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Dear Readers,

The AiR team is presenting you the third issue of 'Asia in Review' (AiR) in December with the latest important events and 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 for a wonderful festive season,

Henning Glaser

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Law and Politics in East Asia

China/Hong Kong: Lam reassured backing from Beijing while foreign experts quit cooperation in IPCC's investigation of police conduct during protests

(dql) In the first skirmishes since three weeks, anti-government protesters and police clashed on Sunday when masked youths targeted shopping centers in Hong Kong and police responded with tear gas. [The Guardian]

Meanwhile, President Xi Jinping on Monday reassured his support for embattled Chief Executive Carrie Lam during a meeting with her on Monday, praising her for "upholding the 'one country, two system' principle, governing according to the law and doing a work of great hardship during the most serious and difficult time since Hong Kong returned to China," adding that Lam's demonstrated courage and performance of one's duty has received full acknowledgement of the Party's Central Committee. [Xinhua, in Chinese]

In an earlier development last week, a panel of foreign experts hired to ensure the objectivity of an investigation into allegations of excessive force by Hong Kong police during recent protests announced that it was stepping down citing a lack of authority and

capabilities of the Independent Police Complaints Council (IPCC), the city's police watchdog, to conduct an independent probe. [New York Times]

In response to the foreign experts' move, Hong Kong's Chief Secretary, the city's No 2 official, announced that the government might review the IPCC's role after international. [South China Morning Post]

While the IPCC, whose inquiry is set to be delivered early next year, is responsible for overseeing the Commissioner of Police's handling and investigation of reportable complaints against the force, it currently has no power to summon witnesses or force police to provide evidence.

The set up of an independent agency to investigate police conduct during the protests is one of the five demands of the protesters which Lam so far has refused to accept.

China has highest number of imprisoned journalists in 2019, report says

(dql) China is facing another critical account of human rights. According to a report of the New York-based independent non-profit, non-governmental organization Committee to Protect Journalists (CPJ), China has jailed the highest number of journalists in 2019, with 48 out of a total of 250 worldwide and followed by Turkey with 46 and Eqypt and Saudi Arabia with 26. [CPJ]

Meanwhile, an inofficial survey has revealed appalling conditions of detention centers in China under which many detainees are held. [South China Morning Post]

Japan: New law under way to tighten screws on tech giants

(dql) Japan is set to tighten regulations to enhance the transparency of contracts involving technology giants and to prevent these technology giants from abusing their market power to gain unfair advantage over small businesses that operate on their platforms. According to a bill finalized by the government this Tuesday tech giants would be obliged to disclose the terms of contracts with customers and to report to the government about their operations. [Mainichi]

Taiwan: Ruling and main opposition clash over cross-strait policy TV election debate

(dql) Less than four weeks before the presidential and legislative elections in Taiwan on January 11, the ruling Democratic Progressive Party (DPP) and the main opposition Kuomintang (KMT) expectedly clashed over cross-strait policy in the first of a series of televised debate on Sunday in which representatives from eight political parties participated.

While both parties stressed their opposition to the 'one country, two systems' reunification framework proposed by China, the DPP assertively insisted on Taiwan to be recognized by China as sovereign state before dialogue with China will be possible. The KTM, meanwhile, claimed that only "1992 consensus" is the only basis for cross-strait interaction, highlighting that the KTM interprets the 1992 understanding between the then-KMT government and the Chinese government as both sides of the Taiwan Strait acknowledging there is only "one China" with each free to interpret what "China" means. [Focus Taiwan] [Taipei Times]

According to the latest opinion poll released by the Taipei-based Cross-Strait Policy Association this Tuesday President Tsai Ing-wen is very likely to be re-elected as she received 56.5% support, giving her a comfortable margin of 38 percatage points against her main contender, opposition Kuomintang (KMT) presidential hopeful Han Kuo-yu who garnered 18.1% support. [Taiwan News]

For an account of internal and external factors responsible for Tsai's strong position shortly before the election, including Xi Jinping's reunification posture and rhetoric, the Hong Kong protests as well as the "difficulties and dilemmas besetting the KMT" see Yoshiyuki Ogasawara in [The Diplomat].

Taiwan: Law amendment passed to boost counter-espionage

(dql) In a move to strengthen the country's security against espionage and infiltration activities, Taiwan's legislature last week passed an amendment to the National Intelligence Service Act which increases jail terms for Taiwanese guilty of spying, removes the statute of limitations on the prosecution of espionage and expands the scope of counterintelligence provisions now allowing intelligence agencies to

operate not only in national security and military areas but also foreign and cross-Taiwan Strait affairs, business, technology and public security. [Focus Taiwan]

The passage came a few days after a scam was uncovered involving the smuggling of over 5,000 Chinese nationals into Taiwan through fake invitation documents. Among those Chinese nationals were high-ranking Chinese government officials of the United Front Work Department of the Central Committee of the Chinese Communist Party. [Taiwan News]

Law and Politics in South Asia

India Citizen Amendment Bill is met with violent protest and diplomatic rebukes

(ls/lf) South Asia's major political issue continues to be India's Citizen Amendment Bill (CAB) which was passed in the Upper house last week. [Asia in Review, No. 50, December 2019, 2] The enactment has caused widespread protests across the country.

Especially, India´s Northeastern Provinces (which border with Bangladesh) have been hit hard with protests. In Assam, six people have been killed over the protest and the biggest city (Guwahati) has been under curfew for days. Assam is one of India's most diverse provinces and has long struggled with its pluralistic identity. Protest against immigrants go back decades and have reached a new high. In New Delhi demonstrations between students and police have also clashed violently. India's Muslim population fears further marginalisation. [Al Jazeera] [BBC] [Reuters]

In recent years India has seen Hindu nationalism on the rise. CAB is feared to be another step to remake India as a Hindu national state. The uprisings in Assam have to be seen in context with the citizenship list published earlier this year that has left 2 million people stateless, mostly Muslims in Assam [for more information [Asia in Review, No. 36 September 2019, 1]. The images of students and Muslims coming under attack by police may provide a rare national rallying point for discontent. [Guardian]

The United Nations has described the bill as "fundamentally discriminatory in nature", while the country's opposition has characterized it as "unconstitutional". Several states, including Punjab, Kerala, West Bengal, Chhattisgarh and Madhya Pradesh, have indicated they will not enforce the new laws, leading the way for what could be a long legal battle in the country's Supreme Court. [VOA] [Lowy Institute]

Over the protest both Japan's Prime Minister Abe and Bangladesh's Foreign Ministers have postponed their visits to India. Bangladesh Foreign Minister A. K. Abdul Momen said the law "weakens India's historic character as a secular nation", and rejected assertions that minorities faced religious persecution in Bangladesh. New Delhi and Dhaka generally enjoy close ties, particularly under the leadership of Ms Hasina, who has been in power since 2009. [Reuters] [Straits Times]

Notably, the CAB does not only exclude Muslims from Afghanistan, Bangladesh and Pakistan, but also Sri Lankan Tamils, many of whom have found refuge in Tamil Nadu during Sri Lanka's civil war that ended in 2009. Almost 62,000 Sri Lankan Tamils still live in around 107 camps located across Tamil Nadu, and another 36,000 outside the camps. Since the end of the war, only 3,000 refugees went back to Sri Lanka, the majority staying back in India and now fearing they could be forced to return. [The News Minute]

Law and Politics in Southeast Asia

Thailand: The beginning of the end of Future Forward?

(jk) With a decision to recommend the dissolution of the Future Forward Party (FFP) last week, the Election Commission of Thailand (ECT) has set in motion a development that was largely expected by many observers of Thai politics.

On Wednesday last week, the ECT recommended the FFP's dissolution due to it breaking Political Parties Act by accepting money illegally from its party chief Thanathorn Juangroongruangkit. In a statement, it said it considered what was meant to be a loan a donation instead and the amount of it was by far exceeding the allowed amount of 10 million Baht. [Khaosod English]

The ECT itself cannot dissolve the party, but it can make a recommendation and refer the case to the Constitutional Court of Thailand which it has done. The court has only last month stripped Thanathorn of his MP status [Asia in Review, No. 48, November/2019, 4]. It also has a history of dissolving non-conformist parties so FF is understandably worried.

While the government claims it is in no way interfering in this strictly "legal" process, FF claims the case is politically motivated and that the "donation" was clearly a loan and had been declared as such. Should the court rule to dissolve the party, it would also mean the end of the political career of its 15 executives under the current circumstances. [Bangkok Post]

In response, on Friday, Thanathorn via his social media account called upon his supporters not to stand for the unfair political tirade against him and Future Forward. Following his call, an estimated two to three thousand supporters gathered in central Bangkok on Saturday, where he addressed the crowd and said: “We come together today in a show of force, to show that we will not retreat and will not put up with things any longer.

This is not a day to protect the Future Forward, but a day to protect the future of all Thais." [Khaosod English]

Police have said they are preparing legal action against the organizers of the political rally for violating laws surrounding public gatherings. Party members of the ruling coalition have further alleged sedition and advocate for serious consequences for holding one of the biggest political rallies in Bangkok since the coup in 2014. [Bangkok Post 2, Bangkok Post 3]

Papua New Guinea: Bougainville votes overwhelmingly for independence

(jk) As reported back in October, Bougainville, belonging to Papua New Guinea, has now held a referendum over a two-week period on the question of independence from PNG. While the vote is non-binding and the final say on independence will remain with the Government of Papua New Guinea, it was widely expected that the people of Bougainville will overwhelmingly vote for independence. [Asia in Review No. 43, October/2019, 4]

Now, with voting ending last week, the results are in and over 97% have cast their vote in favor of independence. The autonomous region of Bougainville will now start negotiations with the PNG government which has to approve of independence, making this particular outcome - at least for the foreseeable future - unlikely. [Sydney Morning Herald]

Malaysia: 1MDB scandal case moved to High Court

(fs) The charges against two of the three units of the U.S. investment bank Goldman Sachs Group Inc. for their alleged role in raising $ 6.5 billion for the scandal-plagued state investment fund 1MDB [Asia in Review No. 12, March/2019, 3] have been transferred from the Magistrate's Court to the High Court. The review of the still pending petition for the third unit will take place on Dec 26. Specific reasons for the transfer were not stated by the Attorney-General's Chambers, but generally this indicates the gravity of the case. The commanding prosecutor refused the dropping of charges. [South China Morning Post]

Prior negotiations between the investment bank and Malaysia about an out-of-court settlement are still

ongoing with both sides intending to avoid a decision by court after an offered compensation in the range of one billion dollars was considered too low by Prime Minister Mahathir. [The Straits Times]

Philippines: Martial law to be lifted by year end

(ls) Philippine President Rodrigo Duterte will lift martial law in the southern Philippines by the end of the year, more than two years after it was imposed in an attempt to fight the siege of the city of Marawi and to stop the Islamic State gaining a foothold there. Martial law is a contentious issue in a country ruled for 20 years by the late deposed dictator Ferdinand Marcos, whom Duterte has hailed as the greatest leader the Philippines ever had. [The Guardian]

Singapore: Next POFMA enforcement actions

(lf) The Singapore Democratic Party (SDP) has been ordered by the Singaporean government to correct a Facebook post. This is the third use of the Protection from Online Falsehood and Manipulation Act (POFMA), which allows the government to order corrections of posts deemed misleading or incorrect. POFMA raises concerns about limiting free speech. [South China Morning Post] [Reuters] [see also Asia in Review, No. 50, December 2019, 2]

Cambodia responds to EU over human rights concerns

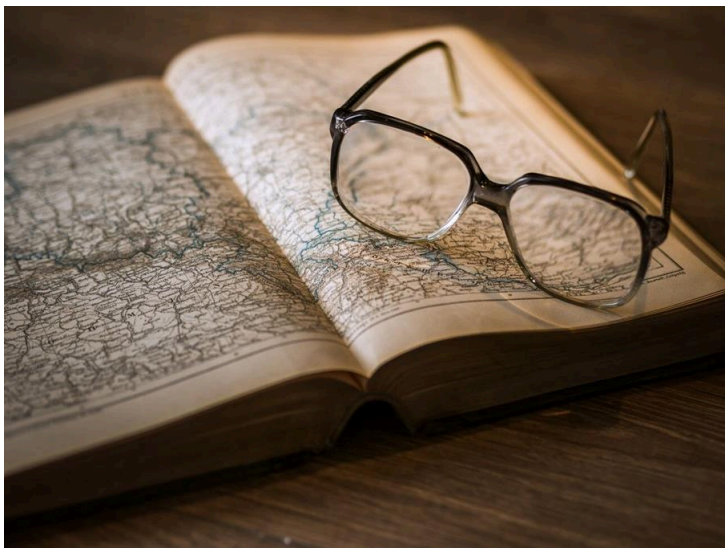
(fs) Following the EU's preliminary report on the temporary suspension of the Everything But Arms (EBA) trade preferences to Cambodia from November [Asia in Review, No. 47, November/2019, 3] in matters of the country's current human rights situation, Cambodia submitted its reply after the given deadline expired on Thursday. The EU demanded the restoration of democracy, respecting human rights, fundamentals of personal freedom and the end of repression against civil society organizations and independent press. In particular, the EU requested Cambodia to drop the treason charges against CNRP leader Kem Sokha.

Cambodia's government urged to consider that "nearly one million of female workers and indirectly their families would be affected by the retrieved trade scheme". In addition, it encouraged the EU "to take the government's good faith effort to implement all the relevant international conventions under the EBA regulations into account". Further submission to the EU's demands in the case of Kem Sohka were declined by Prime Minister Hun Sen. A final decision about the temporary suspension will be made in February. [Khmer Times]

Cambodia: Muslim minority group faces eviction from Phnom Penh

(fs) In anticipation of the upcoming Asia Europe Meeting (ASEM) in 2020, Phnom Penh's district governor ordered members of the Cham community to leave the city's area within a week in the intention of "ensuring safety, security, beauty and public order". This direction affects a large part of the approximately 600,000 Cham living in Cambodia. Persecuted under the Khmer Rouge reign, the Muslim minority still remains marginalized these days. In preparation for former events, evictions, relocations and arrests often were the means of choice for Cambodian authorities, for example at Chinese President Xi Jinping's visit in 2016 or the ASEAN summit in 2012. [Al Jazeera]

International Relations, Geopolitics and Security in Asia



SIPRI report 2019: Global arms sales increased by nearly 5%, with US companies dominating the market

(dql) According to data released last week by the Stockholm International Peace Research Institute (SIPRI), sales of arms and military services by companies listed in the top 100 grew by 4.6% worldwide in 2018, with a turnover of 420 billion USD, mostly due to US arm companies that dominate the top 5 spots: Lockheed Martin, Boeing, Northrop Grumman, Raytheon and General Dynamics accounted for 148 billion USD and 35% of total top 100 arms sales in 2018, while total arms sales of US companies amounted to 246 billion USD, equivalent to 59%. [SIPRI]

China and USA agree on terms of "Phase One" trade deal

(dql) Last week China and the USA have reached an agreement on the terms of a "Phase One" trade deal which provides for a rollback of some tariffs on Chinese imports and a commitment by Beijing to substantially increase purchases of American farm goods and other products and services "over the next two years in a total amount that exceeds China's annual level of imports for those goods and services in 2017 by no less than $200 billion."

US President Trump confirmed last Friday the withdrawal of his threat to imposed 15% tariffs on about 160 billion USD of Chinese imports which were supposed to come into effect last Sunday. In response, Beijing dropped its plan of retaliatory tariffs due to take effect that same day, including a 25% tariff on U.S.-made autos.

Furthermore, Washington announced to halve duties on 120 billion USD in Chinese imports imposed in September from 15% to 7.5%, while tariffs of 25% on 250 billion USD worth of Chinese goods will remain unchanged. [Los Angeles Times] [Reuters]

China and Russia propose partial removal of sanctions against North Korea

(dql) China, together with Russia, has reportedly called on the U.N. Security Council to lift sanctions to allow

Pyongyang export statues, seafood and textiles, traditionally important revenue sources for North Korea. Beijing and Moscow described the move as attempt to encourage stalled talks between the USA and North Korea.

Washington, however, expressed disagreement on the proposal arguing that the it was premature as North Korea was still “threatening to conduct an escalated provocation, refusing to meet to discuss denuclearization, and continuing to maintain and advance its prohibited weapons of mass destruction and ballistic missile programs.” [CNBC]

North Korea, meanwhile, does not shy away from further escalating already heightened tensions with the USA and declared that it will make use the recently tested new technologies to develop a strategic weapon to counter the US nuclear threat. The chief of the North Korean military's General Staff added that Pyongyang has "stored up a tremendous power" and the military is fully ready to carry out any decision of leader Kim Jong-un. [Korea Herald]

Japan hits out at China on South China Sea

(dql) Just a few days ahead of his trip to Beijing to visit his Chinese counterpart, Japanese Defense Minister Taro Kono, who is tipped to become successor of Prime Minister Abe, used surprisingly sharp rhetoric to openly attack China for its actions in the South China Sea and waters close to Japan. Speaking at the Doha conference on Monday, Kono blamed China for "unilateral and coercive attempts to alter the status quo based on its own assertions that are incompatible with the existing international order", and demanded that aggressors "expanding their spheres of influence beyond their borders by force [...] must be forced to pay cost." [NHK]

India to appoint Chief of Defence Staff as Indian-Chinese regional rivalry continues

(lf/ls) India’s Prime Minister Narendra Modhi has announced to nominate a first Chief of Defence Staff (CDF) who will supervise all three structures of the Indian military. The appointment is expected to be made this month. [Economic Times 1]

Meanwhile, the Indian Navy expelled a Chinese research ship from Indian waters in the Andaman Sea, which is considered a gateway through the Malaca Straight from the Pacific to the Indian Ocean. Chinese presence in the Indian Ocean has been challenging India's traditional position as the regional power in recent years, which has certainly contributed to the CDF appointment. However, the move also needs be seen in relation to growing tensions with Pakistan over the Kashmir question. [South China Morning Post]

At the same time, India and France have agreed to expand their military cooperation and jointly patrol the Indian Ocean. This agreement comes due to concerns of the expanding presence of China at Hambantota port in Sri Lanka. The Hambantota port is part of the Belt and Road Initiative (BRI) infrastructure projects, which was leased to China for 99 years after Sri Lanka saw itself unable to pay back the debt. [Economic Times 2]

Another BRI element in Sri Lanka, Colombo Port City, which is an artificial island off Colombo, has officially become part of the county. The BRI infrastructure project is expected to attract business and investments from abroad. It is the largest FDI project Sri Lanka has seen so far. [NIKKEI - Asia Review].

U.N. Security Council to meet on Kashmir

(ls) The United Nations Security Council meets this Tuesday at China's request to discuss the situation in the disputed Indian territory of Jammu and Kashmir. The meeting comes after India removed the decades-old autonomy the area enjoyed under the Indian constitution in August, which produced both local protests and international diplomatic rebukes. [Reuters]

India and Maldives foreign ministers agree in closer cooperation on Indo-Pacific security

(ls) Maldives Foreign Minister Abdulla Shahid met his counterpart S. Jaishankar on Friday for the first India-Maldives Joint Commission to be held in four years. The meeting mainly dealt with defense and security cooperation as well as the Greater Male Area Connectivity project. Both sides also agreed to work towards an increase of Indian investments and tourists to the Maldives. [Times of India]

In an interview with The Hindu, Maldives Foreign Minister Shahid laid out foreign policy elements. Inter alia, he said, “for us, the freedom of navigation, the total concept of the Indo-Pacific strategy is paramount, and we are fully part of it. In Washington this year, I assured Secretary of State Mike Pompeo that we will play our role as the heart of the Indian Ocean.” [The Hindu]

Sri Lanka arrests Swiss embassy employee

(lf/ls) Diplomatic relationships between Switzerland and Sri Lanka have tensed after Sri Lankan officials have arrested an employee of the Swiss embassy for allegedly making false claims. The employee and the Swiss embassy had previously accused Sri Lankan police of kidnapping the employee and forcing her to disclose information about asylum seekers to Switzerland. This comes after a high ranking police officer, who investigated former president and now Prime Minister Mahinda Rajapaksa and who had left for Switzerland in fear of his safety. [AlJazeera] [BBC]

The Swiss Federal Department of Foreign Affairs (FDFA) said that in this high-profile case Sri Lanka’s reputation as a country that upholds the rule of law is at stake. It criticized the 30-hour interrogation to which the employee was subjected over three days despite being in poor health, and the public statements by senior Sri Lankan officials questioning her account before the investigations had been completed. [Colombo Gazette]

Nepal demands renegotiation of Gurkha recruitment deal with Britain

(ls) Nepal’s foreign ministry has announced that it wants to review a military deal allowing its citizens to be enlisted in the British army. The announcement came just before a planned recruitment of Nepali women in the Brigade of Gurkhas for the first time in two centuries was initiated. Britain has been enlisting Gurkhas, a tribe from Nepal’s Himalayan foothills known for their fierce combat abilities, since 1815. In 2007, Britain announced plans to recruit Gurkha women for its elite force. However, the existing agreement does not allow Nepal to play any role in the recruitment process, which is the reason for Nepal’s call for renegotiation. [Reuters]

Here is a video about the British army's recruitment selection process in Nepal. [YouTube]

Myanmar's Aung San Suu Kyi at the ICJ: Reactions and assessments

(jk/ls) Last week, Myanmar's legal team presented arguments in response to the genocide lawsuit filed against the country by The Gambia at the International Court of Justice (ICJ) in The Hague at the first public hearing. Myanmar State Counselor Daw Aung San Suu Kyi asked the Court to reject the genocide case in her closing remarks to the judges on the last of three days of public hearings.

Suu Kyi accused The Gambia of providing a misleading and incomplete account of what happened in Myanmar's Rakhine state in August 2017. A transcript of her speech can be found here: [Al Jazeera]

[The Irrawaddy] has compiled a range of views on the arguments put forward.

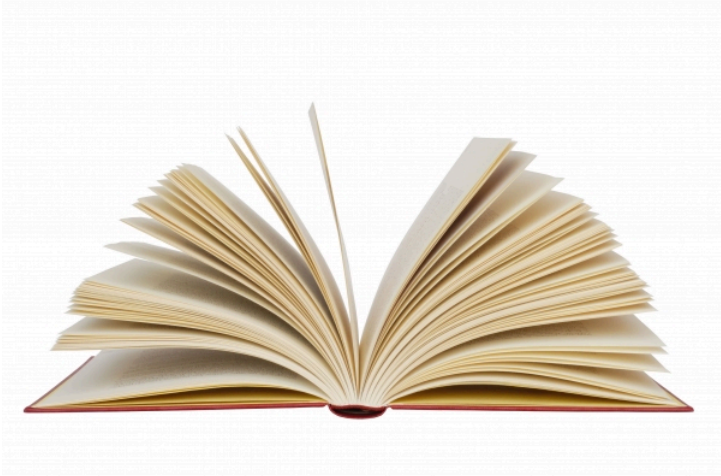
Reactions to Suu Kyi's appearance were naturally mixed. In a rather dramatic response to the ICJ hearing, the Arakan Army (AA), a Buddhist armed ethnic group fighting Myanmar forces in Rakhine state, abducted the chairman of the ruling National League for Democracy (NLD) party in Buthidaung township as he organized a public rally in support of Aung San Suu Kyi's defense at the court. [RFA]

Vietnam and US strengthen economic bond

(fs) In the course of the reception of the U.S.-ASEAN Business Council (USABC) in Hà Nội, Prime Minister Nguyễn Xuân Phúc declared to adjust the country's economic environment to improve the situation for foreign enterprises in Vietnam, including those from the U.S. Concurrently, Phúc encouraged U.S. businesses to pay attention to the Vietnamese market and its economic possibilities. Regarding Vietnam's upcoming position as the ASEAN Chair in 2020, the U.S. assured its support in this matter. [Viet Nam News]

Over the last year, Vietnam has largely profited from the ongoing US-China trade war, since a number of U.S.-based companies transferred their production locations from China to Vietnam or are in the process of doing so in order to avoid punitive duties.

Background Reading



Thailand – Asia's strong new data protection law

(jk) Graham Greenleaf and Arthit Suriyawongkul have written a piece back in September clarifying some of the complexities underlying Thailand's Personal Data Protection Act and conclude that the act could become one of Asia's strongest laws on data protection. It is the first in Asia that is strongly "GDPR" based and sets a high standard for data protection generally. However, they caution that administration of the law is key and that many sub-regulations and exemptions are not yet clear. [SSRN Papers]

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