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Asia in Review

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Dear Readers,

The AiR team is presenting you the fourth November issue of 'Asia in Review' (AiR) updating you on the latest developments in geopolitics and international relations as well as constitutional politics, law reform and governance in Asia.

I wish you an informative read.

With the best wishes,

Henning Glaser

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Law and Politics in East Asia

China/Hong Kong: Pro-Beijing camp crushed in district elections

(dql) In a clear sign of Hong Kong's citizens' discontent with their government, Hong Kong's district elections on Sunday, seen as a referendum on the city's government in the light of six months of protests, resulted in a landslide victory for the pro-democracy camp which won 17 out of 18 district councils and at least 347 of the 452 seats. The elections scored a record turnout of 71% or close to three million voters compared to 1.5 million in the previous elections.

Chief Executive Carrie Lam announced that the government would respect and reflect the results of the elections, but stopped short of offering concessions to the protesters' demands including direct popular elections for Hong Kong's leadership and legislature and an independent investigation into police conduct against demonstrators. [The Independent] [Straits Times] [Nikkei Asian Review]

Meanwhile, according to New York Times, Beijing has established a crisis command center on the mainland side of the border to Hong Kong, and plans to sack the director of Liaison Office in Hong Kong, indicating

dissatisfaction with the crisis management of the Office. [New York Times]

In an earlier development last week, the US House of Representatives passed the Hong Kong Human Rights and Democracy Act, a day after the Senate's passage of the Act. The Act, now up to US President to sign or veto, would require the State Department to annually review whether Hong Kong retains enough autonomy in making decisions related to human rights, law enforcement and other areas to enjoy special US trade treatment. Furthermore, it also would provide for sanctions against officials found responsible for human rights violations in Hong Kong. [Hong Kong Free Press]

In response, China's Foreign Ministry summoned the U.S. Ambassador to protest against the passage of the Act accusing the Congress of interfering in an internal Chinese matter, while Chinese Foreign Minister Wang Yi at the G20 Foreign Ministers Meeting slammed Washington for using domestic law to "'crudely interfere"' in China's internal affairs, trying to damage 'one country, two systems' and Hong Kong's stability and prosperity." [Reuters] [CNBC]

China's economy: Strong state sector to stay

(dql) Signaling that China is firmly maintaining its own model of an government-led economy, leading party officials, while acknowledging the merits of the private sector, re-asserted that the country's economy would continue to rely on state-owned enterprises to cope with "international pressure and risks" and to play an important role in providing social responsibilities and "serving the national strategic goal". [South China Morning Post 1] [South China Morning Post 2] [People's Daily, in Chinese]

The USA and European Union – China's biggest trade partners – have repeatedly criticized Beijing for its failure to reform the state sector and to allow the private sector to play a bigger role in the economy and foreign companies to access some industries dominated by state-owned firms.

China: Draft regulation on disclosure of cyber security threat information

(dql) The Cyberspace Administration of China is soliciting public opinions on its draft regulations on the disclosure of information about cyber security threats. According to China's top internet regulator, the regulations, released last week, aim at protecting information about cyber security threats from being exploited to "endanger national security and public interest". Among others, it prescribes that cyber security information which could be used to harm normal network operations or expose network vulnerabilities are not to be disclosed without prior reporting to the police and local security departments.

The regulation has raised concerns that the requirement of reporting will lead to delays in notifying affected individuals and companies as well as to limiting media coverage of cyber security dangers. [Technode] [South China Morning Post] [Xinhua, in Chinese]

Japan: First law providing penalties for hate speech on the way

(dql) In a first for Japan, the city of Kawasaki is set to introduce a law that would ban and punish discriminatory remarks against a person from a particular country or region in public spaces. A bill, submitted to the city's assembly this week, calls for issuing warning and orders to violators and, in case of repeated violations, for the disclosure of the violator's name and address and a fine of up to nearly 4,600 USD. [Japan Today]

Japan's national Hate Speech Act of 2016 only condemns unjustly discriminatory language, but neither ban it nor sets penalties for it.

South Korea: President Moon faces hunger strike of opposition leader

(dql) To protest against President Moon Jae-in's foreign and domestic policies, the leader of the main opposition Liberty Korea Party (LKP) Hwang Kyo-ahn has been on hunger strike since last week and vowed this week to continue it.

Main targets of Hwang's protest are fast-tracked bills on the reform of the prosecution and the electoral system which the ruling Democratic Party is resolved to pass while the LKP strongly objects them. [Korea Herald]

Mongolia: Head of Constitutional Court dismissed over sexual harassment case

(dql) Mongolia's Constitutional Court last week dismissed its chairman Odbayar Dorj from his office for sexually harassing a Korean flight attendant on his flight to South Korea weeks ago. Dorj, however, remains one of the nine members of the court. [Channel News Asia]

The case sheds light on the fact that there is no legislation to punish sexual harassment and to protect the victims in Mongolia.

Law and Politics in South Asia

Sri Lanka: Rajapaksa family widening its influence

(jk) After Gotabaya Rajapaksa's presidential election win just over a week ago in Sri Lanka [Asia in Review No. 47, November/2019, 3], he has wasted no time to announce two major decisions.

First, he appointed his brother and former President Mahinda Rajapaksa as Prime Minister following the resignation of former PM Ranil Wickremesinghe. Mahinda will now serve as the head of the new cabinet in addition to his portfolio as Finance Minister. To top it off, he is only one of two Rajapaksa family members in the cabinet with another brother of the two Rajapaksas

holding further two portfolios - agriculture and irrigation, as well as trade.

Secondly, President Rajapaksa announced a snap election to be held in March 2020 which he hopes will give him a majority in parliament if he can build on the momentum and success of the recent presidential polls. [Straits Times 1, Straits Times 2]

Additionally, as stated in the constitution, no court proceeding can take place against a ruling President. As a consequence, a court dropped corruption charges against Gotabaya last week for which he was indicted at the end of last year. [Wion]

India: Modi's BJP celebrates a comeback in the state of Maharashtra

(jk) After it looked certain that India's ruling BJP party would not form the government in the state despite winning the state election last month due to in-fighting between the BJP and the Shiv Sena party, the BJP is back in government as per announcement this past weekend.

Shiv Sena, who quit the partnership with the BJP was looking to be the party to govern in partnership with the centre-left Indian National Congress, and the Nationalist Congress Party (NCP). Instead, the NCP was convinced in the end to form a government with the BJP which was announced on Saturday. Both BJP and NCP hope now that their deal will be upheld by their representatives in parliament, but for now, it looks like the BJP will govern after all. [India Today]

Opposition members of the Indian Congress object to the deal and have raised the issue to be discussed in the federal parliament. [Livemint]

Bangladesh: South Asian Country with highest bribery risk

(jk) According to the most recent Global Bribery Risk Index, published by a North American anti-bribery business association, Bangladesh featured as the “country with the highest risk” of bribery threats in South Asia. [The Daily Star]

The other countries of the region, with the exception of Bhutan which fares slightly better, rank as "medium"

threats. For details on the report, including methodology and further results, see [TRACE].

Law and Politics in Southeast Asia

Myanmar: Aung San Suu Kyi to personally defend her country in Rohingya case at ICJ

(ls/nj) As reported last week, the Gambia has filed a case to the International Court of Justice (ICJ) accusing Myanmar of genocide against its Rohingya Muslim minority. Now, State Counsellor and Nobel Laureate Aung San Suu Kyi announced that she will appear before the court "to defend the national interest of Myanmar". The military said that it will fully cooperate with the government on this matter. Suu Kyi had previously blamed the incidents on Rohingya "terrorists" and described reports of atrocities, including gang-rapes and mass killings, as fake news. [Reuters] [Myanmar Times]

The ICJ has said it will hold the first public hearings in the case already on December 10 to 12. Myanmar is likely to challenge the jurisdiction of the Court. However, whereas some state parties to the Genocide Convention have made specific reservations to Article IX of the Genocide Convention, which gives jurisdiction to the ICJ to try genocide, Myanmar has not done this. Regarding the merits of the case, the observations of the Independent International Fact-Finding Mission on Myanmar set up by the United Nations Human Rights Council in September 2019, which found that Myanmar has failed to perform its obligations to prevent, investigate, and punish genocide, will make Suu Kyi's defense an up-hill battle. [The Diplomat]

Indonesia: Former Jakarta governor Ahok returns to public office

(nj) Indonesia´s President Joko Widodo has approved former Jakarta governor Basuki "Ahok" Tjahaja Purnama for the post of president commissioner of Indonesia´s state oil and gas company Pertamina after he served nearly two years in prison for allegedly insulting the Quran during his re-election campaign in 2017. Widodo said he valued him for his straight-forward policy during his time as Jakarta governor. Prior to that, Ahok served as Widodo´s deputy while he was Jakarta governor in 2012. [The Straits Times]

Malaysia: Mahatir-Anwar transfer of power remains uncertain

(ls) After suffering a by-election defeat in Johor ten days ago, Malaysia' ruling Pakatan Harapan (PH) coalition is under increasing pressure to deliver on its campaign promises. But maybe the bigger question is when exactly Prime Minister Mahatir will hand over power to his named successor and one-time sworn enemy, Anwar Ibrahim. Both met to discuss several issues, including the leadership transition last week, and insisted it needs to be done "peacefully and orderly in a reasonable period and with mutual agreement." [The Star]

The South China Morning Post has gathered the twists and turns surrounding these questions since the government took office 18 months ago. [South China Morning Post]

Meanwhile, Anwar appears to face considerable opposition within his own party, the Parti Keadilan Rakyat (PKR). Last week, 22 Umno MPs met PKR deputy president Azmin Ali in what observers considered discussions related to the transfer of power. Though the four-party PH coalition and its allies in Sabah have a total of 139 seats in Parliament, while the combined opposition has only 83, this configuration could change in a no-confidence vote against Anwar due to a number of PH MPs not supporting him. [Straits Times]

Philippines: Duterte dismisses Robredo as co-chair of anti-drug body

(ls) Less than one month after designating her as co-chairperson, Philippine President Rodrigo Duterte has dismissed Vice President Maria Leonor "Leni" Robredo from the Inter-Agency Committee on Anti-Illegal Drugs (ICAD). A spokesman accused Robredo of using her post "as a platform to attack the methods undertaken by this administration." When Duterte offered the post to Robredo at the beginning of this month, many observers already considered it a trap and not a genuine transfer of responsibility. [Rappler]

Earlier last week, Duterte called Robredo a "scatterbrain" with "kneejerk" impulses whom he would not entrust with confidential matters as she could "jeopardize" the republic. He said the actions of Robredo, including planning to invite human rights investigators and talking to certain individuals critical of his war on drugs, were "not inspiring". [Manila Times]

Philippines: Disinformation as an export good?

(ls) In the Philippines, candidates and government officials routinely pay vast cyber-troll armies that create multiple fake social media accounts to smear opponents and prop themselves up. Now, observers warn that the Philippine disinformation industry could spread to other countries, the U.S. in particular, given Filipinos' proficiency in English, facility with social media and the incentive of money from campaigns looking for a new way to get an edge over the competition. [Los Angeles Times]

Thailand: Constitutional Court disqualifies Thanathorn from being MP

(ls) In a long-awaited ruling, Thailand's Constitutional Court has ruled 7-2 to disqualify Future Forward Party (FFP) leader Thanathorn Juangroongruangkit as Member of Parliament for having shares in a media company when applying to become MP. Future Forward had a surprise success in March's parliamentary election and became an outspoken opposition party, challenging the military and other established powers. The Bangkok Post has summarized the main arguments of the Court. [Bangkok Post]

Future Forward itself is facing possible dissolution as well. Though the possibility of a confrontation between

the establishment and Future Forward, which received at least 6 million votes in the election, could raise concerns that the cycle of street protests and violence may return to Thailand. However, activists interviewed say such a scenario is unlikely due to a limited level of willingness to resist. [Khaosod English]

Thailand: Historic Pope visit

(ls) Last week, Pope Francis visited Thailand. In an audience of about 70,000 people, he expressed concern about the suffering of women, children and migrants. The Pope met Prime Minister Prayut Chan-o-cha and the Supreme Patriarch, and later had a private audience with His Majesty the King. The last pope to visit Thailand was Pope Saint John Paul II, who visited the country over four decades ago in 1984. Currently, the country's 388,000-strong Catholic community makes up less than 1% of the population. Most of the country's Catholics live in the North and Central regions. [Bangkok Post]

Vietnam allows formation of independent trade unions

(ls) In an historic move, Vietnam has adopted an amended Labour Code that allows the formation of independent trade unions. The law will take effect in 2021 and is expected to pave the way for the ratification of several free trade agreements Vietnam has signed, including one with the European Union. The new law also improves collective bargaining rights, strengthens protections against discrimination at work, and enhances protections for younger workers. The EU-Vietnam FTA, which was signed in June this year, includes a chapter on sustainable development, such as implementing international standards on labour rights. It still needs the approval of the European Parliament. [Straits Times]

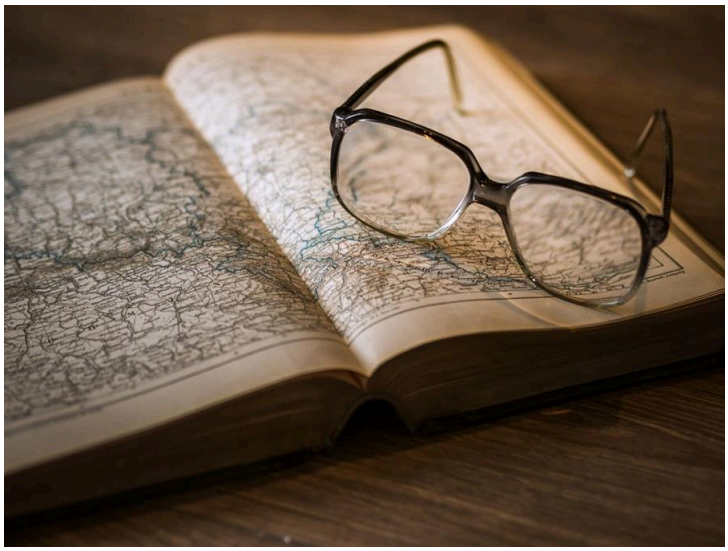
Vietnam: More bloggers facing prosecution

(ls) Vietnamese authorities continue to crack down on government critics. Last week, police arrested blogger and independent journalist Pham Chi Dung, accusing him of "dangerous" anti-state actions, including "fabricating, storing, and disseminating information, as

well as other materials opposing the Vietnamese government." He is the founder and president of the outlawed Independent Journalist Association of Vietnam. [VOA]

This week, blogger Pham Van Diep is facing trial on charges of posting, liking, and sharing information on Facebook in violation of article 117 of Vietnam's penal code, which criminalizes publication or distribution of information "that aims to oppose the State of the Socialist Republic of Vietnam." He had repeatedly used blogs, and later his Facebook account, to address human rights abuses. [Human Rights Watch]

International Relations, Geopolitics and Security in Asia



G20 Foreign Ministers Meeting agrees on urgent reform of WTO

(dql) Amid the ongoing trade dispute between China and the USA and in the face of an undermined trust in the multilateral framework, foreign ministers at the G20 Foreign Ministers Meeting on Friday and Saturday in Nagoya agreed on an urgent reform of the World Trade Organization and discussed improvements of its dispute settlement system.

The absence of US Secretary of State Mike Pompeo, foreign minister of the world's largest economy, raises questions pertaining to the significance of the G20 framework in general. [Mainichi]

Meanwhile, Chinese Foreign Minister Wang Yi used the platform for a fierce attack on US protectionism and unilateralism, calling the USA "the world's biggest destabilizing factor" and accusing it of "bullying" China. [CNBC]

U.S.-China competition reflected in relations with Vietnam, the Philippines and Thailand

(ls) On the occasion of U.S. Secretary of Defense Mark Esper's visit to Vietnam, the United States announced that it will provide Vietnam with another coast guard ship, the second within two years. The announcement is also a message to the Chinese government as Esper stated on the same occasion that "China's unilateral efforts to assert illegitimate maritime claims threaten other nations' access to vital natural resources, undermine the stability of regional energy markets, and increase the risk of conflict." [Reuters]

Before, Esper visited the Philippines where he vowed more support for the country's efforts to modernize its military and improve maritime security. He also emphasized that the U.S. would continue to conduct freedom-of-navigation operations in the South China Sea. [South China Morning Post]

As reported last week, the Thai government also promised further cooperation with U.S. armed forces as Thai Prime Minister Prayuth Chan-ocha and Secretary Esper signed a US-Thailand Joint Vision Statement. Nonetheless, Prayuth also said he "adheres to the one-China policy and is willing to actively participate in the Belt and Road Initiative." Cooperation would include support in equipment and technology, joint exercises and joint training. [Khaosod English]

Cross-Strait relations: Taiwan's ruling party proposes "Anti-Infiltration Act"

(dql) Less than two months ahead of the presidential and legislative elections in Taiwan, the ruling Democratic Progressive Party has revealed its draft Anti-Infiltration Act. According to the party the bill aims to prevent foreign hostile forces from interfering in Taiwan's political system and elections.

It proposes a maximum penalty of seven years in prison and a fine of over 160,000 USD for requesting "infiltration sources" defined as "organizations or

institutions affiliated with the government, political parties or other political groups of a foreign hostile force, and individuals dispatched by such entities" while "hostile force" is described as "a country or group at war with or in a military standoff with Taiwan that upholds the idea of jeopardizing the nation's sovereignty by non-peaceful means." [Taipei Times]

In a related development, Taiwan has detained two executives of a Hong Kong-based company accused of spying for China and is at the same time probing information of a Chinese asylum seeker in Australia who claims to be a Chinese spy defected to Australia and admitted to infiltrating Taiwan's upcoming presidential election as well as the 2018 municipal elections. [Aljazeera] [New York Times]

Meanwhile, Taiwan's legislature last week approved a special budget for the purchase of a new fleet of advanced F-16 fighter jets from the United States, allocating 8.1 billion USD over seven years from 2020 to 2026 for the purchase of 66 F-16 C/D Block 70 fighter planes. [Focus Taiwan]

South Korea sticks to intelligence pact with Japan

(dql) South Korea last Friday suspended its plan to withdraw from the intelligence-sharing pact, known as the General Security of Military Information Agreement (GSOMIA), with Japan of which it had earlier repeatedly said it would pull out amid heightened tensions between both countries over disputes over trade and compensation for forced labor during Japan's colonial rule on the Korean peninsula. [BBC] [No. 47, November/2019, 3]

It remains, however, to be seen whether Seoul's sticking to the pact will improve the countries' relations given that only a few days later both sides took fresh swipes at each other over respective comments on South Korea's decision to maintain the pact. [Mainichi]

South Korea-ASEAN Summits

(ls) This week, the third Korea-ASEAN Commemorative Summit and the inaugural Korea-Mekong Summit is taking place in Busan in South Korea. A total of nine summits with ASEAN leaders have been set except for Cambodian Prime Minister Hun Sen who stayed home for personal reasons. The Busan summits mark the

30th anniversary of South Korea-ASEAN dialogue ties, which have been increasingly emphasized under President Moon's New Southern Policy. [Korea Times]

Ahead of the summits, Moon has highlighted some of the functional areas of ASEAN-Korea collaboration, including infrastructure, smart cities, environmental sustainability, and small- and medium-sized enterprises. He also made reference to areas of wider geopolitical convergence, including between ASEAN's Indo-Pacific Outlook and South Korea's New Southern Policy. Since he took office in 2017, Moon has visited all 10 ASEAN countries. [The Diplomat]

U.S. Approves $1 Billion Sale of Naval Guns to India

(jk) The US government has cleared the way for a significant defence deal with India by approving the sale of naval guns worth US$1 billion. The US State Department noted that the proposed sale "will not alter the basic military balance in the region -- instead it will support the foreign policy and national security of the U.S. by improving the security of a strategic regional partner." [Bloomberg]

India and Japan set to hold first "2+2" dialogue on defence and foreign relations, in addition to US and Australia 2+2s

(jk) India and Japan will hold the first 2+2 defence and foreign ministerial dialogue later this week. The newly established dialogue comes ahead of December's summit between Prime Ministers Abe and Modi. [For Background: Foreign Policy]

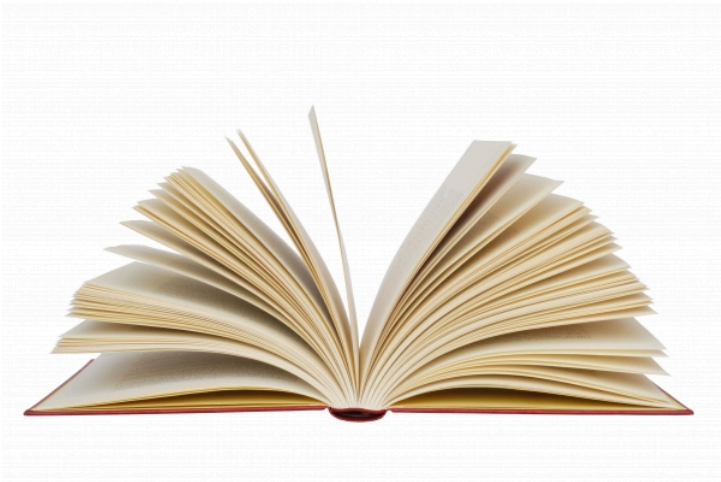
December will also see foreign and defence secretaries of India and Australia meet for their 2+2 meetings, as well as the next instalment of the India-US version of the dialogue. In effect, India will meet the "Quad" bilaterally. [Times of India]

Philippines: Update on ISIS militants returning to SEA

(nj) The death of ISIS leader Abu Bakr al-Baghdadi gave rise to the fear that many ISIS sympathizers could be returning to Southeast Asia, as recently reported

in [AiR No. 45, November/2019, 1]. According to a U.S. counterterrorism official, however, the numbers so far have been low. Nonetheless, the U.S. and the Philippines declared that they stayed alarmed for regional terror groups and militants to continue with Middle East-inspired terror tactics, including suicide bombings. The two countries cooperate to improve border security, especially on the southern Philippine island, Mindanao, which served in the 1990´s as a paramilitary training camp for al-Qaeda. [South China Morning Post] [The Straitstimes]

Background Reading



Book excerpt: “Migration in the Time of Revolution: China, Indonesia, and the Cold War”

(ls) In her new book, historian Zhou Taomo looks at the complex ties between China and Indonesia in the cold war. Zhou argues that migration and activism by ethnic Chinese were major forces shaping the relations between Beijing and Jakarta. The South China Morning Post has published some excerpts. [South China Morning Post]

Video: India Nepal Relations in Shadow of Chinese Influence

(jk) A conversation with a former Indian ambassador to Nepal who looks at the historical evolution of India-Nepal relations and argues that the concern over increasing Chinese involvement in Nepal, and resulting threats to India, is exaggerated. While he sees

"legitimate areas of concern", India should seek avenues for cooperation with both. [The Wire]

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