last year.

This growth exceeds the median estimate of a Bloomberg survey of 5 percent and the GDP expansion revision of 4.05 percent in the previous quarter. Trade data also shows that exports experienced growth again in September 2023. GSO Director Nguyen Thi Huong stated that Vietnam's economy continues to develop with significant improvements across various sectors, in line with government measures to support the business world.

However, the results of one quarter are not enough to conclude that Vietnam has fully recovered. S&P Global Ratings expects a full recovery to occur when global demand increases and when Vietnam overcomes its domestic challenges. One of the challenges faced by Vietnam is the low credit demand, which has led to repeated calls from Prime Minister Pham Minh Chinh for more flexible monetary policies. The Central Bank of Vietnam, which has cut interest rates four times this year, has shown limitations in further steps. (Nugroho 2023)

To achieve higher growth, Vietnam needs to continue to promote exports and investment while strengthening infrastructure and policies related to the real estate sector. In January 2024, Vietnam's economy showed positive signs with increased business activity, significant foreign investment absorption, and strong industrial sector growth. Although challenges remain, the measures taken by Vietnam provide optimism for further economic recovery. (World 2024)

INDONESIA'S ECONOMIC GROWTH AS A GEOPOLITICAL STRATEGY IN DOWNSTREAMING

Indonesia's rich mineral and coal resources, essential to its national economy, are recognised by the Constitution as national assets to be used for public welfare (UUD 1945, Article 33). However, beyond domestic economic goals, Indonesia's approach to natural resources has become increasingly linked to global geopolitical strategies. In response to growing international demand for critical minerals, particularly from developed nations shifting towards clean energy and technology, Indonesia has implemented a downstreaming policy. This strategy seeks to limit raw material exports and instead develop domestic refining and processing capabilities, particularly for minerals such as nickel, tin, and bauxite, which are key to electric vehicle (EV) batteries and other high-tech industries (Permana, 2022).

The global demand for EVs and renewable energy storage technologies has amplified the geopolitical significance of Indonesia's downstreaming initiatives. Countries like the United States, China, and members of the European Union are actively securing supply chains for critical minerals, and Indonesia's decision to focus on domestic processing allows it to leverage its resources as strategic assets. Indonesia's policy directly affects the global market, as evidenced by the exponential increase in exports of processed nickel products, which rose from USD 3.3 billion in 2017 to USD 20.9 billion in 2021 (Permana, 2022). This positions Indonesia as a major player in the global supply chain of nickel and other metals essential to emerging technologies.

I.   The Role of National Enterprises in Strengthening Resource Sovereignty

Following Constitutional Court Decision No. 3/PUU-VIII/2010, which emphasises state control over natural resources for people's welfare, Indonesia has reinforced its strategy by mandating that foreign firms collaborate with state-owned enterprises. State-Owned Enterprises (BUMNs) have been strategically empowered to develop industries around these resources, such as PT Freeport Indonesia's nickel and copper smelters in Central Sulawesi, which are critical to meeting global demand for refined metals used in high-tech industries (Sulistiowati, Gadjah Mada University, n.d.).

This approach also aligns with President Joko Widodo's vision of "resource nationalism"—the assertion that Indonesia's resources should benefit domestic industry and employment over foreign interests. This policy underscores a geopolitical stance that places Indonesia in a position of influence over global tech and clean energy industries, as developed countries rely on a stable supply of refined minerals from trusted sources.

II.   Geopolitical Implications and International Responses

The global response to Indonesia's downstreaming policies has been mixed. Countries with significant interests in critical mineral imports, including the European Union, have raised concerns over the potential impact of export restrictions on international supply chains. However, the geopolitical competition between major economies has shifted favour towards Indonesia's policy, with

countries such as China entering partnerships in Indonesia's resource-processing sectors to secure access to these minerals amid ongoing trade tensions with the United States. This international collaboration allows Indonesia to play a balancing role, engaging both Western and Eastern powers while safeguarding its economic and strategic interests (Choi & Nguyen, 2021).

The U.S.-China rivalry in particular has made Southeast Asia a focal point of critical mineral supply chains. With global demand for nickel, cobalt, and other rare minerals rising, Indonesia's policy not only increases its economic self-reliance but also offers leverage in international negotiations regarding trade and technology transfer. Through its role in critical mineral markets, Indonesia has effectively transformed a domestic economic policy into a tool of geopolitical influence, positioning itself as a vital player in the global shift towards clean energy.

III. The Future of Downstreaming and Indonesia's Geopolitical Strategy

The downstreaming policy has significant implications for Indonesia's place in the global economy and geopolitics. By increasing domestic processing capabilities and limiting raw exports, Indonesia ensures a higher level of economic resilience and establishes its influence in the production of strategic minerals essential to technology and clean energy. Continued investment in processing facilities, such as the development of nickel smelters, underscores Indonesia's commitment to long-term geopolitical relevance in global supply chains.

With the added economic and strategic benefits of this approach, Indonesia's downstreaming policy is more than an economic initiative; it serves as a geopolitical statement of the nation's sovereignty and growing influence in an increasingly interconnected world economy.

CONCLUSION

In conclusion, Southeast Asia's diversity in culture, ethnicity, and economic levels highlights both the unique strengths and challenges faced by its countries. This diversity underscores a range of development strategies, as evidenced by resource-rich countries like Indonesia, which emphasise state-led management

of natural resources to maximise public benefit and economic equity. Indonesia's downstreaming efforts and state-controlled resource policies aim to increase value-added exports, reduce reliance on raw material exports, and foster job creation.

Similarly, Vietnam's success in attracting substantial investments, such as Apple's OLED factory, exemplifies how strategic economic policies can stimulate industrial growth and contribute to regional economic resilience. These cases underscore ASEAN's critical role as a platform for harmonising such diverse strategies across the region, enabling countries to collectively address the complex geopolitical and economic challenges of the 21st century.

Ultimately, sustainable resource management and regional cooperation through ASEAN are pivotal for the Southeast Asian region's economic stability, security, and inclusive development. By fostering interdependence and collaboration, ASEAN countries can effectively navigate global challenges, ensuring progress that benefits all members of Southeast Asia's dynamic community.

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Economic Community of West African States (ECOWAS) and the Exit of Three Member States: Challenges on the Continuity of Organisational Cooperation

Sahabi Maidamma Jabo

ABSTRACT

The July 2023 military coup in Niger, which led to the overthrow of the democratically elected president, brought unprecedented outrage to the ECOWAS with a view to compel the military to reinstate the ousted president. The military in Mali and Burkina Faso in 2021 and 2022, respectively, staged a coup that truncated a democratic government in the two countries. As a result of this, ECOWAS threatened the three countries, being members of the sub-regional body, either to hasten the return of democracy in their respective countries or face severe consequences. Due to their inability to heed the ECOWAS's demands, a number of sanctions were imposed on them. Consequently, the three states formed a formidable union called the Alliance of Sahel States with a view to counteract any possible military strikes from the ECOWAS. Moreover, in January 2024, the three countries announced their exit from the organisation. Against this background, the paper examines the various processes followed by the ECOWAS to ensure the return of a democratically elected government in the three countries. Using documentary sources, the paper posits that the exit of the three states from the ECOWAS poses daunting challenges to the continuity as well as existence of the organisation's cooperation.

Keywords: ECOWAS, Military Intervention, Niger, Burkina Faso, Mali

INTRODUCTION

The Economic Community of West African States (ECOWAS) is an association of West African countries, which came into being in Lagos in 1975. The organisation was established following a Treaty signed by fifteen West African states. The membership includes Nigeria, Niger, Benin, Togo, Ghana, Ivory

Cost (now Cote d'Ivoire), Sierra Leone, Liberia, Guinea Bissau, Upper Volter (now Burkina Faso), Gambia, Guinea, Mali, Mauritania, Senegal and Cape Verde Island (Anthorny, 2009:325). It is worthy to note that ECOWAS was founded in 1975 but started operation in 1978.

Article 2(1) of the ECOWAS succinctly pointed out the main purpose of establishing the organisation. The Article read:

> It shall be the aim of the community to promote cooperation, and development in all fields of economic activity, particularly, in the field of industry, transport, telecommunication, energy, agriculture, natural resources, monetary and financial questions, and in social and cultural matters for the purpose of raising the standard of living of its people of increasing and maintaining economic stability of fostering closer relations among its members and of contributory to progress and development of the African continent (Anthorny, 2009: 326).

The 1993 revised Treaty of ECOWAS marked a pivotal step for the organisation by expanding its objectives to accommodate the promotion of a democratic system of governance. This may not be unconnected with the collapse of the Union of Soviet Socialist Republic (USSR), which marked the end of Cold War coupled with a global quest for democracy. Since the revision of the ECOWAS Treaty in 1993, democratic and military rule alternated intermittently throughout the region. In fact, the region boasts the highest number of military coups globally (Usman, 2024: 16). Article 4 of the 1993 Treaty stresses that key integration driver principles such as non-aggression, harmonisation of policies are underscored by peaceful settlement of disputes among the member states, protection and promotion of human rights, accountability and democracy. In pursuance to these democratic tenets, in which good governance is a key driver, ECOWAS has zero tolerance for changes in government through undemocratic means. This is what forced the organisation to be furious with military juntas who toppled democratically elected leaders in some member states, such as Niger, Burkina Faso and Mali. Against this background the paper presents a brief on ECOWAS interventionist processes in some countries where military took over the mantle of leadership. The paper also stresses ECOWAS's intervention in the Niger, Mali and Burkina Faso political crises, which forced the organisation to suspend as well as impose a number of sanctions on the three countries. It

equally posits the implication of the exit of the three states from the ECOWAS, regarding the co-operate existence as well as continuity of the organisation as a West African sub-regional body.

ECOWAS INTERVENTION IN CONFLICTS IN MALI, BURKINA FASO AND NIGER

The political crisis of the early 1990s coupled with a global wave of democracy prompted ECOWAS to devise means of intervention in political crisis in its member states. The first interventionist activities of ECOWAS started when Charles Taylor, the then leader of the National Patriotic Front of Liberia (NPFL) and their insurgent activities spurred a civil war in Liberia. As a result of the civil war outbreak, in 1990, ECOWAS under the aegis of ECOWAS Monitoring Group (ECOMOG), which includes Nigeria, Gambia, Ghana, Guinea and Sierra Leone sent troops to Liberia to monitor and preserve ECOWAS-mediated peace arrangement in the civil war that was ravaging the country. In 1991, Senegal and Mali also agreed to join the ECOMOG troops (Bukarambe, 2000:114).

Unfortunately, while ECOMOG was busy bringing back normalcy in Liberia, Sierra Leone, which was one of the members of ECOMOG troops in Liberia, in May 1997, had its elected President Ahmed Tejan Kabbah, overthrown by the military. The coup was supported by the opposition group under the banner of the Revolutionary United Front (RUF). This event exacerbated the crisis in the region, which forced ECOWAS-ECOMOG to extend its operations to Sierra Leone (Bukarambe, 2000:115). In fact, in both Liberia and Sierra Leone, ECOWAS-ECOMOG succeeded in temporarily stopping bloodshed and ethnic killings, and therefore, is regarded as a model of regional conflict resolution.

I.   Mali Political Crisis and ECOWAS Intervention

The northern part of Mali, especially the Tuareg, developed grievances over time due to lack of cultural rights, political autonomy and also the lack of government intervention in the area. These grievances in the past led to a rebellion against the Malian government. Since the time Mali got its independence on 20th June 1960, power was in the hands of a southern ethnic group of Mali, which neglected northern ethnic groups. There were negotiations between both northern and southern groups in the 1990s and between 2006 and 2009 but no meaningful

achievement was recorded (Bossuyt, 2016:20). As a result of deepening grievances of the northern ethnic groups, the military staged a coup that brought the end of democratically elected president, Amadou Toumani Toure. In fact, Toure ruled the country from 2002 to 2012 when his government was ousted by the military.

On 24 May 2021, the Malian army led by Colonel Assimi Goita overthrew Mali's president Ibrahim Boubacar Kaita over a perceived corruption and his inability to quell a bloody jihadist insurgency. As a result of this, West African leaders under the aegis of ECOWAS held an extraordinary summit at Accra, Ghana to discuss the political crisis in Mali. It was during the meeting that ECOWAS suspended Mali after a second military coup within nine months. The suspension from the ECOWAS takes effect until the deadline at the end of January 2022, when they were supposed to hand over the mantle of leadership to a democratically elected president. Despite the suspension, sanctions were also imposed on Mali. Unfortunately, between 2021 and 2024, Mali was still under the dictate of a military rule.

II. Burkina Faso Political Crisis/Coup and ECOWAS Intervention

Burkina Faso witnessed many political instabilities since the country attained its independence in 1960. Military regimes took over power with a view to restoring order and stability in the country. Blaise Compaoré was the president of Burkina Faso between 1992 and 2005, with an additional two five-year terms (2005-2015) as a result of constitutional reforms (Bussylt, 2016:28). a widespread protest against the Compaoré government due to prevailing corruption, political repression, social injustice and poverty. Equally, the military came out of the barrack to express their dissatisfaction about the regime. Consequent upon the deepening crisis emanated from the notoriety of the Compaoré government, the president resigned and fled to Ivory Coast. Thus, the military took over the mantle of leadership.

At the beginning of the crisis, ECOWAS immediately ventured into the crisis, but when Compaoré fled to Ivory Coast the military took over, ECOWAS started acting against any possible attempts by the military to prolong their stay in power. ECOWAS adopted a number of strategies; prominent among them was the use of a high-level mission of three heads of state (presidents of Senegal,

Nigeria and Ghana) to mediate between the military and all other forces in the country. In 2022, there was also a military coup led by Colonel Paul Henri Dimba, which saw the end of former president Roch Kabore. Consequence upon this, the ECOWAS suspended Burkina Faso. The suspension was decided at a virtual ECOWAS Authority of Heads of State and Government extraordinary session conveyed to review political development in Burkina Faso (Okafor, 2022: 2). However, the suspension and perhaps sanctions could not force the military leader to heed the ECOWAS demand, as at September 2024, Burkina Faso was still under military rule.

III. Niger Political Crisis/Coup and ECOWAS Intervention

On 26th July 2023, the presidential guard commander in Niger, General Abdourahamane Tchiani took president Mohamed Bazoum into custody. On 26th July 2023, General Tchiani declared himself the head of a transitional government. The coup trailed widespread condemnations from international communities, such as the US, EU, UN, AU and ECOWAS. In spite the outrage, Tchiani had the courage to announce a 21-member cabinet to be led by Ali Mahaman Liman Zeirne, who was appointed as the Prime Minister by the military (Olaniyi, 2023:4). ECOWAS immediately ventured into the crisis, on 30th July 2023, it issued a seven-day ultimatum to the military leader to re-instate president Bazoum or face a range of stiff sanctions, including possible military action. Equally, military chiefs of some West African states had agreed on a plan of a possible military intervention in the event that diplomatic solutions failed (Matazu, 2023:4).

On the expiration of the ECOWAS deadline given to General Tchiani to reinstate President Bazoum as the president of Niger, an Extraordinary Summit of the Authority of Heads of State and Government of ECOWAS was held in Abuja on 30th July 2023 under the chairmanship of the president of Nigeria, Bola Ahmed Tinubu to discuss the socio-political situation of Niger. At the end of the Summit, ECOWAS recognised Bazoum as the only legitimate president of Niger. It equally announced immediate sanctions on Niger, which include closure of land and air borders between ECOWAS countries and Niger, freezing of assets of Niger in ECOWAS Central Bank, Niger State enterprises and parastatals on commercial banks. Niger was also suspended from all financial institutions within ECOWAS. Additionally, travel bans and assets freezes were imposed on

the military officials involved in the coup as well as their family members and any civilians who agreed to participate in any institutions or governments established by the military (Ogundele, 2023: 4).

The second Extraordinary Summit of Heads of State and Government was held on 8th August 2023 in Abuja due to the failure of General Tchiani to succumb to ECOWAS demands. The summit was conveyed essentially to discuss the next lines of action. During the summit, members upheld all measures and principles agreed upon by the Extraordinary Summit held in Abuja on 30th July 2023. ECOWAS also directed the activation of the ECOWAS standby force with its elements immediately. It similarly directed the deployment of the ECOWAS standby force to restore the constitutional order in Niger (Olaniyi, 2023:4).

FORMATION OF ALLIANCE OF SAHEL STATES

The imposition of stiff sanctions on Niger and the threat of possible military action if General Tchiani refuses to reinstate Bazoum as the president of Niger attracted considerable sympathy within and outside Niger. The military leaders in Mali and Burkina Faso declared their total support for Niger in the event of military action by the ECOWAS. Burkina Faso and Mali further stated in a joint statement that any military intervention in Niger seemed like a declaration of war against the two countries. In furtherance of their common stand and commitments to depend on their sovereign states, the three countries, on the 16th September 2023, formed a formidable union called the Alliance of Sahel States. The alliance originally thought to back up the threat of retaliation against ECOWAS if military intervene in Niger political crisis (Adekaiyaoja, 2024:1). The aim of the alliance mainly is to foster economic and monetary union among its member countries, thereby reshaping the geopolitical landscape of the region.

Equally, in the Charter signed by the three countries, it is pointed out that any attack on the sovereignty and territorial integrity of one or more contracted parties, this will be considered as aggression against the other parties. It also binds the three countries to work together to prevent or settle disputes.

REMOVAL OF SANCTIONS ON NIGER

ECOWAS imposed a wide range of sanctions on Niger due to the failure of the military leader to heed the conditions given by the subregional body, central among the conditions was to reinstate Bazoum as the president of Niger. The imposition of sanctions attracted vociferous outrage with ECOWAS member states, particularly in Nigeria, which shares common borders with Niger. The lifting of the sanctions may not be unconnected with the fact that despite the imposition of stiff sanctions on Niger, there was no significant development as it relates to the military coup in Niger, rather it forced the three countries to depart from the ECOWAS. The sanctions were lifted after the Extraordinary Summit of ECOWAS held on 24ᵗʰ February 2024 at the State House Conference Hall, Abuja to discuss the political, peace and security situation in the sub-region. The president of the ECOWAS Commission, Omar Touray read the Communique, which was read in parts:

> The Authority of Head of States and Government has resolved to lift, with immediate effect, the following measures imposed on the Republic of Niger closure of land and air borders between ECOWAS countries and Niger. No fly zone of all commercial flights to and from Niger is to be lifted, suspension of all commercial and financial transactions between ECOWAS member states and Niger is to be lifted. Freezing of all service transaction, including utility services is to be lifted. Freezing of assets of the Republic of Niger in ECOWAS Central Bank is to be lifted. Freezing of assets of Niger and the state enterprises and parastatals in commercial banks is to be lifted. Suspension of Niger from all financial assistance and transactions with all financial institutions is to be lifted. Travel ban on the government officials and their family members is also to be lifted (Martin, 2024:4).

In fact, the removal of the sanctions on Niger possibly was done to douse the already deepening political crisis between ECOWAS and the three countries (Niger, Mali and Burkina Faso). Equally, it may likely pave the way for diplomatic processes to take prominence in resolving the political crisis bedevilling the three countries.

EXIT OF NIGER, MALI AND BURKINA FASO FROM ECOWAS

As a result of the suspension, stiff sanctions and purported possible military action was taken against Niger. The three countries decided to quit from the ECOWAS. The military leader of Niger, General Tchiani released communique on 28 January 2024. The Communique read in parts:

> After 49 years of existence, the valiant people of Burkina Faso, Mali and Niger, note with much regret, bitterness and great disappointment that their organisation has moved away from the ideals of its founding fathers and Pan-Africanism. ECOWAS under the influence of foreign powers, betraying its founding principles, has become a threat to its member states and its populations whose happiness it is supposed to ensure. Indeed the organisation has not provided assistance to our states in the context of our essential fight against terrorism and insecurity; worse, when these states decided to take their destiny into their own hands, it adopted an irrational and unacceptable posture by imposing illegal, illegitimate, inhuman and irresponsible sanctions in violation of its own texts; all things, which have further weakened populations already bruised by years of violence imposed by instrumentalised and remote-controlled terrorist hordes. Faced with this continuing situation, their Excellency, Captain Ibrahim Traore, Colonel Assimi Goita and Brigadier General Abdourahamane Tchiani, respectively Heads of State of Burkina Faso, the Republic of Mali and the Republic of Niger, taking all responsibilities, concerns and aspirations of their populations, decide in complete sovereignty on the immediate withdrawal of Burkina Faso, Mali and Niger from Economic Community of West African States (ECOWAS) (Odeyemi, 2024:4).

It is worthy of noting that the withdrawal of the three countries from the ECOWAS has created a very big vacuum that the sub-regional body must ponder over and bravely rethink possible measures in order to amend the crack. It was acknowledged that the three countries did not follow the right channel of withdrawal from the organisation as spelt out in the charter of the ECOWAS. However, the withdrawal took effect immediately after the pronouncement.

IMPLICATIONS OF WITHDRAWAL OF NIGER, BURKINA FASO AND MALI FROM ECOWAS

Analysis on the reasons why the three countries decided to exit from the ECOWAS suggests a number of varying implications; this includes ECOWAS's weaknesses to carry out its principal mandate, political, security and most importantly, the continuity of ECOWAS as a West African subregional organisation.

The three countries accused ECOWAS of its inability to carry out its primary functions. They also faulted the subregional body for being submissive to Western countries without recourse to the socio-political and economic well-being of its member states. Olabiyi (2024:2) stresses that too much allegiance to world powers and taking orders that favour them as against Africa made it difficult to implement most of ECOWAS laws. She further asserts that the perception that ECOWAS is a toothless bulldog on the issue of alleged partiality when it comes to intervention and weak leadership remains a major barrier in the growth of the body and by extension, the member states.

The issue of weak leadership among the ECOWAS member states over the years has been a source of worry. Most of the coups witnessed by the member states were precipitated by weak leadership, coupled with the ways and manner leaders ascend to the seat of power. Although democracy has been the popular phrase of the time, election rigging, breach of constitutional provisions with a view to extending their tenures had become a norm among the leaders of member states. Similarly, there is widespread corruption in public spaces. The military usually uses vices to juxtapose their taking over. Therefore, so long as elected leaders of the member states bastardised democratic tenets, the military will continue to use that opportunity to topple the civilian government of member states.

SECURITY IMPLICATIONS ON THE EXIT OF THE THREE COUNTRIES FROM ECOWAS

The exit of Niger, Mali and Burkina Faso from ECOWAS has huge security implications on the security architecture of the West African subregion. As a result of their exit from the subregional body, the three countries could no

longer block the flow of both heavy and light weapons/ammunitions in their neighbouring countries, which will obviously exacerbate the daunting security challenges facing some of the member countries, such as Nigeria, which is battling with insurgency and spates of banditry and kidnappings.

The Sahel region, which includes Burkina Faso, Mali and Niger are the hotspot countries for terrorist activities. The exit of these countries may lead to a fragmented approach to counterterrorism, making it very challenging for ECOWAS member states to effectively secure their borders and also coordinate and combat the menace of security threat in their respective countries (Aminu, 2024:16). When ECOWAS threatened General Tchiani that if he refused to heed by its condition (reinstatement of President Bazoum) it will use military action to reinstate President Bazoum. Consequence upon this, General Tchiani solicited assistance from Russia to help Niger with soldiers and equipment. Russia already has troops in Mali, which caused France and the United Nations to withdraw their peacekeeping troops from the country. Similarly, Russia's Wagner mercenary leader Yevgeny Prigozhin promised to offer military assistance to bring order in case of any attack from the ECOWAS troops (Ogundele, 2023:4). In fact, the penetration of Russian/Wagner in the sub-region may likely degenerate security tension within the West African subregion, especially considering French and US troop withdrawal from Niger. US relied on Niger for monitoring Jihadist activities in the subregion. The Russian intrusion in the subregion obviously deters the US and France from projecting their interests, thereby precipitating tumultuous insecurity tension within the subregion. It may also turn the region into a theatre of war as well as a battleground for supremacy between the US, France and Russia, which ultimately affects the entire security architecture in the subregion and Africa in general.

Ani (2024:11) asserts that the exit of Mali, Burkina Faso and Niger weakens the cooperative security efforts over fighting insecurity. The Sahel region is already the hottest spot in the world in terms of security problems, so all the countries within the Sahel region including Nigeria, Chad, Niger, Burkina Faso and Mali need concerted efforts to be able to mitigate the security crisis within the region. The alliance of the three states may likely spur conflict and security tension within the West African subregion, especially the menace of insecurity encroaching Ghana, the Benin Republic as well as the Gulf of Guinea.

POLITICAL IMPLICATIONS ON THE EXIT OF MALI, BURKINA FASO AND NIGER ON THE EXISTENCE OF COOPERATION AS WELL AS CONTINUITY OF ECOWAS AS WEST AFRICAN SUBREGIONAL ORGANISATION

A number of reasons were brought to the fore by the three countries to argue for their exit from the ECOWAS. The countries felt that the subregional body is not meeting their expectations. Equally, a cross-section of citizens of these countries believed that ECOWAS was not fulfilling its mandates. For instance, the issue of common currency has not yet been resolved, contrary to expectations. Moreover, trade has not been free; there are lots of gaps for free trade. Similarly, the three countries have an issue with terrorism and felt that ECOWAS is yet to play the role of a key senior ally to support them, but with the establishment of the Sahel Alliance, they have a common front to vigorously pursue the fight against terrorism as well as other security issues in their domains. This suffices to demonstrate that the three countries can survive as independent nations (without ECOWAS membership) while strengthening their economic and developmental cooperation. The military leaders of the three nations have demonstrated a united front, standing in solidarity with one another. They have forged alliances, particularly with Russia, which provides support in their fight against terrorism (which ECOWAS could not provide). Bolstered by Russian security guarantees and substantial Chinese investments, the three countries may navigate the repercussions imposed by both ECOWAS and the Western world (Liman, 2024:4).

It is imperative to stress that Niger, Mali and Burkina Faso occupy 54% of land mass of the entire West African subregion. For instance, if Guinea's military leader, who seized power since 2021, is also suspended from ECOWAS, decided to join the Alliance of Sahel States, equally, there were reported cases of coup attempts in other ECOWAS member states. This in fact raises the questions as to how many countries will ECOWAS suspend or how many will quit their membership from the organisation in the event of further military coup? (Usman, 2024:16). To answer these questions and if the assertions become reality, the answer is the space of the Sahel states becomes larger, and it could further deepen the struggle of supremacy between the US, France and Russia. This already has manifested taking into account the Nigerian rejection of American and French military troops coupled with the replacement of the EU team with Russian

security experts. Suffice it to stress that the resultant effect of this rivalry between the three developed countries in the West African subregion may likely spark a conflict within the region, which will ultimately weaken ECOWAS, thereby posing a serious threat to the existence of cooperation as well as continuity of the ECOWAS as a subregional organisation.

It is pertinent to point out that the implication of the exit of Burkina Faso, Mali and Niger from ECOWAS is not only limited to West African countries, it demonstrates the continued structural weaknesses of African countries. For instance, the Organisation of African Unity (OAU), an umbrella body of all African countries was established fundamentally with a view to forge unity and cooperation among African states. However, the inability of the OAU to facilitate the needed economic development as well as its inaptitude to avert conflict within the region combined with other related cogent factors, prompted African leaders to revisit the OAU mandate/charters, which resulted in changing the name from OAU to African Unity (AU). Worthy of note here is, among the factors that were reasons for the exit of Burkina Faso, Mali and Niger from ECOWAS are economic and security issues taking centre stage; these are partly in tandem with the factors that shaped the changes of structural features or functions of the OAU.

Equally, their exit further suggests the persistent structural weaknesses of African countries, essentially, as it relates to the issue of unity/integration. The East African Community (EAC), which was established in 1967 which has similar objectives with ECOWAS—broke away, due to a number of factors. Issues related to the exit of Burkina Faso, Mali and Niger from ECOWAS that featured prominently, were equally similar factors that paved the way for the collapse of EAC. For example, in 1971, when Idi Amin of Uganda toppled the Milton Obote government, President Nyerere of Tanzania categorically announced that he would not sit at the same table with President Amin. As a result of this pronouncement, the East African Authority never met again and that was what created a serious vacuum, which ultimately led to the demise of EAC in 1977, though it was revived in 2000.

CONCLUSION

ECOWAS was established primarily to forge economic integration among member states. A number of protocols were fashioned out with the view to achieving the fundamental mandate of the organisation. The revised treaty of 1993 became a remarkable step for ECOWAS by expanding its objectives to accommodate the promotion of a democratic system of government, although when this treaty came on board a number of member states were under military rule. ECOWAS established ECOMOG essentially to serve as a standby troops for peacekeeping operations in case of political crisis in any of the member countries. The military coup in Mali, Burkina Faso and Niger sparked tumultuous crisis between ECOWAS and the three countries. The imposition of stiff sanctions on Niger escalated the crisis, which forced Mali, Burkina Faso and Niger to form a formidable union called the Alliance of Sahel States. Equally, the three nations announced their exit from the ECOWAS due to the perceived inability of the organisation for decades to achieve the desired result. The formation of alliance by the three countries suggests that they can survive as independent nations without being members of the ECOWAS. As a result of this, the name ECOWAS, which encapsulates all West African States is no longer tenable. Moreover, the expulsion of American and French troops from Niger coupled with the replacement of EU team with Russian military experts may likely precipitate a surge for a war of supremacy between the three developed countries, which will ultimately deteriorate the security architecture within the West African sub-region, and that ECOWAS in its capacity cannot handle. In view of this, the paper concludes that the exit of Mali, Burkina Faso and Niger from ECOWAS posed a serious challenge on the existence of cooperation as well as continuity of ECOWAS as a West African subregional organisation.

RECOMMENDATIONS/SUGGESTIONS

West African countries are bedevilled with military coups, which usually precipitated outrage within and outside the country where the military took over. The crisis between ECOWAS and Mali, Burkina Faso and Niger emanated from the coups by the military leaders of the three countries. The coups were necessitated by the failure of a democratic government to carry out its functions. As a result of ECOWAS intervention, the military leaders formed an alliance for

military, economic and monetary union among its members. In view of this, the paper made the following suggestions for in-depth research by scholars:

(i)   To carry out a study on the relevance as well as the impact of state actors in the integration and disintegration of nation-states focusing on the exit of Mali, Burkina Faso and Niger from the ECOWAS.

(ii) To conduct in-depth research on why democratic governance fails in most of the West African countries, thereby creating gaps that call for military to take over mantle of leadership.

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PERSPECTIVE ARTICLES

"How Many Acts of Genocide Does it Take to Make Genocide?" – The Legal Obligation of Third States to Prevent Genocide Under the 1948 Genocide Convention

Lubna Sheikh Ghazali

ABSTRACT

Genocide is no ordinary crime, once dubbed by The International Criminal Tribunal for Rwanda as "the crime of crimes". In 1946, in the aftermath of the Holocaust, the United Nations General Assembly ("the UNGA") passed a resolution recognising genocide as a "denial of the right to existence of entire human groups", affirming it as a crime "which the civilised world condemns". This led to the adoption of the 1948 Convention on the Prevention and Punishment on the Crime of Genocide ("the Genocide Convention"). While the adoption was seen as an achievement among States, however State reaction to mass atrocity crimes have typically focused on the punishment aspect of the Convention after the event, with less attention on the obligation to prevent the event *before* it unfolds in earnest. As genocide is a process that does not take place overnight, this begs the question: When does the duty to prevent genocide under the Genocide Convention actually begin? How are States able to determine events that activate their obligations to prevent genocide and does this obligation extend to States who have no control or authority over the people or territory where genocide is being perpetrated? This article seeks to examine the obligation of third States to prevent genocide and identify potential trigger factors by drawing on lessons from the 1994 Rwandan genocide.

Keywords: genocide – 1948 Genocide Convention – obligation to prevent – duty to prevent - third State obligations

"Groups subject to extermination have a right to receive something more helpful than tears and condolences from the rest of the world."
(The 1985 Whitaker Report)[1]

INTRODUCTION

Genocide is no ordinary crime. Often, the term "genocide" attracts a strong emotional reaction and political attention due to the historical gravity of the term. Article I of the Convention on the Prevention and Punishment of the Crime of Genocide ("the Genocide Convention") enshrines the duties of Contracting States to both punish *and* prevent genocide. Nevertheless, State reaction to mass atrocity crimes tend to focus more on punishment *ex post* rather than prevention *ex ante*, despite the fact that the duty to prevent is a distinct legal obligation under international law. This becomes all the more difficult with the crime of genocide, which typically occurs as a process and does not take place overnight (Rosenberg 2012, 17).[2] Acts of genocide invariably do not occur in a continuum, as recognised by the Polish lawyer Raphaël Lemkin, who had coined the very word "genocide"[3]. How then does one determine *when* States are deemed to be under a duty to prevent genocide? What is the basis for this obligation to extend to third States, who do not have any control or authority over the individuals affected by or territory where genocide is being perpetrated? At what point do events become "sufficient" to activate the obligation of third States to act? Does the Genocide Convention in its current form and past rulings from the International Court of Justice ("the ICJ") assist in answering these questions?

This article seeks to explore the temporal dimensions of the obligation to prevent genocide by third States under the Genocide Convention. The obligations of third States refer to obligations of States that do not exercise territorial or extraterritorial jurisdiction over the people whose human rights are affected (van der Have 2018, 162)[4]. In attempting to do so, this article will first examine the nature of the obligation to prevent under the Genocide Convention. It will then set out the broad parameters laid down by the ICJ on when the obligation to prevent is considered activated, before proposing temporal guidelines on the duty of third States to prevent genocide based on these parameters, particularly when there already exist early warning mechanisms for genocide prevention.

THE "OBLIGATION TO PREVENT" UNDER THE 1948 GENOCIDE CONVENTION

In 1946, the United Nations General Assembly ("the UNGA") passed a resolution describing genocide as "a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings."[5] The resolution affirmed genocide as a crime under international law "which the civilised world condemns" and called for the necessary legislation for the prevention and punishment of the crime. These were the underlying sentiments that led to the unanimous adoption of the Genocide Convention by the UNGA on 9 December 1948, subsequently coming into force on 12 January 1951. The universality of the Convention was further reaffirmed in 1951, when the ICJ in its Advisory Opinion ruled that "the principles underlying the Convention are recognised by civilised nations as binding on States, even without any conventional obligations."

The Genocide Convention is distinct, in that its character is one of a human rights nature, aimed at protecting the right of protected groups to exist. It is a fundamental component of the contemporary legal protection of human rights (Schabas 2009, 10),[6] whereby it states that "in order to liberate mankind from such an odious scourge, international co-operation is required."[7] However, in the decades that followed its adoption, it became gradually obvious that there was little clarity on the nature of the "obligation to prevent" under the said Convention and what was expected of States, whether individually or through international co-operation. In fact, since its adoption in 1948 until the early 1990s, the Convention was essentially left dormant and relegated to obscurity. No serious efforts were made by States to invoke the Genocide Convention to address numerous human atrocities in which millions perished.

I. **The first legal clarification: The nature of "the obligation to prevent" under the Genocide Convention is one of erga omnes and is not territorially limited**

In 1993, the first attempt was made towards clarifying the nature of "the obligation to prevent" genocide, in the wake of the war in Bosnia. The Government of Bosnia and Herzegovina took the then Federal Republic of Yugoslavia (later known as Serbia and Montenegro) to the ICJ on charges of violations of the

Genocide Convention, including a charge of failure to prevent genocide under Article I of the Convention ("the *Genocide* case").[8] This was a first time a State, Serbia, had proceedings initiated against it for failure to prevent genocide in another State, Bosnia. Through this case, it was noted that "the duty to "prevent" genocide was "a duty that rests upon all parties and is a duty owed by each party to each other",[9] cementing the *erga omnes* character of the said obligation. This position was repeated again 3 years later, whereby the ICJ confirmed that "the rights and obligations enshrined by the [Genocide] Convention are rights and obligations *erga omnes*."[10] We find this principle cited again by the ICJ in 2020 in *The Gambia v. Myanmar*,[11] in proceedings against Myanmar for genocide against the Rohingya, and most recently in 2024 in *South Africa v. Israel*,[12] in proceedings against Israel for genocide against the Palestinians in the Gaza Strip.

The nature of the obligation to prevent under the Convention is also not territorially limited,[13] and States have the duty to prevent genocide even beyond its own territories, thereby extending this obligation to third States. Any preventive actions however, must be within the limits permitted by international law.[14] The duty to prevent genocide does not grant permission *carte blanche* for States to engage in the use of military force on another State. As such, each State party to the Genocide Convention is deemed to have a legal interest in the protection of the rights involved, and may invoke the Convention against another State based on its *erga omnes* character as a countermeasure against its breach. The State initiating action does not itself need to be directly affected or be facing the genocidal act itself. In fact, a State may see its action of instituting proceedings against another State to be a form of carrying out its own duty to prevent, such as the case of *South Africa v. Israel*.[15]

II. Legal watershed: Parameters laid down by the ICJ on "the obligation to prevent" in the Genocide case

Following the first legal clarification, we turn to a later decision that further clarified the obligation of States to prevent genocide. On 26 February 2007, the ICJ delivered its final ruling in the *Genocide* case between Bosnia and Herzegovina and Serbia and Montenegro.[16] This case was the first time a State was held responsible for the manifest failure to exercise measures to prevent genocide beyond its own territory. This ruling marked a legal watershed in many ways, as

it constituted "the Court's most extensive analysis of the Genocide Convention as well as its most extended treatment of extraterritorial state responsibility (Gibney 2007-8, 141)."[17] In addressing the question of what activates States' duty to prevent genocide, the Court provided clarification on the temporal dimension of this obligation by stating:

> "…a State's obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed. From that moment onwards, if the State has available to it means likely to have a deterrent effect on those suspected of preparing genocide, or reasonably suspected of harbouring specific intent *(dolus specialis)*, it is under a duty to make such use of these means as the circumstances permit."

The above ruling constitutes the most authoritative source in affirming that the obligation to prevent genocide arises *prior* to the outbreak of genocide. The Court declared that to interpret the obligation to prevent as one that arises *only when* the perpetration of genocide occurs would be 'absurd'; the point of the obligation is to prevent or at least attempt to prevent the occurrence of the act. When considering that genocide is a process rather than the outcome of a process, this would strongly imply that Contracting States *must* be attuned to what constitutes a serious risk that genocide will be committed, in order to know *when* their obligation to prevent arises.

THE GENOCIDE PROCESS AND CHALLENGES IN DETERMINING "A SERIOUS RISK OF GENOCIDE"

Genocide must be seen as a fluid and complex social phenomenon, rather than a static term. This understanding is crucial to the detection and standardisation of early warning indicators for the prevention of genocide (Rosenberg 20212, 17). An excessive focus on mass killings as proof of genocide ignores the fact that genocide may also occur through other, more indirect methods of destruction, such as a genocide by attrition. Based on the parameters laid down in the *Genocide* case, at what stage of this process would trigger the obligation to prevent? Although the Court did not define "serious risk", the term envisages the *final*

stages in the genocidal process. However, even this interpretation is problematic, as it would leave any action to prevent genocide far too late for any meaningful results.

In practical terms, even if the obligation to prevent arises at the final stages of genocide, identifying the "when" still remains a challenge. For instance, the first warning for the 1994 Rwandan genocide came in 1962, whereby a UN Commissioner noted that the Tutsi were "at serious risk of imminent extermination".[18] As for the 1915 Armenian genocide, warnings of a policy of extermination against the Armenians were declared in 1880 and 1895 respectively (Mayersen 2010, 20).[19] Both predictions were correct, but were off by decades, thereby illustrating the difficulties in accurately determining when such a serious risk arises. Furthermore, even when risk factors unequivocally exist, the turn of events may be "less serious" than genocide, or events may develop in more positive ways (Forlati 2011, 196).[20] Even if there is a general awareness of a legacy of hatred in a certain place, it is doubtful if this can be equated with a real and present danger of genocide (Gattini 2007, 698).[21]

Be that as it may, it is suggested that there are clear and specific attributes within the genocidal process that are in fact recognisable and can be distinguished from "the noise of regular human rights reporting". Some of these attributes are acknowledged by different sociological models, designed to study the preconditions of genocide. A number of early warning systems are developed based on these models and have proven to be sound in their forecasts.

I. The 1994 Rwandan Genocide

The Rwandan genocide is an event that will forever be seared in memory as the collective failure of the international community. From April to July 1994, approximately 800,000 Rwandan men, women and children, mostly Tutsi, were brutally massacred by Rwandan Hutu over the course of 100 days. In December 1999, a report based on an independent inquiry into the actions of the United Nations during the genocide found that "the international community did not prevent the genocide, nor did it stop the killing once the genocide had begun." ("The 1999 UN Independent Inquiry Report").[22] Kofi Annan described the atrocity as "a sin of omission".[23] What is significant from the Rwandan genocide is not just the political passivity by States as it unfolded, but that there had already

existed several known signs that a genocidal conflict would potentially occur several years before its actual occurrence (Ruvebana 2014, 2).[24]

TRIGGER FACTORS TO ACTIVATE THIRD STATES' OBLIGATION TO PREVENT GENOCIDE: INTERPRETING "A SERIOUS RISK OF GENOCIDE"

In determining potential factors to constitute "serious risk", there must first be a shift in approach by States when perceiving the term 'genocide' in the context of the obligation to prevent. 'Genocide' under the said Convention has a very precise definition, aimed at the protection of certain groups and criminalising certain enumerated acts. It does not necessarily describe every instance of mass atrocity, i.e. not every mass atrocity would automatically trigger obligations under the Genocide Convention. Nevertheless, notwithstanding the rigid definition of 'genocide', States' obligation should not be contingent on a *legal* finding that genocide is being committed. Such an approach would render the obligation to prevent genocide redundant and meaningless. As noted by Kofi Annan: "If we are serious about preventing or stopping genocide in future, we must not be held back by legalistic arguments about whether a particular atrocity meets the definition of genocide or not. By the time we are certain, it may often be too late to act."[25]

I.   Political determinations of genocide

Prior to the 2007 ICJ ruling, it was proposed that Governments needed to be liberated to be able to apply the term "genocide" more readily to mass killings that appear to have genocidal intent (Scheffer 2006, 229),[26] rather than to be straitjacketed into exercising measures only when there is a conclusive finding of genocide. In other words, the term 'genocide' must be understood in a preventive context rather than a criminal one. As such, States were called on to act based on a political determination of genocide rather than a legal one. Admittedly, this proposal may be straying into dangerous waters, as political judgments may be flawed, are less rigorous and may potentially lead to an inaccurate finding. However, this approach is more practical and can be checked by striking a careful balance so that a State does not find itself being too constrained by the legal definition, nor too liberal in determining there is a risk of genocide.

The above proposal is in line with the 2007 ICJ ruling, which places the threshold of obligation for States to be "aware, or should normally have been aware." This indicates a positive obligation on States to actively take steps in order to be informed of situations of risk of genocide. In the exercise of their obligations of "due diligence", States are to make assessments in *concreto*. Moreover, a State may be found to be in violation of its obligation to prevent if it failed to act when it should have acted, *even if it had no certainty* that genocide was about to be committed or was underway. It was sufficient if States were aware of or should normally have been aware, of the serious danger that acts of genocide would be committed. This can be done through the availability of information at its disposal, such as through academic literature, media coverages, reports by inter-governmental organisations, human rights organisations, corroborated by other evidence such as satellite imagery, photographs and diplomatic communications.

There are of course concerns that making political determinations of genocide may not necessarily be something States will be minded to do. In fact, it may lead to the very opposite result. In the 1999 UN Independent Inquiry Report, it was noted that the reluctance of some States to use the term "genocide" to describe the atrocity that was unfolding in Rwanda was motivated by a lack of will to act, which was 'deplorable'. For example, the United States ("the US") had actively and consciously avoided using the word. It was revealed through a May 1994 declassified US memo that caution was urged in using the word, as a "[g]enocide finding could commit [the US] to actually "do something".[27] Based on this, as well as the actions of many other States who similarly refused to invoke the word, there is clearly a belief by States that such an invocation would indeed impose an obligation to prevent genocide, possibly leading to refusals to invoke political determinations of genocide. Nevertheless, this may conversely provide the basis to argue that when such a political determination *is in fact* made, *it will* trigger the said obligation.

II. State-sanctioned discrimination and persecution accompanied by patterns of organised violence as a prelude to genocide

State-sanctioned discrimination and persecution of a group invariably begins with classification, whereby groups are differentiated based on an "us vs. them" categorisation. Over time, the classification normalises the "othering" of a people and becomes the basis on which the discrimination and persecution of a group

builds. It facilitates the creation of a vulnerable "out-group." This is one of the stages recognised in Gregory H. Stanton's Ten Stages of Genocide model, which describes the genocidal process.[28]

For the Rwandan Tutsi, classification inadvertently began when the Belgians between 1926 and 1932 introduced identity cards to every Rwandan, declaring each to be either Hutu or Tutsi. Tragically, it was these identity cards that facilitated the killings during the 1994 genocide, as they enabled the killers to quickly determine who were Tutsi. Based on a report by an International Panel of Eminent Personalities that looked into the Rwandan genocide ("the 2000 OAU Report"), the introduction of identity cards institutionalised the cleavage between the two races,[29] whereby school places, civil service jobs and the like were allocated based on the ethnic identity of a person. Over time, discrimination began to build up, and following Rwandan independence, the Tutsi minority could be clearly seen as a relatively vulnerable out-group.

However, discrimination and persecution alone are not enough to warrant a risk of genocide. It must be accompanied by patterns of targeted violence that reinforce the notion that there is an intent of elimination. The Rwandan Tutsi were subjected to cycles of violence in the years prior to their climatic genocidal outbreak. From October 1990 onwards, it was observed there were continuous violent anti-Tutsi incidents[30] until the 1994 genocide, which were all well-documented. Spikes in violence can point to an escalation from "risk" to "a serious risk" of genocide, activating State obligations to prevent.

III. Hate speech and propaganda as a means of dehumanisation

Genocide is often preceded or accompanied by widespread hate speech and incitement to violence. In Stanton's model, hate speech is usually used for the dehumanisation of a group, whereby its members are regarded as "less than human" and are equated with animals, vermin, insects or diseases. It is an important phase in the genocide process as the genocidal group uses "purification of society" as its justification (Ruvebana 2014, 60).

In Rwanda, hate speech as a tool of dehumanisation was observed as early as 1959, 1962 and 1972 respectively, suggesting that there was a long presence of anti-Tutsi sentiment.[31] This animosity stepped up in December 1990, whereby the Hutu newspaper *Kangura* published "the Ten Commandments of the Hutu",

urging the Hutu to "stop having mercy" towards the Tutsi, among others. Cartoons and articles in *Kangura* depicted the Tutsi as cockroaches and snakes, and several newspapers branded the Tutsi as "the enemy", stoking fear by sending the message that the Tutsi were planning to massacre the Hutu.[32]

In the run-up to any mass genocidal outbreak, communication tools that reach the widest audience possible will always be used as a means of incitement. In Rwanda, the radio station Radio Télévision Libres des Milles Collines ("RTLMC") was used to amplify anti-Tutsi propaganda. It was identified as playing an instrumental role in "keeping passions at a fever pitch during the finals months before the genocide."[33] Its venomous verbal abuse of the Tutsi was unrelenting and later joined by the official Radio Rwanda, which moved from neutral reporting to open brainwashing. Anti-Tutsi propaganda frequently included calls for massacres. The more inflammatory and widespread the message, especially when accompanied by a history of organised and targeted violence, the more this escalates to "a serious risk" of genocide.

IV. Discernible preparatory acts in the prelude to an organised genocidal violence

In the prelude to a genocidal campaign, certain preparatory acts to ensure an organised operation can always be discerned. Preparations to genocide are often cloaked in euphemisms such as "counter-terrorism measures". There will also be a sudden spike in hate rhetoric and propaganda immediately prior to the campaign. The organisation of the brutal campaign in Rwanda became evident after the outbreak of violence. The violence in Rwanda was described as "deliberate, planned, organized, sophisticated, and coordinated."[34] It was clear the efficiency of the Tutsi extermination was meticulously planned in how it was carried out. Such well-organised operations can only be preceded by preparatory acts and other tell-tale signs. While these would naturally not be displayed openly, there are certain aspects which should place States on alert.

In Rwanda, it was noted in the months leading up to the genocide that lists of the Tutsi were drawn up for extermination, with reports of stockpiling of arms in secret locations. On 11 January 1994, a telegram was sent by the Force Commander of the Peace-keeping Mission in Rwanda (UNAMIR), Brigadier-General Romeo A. Dallaire, to the Military Adviser of the UN Secretary-General.

The telegram contained key pieces of information and played an important role in understanding what information was available to the UN on the risk of genocide in Rwanda. Among the information relayed was that Dallaire had been in touch with an informant who had disclosed to him that some 1,700 men, scattered throughout Kigali in groups of 40, had been trained in camps, with plans of carrying out extermination on the Tutsi population. Dallaire was also informed of a major weapons cache with at least 135 weapons stored. While Dallaire admittedly had some reservations on the reliability of the information, he communicated that UNAMIR intended to take action within the next 36 hours. The telegram ended with a call to action: *"Peux ce que veux. Allons-y."* The UN, in its initial response, advised that the information be treated with caution, and that no action should be taken "until clear guidance is received from Headquarters." Other measures were taken aside from clear action to prevent genocide. 6 months later, the 100-day massacre in Rwanda began.

CONCLUSION

If there is anything more horrific than genocide, it is the knowledge that genocide need not have happened in the first place. The Rwandan genocide has been termed as "the most easily preventable genocide imaginable." Despite the so-called universality of the Genocide Convention and State parties communicating their intention to liberate mankind from the odious scourge of genocide, in the case of Rwanda, the international community proved to be no community at all. There was a complete and utter failure to prevent genocide despite clear signs of a serious risk of genocide prior to July 1994.

The Genocide Convention, like any other international treaty, imposes a binding obligation on its Contracting States, with an expectation that States will conduct themselves in a way that fulfils its object and purpose. States are expected to take preventive action regardless of where genocide is taking place, and are to approach their obligation to prevent under the Genocide Convention on the understanding that such an obligation is one that precedes genocide itself.

In order to concretise this, States should automatically be placed on alert when such patterns present themselves in a particular State can immediately avail themselves to all reliable sources of information to make a sound assessment

of a situation. States can also utilise the numerous early warning mechanisms available to them. Once certain familiar patterns inflicted on a protected group makes itself manifest, States should be minded that they have a legal obligation to take affirmative action, whether it be diplomatic, social or economic in nature. A bias towards belief would do less harm than a bias towards disbelief.

If the Genocide Convention is to have any meaning beyond being a mere "historical curiosity" and if the international community is truly serious in rooting out the very idea of genocide, then it must recognise that the prevention of genocide does not merely rest as a moral duty, but a legal one too. Once this is truly appreciated, only then can the prevention of genocide be transformed from mere platitudes into real solutions.

NOTES

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[13] *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)*, Preliminary Objections, Judgment, 1996 ICJ Rep. 595

[14] See Article 2(4) Charter of the United Nations

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The Pervasiveness of Islamophobia: Contemporary Examples of Oppression[1]

Arief S. Arman

ABSTRACT

'Islamism' and 'Islamophobia' are terms that conjure various images and symbols within our collective minds, with the latter seeming to feed off the former in numerous ways. The stereotype of a bellicose and intolerant worldview attached to the Islamic way of life is so widely purveyed in Western[2] media and has extensive currency among policymakers in the Global North, that it seems to leave no stone unturned in their relentless pursuit of scapegoating and vilification on those who profess the Muslim faith. The purposes of this paper are varied. The first reason is to highlight the element of peace within Islam – in both theory and practice – as exemplified by the Treaty of Hudaybiyah. Next, a brief explanation on how Islam has been undermined by Islamism will be carried out, with the ideology causing much harm to Muslims the world over. I shall engage with a brief literature analysis on the matter, with reading on concepts such as *tanfir* providing the basis for the argument brought forward. The second intent is to highlight the contemporary problem of Islamophobia and its pervasiveness within governmental, societal, and individual levels, which is exacerbated by irresponsible reporting by Western media. The third aim of this paper is to signal that Islamophobia *is not necessarily limited* to the framing of the Western world and its politics of exclusion. This is done by providing a short overview of the current situation of Uyghur Muslims in the People's Republic of China (PRC).

Keywords: fear, Islam, Islamism, Islamophobia, media, misrepresentation, politics of exclusion, sensationalism, surveillance, Treaty of Hudaybiyah,

ISLAM AS PEACE

The clarion call that is the invitation to prayer penetrates the air, with the muezzin summoning every ounce of energy within him to exclaim: *"Allahuakbar!"* (God is Great!). This call is for beautiful solidarity in that believers come together and face the *Ka'aba* to perform their daily prayers with devotion, purpose, and

silent reverie. Unfortunately, the same phrase can be heard before an explosion goes off, from the enormous belly of Kabul to the massive tube line in London, where the false impetus of martyrdom pushes the Islamists to fight for a cause that is intimidating, frightening, and supposedly real.[3] Wounded, the public are desperate for answers. They want to understand the thought process behind such violence, perpetuated by organisations that promote political principles seemingly counter to those held in the Global North, which is a representation of Western polity.

How often have we read about, or heard of, such events over the past twenty years? There is no doubt that such incidents have portrayed Islam in negative light. However, we ought to ask ourselves, can these individuals and or groups be taken as a legitimate representation of the Muslim faith? There are those who might claim that these zealots are true representations of Islam, but for the author, the answer is a resounding no, as any act that would remove good and give rise to evil, even if it yields gain to its perpetrator or to another, is forbidden.[4] In Islamic tradition, violence *can never be perpetuated on those who are not combatants*.[5] Indeed, it is mentioned in the Qur'án, *"Fight in the cause of Allah those who fight you, but do not transgress limits: for Allah loves not the transgressors."* (2:190).[6]

Indeed, notions of identity and representation feature heavily in the discourse of immigration and border control, a strong concern within many European nations. For us to grapple with the issue of identity and representation, it is imperative to understand the foundations of ideas, especially when it pertains to the belief of billions the world over. It is brought forward that Islam's emphasis on peace is not only limited to the individual domain but is also extended to the societal level. The peace alluded to here is dependent on *akhlaq* or good character/ conduct. For Muslims, the Prophet Muhammad (PBUH)[7] is the embodiment of *akhlaq*, and should be referred to when one wants to learn about proper character. For indeed, the Prophet is *uswa hasana*, 'a beautiful model' (Qur'an, 33:21).[8] There are no qualms among believers that the Prophet is the best representative of Islam as he has always placed great significance on establishing harmonious relations between people.

There are great lessons that can be extracted from the past, especially in reference to the *sírah* literature (biography of the blessed Prophet). The Peace Treaty of Hudaybiyah is one such example, where good conduct is intertwined

with courage.[9] Six years after his emigration to Medina, the Prophet, together with 1,400 *Sahaba* (Companions), set towards Mecca to perform the *Umrah* (lesser pilgrimage).[10] By arriving relatively unarmed (except swords in their sheaths, which was customary for Arab travellers at the time), and in the state of *ihram* (premeditated spiritual and physical state of ritual purity), the blessed Prophet managed to surprise the Quraysh; the tribe that he was born into, and one of the most important groups in the Hijaz.

The Quraysh had expected outright confrontation and were prepared for a bloody battle. However, they soon realised that their reputation as custodians of Mecca would be jeopardised if they attacked the blessed Prophet and his *Sahabah*. Not only that, if they blocked the entrance and did not allow the entourage to pass through, it would give the impression that Mecca was no longer an open and safe hub for pilgrimage, which was obviously bad for business.[11] By creating a situation with limited options, the Prophet had effectively put the Quraysh's legitimacy on the line, pushing them to a solution that he could influence. Thus, a ten-year treaty was signed, ensuring that there would be peace and ease in the affairs of the Muslims (an in extension, non-Muslims) in Mecca.[12] In the Qur'án, one is repeatedly brought back to the overriding imperative of manifesting mercy and compassion whenever possible.[13]

It must be mentioned that there were times when the Prophet's companions struggled with his peaceful responses to hostile and tense situations. Even though most of them felt intense emotions when the Prophet was disrespected and ridiculed by his opponents, the *Sahabah* had great respect and reverence for him. This meant that they followed his way and overcame their emotions of anger, frustration, and the desire for revenge. From then on, they followed in his footsteps, making sure that the natural reaction in dealing with conflict was not to double-down on enmity or to retaliate blindly, but to respond in such a way that ensured peace and harmony between individuals, as well as societies. We would do well to remember the words of the magnificent Andalusian Imam, Ibn Musa al-Yahsubi (Qadi 'Iyad):

> "… courage is the virtue which consists of the force of anger when it is made to obey the intellect. Bravery is the valour of the self when it is sent out to its death where bravery rather than fear is praiseworthy."[14]

What we see and hear now is a different reality altogether. The heedless violence carried out in the heart of Kabul, and those tube lines in London, proves to be a far cry from the glorious example of peace embodied by Islam's final messenger.

ISLAMISM: A FIELD DAY FOR WESTERN MEDIA

We proceed by asserting the fact that *Islamism is not Islam*. As with any other '-ism', Islamism as an ideology has moved away from its centre, further distancing itself from peaceful beginnings (to which it is bound by). Those who identify with such movements have reinterpreted and repackaged certain elements within Islam to fit their own way of thinking, *often fixated on the need to establish Islamic law as universal law*. Examples of these groups include Al-Qaeda and Jemaah Islamiyah (JI). Marc Sagerman in his book *Leaderless Jihad: Terror Networks in the Twenty-First Century* discusses various assumptions on the rise of 'Jihadism' (as he understands it) and the trajectory of modern terrorism (taking on from David Rapoport) which often pertains to discourse on anarchism, anti-colonialism, left-wing radicalism, and – of interest in this paper – ideas of religious terrorism.[15] However, there are numerous assumptions and error in the text, which indicate that Islamophobic tropes are not just contained within media articles, but other forms of publications as well. One such issue is the way in which 'religious terrorism' is framed on the "belief that the world has decayed into a morass of greed and moral depravity (especially failures in sexual purity, family values, and the rule of the Word of God)."[16] Sageman goes on to say that a revivalist faction known as the 'Salafis', have an ardent desire to reconstruct the original Muslim community under the rule of Islamic law.[17] It is quite frustrating that this account overlooks the primary reason of modern radicalisation – which is often a form of retaliation to the encroachment of what is deemed to be Muslim lands. It seems to be the case that American exceptionalism fails to see the deleterious effects of its own foreign policy (i.e. 'The War on Terror'). The rise of Islamism as it is conceived today, *is part of that effect.* Much to the chagrin of the larger population of Muslims the world over, these Islamists are often depicted as accurate representatives of the religion by Western media.[18]

Islamism can also be comprehended as the cultural-political response to a crisis of failed postcolonial development in Islamic societies, under conditions of globalisation.[19] This situation makes it easier for organisations like Al-Qaeda

and JI to recruit new, eager members. Often, these new members are young men who have been stuck in the peripheries, and who look for a cause to believe in, and ultimately fight for.[20] Here, it is necessary for us to understand the impact of globalisation (as an extension of post-colonialism) on the 'third world cannot be overstated. It has created fertile breeding grounds for radicalisation, because there are those who are left out of the economic and social milieu.[21] They are driven by anger for being left out and look for outlets to exact revenge on the very system that has betrayed them. This is what happens when human beings are not seen as an end in themselves.

The transformation of *Dín* (Islam) into ideology (Islamism) brings with it a whole host of problems. The indomitable scholar based at the Cambridge Muslim College (CMC), Abdal Hakim Murad, rightly points out that coercion and compulsion only leads to spiritual entropy:

> "Where tanfir becomes most lethal to Muslim faith is in situations where it has become empowered. Here, believers watch with dismay the ugliness of the state, and feel their faith draining away, because the angry and the vengeful authorities have coercively self-identified with Islam."[22]

Tanfir here refers to drive something/someone away; the repelling of souls, instead of bringing them closer together (which is the opposite of Da'wah or 'invitation').[23] When *tanfir* is manifested in action and potentially made policy, it should come as no surprise that there will be an increased aversion towards Islam and all that it stands for. The practice of *tanfir* is obvious within Islamism or 'political Islam'. The irony within Islamism is that it repels rather than attracts, and in that repelling assumes that attraction takes place. If the concept of *tanfir* is taken to the extreme, *shirk al-ihtisáb* or 'polytehism of compulsion' will run its course.[24] When obeying God under duress, large swathes of people will have to subvert the purity of their intentions. This is the exact opposite of what Islam espouses, which is sincerity in thought and action.

To reiterate, the Islamists' ambitions *include* the establishment of Islamic law in Muslim-minority countries.[25] *It is not the only goal.* In their view, this establishment can only be done by means of brute force, forcing non-Muslims to comply with it. This is a form of *tanfir* taken to the extreme, a situation that is opposed to

amicable agreements through dialogue and *ijma'* (consensus). On this matter, the first Secretary-General of the Arab League 'Abd ar-Rahmán Azzám elucidates,

> "...this variety of constitutions and forms of government may be more effective in realising the objectives of Muslim law than a single uniform constitution, provided they comply with the general principle of the Shari'ah and the moral norms of Islam."[26]

From the point above, the diversity of laws pertaining to public matters may be necessary for the realisation of the purposes of the *Shari'ah*, which aims at the interest of Muslims living under dissimilar conditions.[27] What is meant by 'dissimilar conditions' refers to the needs that vary with respect to different locations and social milieus. These different environments indicate the possibility of Muslims making up the majority of a particular nation, or as the minority within it (exemplified by 'European Islam').

ISLAMOPHOBIA DEFINED

A phobia is a persistent, irrational fear of something[28] usually manifesting itself by means of physical aversion and general disdain when in proximity with the aforesaid object, place, and even specific groups of people. Having a phobia is also indicative of an anxiety disorder within a person.[29] Generally, someone with a phobia either tries to avoid triggers to that fear or endures it with tremendous anxiety and distress. Thus, Islamophobia can be inferred as an irrational fear of Islam, and in extension Muslims themselves. This fear usually manifests itself as hostility and discrimination against adherents of the Islamic faith, and to their exclusion from mainstream political and social affairs. The Islamophobes are adamant that all Muslims are terrorists, and that Islam is synonymous with repression and violence. Such anti-Muslim rhetoric is widespread (especially in the Global North) and is unfortunately fuelled by legal frameworks that have been legislated, going as far as to recognise Islamophobia as a valid political stance to win over the public. Such examples include the victory of Geert Wilders and his far-right Party for Freedom (PVV) in a recent Dutch election.[30] The PVV is known for scathing remarks against Muslims in the Netherlands, and their stance that mosques, Islamic community schools, and the Qur'an do not belong to Europe in general, and the Netherlands in particular.[31] Furthermore, Wilders follows neoconservatives such as Daniel Pipes and Norman Podhoretz, as well

as his fellow Dutch MP Ayaan Hirsi Ali, in their view that Islam is a totalitarian ideology, "which after communism and fascism poses the third greatest threat to Western modernity."[32] The rhetoric of 'We' are against 'Them' is very much alive.

Although a relatively recent concept and by extension, phenomenon, Islamophobia has its roots in the historical processes of colonialism, racism, and slavery.[33] It can be argued that Islamophobia emerged at a time when traditional hierarchies were crumbling, and it served to remind Muslims of their inferior status, which ties in with the containment of any political mobilisation and claims making.[34] Muslims have often had crosshairs at the back of their heads due to their belief in a tradition that has polarised many for centuries. Today, the supplanting of fear over calm is evident in sensationalist headlines,[35] and has resulted in calls for travel bans on people from Muslim majority countries, legal prohibitions of 'religious garments' (including the headscarf and veil) as seen in France and their practice of *laïcité* as well as anti-migrant attitudes that are no longer nascent, but firm in its prejudiced foundations. An essential element of Islamophobia is ignorance. There are many who choose to be ignorant and have taken such sensationalist headlines as gospel. Deliberations on the legitimacy of Islamophobia occurs in the context of various mobilisations and confrontations that take root in the figure of the Muslim. Often, these confrontations are *a result of a perceived threat to values* held dearly by the governments and citizenry in the Global North – including freedom of expression and gender equality – which tie into orientalist tropes of the backward Muslim, lacking in freedoms and not able to comprehend the meaning of 'equality', especially between the sexes.[36] There is a conceptual lack of clarity when it comes to the term 'Islamophobia'. This blurring ties in with the contested field where questions about national security, social cohesion, and cultural belonging are played out. Contemporary notions of Islamophobia take on the form of a checkered relationship between national majorities and the post-colonial, that is of ethnically marked minorities that have been forged.[37]

As touched upon, a phobia can be inferred as a type of anxiety disorder. Thus, the presence of fear *en masse* shows that *victims of Islamophobia are also those who perpetuate it*. Muslims (or those who might be mistaken as Muslims), might be attacked verbally or physically just by being (or appearing to be) Muslims,[38] but the perpetrators are also assaulted mentally (by mass media) as they are stuck in a psychological loop of apprehension and fear that is often imagined. This

is a form of suffering that needs to be urgently addressed. The source of the problem lies with the fact that the phobia of Islam is often fanned by those in senior positions within the media; those who have the final say over what makes the headlines. Are these individuals influenced by various governments, who have, and continue to profit from the 'othering' of Muslims? In her compelling paper *'The Canadian Islamophobic Industry: Islamophobia's Ecosystem in the Great White North'*, Jasmin Zine highlights the fact that there are more orchestrated ways in which Islamophobic networks operate to support and sustain an industry of hate.[39] These methods add to the impact that state policies and systemic anti-Muslim racism have in perpetuating a climate of Islamophobic animus. Zine argues that the 'Islamophobia industry' is comprised of media outlets, political figures, far-right White nationalist groups, Islamophobia content creators on social media, pro-Israel lobbyists, as well as individual donors who fund such campaigns. It is not a stretch to opine that these different facets could be linked to one another, as the vilification of Muslims appears to be a profitable business.[40] Zine also contends that the distinguishing factor between Islamophobia and other forms of oppression is that there is an active industry behind purveying anti-Muslim.[41] Furthermore, the 'Islamophobia Industry' is constituted through intertwined interests among the diverse groups mentioned prior, with their activities often generating revenue by monetising anti-Muslim bigotry, hence why these networks are characterised as an 'industry'.[42]

For decolonial Islamic scholar Hatem Bazian, the spread of Islamophobia must be curtailed. This is because overtly racist discourse has been normalised, and taken root in not only the United States, but other countries in the Global North.[43] Racism in public discourse often leads to racist groups seizing society's political agenda, directing animosity and outright racism towards marginalised communities.[44] Islamophobia does not only impact Muslims, but also influences the thought processes and contingent actions (or lack thereof) of non-Muslims who are themselves victims of its debilitating sway. As hate begets hate, revulsion towards a group of people will only perpetuate further revulsion, thus creating an atmosphere of hostility and heightened tensions.

In 2012, the American Freedom Defense Initiative (AFDI), led by Pamela Geller, launched national advertisements emphasising support for Israel and the 'war on Jihad', with the downright racist framing of Palestinians as 'savages'.[45] National advertisements were plastered on buses, train stations, and billboards

with the accompanying message: *'In any war between the civilized man and the savage, support the civilized man. Support Israel, Defeat Jihad.'* Compared with earlier Islamophobic campaigns, these messages made an explicit connection with Israel, which adds a different polemical layer to the provocation of Muslims. The argument for freedom of expression[46] is often applied here, with many citizens within democratic countries indifferent to the aforesaid framing of 'Us' against 'Them'. Further examples of unhindered freedom of expression include the Rushdie Affair, which saw the burning of 'The Satanic Verses', a book written by controversial author Salman Rushdie in 1988.[47] In the story, allusions were made to the life of the Prophet Muhammad, although the names of characters were changed. On this point, Malaysian academic Murni Wan Mohd Nor argues that the protection of religious sensitivities should take precedence over freedom of speech.[48] It is only logical to assert that unbounded speech – taking the form of insults, slander, and libel (among others) – will have a negative bearing on the relationships between people in a specific country. She also argues for the recognition of an alternative interpretation of human rights which is in relation to – and not separate from – widely accepted religious and moral values.[49]

ISLAMOPHOBIA AND SYSTEMIC OPPRESSION

It is perhaps a truism to say that human beings and oppression are inseparable; our collective history is replete with examples of subjugation and tyranny, which stems from a desire to control. Control of, and over others seems to be a tempting escape for those who are not able to control themselves. In a turbulent post 9/11 world, Muslims have proven to be a convenient scapegoat for making legitimate the 'need' for heightened security and surveillance the world over. The repercussions of these measures are often psychological, as those subjected to it are constantly on their toes wherever they go, for fear and trepidation that their privacy will be compromised, and their autonomy undermined. An example of this encroachment of privacy can be seen in the United Kingdom, with the implementation of the Prevent policy that was introduced in 2003 by the Labour Government of Tony Blair, which is part of an overall post 9/11 counter-terrorism approach (CONTEST).[50]

The Prevent policy embeds infrastructures of surveillance in Muslim communities. Seemingly justified in their stance to prevent the radicalisation of individuals to terrorism, the Prevent policy became a legal duty for public sector

institutions. Leeway was given to spying on others, creating an atmosphere of distrust within British society. Highlighting Mahmood Mamdani's work *'Good Muslim, Bad Muslim: America, The Cold War, and The Roots of Terror'*, Fahid Qurashi gives us a picture of how the framing of a 'good Muslim' and a 'bad Muslim' comes to determine the relationship authority has with those who might hold conflicting values. Qurashi argues that the surveillance of the Prevent strategy is a form of Islamophobic surveillance because it is informed by the framing of the terror threat *as a specifically Islamic threat;* casting a wide net over Muslims as potential terrorist that must be monitored and categorised.[52] This is demonstrated by surveillance technologies that are increasingly implicated in these strategies, as seen in the rolling out of Project Champion in Birmingham, whereby covert and overt Automatic Number Plate Recognition (ANPR) cameras were installed in predominantly Muslim parts of the city.[53] George Orwell's 'Big Brother' is truly well and alive.

We now move to the ongoing persecution of the Uyghurs by the People's Republic of China (PRC). This is an example of systemic oppression that is not necessarily Islamophobic in intention but has manifested itself as such in practice. The ambitious aim of achieving a China with one homogenous culture has seen Beijing suppress its minorities, which is unfortunately exemplified by the large-scale internment of the Uyghurs in the Xinjian Uyghur Autonomous Region (XUAR).[54] They are detained at the faculties indefinitely, without any indictment, due process and or fair hearing.[55] In fact, the PRC has leveraged on global Islamophobia by using the 9/11 attacks as a justification for their policies towards the Uyghurs.[56] Their deplorable treatment of the aforesaid Turkic Muslim community is 'necessary' for 'concern' that similar attacks will take place in the Republic. However, such a sweeping claim seems far-fetched, and remains to be fully substantiated.[57]

Anti-terror policies which are arbitrary (one man's terrorist is another man's freedom fighter)[58] in its conception only adds fuel to the fire of bigotry and hate. It is not erroneous to say that Muslims have suffered the brunt of these policies, with increased surveillance, socio-political subjugation, extrajudicial detention, and in extreme cases, even torture and death, becoming the norm. Islamophobia is the lived reality of many, as observed by the lived experience of Uyghurs. Akin to Jeremy Bentham's Panopticon, the policing measures in the XUAR is one

that infringes on the privacy of the Uyghurs. In addition to traditional coercive policing methods and increased military presence in the region, the authorities have leveraged on digital surveillance technology to monitor almost every aspect of the lives of the community. Moreover, the PRC, in its concerted effort towards homogenisation, has adopted other stringent policies in its management of the Uyghurs. Such policies include prohibitions on acquiring religious education outside of state-run establishments (typically in *madrasas*), the destruction of ancient mosques, and the difficulty of building new Muslim places of worship.[60] To add, there are laws which make it illegal for state employees or those under eighteen years of age to attend prayers in existing mosques, the 're-education' of religious leaders and heads of the community deemed to be security threats by way of their faith, and widespread restrictions on the use of the Uyghur language.[61]

To rub salt into the collective wounds of the Uyghurs, the Chinese government has also restricted them from undertaking the holy pilgrimage to Mecca (one of the five pillars of Islam). Not only that, students, teachers, and civil servants are forbidden to fast in the holy month of Ramadan. Along with banning adherence to specific religious rituals, those in power have also forced the Uyghurs to engage in acts forbidden in Islam, including the consumption of pork and the imbibement of alcohol, besides making it compulsory to 'celebrate' polytheistic Chinese holidays.[62] Failure to adhere to these ludicrous regulations often leads to physical violence, leaving the Uyghurs with no choice but to comply. Ciara Finnegan has rightly argued that there exists a lacuna in international law with regards to the protection of minority groups.[63] The omission of 'cultural genocide' from the 1948 Genocide Convention has allowed for such atrocities to go unchecked, since genocide of this sort is not deemed to be an international crime.[64] However – as with the case of the Uyghurs – the destruction of culture is precisely the destruction of lives. If a specific group is not permitted to live in accordance with their tradition, there is a real risk that transmission of knowledge will not take place onto future generations. There is a great reminder that "culture and knowledge of cultural heritage anchor a minority firmly within their identity and allow them to carry out their lives as a community distinct from a majority population…"[65] If there is no preservation of culture, there is no value in heritage.

WAYS FORWARD

As this paper has indicated, Islamophobia – as the fear/hatred of Islam in its modern guise – is a phenomenon made possible by several factors. These factors include fear and apprehension of 'the Other' and general lack of knowledge about different peoples and cultures, as well as modes of living. Once such concerns are tapped into and allowed to manifest into outright hate, governments the world over (specifically the Western polity) can leverage on it to justify their policies of exclusion by means of heightened security and surveillance, among other provocative measures. This study has brought forward the argument that *Islamism is not Islam*, and the advocates of the former are in fact committing a disservice to the universal message of peace inherent within the faith they claim to represent. As such, for personal, political and privileged reasons, the behemoth that is Western media has taken it upon themselves to generalise Muslims as deranged, as those who are fixated with imposing a certain way of life onto the liberal, secular world.

The author hopes numerous lessons can be extracted from this paper. First and foremost, there must be an acknowledgement of the exaggeration which exists in the media when reporting on Muslims and Islam, especially when there is a conflation of issues, typically pertaining to radicalism and terrorism. Media houses that have been identified as outlets for inciting hate and dissension, especially with regards to Islamophobia, should apologise and take accountability for their irresponsible actions.[66] The best form of apology is of course, through changed behaviour. However, the author is not under any illusion that such a change can take place soon, since vested interests will always hold sway on how news is both manufactured and disseminated. Here, it is suggested that inclusive writing ought to be practiced (not in the politically correct sense), so that stories of peace and solidarity, as well as camaraderie and friendship are promoted rather than eschewed. These stories should cut across racial and religious lines, highlighting the similarities that bind, as opposed to the supposed differences that have separated human beings for far too long.

Next, the deplorable situation in XUAR should serve as a reminder that Islamophobia exists on a systemic level, and that it could also be dispensed by oriental powers. The Malaysian government (or any government for that matter)

must have the political will to condemn such injustice. It is not a stretch to say that the brutalisation of the Uyghurs is an inverse to Islamism, in that the mode of influence alluded to here is one of Chinese homogenisation, *as opposed to expansion of an Islam misrepresented*. As a country that is predominantly Muslim, Putrajaya must play an active role in speaking up against oppression towards those within the *Ummah*. Of course, we are not saying that non-Muslims are to be neglected, but the current focus revolves an urgent need to address the brutalisation of Muslims the world over.

Political commentators and public intellectuals on the topic of Islamophobia should take note that for the Muslim, there is an inherent duty and moral obligation to speak up against atrocities carried out by those within the *Ummah* and beyond. Therefore, the responses towards violence – which include boycotts and protests – should be seen as legitimate manifestations of grievances affecting Muslims around the globe. Admittedly, this paper has been more of a brief 'introduction', rather than an in-depth study of the issues at hand. Nevertheless, it is hoped that there is wisdom it its brevity, and that future works on Islamism and Islamophobia might derive benefit from it.

NOTES

[1] An abridged version of this paper was presented at the Global Consequences of Islamophobia and the Muslim World conference (2021) organised by the Department of Islamic Thought and Civilization, UMT, Pakistan, in collaboration with the International Institute of Islamic Thought and Civilisation (ISTAC-IIUM), Malaysia. The author would like to convey his gratitude to Dr. Murni Wan Mohd Nor for her editorial input, and to Maryam Osman for her technical assistance.

[2] The term 'Western' does not necessarily mean a physical location (that is opposed to the East), but a set of ideas and definitions borne out of a specific frame of thinking.

[3] "7 July London bombings: What happened that day?," *BBC News*, July 3, 2015, https://www.bbc.com/news/uk-33253598

4   'Abd ar-Rahmán Azzám. *The Eternal Message of Muhammad*, trans. Caesar E. Farah (Islamic Book Trust, 2010).

5   Joel Hayward, "Warfare in the Qur'an," in *War and Peace in Islam: The Uses and Abuses of Jihad*, ed. HRH Prince Ghazi bin Muhammad, Ibrahim Kalin, and Mohammad Hashim Kamali (MABDA, 2013).

6   Hayward, "Warfare in the Qur'an," 43. The permission for self-defensive war-fighting (*qitál* or combat) does not equate to the wanton murder of non-combatants. One need not go further than the current aggression carried out by Israel's Premier, Benjamin Netanyahu on Palestinians.

7   It is customary practice to say 'Peace Be Upon Him' when the name of the Prophet is mentioned.

8   For a more detailed study of the depths of veneration for the final messenger of Islam, see Annmarie Schimmel, *And Muhammad is His Messenger: The Veneration of the Prophet in Islamic Piety* (Islamic Book Trust, 2018).

9   Suleyman Sertkaya and Zuleykha Keskin, "A Prophetic Stance against Violence: An Analysis of the Peaceful Attitude of Prophet Muhammad during the Medinan Period," *Religions 11*, no. 11 (2020): 587, https://doi.org/10.3390/rel11110587.

10 Nabeel Al-Azami, *Muhammad: 11 Leadership Qualities That Changed the World* (Claritas Books, 2019), 96.

11 Al-Azami, *Muhammad*, 97.

12 Al-Azami, *Muhammad*, 97.

13 Such a framework is iterated in the Qur'án; *"Warfare is ordained for you, though it is hateful onto you."* (2:216). See, Reza Shah-Kazemi, "Recollecting the Spirit of Jihád," in *Islam, Fundamentalism, and the Betrayal of Religion: Essays by Western Muslim Scholars*, ed. Joseph Lumbard (World Wisdom, 2004).

14 Qadi 'Iyad ibn Musa al-Yahsubi, Muhammad: Messenger of Allah (Ash-Shifa of Qadi' Iyad), trans. A.A. Bewley (Madinah Press, 2014).

[15] Marc Sageman, *Leaderless Jihad: Terror Networks in the Twenty-First Century* (University of Pennsylvania Press, 2008), 32.

[16] Sageman, *Leaderless Jihad*, 33.

[17] Sageman, *Leaderless Jihad*, 33.

[18] Tasnim Nazeer, "Islamophobia is often fanned by the mainstream media: I have witnessed it," in *Middle East Monitor*, December 2, 2021, https://www.middleeastmonitor.com/20211202-islamophobia-is-often-fanned-by-the-mainstream-media-i-have-witnessed-it/.

[19] Bassam Tibi, *Islam and Islamism* (Yale University Press, 2012), 2.

[20] On the relationship between a desire for martyrdom and Existentialist Philosophy, see Arief Arman, "Albert Camus, The Absurd and Martyrdom," *Al-Shajarah* 26, no. 1 (2021): 111, https://doi.org/10.31436/shajarah.v26i1.1230.

[21] Arman, "Albert Camus."

[22] Abdal Hakim Murad, *Travelling Home: Essay on Islam in Europe* (The Quilliam Press, 2020), 129.

[23] Murad, *Travelling Home*, 126.

[24] Murad, *Travelling Home*, 130.

[25] How this is implemented is beyond the scope of this paper.

[26] Azzám, *Eternal Message of Muhammad*, 90.

[27] Azzám, *Eternal Message of Muhammad*, 91.

[28] "Phobia," Harvard Health Publishing, December 18, 2018, https://www.health.harvard.edu/a_to_z/phobia-a-to-z.

[29] "Phobia," Harvard Health Publishing.

[30] Abdullah Asiran, "Dutch Muslims worried about Islamophobic Wilders' election victory," *Anadolu Agency*, November 25, 2023, https://www.aa.com.tr/en/europe/dutch-muslims-worried-about-islamophobic-wilders-election-victory/3064647.

[31] Asiran, "Dutch Muslims worried."

[32] Koen Vossen, "Classifying Wilders: The Ideological Development of Geert Wilders and His Party for Freedom," *Politics 31*, no. 3 (2011): 179-189, https://doi.org/10.1111/j.1467-9256.2011.01417.x.

[33] Mustafa Fetouri, "Islamophobia and Colonial Brutalities Will Always Poison Algerian-French Ties," *Middle East Monitor*, October 14, 2021, https://www.middleeastmonitor.com/20211014-islamophobia-and-colonial-brutalities-will-always-poison-algerian-french-ties/.

[34] Fahid Qurashi, "The Prevent Strategy and the UK 'War on Terror': Embedding Infrastructures of Surveillance in Muslim Communities," *Palgrave Communications 4*, no. 17 (2018), https://doi.org/10.1057/s41599-017-0061-9.

[35] Miqdaad Versi, "Islamophobia in the Press Must Be Tackled Head-on. Silence Is Not an Option," *The Guardian*, December 2, 2021, https://www.theguardian.com/commentisfree/2021/dec/02/islamophobia-press-muslimsnegative#:~:text=Silence%20is%20not%20an%20option,-This%20article%20is&text=Our%20analysis%20shows%20that%20almost,Muslims%20in%20a%20negative%20light.&text=Last%20week%2C%20the%20Labour,'mainstream%20media%20test'%E2%80%9D.

[36] S. Sayyid. "A Measure of Islamophobia," *Islamophobia Studies Journal 2*, no. 1 (2014): 10-25, https://www.scienceopen.com/hosted-document?doi=10.13169/islastudj.2.1.0010.

[37] Sayyid. "Measure of Islamophobia," 11.

[38] In a recent visit to London, the author himself was subjected to verbal abuse in a bus near Edgware Road. The aggressor said, "I don't like your face" after mouthing the word "Pakistan". He proceeded to spit on the floor after getting

off at his stop. This is of course just a minor example of abuse that many Muslims experience in Europe.

[39] Jasmin Zine, "The Canadian Islamophobia Industry: Islamophobia's Ecosystem in the Great White North," *Islamophobia Studies Journal* 7, no. 2 (2022): 233-49, https://www.jstor.org/stable/48696287.

[40] Zine, "Canadian Islamophobia Industry."

[41] Zine, "Canadian Islamophobia Industry."

[42] Zine, "Canadian Islamophobia Industry," 234.

[43] Hatem Bazian, "The Islamophobia Industry and the Demonization of Palestine: Implications for American Studies," *American Quarterly* 67, no. 4 (2015): 1057-66, https://dx.doi.org/10.1353/aq.2015.0073.

[44] Bazian, "Islamophobia Industry." A brief introduction to the AFDI can be read here: Holly Yan, "Garland shooting: What is the American Freedom Defense Initiative?" *CNN*, May 4, 2015, https://edition.cnn.com/2015/05/04/us/what-is-american-freedom-defense-initiative/index.html.

[45] Bazian, "Islamophobia Industry."

[46] Article 19 of The Universal Declaration of Human Rights (UDHR):

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. See, Murni Wan Mohd Nor, "Blasphemy and Religious Defamation: What are the Limits to our Freedom?" *TAFHIM: IKIM Journal of Islam and the Contemporary World* 12, no. 2 (2019): 34, https://doi.org/10.56389/tafhim.vol12no2.2.

[47] Ziauddin Sardar and Merryl Wyn Davies, *Distorted Imagination: Lessons from the Rushdie Affair* (Berita Publishing, 1990).

[48] Nor, "Blasphemy and Religious Defamation."

[49] Nor, "Blasphemy and Religious Defamation," 33.

[50] Qurashi, "Prevent Strategy."

[51] Qurashi, "Prevent Strategy."

[52] Qurashi, "Prevent Strategy."

[53] Qurashi, "Prevent Strategy," 3.

[54] Ali Çaksu, "Islamophobia, Chinese Style: Total Internment of Uyghur Muslims by the People's Republic of China," *Islamophobia Studies Journal 5*, no. 2 (2020): 175-98.

[55] Vanessa Frangville, Hacer Gonul, and Julius Rogenhofer, "Standing Up to China on Human Rights: The Case of the Uyghurs," *Middle East Institute*, October 23, 2018, https://www.mei.edu/publications/standing-china-human-rights-case-uyghurs.

[56] Frangville, Gonul, and Rogenhofer, "Case of the Uyghurs."

[57] The existence of an organise and unified Uyghur movement cannot be refuted, but scrutiny exposes problems with the evidence presented, in both media and official sources. While it is not negligible, the current threat of organised Uyghur separatism seems less concerning than previously asserted. For a clearer picture of the exaggerated claims made by the PRC, James Millward's *'Violent Separatism in Xinjiang: A Critical Assessment'* (East-West Center, Washington, 2004) is suggested here.

[58] Isabella Frances Teti, "One Man's Terrorist is Another Man's Freedom Fighter," *Penn State Presidential Leadership Academy*, September 9, 2016, https://sites.psu.edu/academy/2016/09/09/one-mans-terrorist-is-another-mans-freedom-fighter/.

[59] Johana Bhuiyan, "'There's Cameras Everywhere': Testimonies Detail Far-reaching Surveillance of Uyghurs in China," *Guardian*, September 30, 2021, https://www.theguardian.com/world/2021/sep/30/uyghur-tribunal-testimony-surveillance-china.

[60] Nawroos Shibli, "Political Geographies of Islamophobia: Chinese Ethno-Religious Racism and Structural Violence in East Turkestan," *Islamophobia Studies Journal 6*, no. 2 (2021): 150-66.

[61] Shibli, "Political Geographies of Islamophobia," 158.

[62] Shibli, "Political Geographies of Islamophobia," 160.

[63] Ciara Finnegan, "The Uyghur Minority in China: A Case Study of Cultural Genocide, Minority Rights and the Insufficiency of the International Legal Framework in Preventing State-Imposed Extinction," *Laws 9*, no. 1 (2020): 1. https://doi.org/10.3390/laws9010001.

[64] Finnegan, "The Uyghur Minority in China."

[65] Finnegan, "The Uyghur Minority in China."

[66] Jasmin Zine identified Rebel News as one of several media outlets in Canada that circulate racist and Islamophobic narratives. They have platformed 'foot soldiers' (provocateurs) in the form of White nationalists and neo-Nazis.

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Economic Dynamics of the Indian Ocean: Analysing the Geopolitical Strategies of India and China

Syeda Mahnoor Bukhari

ABSTRACT

The geostrategic significance of water bodies, particularly oceans and large rivers, is multifaceted and plays a crucial role in international relations. The Indian Ocean, for instance, is a significant geostrategic region due to its role in global trade, energy flows, and as a contested space for major powers. This article aims to focus on the geostrategic importance of the Indian Ocean and determines how India and China are trying to pursue and secure their economic interests in the region. To explore the economic competition and potential cooperation between India and China in the Indian Ocean, methodologically it is a qualitative study. A comparative analysis has been conducted to assess the contrasting economic strategies and approaches employed by India and China in the Indian Ocean. The theoretical framework emphasising "neo-liberalism" explains the potential cooperation of the two major economic powers with their strategic allies in the Indian Ocean Region. This study has elaborated the growing importance of the Indian Ocean in shaping the geopolitical strategies of India and China, shedding light on their economic engagements, resource dependencies, and competitive dynamics in this critical maritime domain. These findings underscore the intricate interplay of economic, geopolitical, and strategic factors shaping the geo-economic landscape of the Indian Ocean for India and China. Thus, this article provides a clear understanding of the geographic proximity and economic dynamics of the Indian Ocean, and the geopolitical strategies of the key regional players, India and China, in the Indian Ocean region.

Keywords: China, India, Indian Ocean, Geopolitics

INTRODUCTION

The Indian Ocean, a critical maritime region connecting Africa, Asia, Australia, and the Middle East, holds immense strategic importance due to its vital trade routes, abundant resources, and geopolitical significance. It is the world's third largest ocean after the Pacific and the Atlantic Ocean basins, covering about 20% of the Earth's surface. It is a vital channel for global trade, with approximately 80% of global maritime trade passing through its waters. This region is rich in resources, hosting major shipping lanes that connect various continents, making it a strategic hub for international commerce.[1] A number of the world's most important strategic chokepoints, including the Straits of Hormuz and Malacca through which 32.2 millions of barrels of crude oil and petroleum are transported per day—more than 50 percent of the world's maritime oil trade—are found in
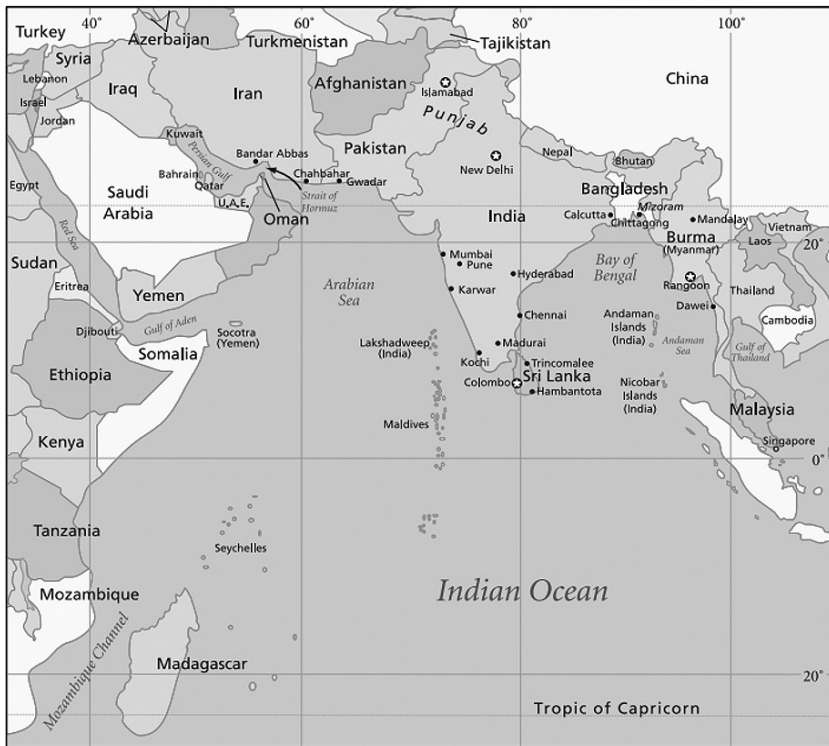

Figure 1. The Map of Indian Ocean Region.
Source: Donald L. Berlin, 2006

the Indian Ocean Region, which itself is believed to be rich with energy reserves.[2] The economic significance of the Indian Ocean is underscored by its role in facilitating trade between Africa, Asia, Europe, and the Middle East, making it a focal point for economic activities and investments. Countries like India and China are actively engaged in shaping the economic, diplomatic, and military dynamics of the Indian Ocean, reflecting a complex interplay of interests and strategies.

India, as a key player in the Indian Ocean, views the region through the lens of its economic interests, security concerns, and strategic imperatives. India's economic engagement in the Indian Ocean is driven by its desire to maintain a strategic advantage, secure sea lanes, and promote regional stability through economic cooperation and infrastructure development projects. On the other hand, China's approach in the Indian Ocean is characterised by its ambitious Belt and Road Initiative (BRI), which aims to enhance connectivity and infrastructure development across the region. China's economic interests in the Indian Ocean are closely tied to its broader geopolitical ambitions, seeking to challenge India's influence, secure trade routes, and establish itself as a dominant player in the region. Beijing's economic engagements in the Indian Ocean, including investments in ports and infrastructure projects, reflect its strategic intent to expand its economic footprint and geopolitical influence. The economic dynamics of the Indian Ocean have significant geopolitical implications for India and China. The competition between these two Asian giants in the region is driven by a mix of economic, diplomatic, and military strategies aimed at asserting influence, securing trade routes, and advancing national interests. The economic interdependence and strategic importance of the Indian Ocean underscore the complex geopolitical landscape where India and China navigate their rivalry while balancing economic opportunities and security challenges.[3]

Understanding the economic dynamics of this region is crucial for comprehending the geopolitical strategies of key players like India and China, as they seek to assert influence, secure trade routes, and safeguard their national interests in this strategically significant maritime domain. This article sets the stage for exploring how economic factors influence the geopolitical manoeuvres of India and China in the Indian Ocean region and aims to address the economic interests of India and China in context with their geopolitical strategies and engagements in the region.

BACKGROUND

The Indian Ocean has a long history of maritime trade dating back thousands of years. Ancient civilisations such as the Indus Valley Civilisation, Mesopotamia, Egypt, and the Harappa civilisations engaged in extensive trade across the Indian Ocean. Goods such as spices, textiles, precious stones, and luxury items were exchanged between regions. Throughout history, the Indian Ocean has served as a crucial maritime thoroughfare, facilitating communication, trade, and the exertion of influence over the lands bordering its shores. The coastal regions have been abundant sources of raw materials, enticing various peoples to undertake long and hard journeys across vast distances. Despite the challenges posed by these extensive voyages, the potential for wealth extraction from the region made such ventures highly fruitful.[4]

In the modern era, the historical influence of the Indian Ocean continues to be significant. The region has become a focal point for global powers like China and India, vying for dominance and economic influence. China's Belt and Road Initiative and India's strategic activities in the Indian Ocean reflect the ongoing importance and historical legacy of this maritime region. Both countries have developed initiatives to bolster infrastructure and other connections in the region, which the World Bank describes as among the "least economically integrated." Competition between Beijing and New Delhi is not necessarily obvious, but each country is trying to strengthen ties with smaller regional states to secure their respective security and economic interests.

The Indian Ocean is geo-strategically one of the significant oceans with respect to its trade routes, sea lines of communication, including straits like Hormuz, Malacca, Bab el Mandeb, etc., and the role of regional and extra-regional powers in the Indian Ocean Region but Sino-Indian power contestation and their growing economic interests in the region, in particular, do not explain how their economic interests in the Indian Ocean influence their geopolitical strategies in the modern arena.

The economic interests of India and China in the Indian Ocean Region influence their geopolitical strategies and engagements in the region. A significant milestone in world history has been the ascent of emerging and influential states onto the global stage. The current trajectories of China and India indicate a

pronounced likelihood that these nations will wield greater influence in global affairs in the forthcoming decades. For instance, a recent analysis[5] suggests that the rise of China and India as new global powers may have transformative effects on the geopolitical landscape and cause a change in the international order, similar to the emergence of a unified Germany in the 19th century and a robust United States in the early 20th century. These developments could potentially reshape the geopolitical dynamics in a manner as profound as those witnessed in the preceding centuries. The Indian Ocean acts as a 'Rim land' for major powers that connects the Atlantic Ocean with the Pacific and is thus, essential for meeting strategic interests.

The Indian Ocean is a critical economic pathway for both India and China, shaping their strategic outlooks and driving their actions in the region. Both countries rely heavily on the Indian Ocean for energy imports like oil and natural gas, and international trade across Europe and Africa. Disruptions in these routes could cripple their economies. So, ensuring the free flow of goods and maintaining a stable maritime environment is a top priority. The economic significance of the Indian Ocean can be determined through the "neo-liberalist approach", analysing the global economic connectivity of both India and China in the Indian Ocean region.

THE INDIAN OCEAN REGION: NEOLIBERAL EXAMINATION OF INDIA AND CHINA'S EXPANDING INFLUENCE

Neoliberalism is characterised as an economic policy agenda and a radical experiment in laissez-faire economic policy. Ha-Joon Chang describes it as "the dominant economic doctrine of the last quarter century".[6] Drawing from orthodox neoclassical economics and rational choice theories of human behaviour, neoliberalism advocates for a minimal role of the state in regulating economic activities. Instead, it promotes the withdrawal of state intervention and the creation of market-friendly mechanisms and incentives to govern a broad range of economic, social, and political activities.[7] Under the principles of neoliberalism, there is a focus on promoting open markets and facilitating international trade and investment. In the context of the Indian Ocean region, this could manifest in initiatives such as port development projects and the establishment of trade routes to enhance connectivity and facilitate the flow of goods and capital.

For example, China's Belt and Road Initiative (BRI) is a prime example of a neoliberal approach to economic development. Through the BRI, China invests in infrastructure projects, including ports and transportation networks, in countries around the Indian Ocean region such as Myanmar, Sri Lanka, and Pakistan. These investments aim to improve connectivity, reduce trade barriers, and promote economic integration among participating nations. India, on the other hand, may pursue its own infrastructure development projects in the region, even though with a different approach. While India also seeks to enhance connectivity and promote economic growth, its strategies may prioritise regional cooperation initiatives that align with its geopolitical interests and strategic alliances. Thus, the application of neoliberal principles to infrastructure development in the Indian Ocean region can have significant implications for India and China's geopolitical strategies, shaping their competition for influence, security considerations, and opportunities for regional cooperation.

INDIA AND THE INDIAN OCEAN: A GEOPOLITICAL PERSPECTIVE

A considerable portion of the literature in books, journal articles, reports and policy documents, e.g. "India's Maritime Strategy And Commerce In The Indian Ocean Region In The Post-Liberalisation Era: A Study In Continuity And Change",[8] a thesis written by Pratnashree Basu; "India's Role in the Indo-Pacific Region: An Overview of Strategic Geopolitical Convergences",[9] an article written by Sayantani Sen Mazumdar, concerning India has directed its attention towards the nation's recent economic dynamism, particularly its remarkably successful knowledge-based industrial sector. The maritime and southward focus for India is not entirely new. India is a larger nation, a "continental power", which occupies a central position in the Indian Ocean region. Its freedom is dependent on the freedom of the Indian Ocean. No industrial development, no commercial growth, and no stable political structure is possible if its shores are not protected. As one prominent American scholar noted, *"Especially powerful states are strongly inclined to seek regional hegemony"*. Furthermore, India's strategic leadership, in certain aspects, perceives the nation as the successor to the British Raj, whose power and influence during the nineteenth century frequently reached the farthest reaches of the Indian Ocean, often referred to as the "British Lake."[10]

Meanwhile India is not only the one striving to control the Indian Ocean but other states as well like the United States and China. The United States

also has a major stake in the economic dynamics of the Indian Ocean region. As part of its Indo-Pacific strategy, Washington is seeking to partner with India and other allies to counter China's influence in the region. The strategic dynamics in the Indian Ocean region are fraught with dilemmas. China's expanding presence in the region is viewed with suspicion by India and its allies, leading to a security dilemma that could potentially escalate into conflict.[11]

For India, the Indian Ocean is of paramount importance due to its strategic location and historical maritime connections. India views the Indian Ocean as its backyard and seeks to maintain dominance in the region to safeguard its economic and security interests. India's economic interests in the Indian Ocean revolve around trade, energy resources, and maritime connectivity. As a growing economic power, India relies heavily on the sea lanes of the Indian Ocean for the transportation of goods, particularly energy resources. Securing these sea lanes is essential for India's economic prosperity and energy security. In terms of geopolitics, India pursues a strategy of "security and growth for all in the region" (SAGAR),[12] which emphasizes cooperation, connectivity, and security in the Indian Ocean. India seeks to bolster its influence through initiatives such as port development, naval cooperation, and maritime security partnerships with littoral states. Additionally, India aims to counterbalance China's increasing presence in the region by strengthening its partnerships with other Indian Ocean littoral states and engaging in multilateral forums like the Indian Ocean Rim Association (IORA).[13]

The Sagar Mala Project is a significant initiative by the Indian government aimed at promoting port-led development, enhancing infrastructure, and boosting economic growth in the country, particularly in the Indian Ocean region. The project mainly focuses on integrated development of maritime-related activities by leveraging India's vast coastline and navigable waterways. It aims to modernise port infrastructure, reduce logistics costs, and improve connectivity to facilitate efficient transportation of goods to and from ports, ultimately boosting the economy and benefiting coastal communities.[14]

The Sagar Mala project, in line with the Maritime India Vision 2030, also aims to provide improved facilities to the people living in the coastal regions. With the objective of developing global standard ports in India, Maritime India Vision 2030 has identified several initiatives such as the development of world-class

mega ports, trans-shipment hubs, and infrastructure modernisation of ports. The key focus areas or the four pillars of the Sagar Mala project are port modernisation, port connectivity, port-led industrialisation, and coastal community development. Through its focus on port-led development, infrastructure enhancement, and economic revitalisation, the project plays a vital role in shaping India's economic and strategic interests in the Indian Ocean region.[15]

Sagar Mala Project Initiative by the Government of India to enhance the logistics sector	
Motto	Port-led prosperity
Ministry	Ministry of Ports, Shipping and Waterways
Commencement Date	July 31, 2015
Status	Active
Budget	Six Lac Crore rupees

Figure 2. Sagar Mala Project.
Source: Created by Author

Another project of India, the Bharatmala project, a massive road and highways initiative that aims to build a high-speed road network across India, enhancing connectivity and economic development. By improving road infrastructure, Bharatmala contributes to India's strategic positioning against China by bolstering domestic connectivity and trade routes, thereby increasing economic competitiveness and reducing logistics costs. It is a significant initiative focused on improving connectivity, especially along economic corridors, border regions, and far-flung areas, with the goal of reducing logistics costs, boosting international trade, and enhancing overall economic growth and development in India.[16]

CHINA AND THE INDIAN OCEAN: STRATEGIC EXPANSION AND INFLUENCE

China's economic interests in the Indian Ocean are driven by its trade dependencies, energy demands, and strategic objectives.[17] The region serves as

a vital trade route for China, connecting it to Africa, the Middle East, Europe, and other key markets. China's economic engagement in the Indian Ocean has evolved over the years, with the country strategically investing in infrastructure projects, ports, and economic corridors to strengthen its economic ties and influence in the region.[18] China views the Indian Ocean as a crucial maritime corridor for its trade and energy supplies, particularly for its energy-hungry economy. China's interest in the Indian Ocean is primarily economic-driven, following the adage that the "flag follows trade." China's presence in the region has raised concerns, especially regarding its 'debt-trap diplomacy' and assertive actions, leading to unease from countries like India and the U.S.[19]

From a geopolitical standpoint, China's increasing presence in the Indian Ocean has raised concerns among regional powers, including India. India perceives China's growing influence as a challenge to its dominance in the region and as a potential threat to its maritime security. China's naval deployments, military base acquisitions, and assertive behaviour in the South China Sea have heightened anxieties about its intentions in the Indian Ocean.[20]

The "String of Pearls" strategy refers to China's geopolitical concept of establishing a network of military and commercial facilities and relationships along its sea lines of communication, extending from the Chinese mainland to strategic locations like Port Sudan in the Horn of Africa. The term was coined by an American researcher Allen Hamilton. This strategy involves building a series of "pearls," which are Chinese overseas military bases, mega infrastructure projects, economic corridors, ports, or other strategic locations that provide China with geostrategic advantages in the region. The "string" connects these pearls through maritime routes, enhancing China's presence and influence in key maritime chokepoints, i.e., the Strait of Malacca, the Strait of Hormuz, and the Lombok Strait, among others.[13]

The strategy is seen as a way for China to secure its trade interests, protect its sea lines of communication critical for energy supplies, and potentially enhance its regional supremacy. India, in particular, views this strategy as encircling its territory, threatening its power projection, trade routes, and territorial integrity. India has responded by implementing a multi-pronged strategy to counter China's naval presence and influence in the Indian Ocean region. Furthermore, China has been investing in the development and modernisation of ports in various countries

along important maritime routes, including in Pakistan (Gawadar Port), Sri Lanka (Hambantota Port), Bangladesh (Chittagong Port), Myanmar (Kyaukpyu Port), and Africa (e.g., Djibouti). These ports serve as nodes in China's maritime network, providing logistical support and potential naval access. These efforts aim to safeguard India's economic interests, strengthen its strategic position, and mitigate the potential challenges posed by China's expanding maritime footprint in the region.[21]

China's String of Pearls Strategy Geopolitical hypothesis proposed by United States political researchers in 2004	
Key Locations	Chinese military and commercial facilities extending from the Chinese mainland to Port Sudan
Concern for India	Perceived as a threat to India's national security, power projection, trade, and territorial integrity
Strategic Maritime Choke Points	Includes the Strait of Mandeb, Strait of Malacca, Strait of Hormuz, and Lombok Strait
Major Ports in Indian Ocean Region	Gawadar (Pakistan), Hambantota (Sri Lanka), Chittagong (Bangladesh), Sittve (Myanmar), Kyaukpyu (Myanmar), Port of Sudan
Indian Response	India undertook various moves to counter the perceived threat, starting in 2008

Figure 3. China's String of Pearls Strategy.
Source: Created by Author

China's Belt and Road Initiative (BRI) is a significant strategy initiated by the People's Republic of China in 2013, to connect Asia with Africa and other regions through infrastructure projects and economic cooperation. The BRI aims to enhance trade networks, diplomatic relations, and strategic goals, with a focus on the Global South. This initiative, also known as the One Belt One Road (OBOR) or the New Silk Road, involves massive investments in various countries to improve infrastructure, trade, and connectivity. The BRI has faced scrutiny regarding debt burdens on partner countries, environmental sustainability, and geopolitical implications. Recent developments indicate a shift towards smaller

and greener projects, emphasising integrity, environmental concerns, and debt management for a more sustainable and high-quality BRI in the future. Despite challenges and criticisms, the BRI remains a central element of China's foreign policy, aiming to boost global trade, economic growth, and connectivity across regions. The BRI will remain a source of international competition as much as a driver of connectivity. Still, even if it is new and improved, the BRI is likely to face stiff competition from other big economies eager to help play a role in filling the still enormous deficit in global infrastructure.[22]

Figure 4. China's Silk Road Routes.
Source: Muhammad Nadeem Mirza, 2022

Moreover, China has aimed to promote its currency, the *Renminbi*, as an international currency through the BRI. By encouraging the use of the RMB in international transactions and financing BRI projects, China seeks to enhance the internationalisation of its currency and reduce trade frictions like tariffs and transport costs.[23] Overall, the Belt and Road Initiative has become a significant driver of economic development, connectivity, and cooperation on a global scale, impacting various aspects of the global economy through its ambitious infrastructure projects and investments.

Belt and Road Initiative (BRI) Global infrastructure development strategy by China	
Adoption year	2013
Founder	Xi Jinping, General Secretary of the Chinese Communist Party and Chinese President, launched BRI in September 2013
Global Reach	As of August 2023, 215 cooperation documents have been signed with 155 countries and 32 international organisations
Goal	Promote economic development and inter-regional connectivity
Participating Countries	155 countries, covering almost 75% of the world's population
Key Components	Silk Road Economic Belt (overland routes) and 21st Century Maritime Silk Road (sea routes)
Project Impact by 2040	Increase world GDP by $7.1 trillion per annum
Criticisms	Human rights violations, environmental impact, concerns of debt-trap diplomacy
India's POV	India views the Maritime Silk Road (MSR) component of the BRI as a broader issue, especially due to the Indian Ocean's strategic importance for the Indian Navy and maritime security

Figure 5. Belt and Road Initiative.
Source: Created by Author

Some examples of infrastructure projects under China's Belt and Road Initiative (BRI) include:

1. **China-Pakistan Economic Corridor (CPEC)**: This flagship project involves over $64 billion in investments and aims to connect China to Pakistan's Gwadar Port on the Arabian Sea, enhancing trade and connectivity between the two countries.[24]
2. **Port Development along the Indian Ocean**: China has invested in port

development projects along the Indian Ocean, stretching from Southeast Asia to East Africa and parts of Europe. These projects aim to accommodate expanding maritime trade traffic and enhance connectivity through sea routes.[25]

3. **Construction or Upgrading of Roads, Ports, Railways, and Pipelines**: The BRI encompasses a wide range of infrastructure projects, including the construction or upgrading of roads, ports, railways, pipelines, and other trade-related infrastructure in various countries across Asia, Africa, Europe, and even South America.[26]

4. **Silk Road Economic Belt and 21st Century Maritime Silk Road**: The BRI consists of two primary components - the Silk Road Economic Belt and the 21st Century Maritime Silk Road. The Economic Belt focuses on building and expanding land routes for people and commerce across Europe, the Middle East, Central Asia, and Asia, while the Maritime Road component includes plans for expanded sea routes across East Asia, South Asia, the Middle East, and Africa.[27]

These examples highlight the diverse range of infrastructure projects under the Belt and Road Initiative, showcasing China's extensive investments in enhancing connectivity, trade, and economic development across regions involved in the initiative.

CONCLUSION

Beijing's increasing cooperation with India's neighbouring countries has sparked apprehension in New Delhi. As with any ascending power with global aspirations, China aims to extend its presence and enhance its influence beyond its immediate vicinity. Consequently, as China's sway in South Asia expands, India confronts the task of navigating its relationship with its largest neighbour while striving to uphold its prominence in the region. The Belt and Road Initiative (BRI) has garnered considerable attention, both positive and negative. It stands as one of the world's most significant endeavours aimed at fostering connectivity and providing financial support for infrastructure development. In South Asia, the BRI accentuates the escalating competition between China and India in the subcontinent and the Indian Ocean region. Meanwhile, India's economic and geopolitical strategies, as reflected in projects like Sagarmala and Bharatmala, demonstrate a focus on enhancing regional connectivity, economic growth, and strategic positioning, which can be seen as part of its broader efforts to counterbalance China's influence in the region.

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