

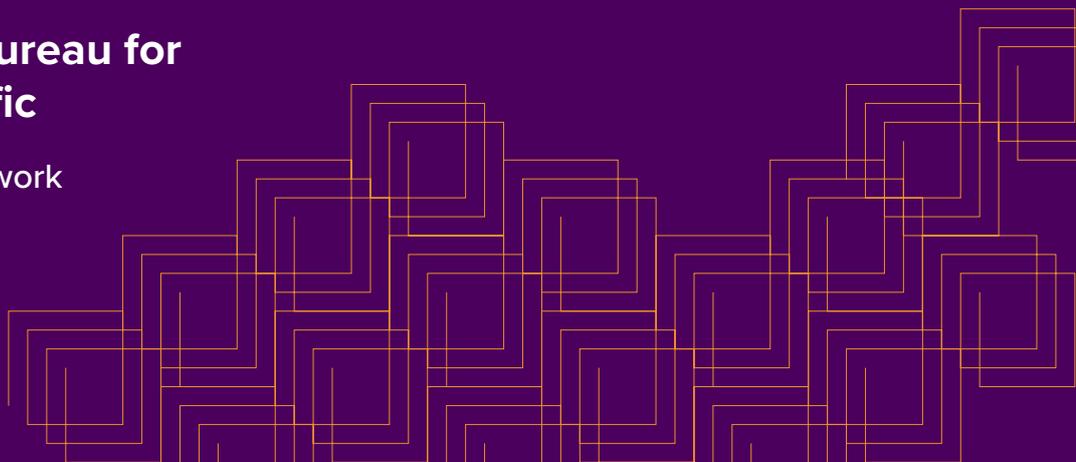


NEW CATEGORIES OF RIGHTS

REIMAGINING DEVELOPMENT IN ASIA AND
THE PACIFIC FORESIGHT BRIEF | AUGUST 2022

**UNDP Regional Bureau for
Asia and the Pacific**

Strategic Foresight Network



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EXECUTIVE SUMMARY

This foresight brief examines the relevance and role of rights and calls for their expansion to account for the complex changes in our world. An increased focus on our planetary obligations, on digital futures, on greater equity and on future generations behooves us to renew our commitment to rights and to broaden our conceptions of rights to build more just, equitable and sustainable futures. It captures the relevance of rights to enhancing development and capabilities, particularly in the context of the threats and challenges facing the Asia-Pacific region, and hones in on three areas for future focus:

- Creating more just economic futures
- Respecting our planetary obligations and the rights of future generations
- Building digitally inclusive and deliberative societies

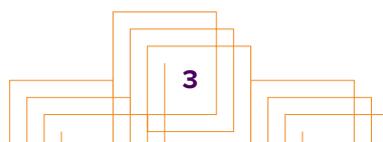
It addresses the role of business and the information ecosystem in strengthening rights, and concludes with a call to address the perception of rights by diverse stakeholders and the need for greater commitment to policies that respect rights, while highlighting the connection between rights, individual capabilities and agency, societal norms and values and development.

Rights and Foresight Planning in the Asia-Pacific Region



SOURCE: SUSHMA RAMAN

FIGURE 1: Rights and Foresight Planning in the Asia-Pacific Region



THE RELEVANCE OF RIGHTS

Human rights – the notion that all human beings are born free and equal in dignity and rights – are a powerful tool for improving the lives, livelihood and status of millions of people around the world. Developed and adopted in the aftermath of the Second World War, the Universal Declaration of Human Rights is a milestone document that has been translated into over 500 languages. In addition to reflecting the aspirations and shared values of the international community, the Declaration has helped catalyze the development and adoption of more than 70 human rights treaties.¹ At the time, for much of Asia, human rights was inextricably linked to the struggles for decolonization, and the Asian and broader global South involvement in the drafting of the Universal Declaration of Rights were critical for its adoption.²

Rights include a range of civil, political, economic, social and cultural rights, from the right to be free of torture, the right to vote and the right to health. The framing of human rights as universal, inalienable, indivisible, interdependent and inherent to us all can help the global community, local governments and civil society with upholding the rights of individuals and communities, as well as the obligations of states. Human rights are essential to the achievement of the Sustainable Development Goals (SDGs).

Two key capabilities that are tied to human development – to live healthy lives and to have access to education – are also intrinsic to human rights. In the words of the Office of the United Nations High Commissioner for Human Rights, “development can be a powerful tool, but it can also be a tool of the powerful unless fundamental rights are part of its design.”³

Rights, however, are not static and permanently etched in stone. In the last century alone, we have seen the changes in norms and perspectives that have enabled women, ethnic and sexual minorities, people with disabilities and indigenous communities to advocate for and realize rights that had long been denied to them. Today, although rights are under attack and their legitimacy questioned by some, movements to shape notions of rights and expand claimants’ rights must be taken seriously for human rights to remain relevant and impactful.⁴

Dimensions of Rights

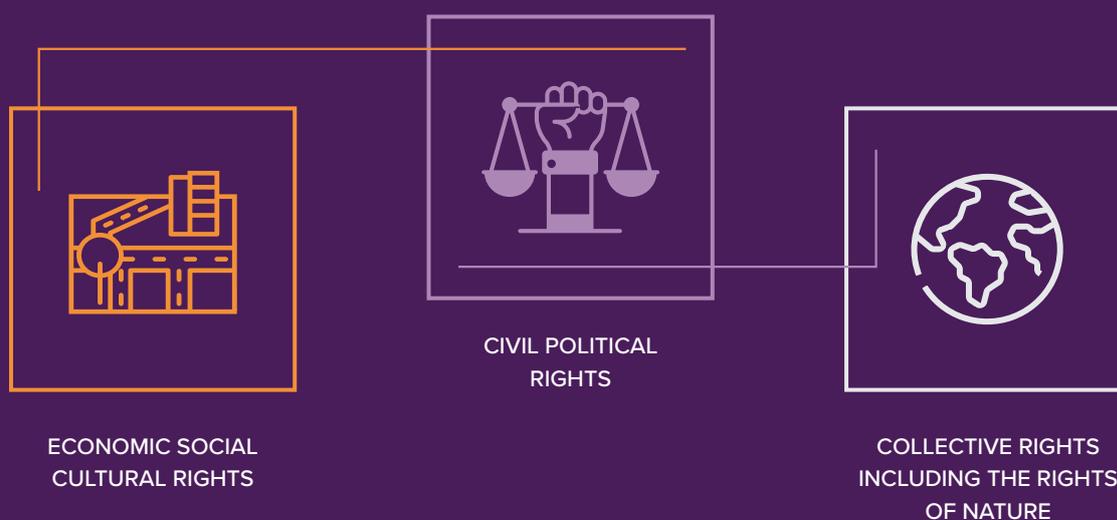


FIGURE 2: Dimensions of Rights¹

CHALLENGES AND THREATS: THE ASIA-PACIFIC REGION

Significant progress has been made in the Asia-Pacific region in recent decades, in areas ranging from extreme poverty reduction⁵ to the expansion of social protection programmes to greater access to education for women.⁶ However, the COVID-19 pandemic, extreme inequality and climate change threaten to unravel such progress and to entrench inequity. As United Nations Human Rights Commissioner, Michelle Bachelet, stated, “The COVID-19 pandemic raced across pre-existing fault-lines in every society, exploiting and enlarging human rights gaps.”⁷

Recent surveys show that a vast majority of households in developing countries in Asia experienced declines in household income during the pandemic, due to lost jobs or underemployment, restrictions on mobility and business slowdown, with an estimated 75 to 80 million being pushed into extreme poverty due to the pandemic.⁸ Increased economic insecurity for millions of vulnerable households was accompanied by increased food insecurity, gender-based violence, widening wage and labour market gaps for women, learning losses for children and a range of health disruptions.⁹

In addition to such socio-economic fallouts that disproportionately affect vulnerable people, government responses to the pandemic exacerbated the human rights challenges they experience. Failures to acknowledge the severity of the pandemic and to provide for adequate public health

1 Czech jurist Karel Vasak described three generations of human rights in 1979: the first generation includes civil and political rights, the second generation includes economic social cultural rights and the third generation includes collective rights. I have adapted this to frame it as dimensions of rights, not generations, to imply that they are complementary and concurrent, as opposed to sequential.

protections, combined with increased restrictions on journalists, civil society activists and human rights defenders, have deeply impacted the civic space and social protections for the poor and marginalized.

These immediate economic, political and social repercussions of the pandemic compounded the long-term disruption and displacement due to climate change, which is resulting in rising heat and humidity, rising sea levels, water stress or extreme precipitation. Research shows that the countries in Asia most affected by climate change disruption are those with lower levels of per capita gross domestic product (GDP) and that “Asian GDP that is at risk from this warming accounts for more than two thirds of the total annual global GDP impacted.”¹⁰

Dramatic advancements in technology in recent times have the potential to uplift millions from poverty, open access to education and information and democratize civic participation and engagement. Yet human rights violations are increasingly permeating the digital space, with concerns about surveillance, censorship and government control of citizens. Countries throughout Asia have passed restrictive legislation or implemented internet shutdowns – often using the pandemic as a pretext – and have cracked down on freedom of assembly, association and expression online and in the analogue world.¹¹

LOOKING AHEAD: RE-ENVISIONING RIGHTS

How best to meet the challenges of economic inequality, climate change and technology’s impact on society? Rights are one clear path: they centre the needs of the most vulnerable and dispossessed, they are a universal language and they focus on a range of capabilities, freedoms and opportunities required for us to thrive:

“Rights comprise at the very least the minimal requirements of a good society. Rights represent duties and obligations that those with power – governments, international financial institutions, corporations, militaries and others – have towards those whose lives ... are affected by their decisions. Conversely, rights represent claims that those with less power can make... against the powerful.”¹²

This foresight brief proposes three broad areas for knowledge generation and policy action to address the emerging challenges facing the Asia-Pacific region due to rising inequality, the effects of climate change and the impacts of technological advancements on societies. It also proposes cross-cutting themes that will affect the adoption, realization and impact of rights and the nurturing of societies that respect rights in the Asia-Pacific region.

Creating More Just Economic Futures

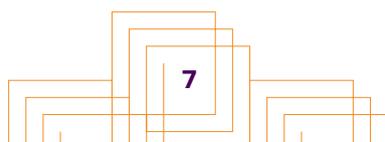
Building more just economic futures will require tackling institutional arrangements and structures that perpetuate inequity and poverty. It also requires us to respond nimbly in instances where war, conflict, natural disasters, genocide or other cataclysmic events cause severe human suffering: for example, it is estimated that 97 percent of Afghanistan could plunge into universal poverty in 2022.¹³ Finding a balance between responding to such immediate crises and longer-term future priorities is an imperative for governments, international institutions and civil society.

The realization that economic growth as measured by GDP does not sufficiently account for the measure of a society's well-being led the international community to broaden its understanding of and approach to development to include individual capabilities and equity. Rights, in particular economic rights, also play an integral role in this regard. "Economic, social and cultural rights," according to the Office of the United Nations High Commissioner for Human Rights, "are those human rights relating to the workplace, social security, family life, participation in cultural life, and access to housing, food, water, health care and education."¹⁴ These rights and freedoms, like other rights and freedoms, include both freedom from the state and freedom through the state.¹⁵ Bringing a gender lens to such efforts continues to be an imperative for more just and equitable economic futures: according to UN Women, two out three people who are poor in Asia are women.¹⁶ Gender budgeting – a tool to ensure gender justice and fiscal equity – can help with empowering women, reducing inequality and improving development outcomes.

According to Philip Alston, former United Nations Special Rapporteur on Extreme Poverty and Human Rights, "Poverty is a political choice and its elimination requires the following actions: (i) reconceptualizing the relationship between growth and poverty elimination; (ii) tackling inequality and embracing redistribution; (iii) promoting tax justice; (iv) implementing universal social protection; (v) centring the role of government; (vi) embracing participatory governance; and (vii) adapting international poverty measurement."¹⁷ Tackling poverty and inequality, therefore, requires addressing the duties and obligations of states in garnering revenues in a progressive manner, providing public services and centring participation and accountability.

One important new right that can play a transformative role in advancing economic rights and equity is a right to live free from corruption. Corruption is a pervasive problem across Asia, irrespective of the nature of government. For example, the Philippines loses 20 percent of annual GDP to corruption, while one in two individuals in India had to pay a bribe in 2019.¹⁸ Eight in ten Indonesians say bribes are commonplace in dealing with both public and private sector institutions.¹⁹ Countries like Afghanistan, Cambodia and North Korea rank the lowest in Asia Pacific on the Corruption Perception Index.²⁰

Corruption was often thought of as an economic loss or financial crime, or even as the "cost of doing business." Neither the Universal Declaration of Human Rights nor the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights mention the word, "corruption". The United Nations Convention Against Corruption (UNCAC) – the only legally binding anti-corruption instrument – was adopted in 2003 and ratified by all countries in the Asia- Pacific region. It includes five main areas: preventive measures, criminalization and law enforcement, international cooperation, asset recovery and technical assistance and information exchange.²¹



It is only in recent times that corruption has begun to be thought of in the context of human rights. “Corruption kills,” said United Nations High Commissioner for Human Rights, Navi Pillay, in 2013. “The money stolen through corruption every year is enough to feed the world’s hungry 80 times over.”²²

Corruption is linked to human rights in at least four ways: it limits the ability of the poor to exercise their rights as the impact of corruption is felt more by the poor; it limits the ability of governments to gather revenues, to spend on public programmes thereby meeting the economic, social and cultural rights of citizens; illicit money is often connected to illegal activities, such as trafficking; and corrupt institutional and policy design benefits the powerful.²³

This entrenched problem has taken on a new urgency in the wake of the pandemic. An article in the *Boston Globe* notes, “the response to the pandemic will be a bonanza for kleptocrats” and “[g]overnments are poised to provide trillions of dollars to counter the pandemic, without even the usual, often ineffective, safeguards to assure that the funds are properly spent.”²⁴

As we look to the future, tackling corruption as both a human rights violation and as a development and policy imperative can have significant upsides. Viewing corruption through a human rights lens, and even establishing a right to live free from corruption, can help with ensuring that the programmes and services targeting the poor reach the intended beneficiaries. Article 35 of the UNCAC requires states to provide a remedy for victims of corruption, which could serve as a basis for such a right.²⁵ A treaty-based right to a legal remedy for victims of corruption can help civil society organizations, anti-corruption advocates and lawyers build such an enforceable right.²⁶

Although the Universal Declaration of Human Rights does not mention a right to a basic income, such a right can help ensure that the millions of vulnerable individuals and families in the Asia-Pacific region, who live at or below the poverty level, are able to build opportunities for not only survival, but also for a flourishing future. Universal Basic Income (UBI), defined as “a transfer that is provided universally, unconditionally, and in cash”,²⁷ can be a powerful tool in ensuring economic rights for all peoples. With two thirds of the Asia-Pacific labour force in the informal sector²⁸ and with large-scale migration within and across borders, UBI can be a positive force in strengthening financial sustainability, resilience and opportunity for the poor.

There are currently no national, universal UBI programmes, although there has been one large-scale UBI experiment in a region in the Republic of Korea and small-scale experiments or targeted interventions in other countries. Any wide-scale adoption of UBI must ensure, however, that such programmes do not replicate patterns of exclusion, or inadvertently result in state abdication of responsibility for welfare programmes. For example, Amartya Sen argues that India is not ready for UBI, as it would result in cash transfers in a privatizing economy, instead of grain and food that help meet the basic nutritional needs of the poor.²⁹

A right to a basic income can ensure that a basic income is guaranteed across countries in the Asia-Pacific region, while allowing for each country to identify how best to structure and implement it. Framing it as a right rather than a policy prescription will ensure that such a programme is not the first to be cut in challenging times, and will be consistent with a guarantee of a basic standard of living.

The third pillar of meeting the economic inequality challenge focuses on tax justice and more redistributive tax policies and practices, possibly through a right to a fair, transparent, and progressive taxation system. The Asia-Pacific region accounts for among the lowest average tax

rate in the world, with countries such as Bangladesh, Pakistan and Iran collecting 10 percent or less of GDP in taxes.³⁰ While the connection between taxes and human rights might not be immediately obvious, regressive tax policies and lack of enforcement can deepen inequality and reduce funds for public programmes and services.

Despite progress in alleviating progress in the Asia-Pacific region, income inequality remains high, with a pre-pandemic Gini coefficient of 0.36 on average (as compared to 0.32 in the Organisation for Economic Co-operation and Development (OECD) countries), while spending on social protection is a mere 7 percent of GDP (compared to 21 percent in OECD countries).³¹ Asia's wealth gap is one of the largest in the world, with implications for future generations.³² OECD research points to the need for "widening the tax base and greater progressivity in taxation and financing of social insurance schemes³³" in order to help taxation programmes combat poverty.

Respecting Our Planetary Obligations and the Rights of Future Generations

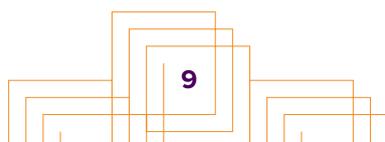
The impacts of environmental degradation and pollution, climate change and biodiversity loss impact the most vulnerable communities and their economic, social and cultural rights, including the rights to food and water and sustainable livelihoods. Rights, however, can also provide a pathway to respecting our planetary obligations, the rights of future generations and the rights of Nature. According to a United Nations Special Rapporteur report, "Environmental harm interferes with the full enjoyment of a wide spectrum of human rights and the obligations of States to respect human rights, to protect human rights from interference and to fulfil human rights apply in the environmental context no less than in any other."³⁴

Environmental harms have a disproportionate impact on women, who are more likely to live in poverty. "Women represent a high percentage of poor communities that are highly dependent on local natural resources for their livelihood, particularly in rural areas where they shoulder the major responsibility for household water supply and energy for cooking and heating, as well as for food security."³⁵

The connection between the environment and rights has perhaps never been more striking. In October 2021, the United Nations passed a long-awaited resolution recognizing access to a healthy and sustainable environment as a universal right. This can be literally lifesaving: the World Health Organization (WHO) estimates that 24 percent of global deaths are linked to the environment.³⁶ The poorest and most marginalized communities who have often contributed least to greenhouse emissions suffer the most. The pandemic has only intensified the urgency of addressing global environmental challenges, as COVID-19 reflects not only a public health crisis, but also a broader environmental crisis of habitat and biodiversity loss.

In 2020, the Asia-Pacific region produced 16.75 billion metric tons of CO₂ emissions, higher than the total combined emissions of all other regions, with China accounting for 60 percent of the region's emissions and over 30 percent of the world's total.³⁷ South Asia is the most polluted region in the world, home to 42 of the 50 most polluted cities in the world.³⁸ And eight of the ten rivers with the most plastic pollution are in Asia.³⁹ Pollution has a disproportionate effect on the poor.

Biodiversity loss in the Asia-Pacific region is acute: while the region is rich in biodiversity, as much as half of that could be lost by the end of the century, with as much as 63 percent of GDP affected due to loss of economic activity that relies on natural capital.⁴⁰



In the case of the low-lying Pacific islands, climate change and rising sea levels threaten their very way of life, with nearly all Pacific Islanders vulnerable to sea level rise.⁴¹ Low-lying coral atolls and reef islands, such as Kiribati, the Marshall Islands, Tuvalu and Tokelau, are among the most vulnerable, while Papua New Guinea, Tonga, Solomon Islands and Vanuatu are considered among the world's most disaster-prone nations.⁴²

The phenomenon of “climate refugees” – individuals and communities displaced due to climate change-induced disasters – is on the rise, whether due to drought (with implications for food and water shortages) or rising sea levels. The top four countries for new displacements in 2019 are all in Asia – India, with the greatest number, followed by Philippines, Bangladesh and China respectively.⁴³ The needs of climate refugees are not only humanitarian and development-related, but also squarely in the realm of rights, with inadequate protections for such individuals and communities.

According to an OHCHR report, climate change affects a range of human rights, including the “rights to life, self-determination, development, food, health, water and sanitation and housing.”⁴⁴ The report also indicates that the human rights framework is critical to addressing climate change – because global mitigation and adaptation efforts should be guided by “human rights norms and principles including the rights to participation and information, transparency, accountability, equity and non-discrimination.”⁴⁵

The connections between environmental concerns and human rights are clear – with the grim reminder that as the climate crisis escalates, attacks on environmental defenders and indigenous activists have increased, with 2020 being a record year, according to Global Witness.⁴⁶ Their research found that most killings occurred in states with limited civic freedoms, underscoring the importance of freedom of expression, a free press, a robust civil society and the rule of law. In Asia, the Philippines stood out as a country of concern.

Core elements of a human-rights based approach to climate change, according to UN Women, include substantive rights, such as the right to life and health, governance and accountability, which includes transparency and access to justice and procedural rights, such as the inclusion of communities in decision-making.⁴⁷

The United Nations Human Rights Council's resolution is a historical step towards creating a binding legal framework for environmental protection and it has significant implications for environmental rights and the rights of the poor who are often most affected by environmental harms. It can help spur collective action around the world. It could also have positive ripple effects, for example, on the status of climate refugees – individuals suffering from displacement due to climate-induced disasters or prolonged environmental shifts, such as drought, earthquakes, flooding and crop loss.

As we think about protecting the rights of those most affected by environmental change – indigenous communities, slum dwellers and other vulnerable communities – we must address the rights of future generations. Protecting our collective rights *and obligations* to ensure intergenerational equity must be high on the agenda. Sixty percent of the world's youth live in the Asia-Pacific region,⁴⁸ which has significant implications for our collective efforts to protect the rights of future generations.

Future efforts to stem environmental degradation and loss must not only focus on the impact of nature on humans, however, but also on the rights of Nature herself. For example, warning of significant loss in biodiversity in the Asia-Pacific region, the United Nations Environment Programme states that “Biodiversity – the essential variety of life forms on Earth – continues to decline in every

region of the world, *significantly reducing nature's capacity to contribute to people's well-being.*"⁴⁹ (Emphasis added.) Respecting the rights of Nature goes beyond the human-centred approach of Nature's contribution to our own well-being.

While the rights of Nature are more prominent in the discourse and policy developments in Latin American countries, such as Ecuador and Bolivia, they are also significant in those of many countries in Asia. For example, Pakistan's Supreme Court recently upheld a decision to ban cement plants in environmentally fragile zones⁵⁰ and in July 2019 Bangladesh granted the country's rivers the same legal status of humans. Similarly, a river in New Zealand and the Ganges and Yamuna rivers in India were given the same legal status as humans in 2017, with guardians appointed on behalf of the rivers.⁵¹

As in any contested domain where such rights might expand, difficult questions arise about the enforceability of rights, resources allocated to implementation and enforcement, the role of norms shaping versus legal and policy change and who acts as stewards and what are the consequences of such choices. It is important to note that securing and expanding rights in the face of climate change involves not only legal strategies, but also an emphasis on principles of participation, transparency and accountability, non-discrimination and equality, and inclusion of vulnerable and indigenous communities most affected by climate change.

In many indigenous cultures and traditions around the world, the earth, water, wind and other forms of Nature are not inanimate, but are imbued with life and are worthy of respect and rights. Humans are not seen as distinct from Nature, but as one part of Nature. Complementing the human right to a healthy environment – and a logical extension – are the rights of Nature. "It makes sense to attribute rights to Nature as a whole – to the system upon which the Earth itself depends – even if not every element of that system independently deserves the status of rights holder."⁵² What this means then is that the "rights of Nature" could refer to the rights of certain parts of Nature – such as a river – and to the whole of Nature. "A critical question is whether those rights are determined by what is good for human beings... or by what is good for Nature itself."⁵³

Building Digitally Inclusive and Deliberative Societies

Technological advancements in recent decades have transformed the human experience in every facet of life – from education to employment to communication. Much of the euphoria around digitization has been tempered by the more recent realization that technology is used by corporations and governments to surveil populations, and that it can help reproduce patterns of exclusion, discrimination and exploitation. Winners and losers in the digital era ("digital divides") often mirror historical divides, requiring urgent policy solutions grounded in respect for rights and equality.

For example, despite rapid expansion in e-commerce and social media throughout the Asia-Pacific region, digital divides remain with respect to gender, age and geography. Rural residents are 37 percent less likely to use mobile Internet than urban residents, and women in Least Developed Countries are 52 percent less likely than men to be online.⁵⁴

As mentioned earlier, digital rights and freedoms need to focus both on "freedom from the state" and "freedom through the state" – digital inclusion and access to the best that technology can offer in improving the human condition, while establishing guardrails against the unfettered use of sophisticated surveillance by governments and corporations that have implications for our privacy,

autonomy, safety and dignity. Three areas of concern are highlighted in this brief that have profound implications for building digitally inclusive and deliberative futures: shutdowns and surveillance, particularly in the context of the pandemic; large-scale biometric identification and tracking programmes; and the use of social media platforms to spread disinformation and hate.

Internet shutdowns in India and Pakistan and in other countries in Asia, such as Indonesia, Myanmar and Tajikistan, are cause for concern, as governments shut down the internet to control the spread of information and communication, while in the case of China high levels of internet censorship and surveillance exist.⁵⁵ Research by Canada-based Citizen Lab uncovered the use of sophisticated surveillance spyware in at least five large-scale operations in Asia, affecting Bangladesh, India, Kazakhstan, Pakistan and Uzbekistan, as well as in many countries around the world.⁵⁶ This spyware – for sale only to governments and for national security, anti-terrorism and crime-fighting purposes – has been misused to hack into the phones of individuals. The human rights risks and harms far outweigh any potential benefits, given that journalists, human rights defenders and political dissidents have been targeted by such malware.

The pandemic has served as a pretext for increased mass surveillance in many parts of Asia, especially in Cambodia, China, India, Myanmar, Pakistan, the Philippines and Thailand.⁵⁷ Increased surveillance, home searches, data breaches and contact tracing amid lack of adequate regulations and public oversight raise concerns that emergency measures instituted in the context of the pandemic might become permanent. Thailand banned the spreading of ‘false messages’ and news that could pose a threat to state security, a move criticized as stifling freedom of association and expression under the pretext of the pandemic and national security, while Myanmar’s new cyber laws allow the military unlimited access to individual citizens’ user data.⁵⁸ While North Korea is one of the world’s most repressive countries, the government used the pandemic as a pretext to further block information flowing in and out of the country and also to introduce other repressive measures, such as harshly controlling access to food.⁵⁹

The use of large-scale biometric identification projects may hold promise of financial inclusion and reduction of corruption. They do raise concerns around adequate privacy safeguards and the appropriate procedures to protect the data of vulnerable communities, issues that need to be centred in programme design and development.

The use of social media platforms to spread hate and disinformation has significant implications for the health and flourishing of communities and societies in the Asia-Pacific region. The United Nations Report of the independent international Fact-Finding Mission on Myanmar cited a range of Facebook posts and the use of the Facebook platform by military leaders and Buddhist monks to spread a hate and disinformation campaign against the Rohingya.⁶⁰ In Bangladesh, online campaigns against religious minorities falsely accused them of anti-Muslim blasphemy.⁶¹ In these instances, as well as in other countries in South and Southeast Asia, the online spread of hate speech and disinformation is complemented by and contributes to violence, vandalism and brutal killings.

Government attempts to tackle such challenges through legislation limiting free speech might inadvertently, or even deliberately, stifle citizen engagement and mobilization.

Although a right to privacy is well-established in many constitutions around the world, the argument that privacy is less important than, for example, the right not to be tortured, or the right to life, as well as the argument that privacy is a Western value, makes it imperative that this right be bolstered and upheld in a digital age. In many instances, violations to the right to privacy go hand-in-hand

with violations of other rights and freedoms, particularly when it comes to journalists, human rights defenders, anti-corruption advocates and environmental activists.

Furthermore, surveillance traditions and laws inherited from the colonial era, combined with a current lack of democratic and human rights protections, behoove us to ensure that the right to privacy is centred in government policies, laws and initiatives, even if such initiatives are framed as technology for social good. Citizen-led, civil society-based initiatives to promote digital literacy and civic education, appropriate governance of technology platforms and accountability of government agencies and programmes can play an important role in mitigating future technological harms and better harnessing technology's potential.

BUSINESS, THE INFORMATION ECOSYSTEM AND HUMAN RIGHTS

The United Nations Guiding Principles on Business and Human Rights (“Ruggie principles”) are guidelines for states and corporations to prevent, address and remedy human rights violations in business practice and can serve as a powerful, albeit voluntary, tool to promote corporate transparency and accountability. The guiding principles rest on three pillars: protect (state duty to protect human rights); respect (corporate responsibility to respect rights); and remedy (for victims of business-related rights violations).⁶²

“These Guiding Principles,” states the document, “are grounded in recognition of: (a) States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms; (b) The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights; (c) The need for rights and obligations to be matched to appropriate and effective remedies when breached. These Guiding Principles apply to all States and to all business enterprises, both transnational and others, regardless of their size, sector, location, ownership and structure.”

Applying the United Nations Guiding Principles in the digital age requires cross-sector collaboration to ensure the following: that technology platforms integrate human rights concerns in the design, development and deployment of technologies; that business models and data protection standards are transparent and respect rights; and that states protect and respect digital rights, rather than use technologies to further amass power and control.

Similarly, applying the United Nations Guiding Principles in the context of climate change can ensure that states hold companies accountable. Businesses, after all, play a central role in climate change, as business and economic activities contribute to CO₂ emissions. Businesses can also play a role in climate change mitigation and adaptation and in new forms of economic activity that are environmentally friendly.

In addition to the United Nations Guiding Principles serving as a protection against climate-related human rights abuses by business, the UNOHCHR recommends that businesses should undertake the following: reduce greenhouse gas emissions; improve transparency through climate disclosures; disclose corporate lobbying related to climate; ensure free, prior and informed consent of affected communities; protect environmental human rights defenders and support civic space; ensure access

to the benefits of science is universal; help move to a climate resilient economy; and ensure justice in climate action.⁶³

On a related note, the right to information can be a powerful tool to promote transparency, accountability and justice, and to ensure that civil society can hold governments and businesses accountable. According to Delia Ferreira Rubio, Chair of Transparency International, “A well-functioning Right to Information system is critical for exposing and deterring abuses of power, and for supporting the fight against corruption.”⁶⁴ While over 120 countries around the world have a Right to Information, these laws are often weak, ineffective or noncompliant with international standards. Strengthening the right to information in the Asia-Pacific region can play an important role in fighting corruption and strengthening public accountability, while also promoting citizens’ participation, freedom of expression and the media ecosystem.

Looking Ahead: Re-envisioning Rights – Respecting Public Spheres and Societies

While rights might be portrayed by some leaders as a Western preoccupation or a distraction from development, rights are essential for human development and for the survival and flourishing of the planet in the coming decades. The expansion of rights might be questioned by those who critique the human rights framework and movement, and by those who urge us to focus on core rights. However, the changing landscape facing vulnerable communities in the Asia-Pacific region – caused by demographic and environmental changes, rapid advancements in technology and science and deepening economic fragility – require us to focus on the consolidation of existing rights and the reconceptualization and expansion of rights to accommodate these new realities.

Building public support and institutional momentum around consolidating and strengthening existing rights and expanding new rights is no easy task. According to CIVICUS, a global civil society association, closing civic space – “the bedrock of any open and democratic society” – in Asia is cause for concern: they highlight the Philippines which was downgraded from obstructed to repressed, due to the vilification and attacks on human rights defenders and journalists.⁶⁵ Closing civic space impacts the freedoms of association, assembly and expression, but it has a close connection to and impact on a range of other rights and freedoms, such as the right to vote.

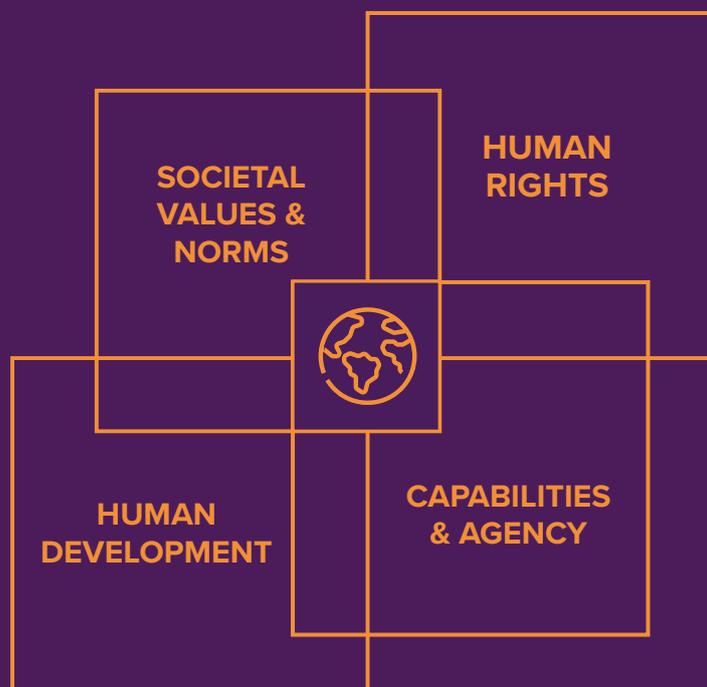
The Asia-Pacific region, however, has a long-standing history, an established tradition of robust rights. Civil society and social movements in many countries have vibrant and forward-looking strategies to promote accountability. Recent democratic backsliding in many parts of the region and a decline in public trust in all types of institutions require a purposeful focus on policy and public messages to deepen cultures that respect rights and practices. Investing in education, including human rights education, is essential for an informed and engaged society and for accountable and effective governments.

National and regional human rights institutions and coalitions and social movements must be supported and strengthened, and laws to regulate civil society must be updated to ensure that such institutions are able to thrive. Domestic sources of funding are essential for such work to ensure that such institutions can set their own agendas and priorities in alignment with local communities and their leadership. In all these efforts, the perspectives and leadership of women and marginalized communities must be centred in order to ensure that policies and programmes address the deep-seated disparities and lived realities of those for whom the promise of rights is still to be realized.

The notion that rights can strengthen individual capabilities and agency, as well as shape and be shaped by societal norms and values, thereby contributing to human development, is one that needs to be reinforced by trusted institutions and leaders. The capabilities approach – pioneered by Amartya Sen and Martha Nussbaum and adopted by many institutions including the United Nations – provides a strong foundation to connect individual well-being and flourishing with their ability to secure and realize related rights.

The notion that societal norms and values, individual capabilities and agency can be forged by, and contribute to, determining the future of development and a future with rights is important as we invest in building more just, sustainable and prosperous futures in the Asia-Pacific region.

Building more just, sustainable, prosperous futures



SOURCE: SUSHMA RAMAN

FIGURE 3: Building more just, sustainable, prosperous futures

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