German-Southeast Asian Center of Excellence for Public Policy and Good Governance
CPG

*Grasp the pattern, read the trend*

# Asia in Review

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Dear Reader,

CPG is providing you another update on major developments from South, Southeast and East Asia. Among others, topics covered in this issue include the highly anticipated decision of the Indonesian Constitutional Court on the LGBT case, the human rights situation in Bangladesh, Myanmar, Cambodia and Singapore, China's South Asia policy in India, Pakistan and Sri Lanka as well as the efforts on counter-terrorism cooperation between China, India and Russia.

I hope you find the selection of articles useful and you enjoy reading!

Very best regards,

Henning Glaser

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## Main Sections


- Law and Politics in South Asia
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# Law and Politics in South Asia

## India: Death penalty has no clear guidelines

A study by Dehli's National Law University indicates that India's justice system lacks clear-cut guidance for how to implement the most severe of its court cases: those involving the death penalty. Legal statutes are insufficiently clear regarding sentencing procedures, and allow too much room for subjectivity. Complicating the already flawed process is the common use of torture by law enforcement officials to obtain evidence as well as to fabricate it. It is, says the report, an "abysmal state of affairs" that is cause for "an overwhelming sense of concern about the integrity of the criminal justice system" [Asia Times].

## India: Industry's poor performance in fulfilling new pollution standards

On December 7, India's government finally allowed long-delayed pollution standards to take effect. The new rules were designed to dramatically improve the health of ordinary Indians by reducing dangerous emissions and requiring power plants to install critical pollution reduction technology. The new regulations could reduce particulate matter emissions by nearly 40% and sulfur and nitrogen pollution by 48%.  What has been the impact of the new rules by mid-month? Not much, apparently.  Despite two years of warning to get ready, not one of the more than 300 coal power plants has begun retrofitting the new

technology. Instead, India's electricity and power regulators are lobbying to delay implementing the new rules until 2024 [Asia Times].

## Bangladesh: Local challenges and international scrutiny of assisting the Rohingya

Local administrators imposed a week long ban Monday on NGOs involved in distributing aid to Rohingyas in an attempt to forestall the unintended ill consequences of international aid: loss to local business resulting from the illegal trade of relief supplies. Officials contend that the amount of food and non-food items being distributed by the NGOs among the refugees is more than they require. As a result, they have a surplus of food items which "might be wasted" or sold at lower than market prices, affecting the local business. Accordingly, all NGOs except those working under the United Nations High Commissioner for Refugees (UNHCR) must halt their relief activities from December 11 to December 17. Since Myanmar's brutal military crackdown on August 25, more than 620,000 Rohingyas have sought refuge in Bangladesh [The Daily Star]. Meanwhile, the European Union yesterday said implementation of the Rohingya repatriation agreement between Bangladesh and Myanmar will have "to be accompanied and monitored extremely carefully." The EU also helped push for a UN Human Rights Council Special Session on Myanmar last week, and has pledged more funding than any other entity [The Daily Star].

## Bangladesh: Family of man accused of NYC attack questioned

Following the attempted bombing of the New York City subway by a Bangladesh man Monday, Bangladesh counterterrorism officers are questioning the suspect's wife and other relatives. Bangladesh's government condemned the attack, and reaffirmed its policy of "zero tolerance" against terrorism. The botched bombing has played into America's immigration debate, and particularly President Trumps efforts to limit certain types of immigration allowed on the basis on family relationships. Muslim-majority Bangladesh has struggled with a rise in radical Islam in recent years [AP/Fox News].

## Nepal: A Communist Nepal tilts the sub-region Left, and towards Beijing

A coalition of the Communist Party of Nepal-Unified Marxist Leninist (UML) and the Communist Party of Nepal-Maoist Centre (NMC) appears to have won the largest number of seats in the federal assembly, ensuring the return to power of former Prime Minister KP Sharma Oli to that post. Oli has eagerly sought China's support and investment in Nepal, and has promised to re-instate a major Chinese hydropower project that was ended by the ruling Nepali Congress in November. In the sub-region, India is facing retrenchment of its political influence: China has benefited politically recently in the Maldives, Sri Lanka, and Bangladesh as well as Nepal, and Beijing is exerting both political and military pressure on Bhutan [Scroll In]. The new communist government will be "beholden" to Beijing, asserts the next article. It will be a particularly difficult foreign policy problem for Dehli, at least in part because Oli blames his ouster as prime minister last year on India's influence [The Times of India]. In the latest press reports, Communist Party-UML has the lead, while the National Congress Party is second [The Himalayan Times].

## Maldives: Ruling party dismisses opposition criticism of Maldives-China pact secrecy

The opposition party in the Maldives has criticized the government's "secrecy policies" concerning 12 key agreements signed during president Abdulla Yameen's first state visit to China last week and weekend. "We only know the names of these agreements," says the opposition. "We request to know the details." The agreements include the landmark free trade pact, and cooperation with China's One Road, One Belt Initiative [Mihaaru]. Following a BBC report of an imminent coup by the opposition against the Maldives' president "within weeks", a leading ruling party minister dismissed the opposition as "clowns" and "traitors" who seek foreign help for self benefit. The Maldives adopted multi-party democracy in 2008, it has been in political turmoil since its first democratically-elected leader was toppled in 2012 in what he claims was a coup [Mihaaru].

# Law and Politics in South East Asia

## Thailand: Activists to petition Constitutional Court to restore freedom of assembly

A number of activists, partly from the New Democracy Movement, partly from Thai Lawyers for Human Rights, are planning to ask the Constitutional Court (CC) to lift a National Council for Peace and Order (NCPO) order interfering with freedom of assembly and giving soldiers vast powers to summon and detain any person for up to seven days under which the activists claim to have suffered unproportionally. They want the CC to rule the NCPO order unconstitutional [Bangkok Post].

## Malaysia: Good odds for Najib – despite 1MDB

On the surface, it looks like it could be difficult times for PM Najib with the national election coming up next year. He has just been through, or still is in the middle of, a huge money laundering scandal known as 1MDB and one of his main political rivals, Mahathir Mohammad, is garnering strengths and may even lead the opposing coalition to Najib's UMNO as PM in case it does indeed win the elections [A Times]. Notwithstanding, the current PM has a huge chance of re-election. The scandal around him has lost political traction and he could score points with being hosted by both the US and major European state leaders as well as with his domestic tactics – as one theory has it,

he has struck a deal with the Parti Islam Malaysia (PAS) which has refused to join the opposition and at the same time directly compete with Mahathir's party for Malay seats, which will be crucial to an overall majority in Malaysia's first past the post electoral system [EAF].

## Myanmar: Failure of Parliament and "systematic rape" by the armed forces

With no signs of real improvements for the Rohingya refugees, stories about their abuse and life in most dire circumstances circle in the media on a daily basis. One of these shocking stories is the allegation of "sweeping and methodical" rape by Myanmar's armed forces [Al Jazeera/AP]. Looking at the origins and causes of the crisis and its development, some observers look at the failures of Myanmar's institutions. Whilst the parliament could play a major role in the way ahead, it is all but a hamstrung institution [Tea Circle]. The International Crisis Group has published a recent report, warning of potential worsening of the crisis as well as sharing some details on the lead-up to it [ICG].

## Philippines: End of Marawi siege does not mean end of martial law

As alluded to in last week's AiR, the Philippine President has requested an extension of martial law on the island of Mindanao until the end of 2018. Even though IS has been defeated in the city of Marawi, Duterte deems it necessary to keep martial law for means of "rehabilitation". Human Rights groups have expressed concerns over the long period of martial law requested, but the Philippine Congress is expected to wave it through in accordance with the constitutional provisions enacted after the fall of long term ruler Ferdinand Marcos [WSJ].

## Cambodia: Muted UN statement on human rights in Cambodia versus realities of opposition

A recent statement by the UN Special Rapporteur on human rights in Cambodia mentions some of the concerning developments of late, but fails to really call out the seriously deteriorating human rights situation in the country [UN]. An interview with an active

opposition-in-exile politician of Cambodia's National Rescue Party speaks more to the concerns of many democratically inclined observers [New Mandala].

## Vietnam: Corruption campaign moves ahead

As reported in last week's AiR, the corruption case against the former head of a subsidiary of state-owned PetroVietnam, the country's largest energy firm, illustrates increased activities of Vietnam's ruling Communist Party to root out mismanagement and corruption. A former top party official has since been arrested in the case [Strait Times]. Again, as was mentioned last week, the corruption crackdown is seen as more as just a genuine crackdown on graft. Some of its political background and political implications are laid out here [Reuters].

## Singapore: Human Rights Watch Report

HRW has published a new report [full report] on political freedoms and human rights in Singapore. The report, rather tellingly unveiled at its launch in Kuala Lumpur, criticises the city-state's oppressiveness and that it is afraid of allowing its citizens free speech and freedom of assembly. This, the report goes, does not match up with the country's claim to be modern, democratic and business-friendly [Online Citizen].

## Indonesia: Constitutional Court not criminalising gay sex or sex outside of marriage

The Constitutional Court in Indonesia has rejected an attempt to criminalise sex outside of marriage or between gay couples by a close 5 to 4 majority-decision of the 9 judges. The ruling argued it is not the CC's role to criminalise private behaviour whereas the dissenting opinion of the other judges argued in favour of criminalisation on moral grounds [Reuters]. The decision comes amid an ongoing struggle between more and less tolerant Islamic strains in Indonesian politics and a worrying trend in which radical Islam is politically weaponised and used for oppression and surveillance [Lowy].

# Law and Politics in East Asia

## China: Upgrading PLA hardware and 'heartware' in the Xi Jinping Era

Since Xi Jinping came to power in 2012 he has successfully been pushing for the modernization of China's military. At the party congress he expressed his vision of the People's Liberation Army (PLA) becoming a world-class force by 2050. With the progress of the PLA in terms of technical equipment and administrative structures comes, however, the need to advance operational culture and military ethos which might take generations according to James Char and Richard A Bitzinger in this article [East Asia Forum].

## China: Authorities collecting DNA from all residents of Xinjiang

In what is officially said to be an attempt of the government to ease poverty and secure social stability in the far Western Uighur-majority province of Xinjiang, but condemned by Human Rights Watch as massive human rights violation, government authorities in Uygur-majority Xinjiang province have been collecting - through medical check ups including iris scans and blood taking - bio-data of close to 19 Mio Xinjiang residents aged between 12-65 years [The Guardian].

## China: No. 2 worldwide in numbers of imprisoned journalists

According to recent findings of the Committee to Protect Journalist (CPJ), China ranks second behind Turkey and ahead of Egypt in numbers of journalists jailed for their work. Out of a record number of 194 imprisoned journalist worldwide, 41 journalist are behind bars in China compared to 73 in Turkey and 20 in Egypt [CPJ].

## Japan: Democratic Party on the brink of dissolution?

Following the devastating developments around the snap election in October, when all Democratic Party Lower House members defected the Party just days ahead of the election, and facing a current support rate down at 1.8, the Democratic Party is in an existential crisis. In this situation and in the light of the 2019 election for the Upper House, in which the party is currently holding 45 seats, the party's President has now come forward with drastic proposals for organizational changes. Among them was even the option of the disbandment of the party [The Japan Times].

## South Korea: 25 years imprisonment for former President's confidant demanded

The prosecution has asked Seoul Central District Court to sentence Choi Soon-sil, former President Park Geun-hye's aide, to 25 years imprisonment and a fine of more 100 Mio USD for abusing her close relationship to the President to receive bribes from companies. Observers expect that the ruling will affect the ruling on Park's own trial on multiple charges, among them leaking government secrets to Choi [The Korea Herald 1]. In a related development, another loyalist of the former President was interrogated by the prosecution on allegations of receiving bribes in illicit political funds from local businessmen [The Korea Herald 2].

## South Korea: Military to stay away from politics

In the frame of President Moon's policy of rooting out "accumulated wrongdoings" of former governments, a government-civilian committee established by the Defense Ministry in September and in charge of

eradicating military wrongdoings has drafted a bill to keep the military way from politics. According to the bill civil servants and defense officials would receive heavy punishments for requesting the military to intervene in political affairs. On the other side, military officials are demanded to refuse such a request for interference. Despite the successful democratic transformation of South Korea and implementation of parliamentary control of the military, civilian-military relations has remained strained as the military was not ready to accept civilian leadership on the grounds that civilian leaders lack the competence and experience to face the North Korean threat [The Korea Herald].

### Taiwan: Lowering referendum thresholds

In a move to enhance public participation in the legislation process, Taiwan's legislature has approved a law to amend the 2003 Referendum Act reducing the threshold for a referendum to be valid from a turnout of 50% of the electorate to 25%. However, excluded from referendums are constitutional changes, including changes to sovereign symbols governed by the Constitution such as the name of the nation, its anthem, flag, or territorial boundaries [Focus Taiwan].

## International Relations, Geopolitics and Security in Asia

### China-US-Taiwan relations: Tensions over possible port calls of US Navy vessels

## in Taiwan

Congress' passing of the National Defense Authorization Act (NDAA) for the 2018 fiscal year authorizing US Navy vessels visits to Taiwan and vice versa has met vehement outrage on the Chinese side. While the no. 2 of the Chinese embassy in Washington warned that such a visit at a port of the island could activate the Anti-Secession law which stipulates the use of military force against Taiwan in cases of developments interpreted by Beijing as possibly leading to the island's independence, the Chinese Foreign Ministry criticized the law as a violation of the One-China policy and an interference in China's internal affairs [The Maritime Executive] [Reuters]. Taiwan's Foreign Ministry expressed gratitude to the US Congress for approving the the NDAA and dismissed the threats of violence made by the Washington embassy official as comments unconducive to Cross-Straits relations [Taipei Times]. J. Michael Cole in his assessment of the NDAA and the Chinese reactions argues that an invasion of Taiwan by the PLA is unlikely to follow a port call. However, Beijing will definitely requite such a move in some way with Taiwan as target [China Policy Institute: Analysis]. In a related move to warn Taiwan, Chinese warplanes on Monday conducted a series of exercises in the Western Pacific, including flying over the Bashi Channel between Taiwan and the Philippines and island encirclement patrols over Taiwan [South China Morning Post].

## China-India relations: No stand down from India-China high altitude standoff

India's "Doklman Standoff" with China at a sensitive border area seemed to have ended nearly three months ago, but Chinese troops are taking unusual steps to establish a permanent, year-round presence there. This recent increase in tension at the border with Tibet and Bhutan results from the People's Liberation Army construction of a road designed to help its forces move more quickly in the area – a move seen by India as a violation of its and Bhutan's sovereignty. Previously, observers thought the two sides might back off tension during the winter months, as has been the case in the past. But China seems intent on maintaining its presence – and its pressure – in this particular contested region [Asia Times]. Meanwhile, an errant Indian drone that intruded into Chinese airspace near Doklam has Beijing's official publications calling for Dehli to "wake up from its arrogance". Tying the incident to the recently highly

publicized U.S., Japan, Australia, and India "Quadralateral" security concept, Beijing's paper warns India to not be "desperately stupid" and rely on the Quad for security. China, they say, "has full strategic say and initiative to teach the Indian military a lesson" [Global Times].

## China-Pakistan relations: Insecurity along China's 'belts & roads'

While some countries are having second thoughts about their initial enthusiasm to support China's "One Belt One Road", China also appears to be rethinking some of its major initiatives with partner countries. This reassessment has impacted its multi-billion dollar China-Pakistan Economic Corridor (CPEC). Beijing has taken several road, mass-transit and industrial zone projects off the table, either temporarily or permanently. Why? Political chaos, corruption, and deteriorating law and order all play a role, as well as brutal tactics by some in Pakistan to sabotage CPEC [Asia Times]. Beijing's official news organizations increasingly highlight the security threats posed along China's OBOR, per the editorial in the second articled, which asserts assaults against Chinese overseas organizations and personnel have seen an upward trend and specifically cites Pakistan for the murder of two Chinese there recently. Islamabad has promised a 15,000-man army division to protect projects along the China-Pakistan Economic Corridor, says this report, but the editors want China to do more to provide Chinese security along its "Belts & Roads" [Global Times]. In the final article, official Chinese media report that that Pakistani terrorists plan to launch a series of attacks on Chinese agencies and personnel in Pakistan in the near future.  Last Friday, China's embassy in Pakistan alerted Chinese agencies based there and Chinese citizens in the country to "boost security awareness, strengthen internal precautions, minimize outdoor activities and avoid going to crowded places" [China Daily].

## China-Sri Lanka relations: Formal hand over of Hambantota Port

China now controls Sri Lanka's strategic southern port of Hambantota, in a move that is supposed to help the impoverished country repay more than $8 billion USD it reportedly owes Beijing. Sri Lankan opposition leaders call the $1.1 billion USD 99-year lease a "sell out".  The ports are expected to play a key role in

China's global Belt and Road initiative. Analysts say that while China gets an industrial-economic zone and strategic deep water port with tremendous military potential on the Indian Ocean, Sri Lanka is stuck paying back massive loans far into the future without the benefit of an income stream from the port due to the large tax concessions granted to the Chinese firms who manage the lease [NDTV].

## EU in SEA: EU to re-establish political ties with the Thailand, scraps funding for elections in Cambodia

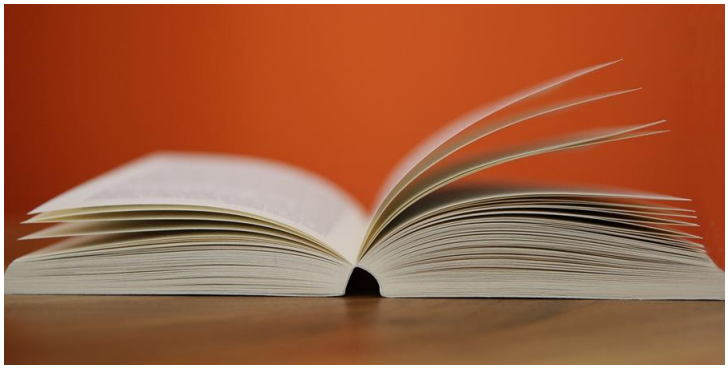
The European Council has agreed to gradually resume all political and economic engagement with Thailand. It reiterated its call for "restoration of democratic process" and "respect for human rights and fundamental freedoms" in a press release after the decision came early this week and cited as a major factor in the decision the Thai authorities' statement that elections will be held at the end of next year. The EU still upholds its "yellow card" it has issued when it alleged that Thailand is not doing enough to regulate illegal fishing practices but both sides see a major opportunity now to resume talks on the free trade agreement that have been put on hold after the coup in 2014 [Council of the EU] [Bangkok Post]. With regards to Cambodia, the EU has decided to cancel all funding for the upcoming general election in 2018 as it was decided that under the current circumstances, a credible election cannot be expected [Reuters].

## Counter-Terrorism in Asia: India, Russia, China resolve to step up cooperation

India, China, and Russia agreed this week to increase counter terrorism cooperation as well as more effectively fight the illegal drug trade, during an annual trilateral meeting of foreign ministers. While all three countries called on states to take measures to prevent terrorist activity in their territory, India also express concerns over increasing acts of terrorism by Pakistan-based terror groups, such as Lashkar-e-Taiba (LeT). This year's agreements assume significance as China has been blocking the international efforts sanction a Pakistani terrorist leader who was the mastermind of a major terror attack in India [Outlook India]. Meanwhile, Michael Kugelman informs in his research report about signs of Pakistani government progress in countering the extremism and terrorist activity in

North Waziristan which has been described as “the most dangerous place on earth”. There has been a sharp decrease in terror-related civilian deaths in recent years. But there is also reason to question the degree and endurance of the success, and obtained a clearer understanding of disconnects in U.S. and Pakistani perceptions of the terror threat in the region [War on the Rocks].

# Background Reading



### Yang Jiechi: Xi Jinping’s Top Diplomat Back in His Element

Elected to the Politburo Standing Committee at the recent Party Congress, former top diplomat and Foreign Minister Yang Jiechi has become the arbiter of China’s foreign affairs. Yi Wang informs in this article about his background and career path [China Brief: The Jamestown Foundation] .

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