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DEMOCRACY IN ASIA

| Edited by Ryan Hass and Patricia M. Kim

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INTRODUCTION: DEMOCRACY IN ASIA (PHASE II)

Ryan Hass and Patricia M. Kim

Across the globe, democratic institutions and norms are increasingly under duress. Growing polarization, nationalism, and public distrust, exacerbated by complex global challenges and authoritarian influence, have called into question whether democracies can deliver for their people and offer solutions to 21st century problems. The *Brookings Democracy in Asia* project was launched in 2020 to explore the state of democracy in the Indo-Pacific — home to a number of the world's largest democracies and vibrant economies, and more than half of the world's youth population.

In the first phase of the *Democracy in Asia* project from 2020-2021, Brookings scholars and outside experts drafted reports examining the state of democratic governance in Asia. Their research provided a diagnostic assessment of the health of democratic institutions across the region. Among the many challenges identified, four key thematic issues stood out as the most acute challenges to democratic performance in Asia: *corruption, disinformation, inequality, and public health*.

The second phase of the *Democracy in Asia* project was launched this year to identify best practices and lessons learned from within Asia for addressing these four acute stresses on democratic governance in the region. To develop a practical toolkit of recommendations, the Brookings Institution invited 16 experts to discuss in small group settings and larger workshops how corruption, disinformation, inequality, and public health have impacted democratic governance in their country of focus. These experts brought a diverse array of perspectives to the table, sharing lessons learned, best practices, and forward-looking recommendations on how Asian democracies can best address these four challenges to enhance their overall resilience.

China's influence loomed over all the discussions to varying degrees. At the same time, regional-based experts tended to focus more on proximate local factors affecting the challenges they were examining, than on how such challenges fit within a framework of competition between democracies and autocracies.

Many, though not all, of the recommendations that the experts generated were keyed to government policy prescriptions. Other actors, such as the media, non-governmental organizations, and civil society also received prominent attention for their major roles in addressing stresses on democratic governance performance.

CORRUPTION: MISUSE OF PUBLIC OFFICE

The working group on corruption, led by Thomas Pepinsky and featuring papers by Maria Ela L. Atienza, Francis E. Hutchinson and Hyeok Yong Kwon, takes a critical look at Malaysia, the Philippines, and South Korea — three democratic states with varied records on fighting corruption. As Pepinsky writes, while democracies are certainly not immune to corruption, key features of democratic systems such as freedom of speech, transparency, and robust civil society participation are fundamental to anti-corruption efforts. The papers in this collection candidly examine the significant challenges in rooting out endemic corruption, from bureaucratic resistance to state-business collusion. They also highlight the progress, however limited, that has been made in these three countries through public scrutiny, electoral politics and the empowerment of local communities, among other measures.

As the authors point out, countering corruption requires sustained efforts by committed leaders and citizens, and their papers offer ideas on how to strengthen democratic institutions central to such endeavors.

DISINFORMATION: A CHALLENGE EXACERBATED BY THE DIGITAL AGE

The working group on disinformation, led by Jessica Brandt and featuring papers by Maiko Ichihara, Nuurrianti Jalli, Puma Shen, and Aim Sinpeng, examines the challenges of disinformation in Japan, Malaysia, Taiwan, and Thailand. As Brandt writes, disinformation jeopardizes the health of democratic governance by obscuring "objective truths," driving polarization, and eroding trust in democratic institutions and norms. The papers in this collection present a diverse array of cases, ranging from examinations of disinformation campaigns by foreign entities to the use of disinformation by domestic actors for political gain, as well as the abuse of "anti-disinformation" measures by governments to restrict freedom of expression. The authors advance a number of recommendations targeted at governments, civil society actors and social media platforms. These recommendations include strengthening media literacy and the exposition of disinformation campaigns, increasing transparency in foreign investments in media platforms, and deepening transnational networks of researchers and activists who can share lessons learned and best practices to counter disinformation in the digital age.

INEQUALITY: THE CHALLENGES OF AN UNEVEN PLAYING FIELD

The working group on inequality, led by Andrew Yeo and featuring papers by Kok-Hoe Ng, Byunghwan Son, Teresa S. Encarnacion Tadem, and Meredith L. Weiss, examines the challenges and impact of inequality on democratic governance in Philippines, Malaysia, Singapore, and South Korea. As Yeo writes, while the authors adopt a "flexible understanding of democracy,"

together they demonstrate how various types of inequality, from economic to ethnic inequality, hamper the proper functioning of democratic institutions. The states and political systems represented in this working group vary widely across the democratic spectrum. Yet, the cases studies reveal common threads, such as links between inequality and democratic decline, to historical legacies and path dependencies that privilege particular groups, as well as the exacerbation of existing inequalities by the COVID-19 pandemic. While the authors offer recommendations tailored to their country of focus, their calls for greater data transparency and access, public oversight, and the decentralization of political and economic processes offer widely applicable lessons on how democracies can target inequality.

PUBLIC HEALTH: THE IMPACT OF COVID-19 ON DEMOCRATIC GOVERNANCE

The working group on public health, led by Shirley Lin and featuring papers by Stephen Duckett, Yasushi Katsuma, June Park, Radhika Radhakrishnan, and Feng-Jen Jean Tsai, looks at the challenges posed by the COVID-19 pandemic on the governments of South Korea, Taiwan, India, Australia, and Japan. While the pandemic posed an incredible challenge for all states, regardless of their political system, democracies in particular had to rapidly develop policies to both protect the health of their populations while guarding individual freedoms. The case studies presented in this collection grapple with the difficulties the five democracies faced in striking a balance on competing values and objectives, such as the use of pandemic-management applications and quarantine requirements that are often in tension with data privacy concerns and freedom of movement. Collectively, the papers highlight the importance of transparency, accountability and public trust for the successful implementation of public health policies, and offer recommendations on how democracies can strengthen legal frameworks, ensure marginalized and vulnerable groups are not left behind, and better prepare to effectively respond to health emergencies in the future.

Viewed together, the diversity of cases and recommendations presented in this collection of papers demonstrates that there are no "one size fits all" solutions to addressing the challenges posed by corruption, disinformation, inequality and public health on states across the democratic spectrum in Asia. Each of the authors brings their unique perspectives based on their research of how countries in the region have addressed the problems under examination. The memos do not advocate any institutional position or promote a consistent viewpoint. They offer both broad and country-specific recommendations, as well as general best practices and lessons learned.

Our intention is that this anthology can serve as a compelling toolkit that highlights both the significant progress and remaining work to be done in shoring up democratic performance in Asia. If these reports spur additional ideas or motivate concrete steps by policymakers, leading thinkers, activists, and citizens to deepen democratic resilience in Asia, then the project will have achieved its objective.

CORRUPTION

Thomas Pepinsky

Maria Ela L. Atienza

Francis E. Hutchinson

Hyeok Yong Kwon

OVERVIEW: CORRUPTION AND DEMOCRACY IN ASIA

THOMAS PEPINSKY

Democratic politics is about making government work for the people by giving citizens a voice in government and the ability to remove leaders from office. Corruption is the misuse of public office for private gain. When politicians use their office to enrich themselves or their political allies, they violate the public's trust and undermine the legitimacy of their governments. Politicians in liberal democracies should be more resilient to corruption than their counterparts in authoritarian regimes are, but experiences in Asia show that the region's democratic governments are by no means immune from corruption. As these papers on Malaysia, the Philippines, and South Korea reveal, corruption remains a central policy issue for democratic governments in Asia, and the politics of controlling corruption is central to understanding electoral politics and elite political maneuvering.

Of course, even though both democratic and nondemocratic countries face the challenge of corruption, democracies offer more opportunities to address corruption. In a democracy, citizens have the ability to vote politicians out of office for violating the public's trust. Politicians also have an incentive to write laws that can help control corruption. Democracies also tolerate criticism and media freedoms, both of which are essential for helping the public identify corruption where it exists. As noted in each paper, public debate about corruption impels governments to take steps to rein in corrupt dealings. By contrast, the anti-corruption efforts of nondemocracies depend on the will of unelected politicians, many of whom claim to oppose corruption while they simultaneously line their pockets.

Yet, despite the opportunities afforded to Asia's democracies, reducing corruption is still a significant challenge. Democratically elected politicians often seem immune to popular sanction, using their access to public coffers to reward their supporters. Bureaucrats and administrators who are appointed rather than elected can benefit from political favoritism. Most distressingly, the institutions that monitor corruption can themselves fall victim to politics, rendered ineffective by legislative or executive action or staffed by political appointees with private agendas. In Malaysia, the Philippines, and South Korea, these and other corruption challenges are afflicting their new and uncertain democracies, while their democratic governments are working to reduce corruption and fulfill the promises of democracy for their citizens.

Malaysia presents a particularly interesting case, as the country's high economic performance has coexisted with corruption ever since its independence. Francis E. Hutchinson notes that although corruption has long been an issue in Malaysia, it reached new heights under the administration of former Prime Minister Najib Razak; high-profile corruption scandals implicated the prime minister himself and his closest political allies. Malaysia's opposition movement seized upon these and other scandals to push through a change in government, revealing the importance of democratic politics in sanctioning elected politicians for their misuse of office. Yet, as subsequent events showed, a change in government is often insufficient for enacting sustainable reform. The newly elected democratic government in Malaysia struggled to root out corruption once and for all. Malaysia's party system and the courts proved

to be highly resistant to change. Moreover, the electoral impetus to punish the most corrupt politicians quickly had the counterproductive effect of distracting the new government from its handling of pocketbook issues, leading to its subsequent loss of power and the return of the old guard. Hutchinson concludes that efforts to combat corruption must be attentive not only to the worst political scandals, but also to the concerns of ordinary people. Malaysia's recent history of anti-corruption efforts shows that the popular voice can produce real change, but for it to last, that change requires grassroots support from civil society to maintain consistent pressure on those holding power.

Maria Ela L. Atienza's analysis of corruption and democracy in the Philippines captures the challenges facing a country with both a longer history of electoral democracy and a more fraught history of economic performance. Since the overthrow of the Ferdinand Marcos regime in 1986, spurred by a mass protest movement that targeted the regime's corruption and violence, successive democratic governments in the Philippines have struggled to contain corruption. Atienza identifies several institutional challenges in addressing corruption, ranging from administrative inefficiency and judicial inaction to threats from the executive and legislative branches against anti-corruption activists both in government and in civil society. At the same time, she highlights some notable examples of good policies, such as Bottom-Up Budgeting, which puts key policy decisions in the hands of local communities. Atienza's recommendations for further strengthening the Philippines' anti-corruption efforts bear strong resemblance to recommendations for strengthening Philippine democracy itself, focusing on transparency and civil society, institutional and judicial independence, and a more coherent party system that gives Philippine citizens a real voice in how their country is run.

In the last paper, Hyeok Yong Kwon showcases the recent democratic successes and continued challenges of corruption in South Korea. Echoing Hutchinson's points about the importance of civil society in Malaysia and Atienza's points about institutional challenges in the Philippines, Kwon emphasizes that even

in a country such as South Korea that has made demonstrable progress in recent decades in addressing corruption, the details matter and success takes time. Corruption scandals have led to the conviction and imprisonment of two former South Korean presidents, and successive administrations have created a series of high-level institutions responsible for investigating and prosecuting corruption cases. Yet South Korean politics continues to be characterized by close relationships between the state and large business conglomerates, and new anti-corruption bodies face crucial institutional design and resourcing problems. The case of South Korea nevertheless reveals that progress in addressing corruption is possible — and that democratic political competition makes this progress more likely, even if it is slow and halting at times.

In sum, these three papers provide anti-corruption activists and democratic policymakers with important tools and insights into democracy and corruption in the Asia-Pacific region. The most important principle is that success does not come easily or quickly. Combatting corruption requires sustained effort and coordination among elected officials and bureaucrats, with the understanding that official corruption is difficult to root out because those who are responsible for it have strong incentives to fight back using the tools at their disposal.

Reducing corruption also requires sustained pressure from civil society. For ordinary citizens to root out corruption, voters have to have the ability to sanction politicians at the ballot box, and civil society actors must be vigilant and committed to anti-corruption messaging that resonates with ordinary people's concerns. Few public policy problems are as thorny as corruption, but civil society action is part and parcel of any democratic solution to corruption.

ADDRESSING CORRUPTION AND PURSUING DEMOCRATIC GOVERNANCE IN THE PHILIPPINES

MARIA ELA L. ATIENZA

Corruption lingers in the Philippines despite continued efforts to strengthen institutions and democratic processes since 1986, when people power toppled the massively corrupt dictator President Ferdinand Marcos. This paper examines how corruption affects democratic governance, assesses the policies and practices introduced by both government agencies and other sectors to address corruption, and highlights best practices and policy recommendations. While the Philippines has laws and procedures to combat corruption, effective, independent institutions are needed to strengthen accountability and the rule of law. At the same time, these institutions need to actively engage the public, civil society organizations, media, and other nonstate actors in the process, not dismiss the latter's criticisms and proposals.

CORRUPTION AND DEMOCRATIC GOVERNANCE

Why does corruption persist in the Philippines? It has been observable in both authoritarian and formal democratic or democratizing settings. Over the course of his dictatorship, Marcos stole at least $10 billion from public funds.[1] Courts in the Philippines, Switzerland, and the United States have convicted him and his family on many corruption-related charges. To this day, the Philippine government is still running after a large portion of the stolen money, and court cases are still active.

Since 1986, continuing corruption has prevented the Philippines from consolidating its democracy and strengthening governance. Like Marcos, some Philippine presidents and other government personnel have been charged and convicted of corruption. President Joseph Estrada, ousted from office in 2001, was convicted and sentenced for life for receiving payoffs from illegal gambling and taking commissions in the sale of shares to government pension funds. However, his successor, President Gloria Macapagal Arroyo, pardoned him.[2] Macapagal Arroyo, in turn, spent nearly five years in hospital detention, accused of misusing millions of lottery funds intended for charities, before being acquitted by the Supreme Court.[3] Her husband also faced graft charges until a Supreme Court division composed mostly of her appointees dropped the cases.

According to a study by Filipino academic Eric Batalla, the continued weakness of governance institutions "allows the culture of agency and corruption to thrive and persist, even at the highest level of government."[4] He cites two institutional weaknesses. First, despite numerous anti-corruption laws, the "perennially weak accountability environment" and the ineffectiveness of anti-corruption agencies "encourage strategic rent-seeking by private firms and individuals through deception and bribes (or income transfer) to government officials." Second, an inefficient prosecutorial and judicial system — most of the time subservient to political power

— further encourages corruption by failing to punish powerful individuals and groups for their crimes. These factors combined constitute the collective inability of institutions and agencies to defeat the forces that "create, adapt and maintain the opportunities for corruption."

Another study by a group of political scientists, which assesses the performance of the 1987 Constitution, specifically states that (1) the legislature has not used its oversight functions consistently to monitor the performance of the executive branch; (2) courts' and judicial officials and personnel are subject to threats and intimidation from the executive and legislative branches and other forces, which have sometimes led to assassinations; and (3) a number of institutional reforms to increase accountability still need to be implemented.[5] Also contributing to institutional failures are the weak structure of political parties in promoting accountability and providing alternative programs of government, the continuation of patronage by political families, the dominance of the executive branch, presidential appointments to the judiciary that at times threaten judicial independence, and even the ineffectiveness of "independent" constitutional bodies.

Socioeconomic and other structural obstacles, such as entrenched cronyism, also challenge anti-corruption efforts.[6] Poverty and unemployment are still significant in the country. By the first half of 2021, poverty incidence among the population increased to 23.7 percent (26.14 million Filipinos live below the poverty threshold).[7] This may be one reason why poor people have been prone to exploitation and vote buying, including as recently as the May 2022 elections. Also an obstacle is that many Filipinos do not consider corruption an urgent matter. Fighting graft and corruption in the government did not figure in the top five national concerns in regular surveys before the pandemic; the main concerns were workers' pay, inflation, and poverty.[8] However, in 2021, President Rodrigo Duterte's approval ratings in fighting corruption went down by 12 percent, around the time when the Senate was conducting hearings on the government's alleged anomalous deals with the Pharmally Pharmaceutical Corporation, which provided COVID-19 related supplies to all public facilities.[9] Perhaps, Filipinos finally took notice of corruption issues because, in this case, the issues directly affected their survival, particularly against illness and death. But this attention was short-lived. Duterte finished his term with high approval ratings, and the draft Senate Blue Ribbon Committee report about the Pharmally investigation failed to get the support of the majority of senators, who disagreed with implicating the president in recommended plunder investigations and cases. Furthermore, Duterte's vice president, Leni Robredo, who ran for president in the May 2022 elections on a platform of good governance and anti-corruption — and was supported by a wide coalition of forces, including both religious and progressive actors and volunteers — overwhelmingly lost to Marcos's son, who ran on a platform of "unity" and was supported by huge resources, traditional politicians, and massive patronage and social media machinery.

ASSESSING POLICIES AND PRACTICES

Constitutional bodies and government policies on corruption

The 1987 Constitution seeks to establish mechanisms that will help avoid another dictatorship and tyranny and ensure that sovereignty remains with the people. It is explicit about the creation of independent bodies charged not only with safeguarding democratic institutions but also ensuring that the government is accountable. Bodies established under the constitution to date, including the Civil Service Commission, the Commission on Elections, and the Commission on Audit (COA), exercise powers within their sphere and coordinate with the three traditional branches of government. However, though these commissions are considered equal to the government branches, a range of operational constraints and external pressures affect their performance.

Analyzing the performance of these and other constitutional bodies in relation to external dimensions — such as widening democratization and equitable access — entails examining

the extent to which institutions have facilitated equal access to public office and how the right to suffrage has been secured. Laws are in place to ensure that (1) elections are held regularly, (2) only those who meet the qualifications can hold public office, and (3) officials who exceed their bounds are held accountable. Constitutional bodies have adhered to the guidelines set by the Constitution and statutes with respect to elective and appointive officials; however, independent commissions cannot impose additional constraints on, or prohibit, actions and processes that are not covered under existing laws passed by Congress.[10]

And, unfortunately, the institutional reforms deemed to have the widest social and structural implications have yet to be undertaken. For instance, the Constitution prohibits the entrenchment of political dynasties to help promote more competitive and fair elections and reduce patronage and corruption, but it is up to Congress to pass an implementing law. Beyond legislation covering local youth councils (*Sangguniang Kabataan*), no law prohibiting political dynasties has been enacted. Although there are term limits for elective positions, outgoing politicians are not barred from competing for other positions while their family members compete for the posts they are vacating. This makes it easy for powerful political families to proliferate and establish turfs. Even in the party-list system, political families continue to thrive. Other than Republic Act 7941 and the Omnibus Election Code, no strict policy governs political parties. As a result, political parties are loose agglomerations whose existence depends on the incumbent president or the most viable presidential contender.

Existing laws that do impose constraints have limitations. Regarding the right to suffrage, for instance, laws are in place to ensure a level playing field for candidates and to afford voters unfettered opportunities to subject candidates to scrutiny. There are also laws governing print and media advertisements, as well as restrictions on the amount that can be spent on election campaigns. However, in practice, campaign activities are difficult to monitor, and laws, including those covering campaign spending, are not strictly enforced.[11] Around the May 2022 elections, there were numerous

allegations of vote buying and use of public funds for campaigning, but the process of filing a complaint remains tedious and the judicial process takes a long time, discouraging complainants from pursuing cases.

With respect to the civil service, there are rules against nepotism, but they do not cover confidential positions. Moreover, although as a general rule entry to the civil service is based on merit and fitness, the competitive examination requirement does not apply to noncareer service positions. All public officers and employees have a duty to annually disclose assets and relatives working in the government by completing a Statement of Assets, Liabilities and Net Worth (SALN). However, this type of self-reporting means that the disclosure may not necessarily provide a correct assessment of wealth or the potential conflicts of interest. Duterte never made his SALNs public. And during his presidential term, Congress limited public access to the legislators' SALNs which were annually publicly accessible in previous years. Media and other sectors had to make a request. Unfortunately, the Office of the Ombudsman, charged with investigating public officials and employees, went a step further and issued new guidelines that restrict public access to government officials' SALNs. Requests for SALNs will not be acted upon if the filing official does not consent to the release.[12]

In terms of direct efforts to ensure honesty and integrity in public service, a number of measures have been established to address graft and corruption. In fact, the Philippines has a relatively long history of anti-corruption laws beginning in the 1960s. The anti-graft court (the Sandiganbayan), a product of the 1973 Constitution, was explicitly allowed to continue under the 1987 Constitution. The Constitution also provided for the creation of the Office of the Ombudsman. Subsequent legislative enactments have even expanded and modified the anti-graft court, but a major backlog in court dockets remains a challenge. And despite being independent and accessible, the Office of the Ombudsman is limited to being a watchdog and wields no power to reverse the actions of government offices.[13] Presidents also appoint the Ombudsman, which can affect the office's decisions.

Independent constitutional bodies play an important role not only in checking major institutions but also in safeguarding democratic processes. Under Duterte, despite pressures, the COA has maintained its independence and has pointed out possible discrepancies in the budgets, expenditures, and procedures of specific government agencies. In the last two years, COA reports have led to investigations in Congress looking into questionable procurements and contracts of certain government agencies in relation to COVID-19 responses.[14] However, the new administration's head of COA, appointed by President Ferdinand Marcos Jr., was Duterte's loyal solicitor general and his previous office has been flagged several times by COA for questionable expenditures.[15] However, he resigned as COA chair early this October after being bypassed by the Commission on Appointments of Congress, leaving the position vacant as of this writing.

It is obvious that complementary policies and other actions are needed because the problem lies not so much with the Constitution's provisions but with the integrity of individuals and the capacity of institutions to make and implement rules.[16] Both Presidents Benigno Aquino III and Duterte promised a freedom of information law, but there is still no such law to date. Whistleblowers of corruption and related acts are not well-protected under Philippine laws.

Civil society

The Philippines has an active civil society — including religious groups — that advocates human rights protection, anti-corruption, and other social welfare issues. Some of their best practices in the area of anti-corruption and good governance are discussed in the next section. The country also has a very active and vocal media that may sometimes be described as sensationalist but its exposés and investigative reports have nevertheless helped to highlight corruption. Rights of civil society organizations and the media are enshrined in the Constitution, but civil society members and journalists are constantly threatened, harassed, and even killed. These have intensified under the Duterte administration and will likely continue under the new administration.[17]

New administration

In his inaugural speech[18] and first State of the Nation Address[19], Marcos Jr. made statements about modernization, digitization, bureaucratic rightsizing, and greater coordination in all government processes to improve services and revitalize and make competitive the economy. However, he and his administration have not established clear programs to combat graft and corruption, patronage, cronyism, and political dynasties. Their commitments also sound very technocratic, with no mention of partnering with citizens and groups for greater accountability and transparency.

BEST PRACTICES AND POLICY RECOMMENDATIONS

Notable anti-corruption efforts have been initiated by both national and local governments, as well as civil society organizations, donor agencies, and the media.[20] For instance, the Supreme Court[21] and the Office of the Vice President under Leni Robredo[22] piloted some outstanding anti-corruption and transparency practices and programs. Some local governments have received national and international awards for transparent and anti-corruption programs that have led to better public services.

Perhaps one of the best examples is the Aquino administration's Bottom-up Budgeting (BuB) program, which was initiated to help the Philippines attain the Millennium Development Goals of inclusive growth and poverty reduction and, at the same time, to promote good governance at the local level.[23] The program involved citizens in all stages of the local government budgeting process. Numerous local governments participated, but the actual results varied due to different capacities, priorities, and levels of civil society engagement. In 2014, the program received the Gold Open Government Award for BuB during the inaugural Open Government Partnership event at the United Nations Headquarters in New York City. It was also recognized as one of five Best Practices in Fiscal Transparency during the Open Government Awards in 2016. However, under the Duterte administration, the BuB was transformed into the Assistance to Disadvantaged

Municipalities Program, which while targeting specific local governments did not encourage much civil society participation.

Despite programs such as these, various anti-corruption laws, and the actions of nonstate actors, the problem of corruption persists. This is largely due to the limited capacities and independence of institutions and personnel in charge of accountability and oversight functions, in addition to socioeconomic inequalities and threats to civil society, the media, and other stakeholders. Therefore, aside from addressing corruption directly, efforts must be made to close socioeconomic gaps, strengthen institutions and inclusive processes, and implement electoral and party system reforms.

Corruption was a prominent issue during the recent May 2022 elections, but the majority of voters do not consider it to be the most important one. In the absence of strong public pressure, the following five recommendations — based on best practices and the assessments by many academics and other institutions — could help to effectively combat corruption:

1. **Enhance transparency in government transactions, including by giving the public unrestricted access to officials' economic status and profile.** Steps could include (1) passing the Freedom of Information Act to mandate the disclosure of public documents, with well-defined exceptions and clear procedures for accessing public documents; and (2) lifting current restrictions on public access to officials' SALNs, as this access is mandated by Republic Act 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees).

2. **Ensure a strong, accessible, independent justice system** that can deal with corruption cases more effectively and without pressure. This could be done by strengthening the capacities and independence of the courts and the justice system, making procedures more accessible, and protecting personnel as well as whistleblowers and witnesses.

3. **Develop an independent legislature and accountability institutions** that can exercise their oversight functions. Steps could include strengthening the capacity and independence of the legislature — as well as accountability and anti-corruption institutions — to ensure greater transparency and oversight of public offices, officials, and employees and to improve the quality of public services.

4. **Develop strong party and electoral systems** that can champion anti-corruption initiatives and more democratic practices. Steps could include reforming the party and electoral systems to develop more program-based political parties that will be more competitive, inclusive, participatory, and accountable and that will combat patronage and traditional politics.

5. **Encourage more community and civil society participation** in democratization and accountability efforts. Steps could include (1) revisiting the BuB approach to promote inclusive growth, poverty reduction, and good governance at the local levels and expanding the role of citizens and civil society in the process; (2) maximizing existing participatory monitoring processes in decision-making and budgeting at all levels; and (3) strengthening the capacities and rights of citizens, civil society, the media, and other nonstate actors to monitor government performance and hold government accountable.

The first four recommendations focus on institutional reforms, but the reforms could also help address some of the agency and actor-oriented issues that are the focus of the fifth recommendation.

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CORRUPTION AND DEMOCRATIC GOVERNANCE IN MALAYSIA

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INTRODUCTION

Once labelled as a "Little Dragon," Malaysia has been held up as an exemplar of consistent economic growth and far-reaching industrialization.[1] More recently, however, it has garnered headlines for high-level corruption and financial mismanagement at the hands of its former prime minister, Najib Razak. The scale and scope of his misdeeds contributed to the unprecedented 2018 electoral defeat of the Barisan Nasional (BN) coalition, which had governed Malaysia since its independence in 1957.

Six decades of uninterrupted rule had led to a serious decline in Malaysia's institutional governance. This decline included an excessive dominant political coalition, an overlapping ruling party and state structure, the centralization of power in the executive at the expense of other branches of government, and the weakening of other accountability mechanisms such as an independent media. In regards to anti-corruption, relevant entities lacked autonomy and transparency, hampering their ability to shed light on patronage networks and restricting their activities to combatting petty — as opposed to grand — corruption.

The BN's defeat constituted a unique opportunity for the country to address its deep-seated governance issues. Yet Pakatan Harapan (PH), the succeeding coalition that came to power on a sweeping reform agenda, collapsed under its own internal contradictions less than two years later.

The momentum for reform has now dissipated, and anti-corruption is no longer a political priority. While Najib has been convicted and jailed for corruption, he still remains an influential figure. His party and leader of the BN coalition, the United Malays National Organization (UMNO), has not undergone any internal reform. It is pushing for snap elections in a bid to reclaim what it sees as its rightful place in power and is even campaigning for Najib's release from jail.

Studying the ultimately short-lived PH administration, its campaign platform, and the subsequent stalled momentum for reform offers insight into how governance and anti-corruption campaigns have been articulated in Malaysia, as well as highlights some of the campaigns' shortcomings. Of particular note is that the PH agenda was too ambitious. Initial hope quickly gave way to disappointment, which cost the administration precious political capital. Popular expectations of quick reforms were at odds with the more mundane reality that improving governance inherently involves long-term and incremental changes. There were also missed opportunities regarding the messaging and framing of the tangible manifestations and costs of corruption.

Despite the current impasse, there are still options for promoting good governance. In today's more fluid political context and smaller parliamentary majorities, there is space for measures that indirectly improve governance, such as limiting terms in office and increasing room for political participation.

If articulated effectively, there is also ample material for well-crafted campaigns that link financial probity with efficient public services and well-being. It is almost inevitable that Malaysia will have to tax its citizens directly – further

strengthening the link between the benefits of public service and their costs. Finally, religion offers an untapped avenue to combat corruption and promote good governance. If managed nimbly and creatively, support for reform can be effective and sustainable.

1MDB AND ITS FALLOUT

Although Malaysia inherited a strong state at independence and saw consistent economic growth over the ensuing six decades, the country's institutional integrity has decreased over time.[2] A key driver was the 1971 New Economic Policy, a sweeping affirmative action plan that entailed a dramatic increase in state involvement in the economy. Championed by the UMNO, this approach led to the fusing of politics and business, as private sector operators sought to obtain benefits or protection from state-sponsored initiatives. In the 1980s, prime minister Mahathir Mohamad took this approach even further by grooming hand-picked individuals to become entrepreneurs.[3]

Over the past decades, national leaders have established agencies and taskforces to combat corruption.[4] But their influence has been partial at best. Indeed, from 1994 to 2017, Malaysia's ranking on Transparency International's Corruption Perceptions Index slid from 23rd to 62nd in the world.[5] Relative to high-income nations, Malaysia lags in key aspects of governance such as regulatory quality, corruption control, rule of law, and voice and accountability.[6]

Despite this uninspiring track record, corruption reached an unprecedented scale during Najib's administration. A member of the country's elite and erstwhile president of the UMNO, Najib led the country from 2009 to 2018. Initially lauded for his pro-business approach, Najib's tenure ended in disgrace in 2018, when the BN was comprehensively defeated by Pakatan Harapan.

At the root of the BN's downfall was the infamous 1MDB investment fund. Established in 2009, the Najib administration touted this special purpose vehicle as a means to attract investment and boost Malaysia's per capita income. The fund issued commercial bonds and invested in power generation, oil fields, and real estate. Najib personally promoted 1MDB and was directly involved in the organization's strategic direction.[7]

Allegations of financial impropriety quickly surfaced, however. After several questionable bond issuances, 1MDB's debt ledger rapidly spiralled to more than $11 billion.[8] In 2016, concerned about money laundering, the U.S. Department of Justice launched a civil suit against 1MDB, its affiliates, and the investment bank Goldman Sachs. The Department of Justice estimated that more than $4.5 billion was misappropriated via 1MDB, with $730 million directly transiting through Najib's accounts. In total, an estimated $7 billion is unaccounted for.

Beyond the damage to Malaysia's international reputation, moves by the Najib administration to contain the fallout jeopardized the integrity of the country's institutions. Malaysia's deputy prime minister and four ministers were removed from the Cabinet for demanding that the 1MDB scandal be addressed.[9] The attorney general and head of the Malaysian Anti-Corruption Commission (MACC) were replaced, and officers investigating the 1MDB case were transferred.[10] Audit reports of the 1MDB were shielded from parliamentary scrutiny under the Official Secrets Act.

The subsequent attorney general declared that no financial wrongdoings had taken place and absolved Najib.[11] Notwithstanding this, important drivers for change had been set in motion.

THE RECKONING

Despite Najib's pro-business approach, his administration implemented policies that substantially reduced the purchasing power of ordinary Malaysians. From 2010 onward, the government eliminated or reduced subsidies on daily essentials — the effect of which was compounded by a weaker Ringgit, which, in turn, drove up the price of imports. The imposition of a Goods and Service Tax (GST) in 2015 added further fuel to the fire.[12]

Concurrently, the 1MDB scandal gave impetus to a dynamic civil society movement. Termed Bersih, or "Clean," in 2015 and 2016, this umbrella organization staged a series of massive national protests that placed reforms in political party financing and anti-corruption legislation squarely on the agenda.[13] This was beneficial to the opposition's subsequent political messaging.

The 1MDB incident also spurred important elite splits. Beyond the deputy prime minister, the scandal caused senior Malay leaders, including former prime minister Mahathir Mohamad, to leave the UMNO and subsequently team up with Pakatan Harapan. These senior Malay leaders enabled the PH to expand beyond its traditional urban strongholds into the country's rural heartland. This wider support base allowed Pakatan Harapan to secure a parliamentary majority in the 2018 election.[14]

Upon coming to power, the PH launched a series of reforms to improve Malaysia's democratic governance. They included establishing an apex organization to oversee all anti-corruption efforts, drafting a detailed National Anti-Corruption Plan, increasing the oversight of public sector finances through parliamentary select committees, and requiring the MACC to report to Parliament.[15]

This effort coincided with a dramatic turnaround in the public perception of the government's role in fighting corruption. In 2017, the Corruption Barometer found that 62 percent of Malaysians surveyed thought the government was doing a bad job fighting corruption, but three years later, 67 percent had a positive opinion of the government's work in this area.[16]

Investigations of senior UMNO leaders were launched following the BN's defeat. In July 2018, the MACC charged Najib with 42 counts of corruption, money laundering, and criminal breach of trust.[17] In 2020, Malaysia's High Court convicted him on seven charges pertaining to a 1MDB affiliate and sentenced him to 12 years imprisonment and a fine of $50 million. Despite two appeal processes, in August 2022, the country's Federal Court upheld the initial conviction. Najib was imprisoned the same day, becoming the country's first former prime minister to be convicted of a crime or imprisoned.

BACK TO THE FUTURE?

Although the 2018 election seemed to set the country on a positive trajectory, the momentum for reform was interrupted in early 2020. In February of that year, the political compact holding the PH coalition together came undone. Two groups of members of Parliament formerly belonging to the PH crossed the floor and formed an alliance with the BN and the Islamic party, PAS.

This shift brought the UMNO and BN back into power at the national level, albeit initially in a subordinate position to another coalition, Perikatan Nasional. In August 2021, the UMNO and BN assumed a leading position in the governing coalition. At present, the sitting prime minister, Ismail Sabri Yaakob, is an UMNO official, and other UMNO members have key Cabinet positions. However, the UMNO still relies on other parties for its parliamentary majority. Consequently, senior party leaders are pushing for early elections, so that the UMNO-led Barisan Nasional might obtain a solid majority by itself.

Despite the resounding defeat back in 2018, Malaysia's grand old party has undergone no internal reform or reflection.[18] Indeed, much of the UMNO's rhetoric conveys a desire to re-establish the 2018 status quo. Najib's successor as UMNO party president, Zahid Hamidi, also faces 87 counts of corruption.[19] Other senior party figures, collectively termed the "Court Cluster," are facing their own legal travails.[20]

Furthermore, Najib has enjoyed a political rehabilitation of sorts, thanks to a slick social media campaign. The UMNO leadership has sought to portray Najib as a victim of political machinations and has cast doubt on the integrity and impartiality of the judiciary. At present, a campaign to petition the king to pardon Najib is underway and supported by the party.[21] Thus, despite facing another four sets of court cases, there is a distinct possibility that Najib's sojourn in prison will be a short one.

WHITHER THE MOVEMENT FOR REFORM?

What accounts for this turnaround in Malaysia's political context and the fortunes of Najib and the UMNO? What has happened to the public desire for reducing corruption and improving governance? The first question can be answered by examining anti-corruption policies and organizations and how they are influenced by underlying configurations of power. The second question can, in turn, be answered by analyzing opposition and civil society campaigns to fight corruption.

Through its anti-corruption measures, the MACC has arrested a substantial number of mid-ranking civil servants. However, there has been little appetite to target politicians and high-ranked officials. This is partly due to the allocation of responsibilities and the reporting structure of anti-corruption organizations.

First, while the MACC can identify suspects and investigate them, it cannot prosecute them. Prior to the PH's reforms, the MACC also had to report directly to the prime minister's office rather than Parliament or an independent commission.[22] Furthermore, the provisions of the Whistleblowers Protection Act have been criticized for not offering sufficient safeguards for witnesses.[23] Thus, the lead agency for combatting corruption has had little autonomy, few tools to prosecute offenders, and insufficient guarantees for whistleblowers.

Relatedly, the highest-ranking official in the judicial sector is the attorney general, who, in addition to advising the prime minister on legal matters, is also charged with the duties of public prosecutor. Members of the legal fraternity have long advocated separating these two functions in order to increase efficiency and avoid conflicts of interest. In addition, accounts by former members of the judiciary, including the attorney general, have shown that even senior officials are not immune to outside pressure on key cases.[24]

Second, anti-corruption organizations are embedded within a wider political structure that is very resilient to reform. Key elements of this overarching structure include a dominant party/coalition system, an overlapping party and state structure, a compromised electoral system, a powerful coercive apparatus, and pervasive influence over the media. This institutional setup has proven immensely resistant to change, as seen by the nearly successful attempts by Najib to close down the 1MDB investigations.[25] Nonetheless, Malaysia's electoral authoritarian regime does depend on periodic and genuine — albeit unfair — elections for legitimacy.[26] This, in turn, offers some scope for change.

Upon coming to power, the PH was lauded for its commitment to greater transparency, which, in principle, would have weakened some of these institutional underpinnings. The short-lived administration was acknowledged for committing to press freedom (including abolishing an excessively broad Anti-Fake News Act), amending the Peaceful Assembly Act to allow public events and demonstrations to be more easily organized, and easing restrictions on political activities in universities. And a number of senior political figures, beyond Najib and Zahid, were charged for corruption.[27]

However, the PH administration made relatively little headway in several notable areas: establishing a royal commission of inquiry into corruption in the judiciary; repealing the Official Secrets Act, which allows subjects to be classified on the grounds of national security; eliminating the Printing Presses and Publications Act, which allows traditional media outlets to be closely monitored; and increasing the oversight of senior appointments to government-linked corporations.[28]

Following the PH's collapse and the advent of the Perikatan Nasional administration, the new administration walked back many of the incipient reforms. It tightened controls over the media, including by reintroducing a version of the Anti-Fake News Act;[29] threatened to use repressive legislation such as the Sedition Act; and acquitted or discharged high-profile corruption cases involving UMNO-linked politicians and public figures, including Najib's stepson.[30]

Nonetheless, bi-partisan consensus on certain issues and the current coalition's narrow parliamentary majority have allowed some promising

measures to be passed. These measures include lowering the voting age from 21 to 18, making voter registration automatic, and limiting party-hopping. Other measures under discussion include a 10-year limit on prime ministerial tenures. While not transformative, these measures indirectly strengthen governance through empowering citizens and Parliament and establishing limits on the executive.[31]

Although the old guard in the UMNO are not currently the primary players in the ruling coalition, their partial grip on power still translates into considerable influence over crucial organizations. Should the BN win a sizeable majority in the next general election, the influence of the old UMNO leadership will likely increase further, thereby jeopardizing the gains made to date.

If formal institutions traditionally attached to the state are of limited utility, do opposition forces and/or civil society organizations offer a more promising avenue? Literature on implementing anti-corruption and good governance campaigns in Eastern Europe yields several insights. Researchers Martin Tisne and Daniel Smilov argue that broad-based anti-corruption coalitions are good at increasing appetite for reform but less effective in bringing about concrete change.[32] This is evident in Malaysia, where the Coalition for Free and Fair Elections has been unable to translate popular support for change into tangible outcomes. Following well-attended rallies in key urban centers — and arguably a reimagining of the country's political trajectory — the umbrella movement did not yield significant change.[33]

Relatedly, early phases of anti-corruption campaigns can raise expectations to unrealistic levels, which lead to disappointment and demobilization.[34] The PH's 2018 campaign manifesto promised sweeping reforms, partly because the opposition leaders themselves did not think that they would win.[35] Once in power, the initial hopes of profound change promptly transformed to despair as the PH confronted the realities of ruling, a tacitly hostile civil service, and conflicting demands by different interest groups.

In addition, there can be a mismatch between popular demands for anti-corruption reform, which center on sweeping changes and swift justice for perpetrators, and the gradual, piecemeal, and often unglamorous steps needed for sustainable institutional change.[36] The PH was criticized for its focus on institutional reform as opposed to more practical issues such as the cost of living.[37]

Third, anti-corruption messaging is currently not showing the impact of corruption on people. The movement against the BN in 2018 was so effective because it linked the hardship experienced by people to the corruption associated with Najib and his entourage. The imposition of the GST was particularly unpopular, and its effect was visible as it was itemized on receipts.[38]

But this kind of messaging will not be as effective now. Malaysia's political terrain has shifted in the last two years. Following the COVID-19 pandemic and the ensuing economic downturn, the outrage associated with 1MDB and the Najib administration has largely been replaced by a concern about inflation and cost-of-living issues. Results from state elections in late 2021 and early 2022 show that opposition campaigns that focus on 1MDB are no longer effective. While votes for the BN have remained constant and are a testament to their well-developed campaign machinery, support levels for the PH have fallen precipitously since the heady days of 2018.[39]

REKINDLING SUPPORT FOR ANTI-CORRUPTION AND POLITICAL REFORM

Lamentably, Malaysia's post-pandemic situation provides ample grist for well-targeted campaigns linking responsible public spending with citizens' well-being.[40] COVID-19 has highlighted crucial shortcomings in Malaysia's public health and education systems.[41] Much of the government response has been to shift the onus of responding to the crisis to the public through allowing them to access funds in their pensions. Consequently, retirement savings are at an all-time low, and old-age poverty will be a pressing issue in the future.[42] These and other concerns offer ample ammunition for well-crafted campaigns that stress the tangible impact of corruption.

Going forward, the appetite for improved public financial management in Malaysia will likely increase. Petroleum and gas have underpinned much of Malaysia's development expenditure since the 1970s. However, the country's growing economy, available and exploitable reserves, and price shocks have led to a decrease in this source of revenue. Oil-derived rents decreased from 35% of government revenue in 2010 to approximately 20 percent in 2020.[43]

Consequently, the hunt is on for sustainable sources of income to fund public services. In the years ahead, the threshold for income tax will likely be lowered, and other sources of income such as the GST or an alternative will have to be introduced. The need for other sources of income was the motivation for the short-lived imposition of the GST in 2015. The relatively high threshold for income tax meant that the GST was the first time an estimated 85 percent of Malaysians paid taxes directly.[44] The reaction to this imposition was immediate, and its reverberations were far-reaching.

Literature on the influence of taxation on state-society relations argues that, in contrast to rentier states that derive much of their income from natural resources or international aid, states that rely on revenue directly generated from their citizenries are subjected to higher expectations of accountability and financial responsibility.[45] Thus, as more and more Malaysians are taxed directly, it is likely that they will be more receptive to anti-corruption initiatives.

In addition to taxation, religion offers a potentially untapped avenue for anti-corruption messaging. Much of the discourse on corruption in Malaysia defines it as a civil matter, not a religious one. For example, under the prevailing understandings of crime in Islam, emphasis is placed on punishing the direct physical theft of items rather than the indirect effects of corruption.[46] Consequently, a potentially powerful way to promote anti-corruption messaging is to engage with religious authorities to pinpoint parallels between corruption and theft. In addition, there are ways to link corrupt acts with the failure of rulers and leaders to adhere to their responsibilities, which are detailed in religious texts.[47] While they are not members of political parties, a number of groups and thought leaders have begun to attack corruption from a moral standpoint — either from within Islam or from a more multifaith perspective.[48]

LESSONS LEARNED

Lessons can be learned from the Malaysian experience. The country has a bevy of anti-corruption agencies and legal frameworks in place, yet their effectiveness is limited largely due to influential underlying configurations of power. And although large-scale opposition and civil society movements have pushed aggressively for reform at various times, anti-corruption is currently low on the political agenda.

This suggests that there is a mismatch between the public's perception of how corruption should be tackled and the reality of policymaking. Calls for immediate change and swift justice are at odds with the long-term and incremental measures needed for sustainable reform. Thus, while momentum for reform can be generated, expectations are often too sweeping and all-encompassing. The end result, then, is a demotivated and disappointed public.

Rather than promoting anti-corruption and good governance writ large, sustainable reform may be more feasible through the following:

- Illustrating the tangible impact of corruption on the public through tying the costs of mismanagement to relatable line items such as health and education (for example, the number of vaccines available and teachers' salaries) or basic necessities such as bags of rice or medicine.

- Using varying language to frame corruption to avoid the public's fatigue in hearing about the issue, such as by highlighting the predation of cherished institutions (for example, the Malaysian Haj Pilgrims Fund) or the increased hardship for vulnerable groups (for example, the elderly and unemployed youth).

- Maintaining momentum for reform by avoiding generic and wide-ranging goals (for example, reducing corruption) and instead

targeting specific and achievable outcomes (for example, improving protection for whistleblowers and increasing the number of caseworkers in the MACC).

- Supporting measures that increase the power of the legislature and judiciary vis-à-vis the executive, even if only partially or indirectly.

While the fight against corruption seems to be at an impasse in Malaysia, there is room for progress. However, those organizations and groups interested in promoting greater transparency, probity, and institutional integrity will need to be nimble, creative, and flexible. Recent experience shows that support for reform is fleeting, and efforts need to be consistently and persuasively articulated and rearticulated.

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THE POLITICS OF ANTI-CORRUPTION AND DEMOCRACY IN SOUTH KOREA

HYEOK YONG KWON

INTRODUCTION

The case of South Korea highlights both the opportunities and challenges for building effective anti-corruption institutions. South Korea's democracy is undoubtedly consolidated, but it falls short of the democratic ideal. This is partly because despite some progress in fighting corruption, it remains a central driver of political dynamics in the country. This paper emphasizes the importance of effective policy coordination among anti-corruption agencies and institutions in upholding the principle of democratic accountability in South Korea.

Before making any policy recommendations, however, three points need to be emphasized. First, the most vital element of any anti-corruption effort should be increasing accountability or, in other words, holding public officials and politicians accountable to their citizens. In a political context, corruption is defined as the pursuit of private gains through public office, and it implies that corrupt bureaucrats and elected officials are in significant noncompliance with the ideals and norms of democratic governance. This noncompliance is harmful to democracy partly because it undermines state capacity.[1] Curbing and monitoring illegal activities among both elected and unelected public officials are critical efforts for the health of democracies.

Second, effective anti-corruption efforts can shield the incumbent from electoral punishment by the voters. While corruption is known to be associated with voter apathy and low voter turnout,[2] corruption cases related to highly salient societal issues are likely to inspire the electoral response of voters. A recent corruption scandal in South Korea known as the "LH incident" that involved real estate speculation by government officials proved to be electorally detrimental to the government of former President Moon Jae-in and the governing Democratic Party. The losses of the incumbent party in the June 2021 local election and the March 2022 presidential election trace partially back to the LH incident, which touched on the public's grievances and resentment about the increasing house prices and wealth inequality.[3]

Third, anti-corruption agencies must be designed in a way that ensures institutional complementarities. For instance, the South Korean political arena has been recently consumed by debate on whether, for a functional democracy, the diffusion of power between anti-corruption agencies and the public prosecutor's office is most effective or the concentration of authority in one institution is most effective. Ensuring that anti-corruption agencies and institutions are complementary, not substitutive, is essential. There should also be checks and balances between anti-corruption agencies. Once a transparent and accountable checks-and-balances system is established, effective consultations involving the relevant anti-corruption agencies, civil society organizations, and experts will ensure the proper functioning of the agencies and increase citizens' trust in them.

This paper begins with a quantitative overview of the corruption trend in South Korea and then discusses the implications of the LH incident, the roles and responsibilities of anti-corruption

agencies, and the impact of corruption on democracy. The paper concludes with policy prescriptions on how to curb political corruption.

CORRUPTION TREND IN SOUTH KOREA

This section presents the trends of corruption in South Korea. Figure 1 shows the trends of two corruption indices. The left graph shows the control of corruption score from the World Bank's World Governance Indicators data, in which a higher score indicates better performance in curbing corruption.[4] The right graph presents Transparency International's Corruption Perception Index (CPI) score, which runs from 0 (most corrupt) to 100 (least corrupt).[5] In 2021, with a score of 62, South Korea ranked 32nd out of 180 countries.

The upward trend in both scores suggests that anti-corruption efforts have increased or become more effective in recent years. From the 1960s

to the mid-1990s (a period of high development in South Korea), bribes and collusive practices between the state and big conglomerates, known as chaebols, were pervasive,[6] as well as chronic, close relationships among bureaucrats, politicians, and big corporations. Years later, demonstrating corruption at the highest levels, two former presidents — Lee Myung-bak (2008-2013) and the impeached Park Geun-hye government (2013-2017) — were sentenced to prison for corruption charges. The trend of better anti-corruption scores since 2017 signals significant improvement under the Moon Jae-in government (2017-2022).

CITIZENS' ELECTORAL RESPONSES AND GOVERNMENT ACTION

The political impact of, and response to, corruption partly depends on the issues that have salience in politics and society.[7] Two highly

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FIGURE 1

Corruption trend in South Korea
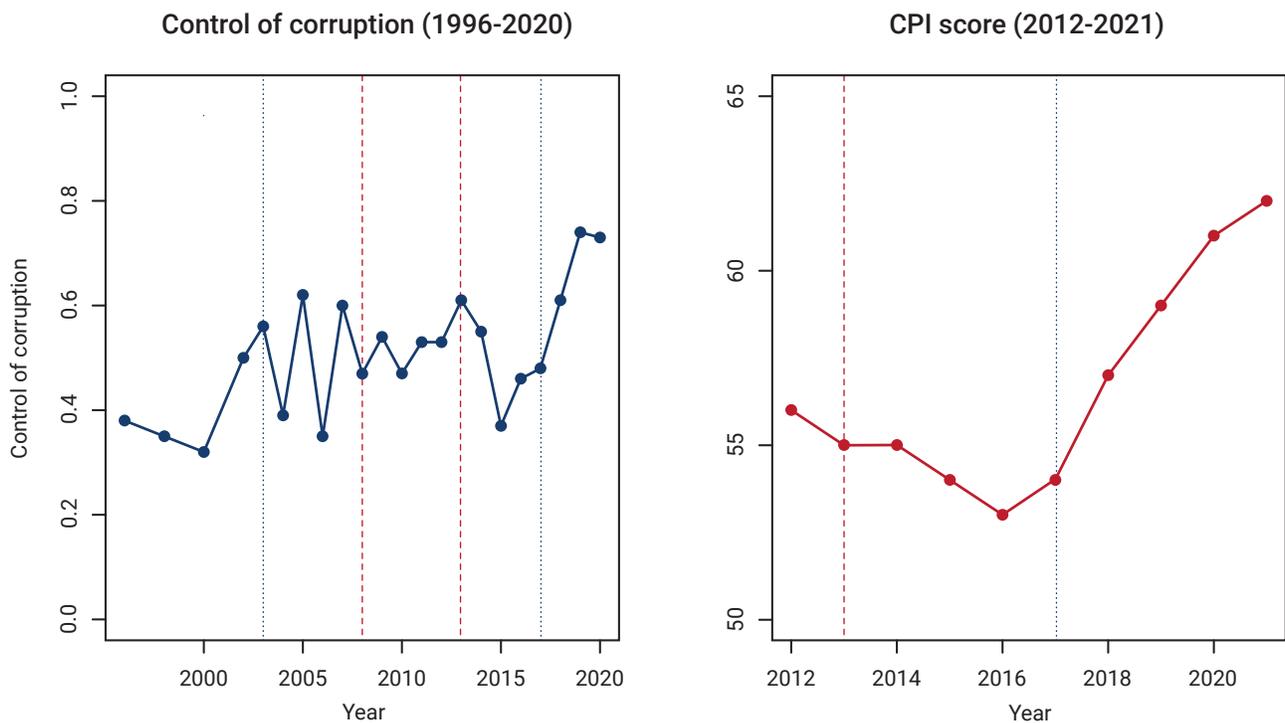
Sources: The World Bank, World Governance Indicators (left); Transparency International, Corruption Perception Index (right). The dotted blue and red vertical lines denote the starting year of the five-year term for the liberal and conservative governments, respectively.

salient issues in South Korea are rising inequality, particularly wealth inequality, and increasing house prices. Therefore, it was not surprising that the LH incident led to both local and general electoral defeats in June 2021 and March 2022.

On March 2, 2021, two civil society groups — People's Solidarity for Participatory Democracy and Lawyers for a Democratic Society (Minbyun) — raised suspicions about speculative land purchases by government employees at the Korea Land and Housing Corporation (LH hereafter). Dozens of LH employees used insider information about real estate development projects and purchased land worth 10 billion South Korean won (about $8.8 million at the time) in Gwangmyeong-si and Siheung-si. The land had been designated for apartment complexes in order to increase the housing supply and curb the spike in prices. A special task force investigated more than 14,000 LH and Ministry of Land and Transportation employees. In August 2021, authorities arrested 20 persons and referred 529 persons for prosecution in connection with the incident.[8]

The LH scandal catalyzed the passing of the Conflict of Interest Act, a law designed to prevent public officials and employees from obtaining private gains through their public office. Legislators first proposed the bill in 2013, but it was repeatedly dropped until the public outrage caused by the LH incident, suggesting that public resentment expressed through vote choices largely drove legislators' responses to the corruption.

ANTI-CORRUPTION INSTITUTIONAL DESIGN AND COORDINATION

Coordination among multiple anti-corruption agencies is an important element of state capacity. It is also central to effective anti-corruption performance. There are three major anti-corruption agencies in South Korea: the Anti-corruption and Civil Rights Commission (Commission hereafter), the Supreme Prosecutors' Office (SPO), and the Corruption Investigation Office for High-ranking Officials (CIO). A key task now is to make them complementary, not substitutive or rivaling, institutions.[9]

The state-run Commission was designed to prevent corruption, promote anti-corruption education and campaigns, and protect whistleblowers. Launched in 2008 under the Roh Moo-hyun government, it has played a major role in anti-corruption efforts, but it does not have investigative power.

Established as an independent body in January 2021, the CIO was designed to prevent and eradicate the corruption of high-ranking officials, including but not limited to the president, members of the National Assembly, judges, and prosecutors. The investigative office was also tasked with — as part of a long-term endeavor — monitoring and helping to reform the SPO, arguably the most powerful branch in the criminal justice system.[10] The CIO's biggest challenge is its severe lack of financial and human resources; it has only about 65 personnel, while the number of targeted high-ranking officials are around 7,000. Another constraint is its extremely limited power to prosecute cases. Moreover, unlike the CIO's many references to the importance of fairness and political impartiality in relation to the President's Office, its relation to the SPO is rarely mentioned.[11]

Thus, the SPO, formed in 1948, remains untamed by any democratic means. Over the years, the SPO has lost much credibility because it has abused its monopoly power to both investigate and prosecute incidents. It has avoided prosecuting connected, high-level officials, politicians, and other prosecutors through legal loopholes or shoddy investigations. In short, the SPO has not complied with the normative principle of the rule of law, fairness, and equality. In May 2022, the Prosecutors' Office Act was amended to restrict the investigative power of the office. As expected, it vehemently opposed the reform.[12] It was a highly political collective action by unelected public prosecutors, the group that essentially has vested interests in sustaining monopoly of investigative and prosecution power.

Given the unclear demarcation and overlapping jurisdiction of multiple anti-corruption agencies, the government must strive to make the Commission, CIO, and SPO complementary, not substitutive, to each other. The effort requires

both effective state capacity and democratic transparency. The Commission should focus on the preventive role: education and campaigns for anti-corruption and democratic development. The CIO should focus on both the preventive and repressive roles: the fight against elite capture and grand corruption. The SPO should focus on the repressive role and use its prosecution power to safeguard the democratic spirit of fairness and equality.

Four principles should guide the strengthening of anti-corruption institutional performance. First, anti-corruption agencies should function based on their accountability to citizens, not to the president, attorney general, or other government officials. Second, institutional independence from undue political interference should be pursued only after agencies are visibly upholding the principle of democratic accountability. Through effective legislative oversight, the public's representatives can ensure that state agencies and unelected officials adhere to democratic principles and are held accountable. Independent institutions without democratic accountability can be detrimental to democracy. In this sense, the sequence of institutional reform is of critical importance. Third, transparency is necessary — with citizens and within and across anti-corruption institutions — to maintain credibility and trust. Fourth, consultations between anti-corruption agencies, based on transparent information sharing, are essential for the effective implementation of anti-corruption efforts.

POLICY PRESCRIPTION

Anti-corruption institutional reforms in South Korea need to go hand in hand with efforts to achieve democratic progress. And anti-corruption efforts should be implemented in a democratic way to support this progress. The following policy prescriptions are worth considering:

- It is crucial to strengthen comprehensive regulations to reduce conflict of interest. Recognizing that corruption has structural or institutional foundations, and is not just the result of individual deviances, should be the first step toward curbing corruption. In states like South Korea, which have a history of collusion between the government

and big conglomerates, it is particularly important to safeguard against state capture and big money politics.

- Anti-corruption institutions should first and foremost be accountable to citizens and gain their trust through being transparent and credible. Democratic accountability will help prevent petty and grand corruption both outside and within the agencies. Both a bottom-up approach (via civil society activism) and a top-down approach (via legislative oversight) should be taken to increase this accountability.

- Political parties should work to improve the independence of anti-corruption agencies. Amendments to the rules for appointments and terms for high-ranking anti-corruption officials should be in line with the goal of ensuring the impartiality and independence of the agencies. Presidents and ruling parties have used anti-corruption agencies as partisan tools to "neutralize" opposition politicians and potential rivals. Consequently, those agencies, particularly the SPO, have lost credibility among the mass public: The problem is "who will guard the guardians?" The level of impartiality and independence at an agency strongly affects the norms and behaviors of its staff.

- The government should ensure that anti-corruption agencies are consulting each other and coordinating their efforts. The coordination should be based on firmly established jurisdiction lines and responsibilities (according to set rules and laws) for each anti-corruption agency. Transparent information sharing between agencies will create trust, which will enable effective consultation processes and, in turn, lead to the successful implementation of anti-corruption drives. The goal is to make these institutions' pursuits complementary, not substitutive.

- Several reforms are needed to enhance transparency. First, the monitoring of conflicts of interest should be strengthened. Second, corruption cases should be randomly assigned to prosecutors, as already done with judges, to prevent political

interference and to increase the independence of the SPO. Third, citizens should be given easy access to information such as budgets and fiscal allocations, in order to help curb political corruption and increase democratic transparency and accountability. South Korea's human resources and information and communications technology are more than sufficient to develop adequate algorithms for the above tasks. Why not utilize them for democratic development? In implementing all these reforms, the role of political parties and elected politicians will be critical, as they can use electoral mandates to help push reforms forward. What South Korean voters want most are politicians and parties with a long-term interest in democratic development.

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DISINFORMATION

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Maiko Ichihara

Nuurrianti Jalli

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Aim Sinpeng

OVERVIEW: IMPACT OF DISINFORMATION ON DEMOCRACY IN ASIA

JESSICA BRANDT

THE NATURE OF THE PROBLEM

In Asia and around the world, disinformation campaigns — perpetrated by foreign actors seeking to shore up power at home and weaken their competitors abroad and by domestic actors seeking political advantage — are increasingly putting pressure on democratic societies. This pressure manifests through several pathways.

- Democratic societies rest on the idea that the truth is knowable and that citizens can discern and use it to govern themselves. Because disinformation feeds skepticism that there is such a thing as objective truth, it undermines the very foundation of self-government.[1]

- A frequent tactic of foreign information manipulation campaigns is to amplify the most extreme views within a target society in order to weaken it from within. Meanwhile, domestic purveyors of disinformation often seek to demonize political opponents for electoral advantage. As a result, disinformation frequently drives polarization, making it harder for democratic societies to govern themselves.

Illiberal governments in particular use information manipulation campaigns to dampen the appeal of democracy. This is especially the case for Beijing-backed information operations targeting democratic societies in Asia. By making democracy less attractive to would-be rights activists, autocrats hope to tighten their grip on power at home.[2] But these activities can also depress support for democracy within target societies.

Autocrats generally, and Chinese President Xi Jinping specifically, use these campaigns to broadly undermine liberal norms such as respect for human and political rights, including rights to privacy and expression. This is primarily to create a more enabling environment for Beijing's illiberal practices at home, but it can have detrimental effects on the rights and freedoms of citizens beyond its borders, even in Asia's consolidated democracies.

Meanwhile, disinformation spread by domestic political actors can further erode trust, and perhaps ultimately participation, in democratic institutions. It can also lead to intracommunal violence.[3]

SCOPE OF THE CHALLENGE IN ASIA

In Japan, as elsewhere, natural disasters and elections have been flashpoints for the spread of information that is false or misleading. Maiko Ichihara documents the spread of Russian propaganda in Japan about Moscow's invasion of Ukraine, and how these narratives are proliferated by Russian diplomats, domestic conspiracy theorists, and accounts that regularly amplify Chinese government content. Her findings highlight the extent to which foreign and domestic information operations are intertwined, as is the case across many other contexts.

In Malaysia, a combination of actors, often domestic, propagate disinformation in multiple local languages. Nuurrianti Jalli highlights how coordinated information campaigns surrounding elections in Malaysia have made it

difficult for Malaysian citizens to make informed decisions about candidates and issues and have been used by leaders to gain and maintain power, contributing to democratic backsliding. She also points to the enactment of legislative measures that give government "a vast power to use to 'countering disinformation' to justify restricting freedom of expression," a development in keeping with a worldwide trend.[4]

Taiwan, which has been ranked as the country most targeted by false information since 2013, faces an onslaught of disinformation from China.[5] Puma Shen illustrates how the Chinese government uses disinformation in combination with other tools — including nontransparent funding and personal ties — to extend its influence. He also highlights Beijing's efforts to use authentic Taiwanese voices to make its information campaigns more difficult to identify and counter. China deploys such strategies all around the world.[6] As Shen observes, the Taiwanese government implemented a Disinformation Coordination Team in 2018, but although it has been quite effective in some cases, several of its efforts have exposed the limits of government-led (vs. civil society) activity in the information domain.

Thailand, which has had an illiberal internet environment for almost a decade according to multiple watchdog groups, remains a surprisingly vibrant hub of digital activism — offering hope for democratic resilience in the face of disinformation and digital repression.[7] Aim Sinpeng documents three key drivers of disinformation in Thailand: the campaigns of domestic political leaders that seek to attack opposition groups and shape public perceptions of government institutions; the growing influence of China in Thailand's traditional media and technology landscapes; and the existence of a legal framework that gives state agencies power to exert control over information.

RECOMMENDATIONS FOR COUNTERING DISINFORMATION IN ASIA

A number of recommendations for governments, civil society leaders, and social media platforms emerge from these country assessments. Building resilience to and countering manipulative information campaigns is a whole-of-society endeavor.

- Recognizing limits on what government can do in the information space, civil society should play a prominent role in combatting disinformation in Asia. To this end, universities should facilitate the sharing of data and analysis software among trusted researchers. Nongovernmental organizations should build resilience to disinformation by working to improve media literacy. Philanthropists should invest in projects that support the study of emerging good practices in Asian contexts and foster vibrant, independent, investigative media. Because civil society leaders are often targets of disinformation campaigns, special attention should be paid to providing them with resources and training to strengthen their capacity to conduct their work.

- Recognizing that foreign information manipulation is a national security challenge, affected governments should expand resources devoted to disinformation analysis. Working together with civil society researchers, policymakers should raise the level of awareness of these disinformation campaigns by exposing them and sharing examples publicly. Civil society organizations could use social technologies, like games or other apps, to raise awareness of the challenge.

- Policymakers in countries like Taiwan, where the Chinese government uses opaque investments as a tool of influence, should establish policies that promote greater financial transparency.

- Major social media platforms operating in Asia should dedicate additional resources to content moderation in local languages. The platforms should collaborate where possible and appropriate with democratic governments operating under rule of law principles and be wary of collaboration with those governments that are less than wholly free so as not to become an instrument of repression. With that in mind, platforms should be more transparent about the

content moderation requests they receive from state actors, how they respond to those requests, and on what basis.

- Democratic governments should be aware that the measures they adopt to address disinformation at home may be used to justify rights restrictions in less free environments. This should not stop democratic governments from legislating entirely, but it should inform their thinking.

- Democratic governments and civil society actors in Asia and around the world should share lessons learned and exchange examples of good practice. This could take place through formal channels and through informal networks of researchers and activists facing similar challenges.

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HOW TO TACKLE DISINFORMATION IN JAPAN:
LESSONS FROM THE RUSSIA-UKRAINE WAR

MAIKO ICHIHARA

Extensive Russian disinformation and propaganda about the Russia-Ukraine war have been disrupting the discursive space in Japan. The impact of this disinformation is unprecedented in Japan, making this a useful case study for analyzing the disinformation challenge and possible appropriate countermeasures. This paper discusses Japan's disinformation situation in relation to the Russia-Ukraine war, current countermeasures against disinformation, and recommended policies to overcome the challenges.

RUSSIAN DISINFORMATION ABOUT THE AGGRESSION AGAINST UKRAINE

Japan has been considered relatively immune to disinformation, due to the relatively low use of social networking services (SNSs) and the high level of trust in traditional media.[1] But awareness about disinformation and its impact on politics increased in Japan after the flood of disinformation regarding the 2016 U.S. presidential election was discovered. This was also the time when misinformation spread by medical information aggregator sites such as WELQ became a social problem in the country.[2] According to a report by the Study Group on Platform Services, set up by the Ministry of Internal Affairs and Communications, disinformation is disseminated extensively during disasters and elections, in addition to what is spread from aggregator sites during normal times.[3] It is thus natural that studies on disinformation have expanded, with a particular focus on its impact on elections.[4]

What is unexpected is the level of confusion that Russian disinformation about the war with Ukraine has caused in the Japanese discursive space. According to Hamilton 2.0, operated by the German Marshall Fund's Alliance for Securing Democracy, the Twitter account of the Russian embassy in Japan has been consistently ranked the fourth or fifth most influential account among Russian government Twitter accounts around the world since the aggression began (see figure 1). While other top influential accounts are disseminating messages in either Russian as the country's native language, or in languages with large speaker population such as English and Spanish, this embassy account is tweeting in Japanese, a language with a limited number of speakers. The account's performance shows just how effective the approach has been.

The SNS business model of attention economy, which tries to obtain people's attention rather than disseminating preferable information, is helping the voice of the Russian embassy spread within Japanese society. The Russian state media outlet Sputnik also has a Japanese Twitter account, but it does not enjoy much popularity. The reason for the difference seems to be that the Russian embassy account focuses on messages that agitates, while the Sputnik account focuses only on disseminating articles. This contrast can likely be ascribed to a difference in the personalities and approaches of the persons in charge of these Twitter accounts.

FIGURE 1

Most influential Russian accounts on Twitter (as of May 1, 2022)

Most Influential Accounts

		Retweets	Favorites	Tweets
RT	**RT en Español** ✓ @actualidadrt	24.9K	51.7K	1,110
RT	**RT** ✓ @rt_com	14.9K	46.2K	448
	Helena Villar ✓ @helenavillarrt	13.3K	23.9K	93
	Hua Chunying 华春莹 ✓ @spokespersonchn	9,584	53.3K	102
	人民日報 People's Daily ✓ @pdchinese	6,695	13.1K	177
redfish	**redfish** @redfishstream	6,617	25K	49
	Zhang Meifang张美芳 ✓ @cgmeifangzhang	5,837	22K	714
	Russian Embassy, UK ✓ @russianembassy	5,762	14.8K	49
	Sputnik 日本 ✓ @sputnik_jp	5,693	12.3K	281

Source: German Marshall Fund's Alliance for Securing Democracy, Hamilton 2.0 Dashboard, https://securingdemocracy.gmfus.org/hamilton-dashboard/, accessed May 1, 2022.

Tweets spreading Russian disinformation — including claims that the Ukrainian government is neo-Nazi and committing genocide or that the Russian military massacre in the Ukrainian city of Bucha was a fabrication — have been disseminated widely. Some tweets were retweeted over 300 times. According to research conducted by Fujio Toriumi at the University of Tokyo, by March 5, 2022, there were about 10,000 accounts spreading the claim that the Ukrainian government is neo-Nazi.[5]

There are two types of actors spreading Russian propaganda in Japan besides the Russian state media and trolls: conspiracy theorists and pro-Beijing trolls. Japanese newspapers have reported that some of the accounts spreading Russian disinformation now are those that have posted about different conspiracy theories in the past, including from QAnon.[6] Gaining less attention, but still notable, are the accounts that normally support Chinese government propaganda but are now spreading Russian government propaganda and disinformation.

In addition to being influential, however, these disinformation campaigns have increased the Japanese people's awareness about disinformation. Figure 2 shows the number of *Nikkei Shimbun* articles that have contained the term "disinformation." While the number of articles increased after the 2016 U.S. presidential election, it rose further after the COVID-19 pandemic began and then spiked in March 2022 at the start of the Russian hybrid war against Ukraine.

Consequent spread of whataboutism

The proliferation of Russian disinformation and propaganda has not only confused the discourse and created conflict within society but also unintentionally dragged people into the discourse who would not normally be part of disseminating disinformation. In their sincere attempts to pursue justice, Japanese commentators write articles asking whether Russia is really the only one to be blamed, an approach that has been criticized by scholars of international relations for "whataboutism."[7] While these articles state that a violation of sovereignty and the act of aggression are destructive of the international order and do not defend these actions per se, the articles relativize Russia's military violation of international law by considering or suggesting the possibility that Ukraine, the United States, or the West may also have caused the aggression.

Why are these people, who are not trying to be aligned with conspiracy theorists, spreading such messages? To answer this question, this paper outlines the results of an analysis of articles in which whataboutism can be found. The databases of the *Asahi*, *Nikkei*, *Mainichi*, and *Yomiuri Shimbun* newspapers were used to compile the articles, and articles published between January 1, 2021 and May 3, 2022 were searched using "NATO expansion" as the keyword (the explanations used

FIGURE 2

Number of *Nikkei Shimbun* articles containing the term "disinformation" (January 2000 to June 2022)
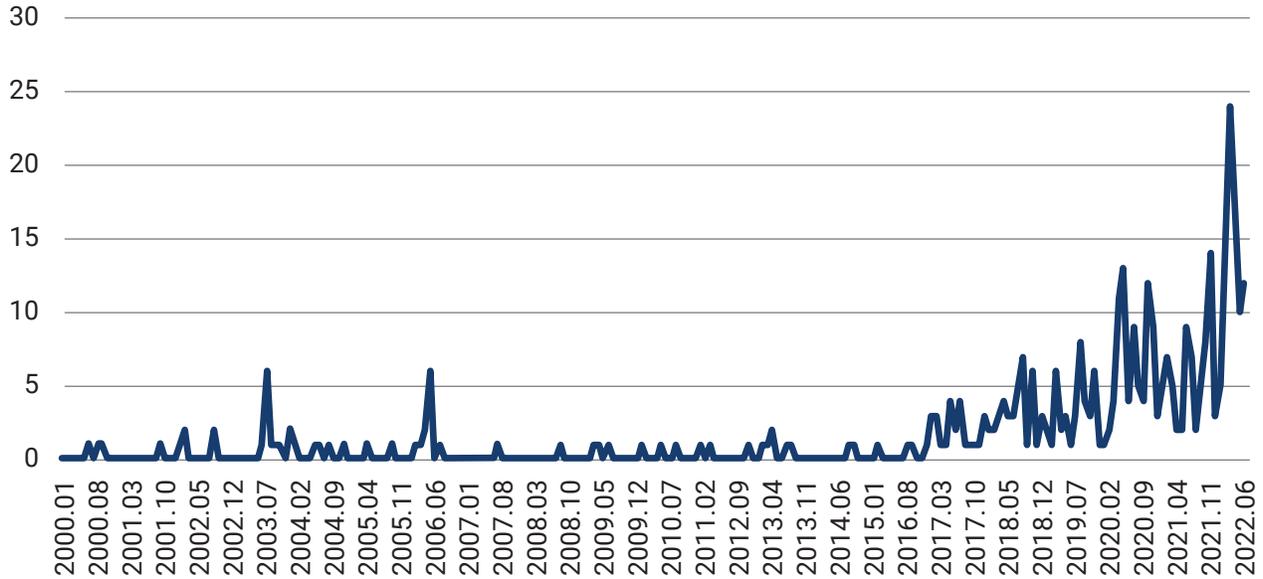
Source: Author calculations based on the Nikkei Shimbun's Nikkei Telecon 21 database.

FIGURE 3

Number of newspaper articles containing the term "NATO kakudai (NATO expansion)" (January 1, 2021 to May 3, 2022)
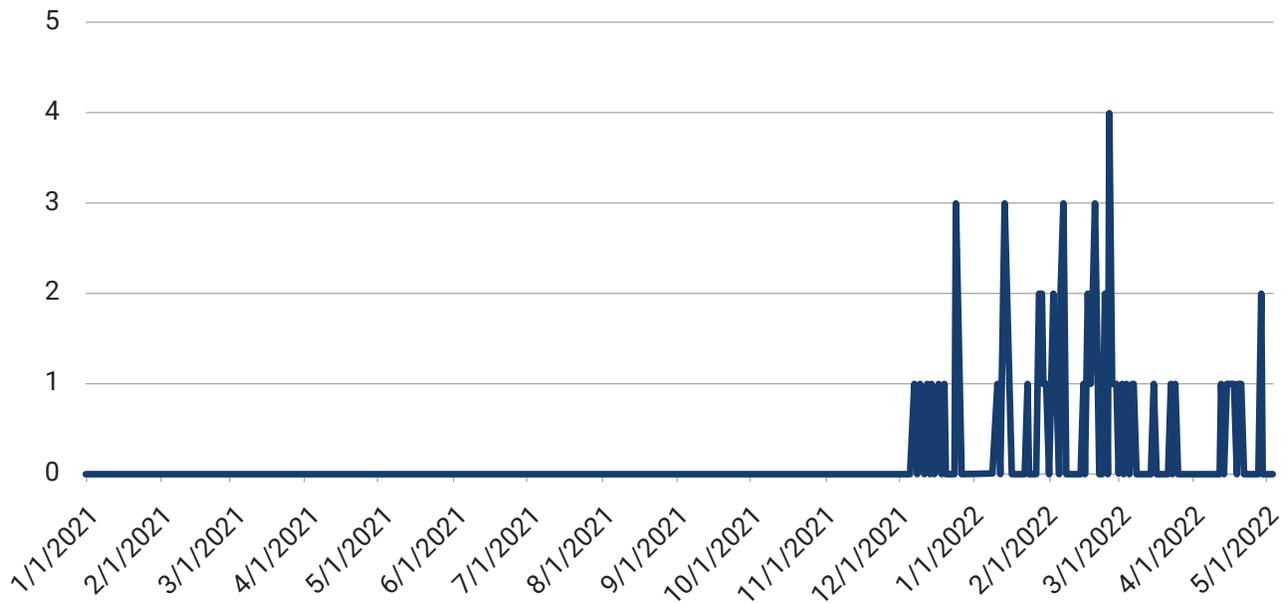
Source: Author calculations based on Asahi, Mainichi, Nikkei, and Yomiuri Shimbun databases. Asahi Shimbun database covers the Asahi Shimbun, AERA, and Weekly Asahi. Mainichi Shimbun database covers Mainichi Shimbun and Weekly Economist. Nikkei Shimbun database covers Nihon Keizai Shimbun, Nikkei Sangyo Shimbun, Nikkei MJ, and Nikkei Veritas. Yomiuri Shimbun databases covers Yomiuri Shimbun only.

by Russia to justify its aggression). 71 articles with this keyword were found (figure 3), all of which appeared after Russia deployed troops surrounding Ukraine and began using NATO expansion as the cause.

Among them, sixteen articles contained whataboutism. Together with five other articles from outside these databases, this study analyzed which actors the writers found problematic and which actors they found justifiable. After categorizing the adjectives used in the articles into positive and negative adjectives, this study analyzed which type of adjectives were used in describing each actor, using KH Coder software. The result of the correspondence analysis is shown in figure 4. The terms that are used throughout these articles appear near the coordinate axis (0, 0), and the terms that tend to appear together and given interconnections are located close to one another. Since "NATO expansion" was used as a keyword

in selecting the articles, many of the articles discuss the role of NATO and the West in addition to discussing negative and positive aspects of Russia and Ukraine. Further, the association of negative terms is somewhat stronger than that of positive terms with NATO and the West, which shows that many of these articles critically analyze NATO and the West and especially their expansion. Together with the fact that there was no article on the topic published until December 2021 (figure 3), this is a phenomenon not seen before Russia resorted to information warfare, which shows that the writers take the information spread by Russia seriously.

What this reveals is that references to China, Europe, and Japan are not very common. Two points come from this analysis. First, the writers do not seem to view China as an actor in the Russia-Ukraine war, which shows a limited awareness of the role of pro-Beijing trolls as

Correspondence analysis of articles that contain whataboutism
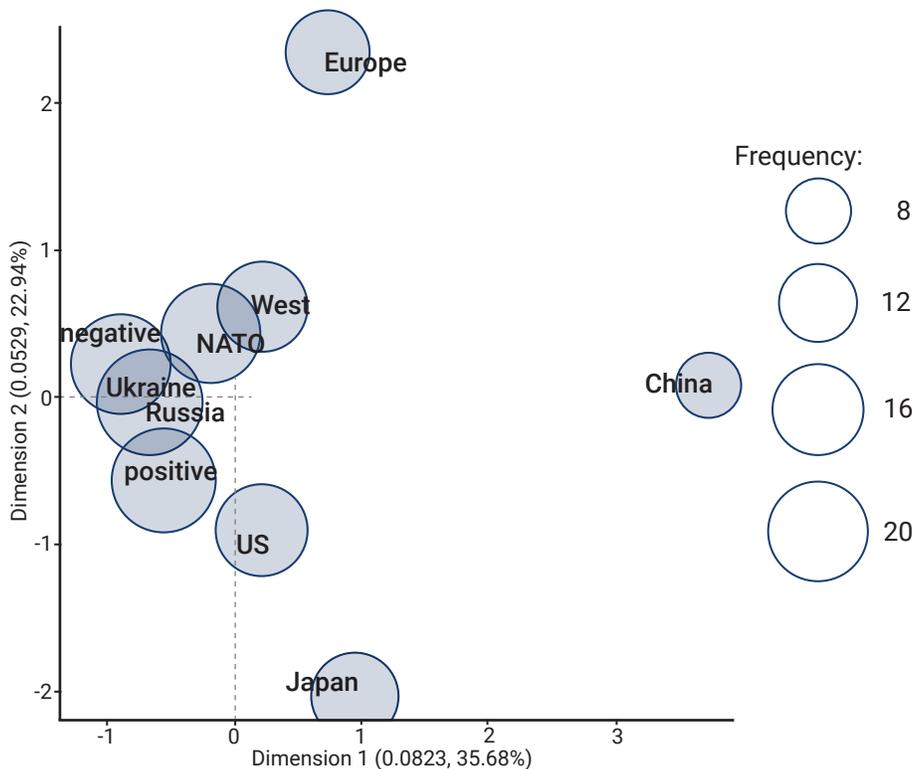
Source: Author calculations of articles collected from Asahi, Mainichi, Nikkei, and Yomiuri Shimbun databases using KH Coder.

spreaders of Russian disinformation. Second, the writers also do not seem to view Japan as an actor either, even though the Japanese government has imposed economic sanctions against Russia and has accepted displaced people from Ukraine. The finding indicates a weak sense of ownership of these decisions among the writers themselves, which may be why they do not find the necessity to make moral judgments for the lives, dignity, and state sovereignty of Ukraine.

The articles do criticize Russia's military aggression, stating that it cannot be justified and should end. However, as a way to end the war, they tend to call on Ukraine and the West to compromise. This stance not only shows little imagination as to what will happen to the people of Ukraine if they give up their territory, but also seems to indicate a resignation that Japan does not have leverage over Russia.

COUNTERMEASURES AGAINST DISINFORMATION IN JAPAN

This case of Russian disinformation reveals that countermeasures in Japan cannot focus only on tackling the origins of disinformation per se; they also need to prevent other domestic conspiracy theorists, trolls, and commentators of conscience from being unintentionally influenced by disinformation.

Before making recommendations, it is helpful to take stock of the current countermeasures. At the governmental level, there is no anti-fake news law in Japan. Such laws have been enacted around the world in recent years (largely in response to disinformation on COVID-19), but the Japanese government has not done so in order to guarantee freedom of expression.

The task of fact-checking has been left to private initiatives, and the growing awareness of disinformation since 2016 has led to an increase in the number of media and organizations conducting fact-checking in Japan. Today, major national newspapers such as *Nikkei*, *Asahi*, *Mainichi*, and *Sankei* have their

own fact-checking functions, as do national broadcasters such as NHK and Nippon TV, regional newspapers such as *Ryukyu Shimpo* and *Okinawa Times*, regional TV stations such as Chukyo TV, and online media such as Buzz Feed Japan.

When Ukraine was invaded, the FactCheck Initiative Japan (FIJ), a networking organization of fact-checkers, created a special website to collect fact-checking results of disinformation and misinformation related to Russia's invasion of Ukraine.[8] The FIJ trains the next generation of fact-checkers and uses artificial intelligence to identify questionable discourse.[9] The Ministry of Internal Affairs and Communications has also been strengthening its cooperation with fact-checking organizations.

However, the overall volume of human resources in charge of fact-checking is far from enough. Each media outlet manually conducts fact-checking in the absence of excess human resources, which therefore limits the amount of questionable discourse they can check. There is also little information available on the number of instances of disinformation removed from online.[10]

At the governmental level, it was only recently that the analysis of disinformation began to expand. Given that disinformation is now a part of military strategy, on April 1, 2022, the Ministry of Defense created the position of Global Strategic Intelligence Officer, whose main mission is to analyze disinformation. The ministry also expanded the country's cyber forces.[11] In addition, it now disseminates information in not only Japanese but also in English, Chinese, and Korean for the purpose of responding to information warfare.[12] The human resources for these tasks remain far from enough, however.

When articles using whataboutism appeared after the Russia-Ukraine war began, international relations scholars with tens of thousands of social media followers tweeted and pointed out the problem with whataboutism. This helped to mainstream, and raise awareness of, the issue among the media, but it has not fundamentally addressed it.

POLICY RECOMMENDATIONS

Despite the above countermeasures, the Russian propaganda campaign continues to spread disinformation. What more should Japan do to limit it?

As hybrid warfare becomes mainstream and defense in the cognitive domain becomes increasingly important, the Japanese government should expand the resources devoted to disinformation analysis. And this effort should be conducted in collaboration with other democracies, so that countries can share experiences and information. For example, frameworks such as the Quadrilateral Security Dialogue should include countering disinformation as one of its pillars.

Tackling disinformation effectively requires remaining neutral and objective, so that counternarratives do not get politicized and dragged into the discursive war. In that sense, the private sector's role is vital in restraining disinformation. The establishment of the nongovernmental Japan Factcheck Center in October 2022, as a complement to the existing FactCheck Initiative Japan, is thus a welcome move.[13]

The media and academia also have vital roles. Trust in Japan's traditional media remains high, and their digital versions are read extensively online. Given the impact the media, and especially digital media, could make, they should publish more fact-check results as high-value news. The Huffington Post and BuzzFeed Japan have been setting a precedent in this practice, and their articles on fact-check results are widely accessed and read.

Writing the results of fact-checks in a simple black-and-white way, however, could potentially demonize conspiracy theorists and further polarize society. To avoid this, media outlets need to reach out to people across the political spectrum. Trying to understand what motivates people involved in conspiracy theories is important.

Explaining disinformation in a simple, easy-to-understand way is also necessary, given that people have various educational backgrounds. In that sense, the *Asahi Shimbun*'s recent approach was admirable — which was to answer questions that could potentially arise when people are exposed to Russian disinformation, using simple language that is not usually found in news articles. The answers used various examples from daily life and other international issues to make the explanations easy to understand, even for youth.[14]

Universities are the best places to train not only the next-generation researchers on disinformation, but also fact-checkers. Academic schools, however, tend to be slow in incorporating methods and arguments relevant to today's politics and international relations. Courses on contemporary issues should be offered, covering such topics as cybersecurity, disinformation, and artificial intelligence. Also, methodology classes should incorporate the scope of data science and cover the topics of scraping, programming, and content analysis.

Last but not least, universities should facilitate the sharing of scraped data and analysis software. Analysis software tends to be too costly for students to purchase, but if they were to be given free access, graduate students could write dissertations on the disinformation issue and generate substantial progress in the field. It would be a win-win for universities seeking to have a greater reputation both inside and outside the country.

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DISINFORMATION AND DEMOCRACY IN MALAYSIA

NUURRIANTI JALLI

THE CURRENT STATE OF MIS/DISINFORMATION IN MALAYSIA

The increased penetration of Internet connection in Malaysia and high mobile device affordances in Malaysia over the last two decades resulted in significant changes in the media ecosystem and information consumption patterns in Malaysia[1]. Like in many parts of the world, one of the side effects of increased liberation of information production in Malaysia is the flooding of mis/disinformation, particularly in cyberspace. This paper will focus specifically on political mis/disinformation, government responses to this pressing issue, and some suggestions for Malaysian policymakers to improve current mitigation efforts.

MISINFORMATION	DISINFORMATION
False or misleading information *unintentionally* shared with recipients. Often driven by socio-psychological factors[2] such as personal bias, lack of understanding on information-context, as well as lack ability to fact-check information found (low media and information literacy).	Fabricated or *deliberately* manipulated content to deceive recipients. Typically motivated by three factors, to make money, to influence (either foreign or domestic), or to cause harm[3].

Cybertroopers and political information warfare

The advancement of information technology has given birth to novel disinformation techniques such as the use of deepfakes, the bombardment of false information (often called a firehose of falsehood), and the deployment of cybertroopers (paid political cyberarmies) to shape public opinion. In Malaysia, as internet access and service have continued to improve, cybertroopers have found the use of strategic information warfare, particularly on social media platforms, beneficial in mounting disinformation campaigns for political ends.

Because of the low level of media and information literacy among Malaysian society, online disinformation campaigns have become prime political

warfare tools in the country. Cybertroopers actively employ computational disinformation campaigns (through information manipulations and the distortion of truth) to continuously influence political discourse. While using mis/disinformation for political ends is definitely not a recent phenomenon in Malaysia — the government has long used traditional media outlets such as TV, radio, and the printing press as propaganda mouthpieces — the availability of social media, high internet access, and increased digital device affordances contribute to a broader employment of novel disinformation techniques.[4]

The deployment of cybertroopers to assist with disinformation campaigns, especially during the election period in Malaysia, is now a contemporary fixture in the country's politics. First associated with the political coalition Barisan Nasional,

the term "cybertrooper" is used to describe political cyberarmies in Malaysia. Barisan Nasional is led by the United Malays National Organization (UMNO) and has been the most dominant coalition in Malaysian history. It has been in power since the independence of Malaya (peninsular Malaysia) in 1957, except from 2018 to 2019, when the coalition lost its first general election to the opposition coalition, Pakatan Harapan.

During interviews with Barisan Nasional cybertroopers in 2018, they stated that the goal of election disinformation campaigns, particularly on Facebook and WhatsApp, was to craft positive images of Barisan Nasional's politicians, particularly Najib Razak as he was muddled in a massive corruption scandal called 1MDB.[5] A former Barisan Nasional's cybertrooper noted, "We [the coalition] have to create a [negative] perception [of Pakatan Harapan], so the public will hate Pakatan." Aimed at influencing individuals with low media and information literacy, the campaigns were designed to demonize political opponents in the general election by creating inflammatory content centered on race, religion, and the royals/monarchy.

In Malaysia's eastern states Sabah and Sarawak, the cybertroopers crafted targeted disinformation campaigns using indigenous languages, as the demography of the population in these states is much more diverse than in western Malaysia. In Sabah and Sarawak, Christian and indigenous groups make up the majority, not Muslims and Malays. According to a few cybertroopers interviewed, drafting content in local languages and dialects was highly important for reaching the people of these two states because English and Malay are not their mother tongues. The cybertroopers believed that content created in the people's native languages would be more credible and bridge the communication gap between the messenger and receiver of the information. One cybertrooper said, "It is important for us to be aware of the dominant language spoken in the targeted population. I can't create content in Bahasa Semenanjung (Eastern Malaysians tend to call formal Bahasa Malaysia as Bahasa Semenanjung, or loosely translated as the Peninsular Malay language) when people speak Iban [one of the Dayak ethnic group's

languages] in the longhouses in Kapit [a town in Sarawak]. There would be a gap, as they don't feel the sense of closeness to the messenger."

Communication strategists and politicians have long understood the power of indigenous languages to mobilize the support of local people.[6] Having realized that political success largely depends on rural society, politicians, especially in Sabah and Sarawak, actively used indigenous languages in their campaigns, advertisements, and other mobilization activities. To win an election in these two states, using indigenous languages to propagate pro-party narratives has proven to be crucial, as content in English and Malay could be viewed as coming from "foreign actors" (those in western Malaysia); people in the eastern states, particularly Sarawak, reject the interference of "Malay politics," particularly of the UMNO. Therefore, for local cybertroopers — especially those associated with Sarawak Barisan Nasional, now Gabungan Parti Sarawak — both curating persuasive disinformation messages in local languages and dialects and determining the right platform to share these messages are crucial. For Sarawak, cybertroopers have mainly used Facebook and WhatsApp.

Online disinformation campaigns launched in local indigenous languages and dialects are hard to trace, especially with existing analytic tools offered by tech companies. Disinformation propagated by cybertroopers likely remains on social media unless other users report the content to local authorities or the platform moderators. With the popularity of encrypted free-text messaging apps like WhatsApp in Malaysia, tracing disinformation campaigns becomes almost impossible, enabling mis/disinformation to continue influencing public opinion.[7]

Automated bots and semi-bots and the spread of mis/disinformation

In addition to curating contentious, false, and misleading content for social media during the 2018 general election, cybertroopers used automated bots and semi-bots, particularly on Twitter, to silence critics and spread pro-Barisan Nasional messages and artificial narratives. For example, #PulangMengundi (go home to

vote) was hijacked by thousands of bots and semi-bots launched by Barisan Nasional's cybertroopers. The #PulangMengundi hashtag was meant to connect people who needed help traveling to their hometowns to vote with people who were willing to help them, either through monetary donations or carpooling.[8] The #PulangMengundi hashtag came about as a criticism of, and response to, the government's announcement (under then Prime Minister Najib Razak) to hold the election on Wednesday, May 9, 2018. Traditionally, polling is held on weekends in Malaysia to allow people to travel to their home-towns where they are registered to vote.[9] Critics saw the odd date as a methodological approach by the incumbent Barisan Nasional government to lower voter turnout and thereby help Razak remain the prime minister. As the hashtag gained traction, many pro-Barisan Nasional/pro-govern-ment Twitter accounts used the same hashtag to drown out the call for voting help and the criti-cism of the government.

These anonymous accounts also added, alongside #PulangMengundi, hashtags like #SayNOtoPH (say no to Pakatan Harapan, which was the leading opposition during the 14th general election) and #RespectMYPM (respect my prime minister). Thousands of Twitter accounts shared thousands of such tweets, which were automatically shared with all of #PulangMengundi's hashtag followers to drown legitimate calls for help and sway voters to support the incumbent party.

Aforementioned events illustrate how the fluidity of internet content opens door for mis/disinformation to cross platforms, damaging people's ability to make informed decisions, including choosing leaders based on factual information and authentic political debates. Until today, cyber disinformation operations remain prevalent in Malaysia despite attempts to mitigate through the enactment of "fake news" laws and policies as well as concerted efforts by nongovernmental actors. As Malaysia heading to its next general election, coordi-nated disinformation campaigns are expected to continuously used to gain and maintain unchecked power. If not properly addressed, this could contribute to the corroding democ-racy in the country.

Screenshot of a tweet posted by a suspected bot on April 17, 2018, less than a month before Malaysia's 14th general election in 2018. While many of these tweets are no longer on Twitter post Malaysia's 14th general election, the strategic use of bots to drown calls for help was a concern for many Twitter users during the 2018 election. Image retrieved from Twitter user @iamnormgoh.

GOVERNMENT RESPONSES

According to the prevailing criticism, govern-ment attempts to address severe information pollution in Malaysia continue to be loosely defined and biased. In particular, civil society[10] critics view the government's recent bills and laws aimed at curbing orchestrated disinforma-tion campaigns as weapons to strengthen the state's political holds[11].

Policies and practices to mitigate information disorders in Malaysia

Anti-Fake News Act 2018

While various Malaysian laws impose penalties for sharing false information — such as the Malaysian Penal Code, Printing Presses and Publications Act 1984, and Communications and Multimedia Act 1998 — the Barisan Nasional-led administration of Razak introduced the Anti-Fake News Act 2018 as another instrument to address fake news and rumor-mongering. Some in civil society saw[12] the move as the state's attempt to further restrict freedom of expression in the guise of "countering mis/disinformation ."[13] They claimed that with the loose definition of what constitutes fake news, the act could be used strategically as a political weapon. In response, the government argued that the existing laws were insufficient to address complex challenges that arise from the large amount of false information in Malaysian cyberspace due to technological advancements. Thus, despite the backlashes, the law went into force. The Anti-Fake News Act 2018 could be used to charge any individuals, regardless of their citizenship and their locality, for spreading "fake news" related to Malaysia or affects a Malaysian citizen. The impact of this provision could influence Malaysia's international relations, particularly with other democratic countries with high freedom of expression. However, after Razak lost in the 2018 general election, the law was repealed in October 2019 by then Prime Minister Mahathir Mohamad, the leader of Pakatan Harapan.

Emergency (Essential Powers) (No. 2) Ordinance 2021

On March 12, 2021, following the Emergency Proclamation invoked in January 2021 by then Prime Minister Muhyiddin Yassin of Perikatan Nasional, the government enacted the Emergency (Essential Powers) (No. 2) Ordinance 2021 without parliamentary approval. (The legislative body had been suspended during the state of emergency, leaving Malaysia without democratic oversight for several months.) The ordinance — intended to combat fake news related to COVID-19 and the Emergency Proclamation

— was heavily criticized, viewed as an attempt by Yassin to muzzle criticism of his administration's handling of the COVID-19 pandemic.

Under the ordinance, individuals who spread fake news in writing, videos, audio recordings, or in any other forms that may convey "words or ideas" if found guilty faced a jail term of up to three years or a fine up to 100,000 Malaysian ringgit (20160 US dollars) or both. Any parties who provided "financial assistance" intended for "committing or facilitating" such fake news were also liable for a jail term of up to six years or a fine of up to 500,000 Malaysian ringgit (108, 003 US dollars) or both. As the definition of "fake news" was broadly defined in the ordinance, it gave the government total power to decide what was true or false and also the authority to remove any publication determined to contain inaccurate information. Additionally, the ordinance gave the military police powers, allowed the forced confiscation of property with no ability to challenge the compensation offered, and provided the government and military near-total impunity for acts taken under the ordinance. The ordinance also indefinitely postponed the holding of any elections and the sitting of the country's Parliament and state assemblies.

When the state of emergency in Malaysia ended in August 2021, the public was unsure if all ordinances related to the Emergency Proclamation would be annulled by Parliament. It was not until October 2021 that Minister in the Prime Minister's Department (Parliament and Law) Datuk Seri Wan Junaidi stated that all emergency-related ordinances — except those provisions that were explicitly set to end with the expiration of the proclamation — would still be enforceable until revoked or until the end of a six-month grace period following the proclamation's conclusion (in other words, February 2022).[14] The decision was not well received by the public particularly in the state of Sarawak, where the move was seen to be politically motivated as it put the state election on hold[15].

Campaigns by the Malaysian Communication and Multimedia Commission

In 2017, the Ministry of Communications and Multimedia, through the Malaysian Communications and Multimedia Commission,

established Sebenarnya.my as a one-stop website for Malaysians to verify the authenticity of viral information they found online. However, since Sebenarnya.my is a government's brainchild, critics are skeptical that the website provides the truth to the public, particularly on content related to the government in power. Additionally, Sebenarnya.my has been criticized for not making regular updates on its website and social media regarding recent false viral content. Therefore, despite also having Facebook and Telegram accounts and an app, it has not gained traction in Malaysian society. Sebenarnya.my's Facebook page only has 18,000 followers and the posts are infrequent.

Tidak Pasti Jangan Kongsi (if not sure, don't share) is Sebenarnya.my's slogan and is used by the Malaysian Communications and Multimedia Commission for a nationwide campaign on fighting mis/disinformation online. While this campaign is well-known in Malaysia, as it is often broadcasted through national television channels, radio, and social media, it mostly focuses on reminding Malaysians not to share unverified content on the internet. The campaign does not put enough stress on teaching people the skills to spot mis/disinformation.

RECOMMENDATIONS

The next section of this paper offers recommendations for the Malaysian government and nongovernmental actors to mitigate mis/disinformation, particularly focusing on these multiprong approaches:

- Place more emphasis on media and information literacy education, not legislation

- Provide communities media and information literacy training

- Establish cohesive, independent monitoring and fact-checking agencies

- Invest in research and projects focused on counter- mis/disinformation strategies

- Increase media freedom and allow for transparent journalism

- Increase the quality of journalism

Place more emphasis on media and information literacy education, not legislation

Despite existing laws covering false information in Malaysia, the government enacted two more laws specific to fake news. Both laws were criticized for the same reasons: the redundancy of purpose (due to other existing media related laws in Malaysia) and their broad and vague definition of what constitutes false information. Unless if Malaysian government and lawmakers can come up with clear and specific definitions of what constitutes 'false information', enacting new laws should be carefully thought; as vague definition can open doors for inconsistent enforcement by authorities and parties with vested interests.

While working on construction of better legal framework, government efforts should also be focused on equipping Malaysians with the right media and information literacy skills to help them spot mis/disinformation. In Malaysia, to date, a multiplatform media and information literacy curriculum has yet to be developed as a required subject in schools and higher-learning institutions. In Finland, incorporating media and information literacy curriculum in educational institutions has yielded results, making it one of Europe's most resistant nations to fake news.[16] For Malaysia, any curriculum for media and information literacy should first be reviewed by independent, external reviewers to ensure that the learning materials are justified and to avoid weaponizing media literacy programs for government propaganda, as observed in Indonesia.[17]

Provide communities media and information literacy training

Media and information literacy training should also be provided to the community, and the modules should be developed in the dominant languages spoken within the community. Then, since ethnic, religious, and district leaders have played a significant role over the years in shaping public opinion on socioeconomic issues, some of these leaders should be a part of the media and information literacy initiatives

to help convince people to participate in the training. Media and information literacy ambassador programs could be created nationwide to elect ambassadors to continually teach their respective communities new media and information literacy skills, including fact-checking. The failure to provide enough education and training has made Malaysians susceptible to mis/disinformation spread by local or foreign actors for political or financial ends. In Malaysia, between 2019 and 2021, 16.1 billion Malaysian ringgit (3.46 billion US dollars) was lost to scammers, with many of the 51,631 cases reported involving cyber-operationalists from foreign countries.[18] By continually providing high-quality media and information literacy training, the public will eventually be better equipped to evaluate content they read and protect themselves online. Additionally, through awareness campaigns, Malaysians should be taught to be more skeptical of online information and to take extra initiatives to fact-check content containing provocative information. As propaganda and politically driven disinformation is rampant online, Malaysians should also be encouraged to follow diverse people and perspectives to prevent the formation of an information bubble, which could create a narrow view on various issues. In some instances, information bubbles have created radicalized followers and supporters of certain ideologies. This extremism could potentially jeopardize national security.

Establish cohesive, independent monitoring and fact-checking agencies

Independent monitoring and fact-checking agencies should be set up (free from state funding and influence) to ensure impartiality in reporting. There is no local independent fact-checking agency actively informing Malaysians about falsehoods viral on social media. In the Philippines, VERA Files, a nonprofit independent media organization, actively uses social media to educate the public daily on fake news circulating in the country's cyberspace. Malaysia needs an agency like VERA Files to help with the counter-disinformation initiative. The agency's content moderators should be able to speak and read indigenous languages at sufficient

levels to ensure that vulnerable indigenous communities in Malaysia are also protected from mis/disinformation.

Invest in research and projects focused on counter-disinformation strategies

More funds from government agencies and independent parties should be allocated to research and projects related to counter-disinformation strategies. Government-funded projects should focus on in-depth studies of counter-disinformation initiatives, particularly related to public health threats (such as COVID-19) as the government's current methods to handle disinformation in this area could be further improved. Data from research could assist the Malaysian government in developing a better national strategic response to mis/disinformation and could eventually help mitigate distrust toward the government. Independent parties, such as local think tanks and other nongovernmental agencies, should also increase their financial support of research related to mis/disinformation to ensure that comprehensive data can be obtained on Malaysia. Data reported by independent agencies could be compared with the government's findings to help decrease the chances of data being weaponized for political gain. Local entities, including government agencies, autonomous bodies, and media houses, should also establish or increase collaboration with tech powerhouses such as Meta, Twitter, Google, and ByteDance to better understand how their platforms could help with counter-disinformation initiatives and to protect the freedom of speech of their users.

Increase media freedom and allow for transparent journalism

Distrust toward traditional mainstream media (TV, radio, newspapers) should be looked at seriously by the government. Historically, Malaysian media outlets have served as government mouthpieces, resulting in constant distrust of the local press. Ultimately, this distrust led Malaysians to turn to online sources, which increased the likeliness of exposure to mis/disinformative content. To address this issue, the government should look at ways

to alleviate public distrust of mainstream media. It could (1) reform media laws — particularly the Communications and Multimedia Act 1998, which gives the Minister of Communication arbitrary power to grant and revoke licenses and penalize media agencies; (2) uphold the concept of a free press and freedom of expression as guaranteed in the Malaysian constitution; (3) review media ownership by government-affiliated conglomerates; (4) reform current traditional mainstream media practices by permitting critical sociopolitical reporting to be broadcasted and shared on these platforms.

For their part, media practitioners and the public should make stronger calls for a free press and government transparency in order to help push for reforms in the media landscape. Taking immediate action, via global platforms, to report violations of press freedom would help to highlight cases of censorship, the revocation of operation permits, politically motivated raids, and the unlawful detainment of journalists. Currently, as a result of powerful political influence, the practice of self-censorship among journalists is common in Malaysia. If the practice continues, it will further undermine democracy in the country.[19]

Increase the quality of journalism

The Malaysian news industry should focus on increasing the quality of journalism to attract audiences and gain their trust. In particular, news agencies that publish in local languages and dialects should hire more multilingual, well-trained journalists to avoid substandard reporting. In addition to increasing the quality of news reports, news agencies and journalists should also consider creative ways to deliver the content to the public. Creating news bites using social media templates is one of the most effective approaches, considering that Malaysians access social media much more often than traditional media.[20] Short documentaries and transmedia storytelling also could potentially attract more people to subscribe to professional journalism. Finally, news agencies should establish a solid fact-checking department to help verify information before news reports are published.

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DISINFORMATION IN TAIWAN

PUMA SHEN

DEFINING THE CHALLENGE

In Taiwan, the disinformation challenge is mounting, due to not only internal tension between political parties but also China's information operations. The lessons that can be drawn from the situation Taiwan faces are not limited to Taiwan: they are also applicable to other countries that have experienced a Chinese diaspora. The challenge is to differentiate between Chinese attacks and domestic division of opinion.

Taiwan has been ranked the number one country targeted by false information since 2013.[1] Because its official language is Mandarin, the country is particularly vulnerable to information and disinformation produced by China. The amount of disinformation produced by Taiwanese citizens pales in comparison to the volume coming from China.[2] Furthermore, Chinese operations include both the production and dissemination of disinformation. China can easily spread and amplify certain disinformation messages produced in Taiwan to increase their reach.

Three drivers, or flows, support the dissemination of disinformation:[3]

1. The information flow. This driver includes information directly produced and disseminated by China. The Communist Party's Central Propaganda Department, the Communist Youth League of China, the People's Liberation Army, Chinese netizens, and political content farms are all players involved in China's operations. Their efforts are often politically driven. In 2017 and 2018, most operations happened on Facebook, but since 2019, they have gradually moved to YouTube.[4] That year, Facebook started to remove fake accounts that post foreign content farm articles,

and in response, China's operation actors started to turn these articles into text-to-speech YouTube videos and post the links on Facebook (YouTube links cannot be prohibited). For example, during the 2021 outbreak of COVID-19 cases in Taiwan, YouTube channels established by China that had mainly discussed conspiracy theories up until that point attracted 30 million view counts in three months, according to one analyst's calculations.[5]

2. The money flow. This driver includes information not directly produced by China. In this case, China only invests in the disinformation effort. Actors in Cambodia, Malaysia, and even Taiwan receive money from China, further contributing to the disinformation market. Their efforts are largely money-driven.[6] They receive interest through various means, including donations via live streams. Most of the operations use bot-like fake accounts that run only for certain periods of time and post Chinese content farm articles simultaneously.

3. The human flow. This driver often involves the Chinese United Front Work system — a global system that establishes relationships among like-minded individuals and organizations who are also capable of spreading disinformation. By "making friends" with like-minded, pro-China citizens around the world, including the diaspora, China can easily motivate these citizens to produce pro-China and/or anti-U.S. messages that align with the messages from the Central Propaganda Department. These actors are ideology-driven. They do not directly receive orders or interest like those in the above two categories, but they can still inject conspiracies into society. Businesspeople, professors, and retired officials are all examples

of possible players in this field. In addition to "weaponizing" social media, these actors can also be "weaponized," a tactic that authoritarian countries frequently employ to destabilize society.

All three drivers are not Taiwan-specific, but Taiwan faces more "human flow" than other nations due to its close ties with China. In addition, actors around the world may collaborate to initiate disinformation campaigns. For example, the abovementioned COVID-19 conspiracy theories targeting Taiwan were disseminated by fake accounts produced in Algeria, Cambodia, China, and Russia. Notably, the accounts used Mandarin, a language not understood by many in these countries' information space. Previously, the disinformation campaigns may have only included actors who speak Mandarin or write in Chinese. Now, due to advances in artificial intelligence technology, it is easy to generate content in a language the actors do not know, which poses a greater challenge in the digital environment.

GOVERNMENT AND CIVIL SOCIETY RESPONSES

The Taiwanese government has a team that deals with fake news, but the effectiveness of its efforts is constrained by the team's small scope. The Taiwanese government, due to its limited capacity, only focused on news that could be "debunked," which is why the government explicitly used the term "fake news" in its publicized policies. Although the government has adopted several strategies to combat fake news, civil society is still a key player in countering disinformation. This whole-society approach, however, has been facing huge challenges since the end of 2020, when there was a backlash against "debunking." On November 3, news reports revealed that the government was providing the debunked messages to online influencers, which created a conspiracy that the government was initiating its own "cognitive warfare."[7]

In 2018, the government launched a Disinformation Coordination Team (DCT) led by Lo Ping-Cheng, a minister without a portfolio. The team suggested four steps for stopping disinformation: identification, debunking, combatting,

and punishment. For debunking, the DCT also suggested several principles such as "humor over the rumor" and the "222 principles" ("Each memeified debunking message shall contain no more than 20 characters in its title, no more than 200 characters in its content, and no more than 2 images appended").[8] The DCT collaborated with each government department to identify fake news (the news that could be debunked in their view) and to respond to it in several hours.

This process seemed to work well initially but has since encountered several obstacles. First, the debunking step only applies to fake news. Although conspiracy theories are also a major part of disinformation campaigns in Taiwan, it can be extremely difficult to debunk them due to their nature (for example, saying that the president is not healthy or the Democratic Progressive Party is too close to a certain entrepreneur). Conspiracies use layers of opinions to convince readers that "the world is not what they think" — and thus create distrust. Second, the punishment step has attracted criticism that it infringes on the freedom of speech. Third, although the department's adoption of the 222 principles makes the debunking process efficient, this swift response system has backfired at times. For instance, as noted above, the government used to provide the debunked messages to online influencers to "spread the word" quickly, and sometimes those influencers released them earlier than the government did, leading people to level the charges of favoritism and possible internal propaganda.[9]

Given the limitations in government initiatives, Taiwanese civil society continues to play a significant role in combatting disinformation. The efforts of civil society groups are relatively decentralized in comparison to those of the government. Several nongovernmental groups debunk messages daily or weekly (for example, the Taiwan FactCheck Center, MyGoPen, and Cofacts); some focus on investigating the cyber army, including bots, fake accounts, and trolls (for example, the Doublethink Lab and the Institute for National Defense and Security Research); and others focus on hosting workshops that inform citizens of the dangers of disinformation (for example, the Fakenews Cleaner and Chat for Taiwan). Although some of these groups have

working relationships, sometimes collaborate, and even have monthly meetings with each other, they do not seem to interfere with each other's tasks. Therefore, if a group receives public criticism, the criticism does not extend to other groups and diminish citizens' trust in them. According to a survey the Taiwan FactCheck Center conducted in 2022, 54% of citizens use fact-checking channels to verify suspected fake news, and 76% of citizens remind their friends of the existence of certain types of fake news.[10] Since these organizations operate independently and are bipartisan, they gain trust within society more easily than the government does.

It is also worth mentioning civil society's use of bots in the debunking process. For example, more than 200,000 people have used the MyGoPen Robot to push newly debunked pages through the most popular peer-to-peer chat apps (such as LINE). Bots have also been employed to automatically analyze and debunk suspicious messages using data collected from civil society organizations. Some bots can be added to group chats to automatically pump out debunking messages when fake news is detected. These bots can also detect videos and images, which have become popular tools for disinformation campaigns.

BEST PRACTICES AND POLICY RECOMMENDATIONS

Civil society and the DCT do not collaborate with each other in the debunking process. This is another factor that helps maintain the public's trust in civil society groups, as the groups cannot be seen as channels for spreading possible propaganda. However, there are several challenges associated with Taiwan's model of combatting disinformation.

First, there is no common definition of — and approach to identifying — cognitive warfare. The information flow from China to Taiwan does not often include fake news, but rather conspiracy theories or opinions and perspectives that are difficult to debunk. The only way to combat these types of disinformation is to reveal the Chinese accounts' behavior rather than focus only on the messages. For

instance, the Doublethink Lab has worked on cyber army issues for years, but China often disseminates whataboutism messages such as "the Taiwanese government also has the cyber army" and "the U.S. is the one that uses a cyber army."[11] Furthermore, the statements of opposition parties in Taiwan, such as the Nationalist Party and the Taiwan People's Party, are sometimes aligned with Chinese messages, which creates confusion. In this way, it has become extremely difficult for the government or nonprofit organizations to highlight possible incidents of cognitive warfare without offending opposition parties. To better approach this serious but inadequately addressed issue, civil society groups and Taiwan's legislative bodies should jointly develop a clear, legal definition of cognitive warfare. As stated above, disinformation operations involving conspiracy theories and money- and human-driven messages have not been fully debated and discussed. Taiwan's version of the U.S. Foreign Agents Registration Act has also failed to pass. To focus on the behavior of actors rather than the messages, what counts as "illegal behavioral patterns" should be clearly outlined in a common definition of cognitive warfare. For example, if Taiwanese professors are spreading pro-China messages, the conclusion about whether the professors are engaging in cognitive warfare should be based on predetermined standards: Did the professors receive interest or sign a contract with China? Did the professors agree to engage in inauthentic behavior to harm society, for instance by asking students not to discuss things that happened in Hong Kong? With such standards set, the behavior could be confidently identified as cognitive warfare. A public hearing or strict evidence-based accusation and attribution is necessary, and legal measures is the way to reach this end.

Second, the money flow that entices citizens to spread pro-China messages has not been stemmed. To be sure, in a democratic world, it is impossible to totally restrict these kinds of investments, as most speech falls into the category of free speech. The best way to combat the money flow is to (1) establish clear restrictions for Chinese investments within each industry (for example, less than 50% investment) and (2) reveal the flow of money from Chinese party or

state actors to Taiwanese individuals or organizations. Transparency is essential, and this strategy fits the spirit of democracy.

Restrictions on content or the punishment of actors will not fix the problem. Criminal punishment not only creates division but also requires hard-to-collect evidence needed for convictions. While Taiwan's anti-infiltration law passed in 2019 may be serving as a deterrence, no cases have been prosecuted under this law yet, likely because the evidence is too difficult to gather.

Third, while the human flow of disinformation might be the most serious concern, it would go against democratic norms of free speech and individual liberties to punish people for their ideological beliefs. Therefore, revealing what the United Front Work Department (UFWD) and other actors do in each country might be the only way to counter the human flow of information. For example, the Taiwan Handout website, operated by anonymous writers, attempts to reveal certain forms of infiltration without exacting punishment.[12] In 2019, the website revealed a connection between a certain political Facebook FanPage in Taiwan with the UFWD, and in turn, sparked a discussion about Chinese interference before the 2020 presidential election.[13]

A local workshop hosted by two organizations, Fakenews Cleaner and Chat for Taiwan, engages citizens who are familiar with digital platforms and messaging services but are often not tech savvy enough to spot or judge potential disinformation. Efforts like this one could help the public easily identify and understand harmful disinformation on social media platforms and rumors within local communities. Already, since 2018, Fake News Cleaner has hosted more than 500 activities across Taiwan.[14]

Fourth, since Chinese information operations are organized by multiple government departments, they need to be countered in a systematic and holistic way. Cross-national workshops and initiatives can help to effectively combat these operations. Doublethink Lab and the Taiwan FactCheck Center have hosted several international workshops since 2019. During the invasion of Ukraine, both Fake News Cleaner and Chat for

Taiwan have been utilizing global networks to join the international debunking of disinformation campaigns and share knowledge with concerned partners who face similar attacks.

Lastly, in addition to establishing clear, legal definitions and standards and enhancing transparency, the government and civil society must respond to conspiracy theories in a positive and constructive way and avoid delivering punishment-like and negative messages. For example, there was once a rumor that the Taiwanese government had collected a lot of private information during the COVID-19 pandemic and was going to use the data clandestinely.[15] The Taiwan Centers for Disease Control quickly debunked this information, merely saying that the rumor was fake news. The problem is that such limited responses can create further distrust of people and agencies who share debunking messages. A positive and constructive response would have been, for example, "we recognize the nature of why this rumor was spread — because the mechanism of protecting privacy is not transparent. Therefore, we will soon establish a committee to oversee data and make sure it is deleted every three months. Please rest assured that we will keep improving our processes." In this way, the whole society could create trust and easily stop disinformation from spreading.

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DISINFORMATION IN THAILAND

AIM SINPENG

DEFINING THE CHALLENGE

The use and misuse of digital technologies has upended the relationship between citizen and state, abetted oppressive governments, and posed immediate and long-term threats to democracy. More than 70% of the world's population lives in countries whose governments employ at least one form of cyber repression.[1] Disinformation, in particular, has become an increasingly common tool to undermine online freedom and intervene in the affairs of a foreign country. Disinformation campaigns to control and manipulate information in Thailand have been proliferating alongside internet and social media usage. The Freedom House and V-Dem has ranked Thailand's internet environments as illiberal for nearly a decade, beginning with a military coup in 2014.[2] Similar to the rest of Asia, the sources of disinformation are both domestic and foreign and involve state and nonstate actors. To understand Thailand's problem, it is important to recognize that disinformation is embedded in an autocratic and repressive media ecosystem, where media organizations as well as ordinary people are routinely censored, monitored, and occasionally punished for actions deemed to threaten the state's peace and order.

What is unique about Thailand's disinformation challenge is the political landscape from which disinformation emerges. Despite its highly restrictive digital environment and draconian laws against regime critics, Thailand is the most protest-prone autocracy in the world.[3] The country's cyber structures, laws, and institutions designed specifically to thwart and punish political dissent have thus failed spectacularly to dampen the opposition's activism and quell protests.[4] Fortunately, this means

that the global proliferation of disinformation and cyber repression might not spell the end of digital activism.

Yet, disinformation has undoubtedly undermined pro-democracy activism and strengthened autocratic governance in Thailand. With coups in 2006 and 2014, the country has been marred by deep polarization between status-quo-seeking conservatives, who desire stability from traditional power brokers (for example, the military, monarchy, and bureaucracy), and pro-democracy reformists, who desire drastic political change. This deeply entrenched political division has provided fertile ground for disinformation to thrive, as each side uses the tactic to embolden their status and discredit their opponents. Adding to the mix are geopolitical and economic factors that introduce new kinds of disinformation, further muddying the already murky information environment.

There are three key drivers of disinformation in Thailand: political, institutional, and economic.

POLITICAL DRIVERS OF DISINFORMATION

These drivers largely come from domestic sources, involving both state and nonstate actors. In Thailand's polarized political landscape, government agencies, nongovernmental organizations, political organizations, and commercial enterprises have all been implicated in employing disinformation tactics to make political gains.[5] However, state and nonstate actors bear different risks and costs when producing disinformation. The cost of employing disinformation is lower for state actors. In an

authoritarian state like Thailand, state agencies, especially politically powerful ones like the military, can be more confident that their activities will not be repressed or punished. While on the contrary, opposition political groups employing a similar tactic against the Thai state face a significantly much higher cost: They could be sued or imprisoned and their campaigns could be censored or manipulated.

Civil society actors groups have used disinformation campaigns to support democratically elected governments or to pave the way to a democratic breakdown. For example, the People's Alliance for Democracy (PAD), known locally as the "yellow shirts," mounted a powerful conspiracy theory, the Finland Plot, to dislodge the democratically elected government of Thaksin Shinawatra in 2006.[6] Leveraging satellite TV, street rallies, radio, newspapers, and the internet, the PAD and its allies campaigned against Thaksin, accusing him of plotting to turn Thailand into a republic. Subsequently, social media became a major tool for political participation both in support of and opposition to democratically elected governments. The Facebook-fueled political protests of the People's Democratic Reform Committee, the PAD's successor movement, highlight the importance of social media as a platform to facilitate anti-democratic mobilization. Notably, the committee's protests brought to the fore how indispensable social media is in building narratives, driving discourses, and recruiting and mobilizing a support base to achieve specific political gains, no matter how radical the ideas.

INSTITUTIONAL DRIVERS OF DISINFORMATION

These drivers facilitate disinformation and strengthen institutional mechanisms for authoritarian resilience. In Thailand, the 2007 Computer-Related Crime Act (CCA) and its 2017 amendments lay the institutional foundation for disinformation to emerge and thrive, as they give state agencies greater power to control information. The ambiguity of Thailand's cyber laws prompted a local online newspaper, Prachatai, to publish information that advises readers on how to avoid violating the CCA.

In turn, Thai authorities interrogated the journalist responsible for the article for a possible computer crime. Affording the state even more control, the country's cyber laws are often used alongside Article 112 of the Penal Code, which makes it illegal to defame, insult, or threaten the monarchy. A 69-year-old woman was initially sentenced to prison for 87 years for sharing video clips deemed threatening to the monarchy.[7] This deadly dose of opaque cyber regulations on the one hand and an illiberal, authoritarian political regime on the other has made the Thai cyberspace one of the most restricted spaces in Asia.

The military, in particular, sees digital technologies as an integral part of its broader information warfare strategy. Its early efforts to control information were focused on overt forms of control such as censoring, blocking, filtering, and arresting regime critics. It was not until the late 2010s that social media was seen as a platform for bolstering popular support for the military and a space for public opinion manipulation. This shift from hard forms of censorship to online manipulation follows the global trend in which social media is increasingly used, particularly by authoritarian regimes, to monitor, manipulate, and marginalize critical voices. The Thai military likely fears the formation of underground groups that seek to subvert the Thai nation, particularly to overthrow the monarchy.

On October 8, 2020, Twitter announced the takedown of 926 accounts targeting Thai Twitter users in a domestic information operation. Twitter attributed these accounts to the Royal Thai Army and shared the accounts with the Stanford Internet Observatory on September 24, 2020.[8] This was the first time Twitter included activity originating in Thailand in its state-backed information operations archive. However, it is not the first time the military has been accused of running information operations. In February 2020, the Future Forward Party accused the prime minister and minister of defense of conducting information operations to attack opposition candidates on Facebook.[9] A series of leaked documents and interviews with a whistleblower from the Thai army in early 2020 support this account

and suggest that the information operations began prior to the 2019 elections. The whistleblower who came forward was disillusioned that taxpayer dollars were used to sow discord and hatred online. The alleged operation on Facebook supported the Thai army, commented negatively on opposition members' Facebook pages, and spread false information and graphics attacking political opposition members. Although there is no indication that the Twitter takedown is linked to the Facebook information operation previously reported, the takedown dataset reveals similar tactics and aims, especially a reliance on posts that promote the Thai army and critique opposition party members. The Twitter takedown case in Thailand, however, did not reveal surprising new information. Civil society and opposition groups suspected these state-backed disinformation operations months before the platform released its takedown notice.

ECONOMIC DRIVERS OF DISINFORMATION

These drivers largely stem from the growing influence of China in Thailand's information landscape. Its influence has been growing in two main ways. First, Chinese firms have been increasing their presence in the Thai media, telecom, and technology markets. While Thailand is no stranger to Chinese foreign investment, the takeover of struggling Thai media organizations and the expansion of China's state-run media organization are worrisome trends. Chinese-run media organizations in Thailand have introduced new forms of information control and manipulation to shape narratives on sensitive topics relating to China. The growing power of Chinese media organizations overseas has been regarded as the widening and deepening of digital authoritarianism. Chinese surveillance software is being exported to other countries in its sphere of influence.[10] Xinhua Thai News Service, a Thai offshoot of China's state-run Xinhua, delivers news on Hong Kong that is in line with the Chinese Communist Party's approved narratives. Sanook News, taken over by the Chinese tech giant Tencent, delivers more nuanced coverage of news on Hong Kong protests.

Second, Thailand is a major adopter of Chinese artificial intelligence (AI) surveillance technologies, which have been used in combination with other spyware to attack the political opposition. Like many countries around the world and particularly authoritarian regimes, Thailand's growing use of China's AI, especially facial recognition software, raises concerns over privacy and ethics.[11] The Australian Strategic Policy Institute's maps of Chinese tech giants in Thailand show that an increasing number of China's technologies are being used across sectors in Thailand, from banking to health care to public security.[12] A more widespread adoption of China's surveillance technology could further induce disinformation and make mass surveillance a "new normal."

ASSESSING POLICIES AND PRACTICES

The 2007 CCA, brought on by the 2006 military coup, was Thailand's first cyber law. It banned the distribution of "false information" in computer networks, which was believed to be an attempt to stop cybercrimes like hacking. But the CCA has been used in conjunction with libel charges to prosecute speech deemed as a threat to national security, peace, order, and implicitly, the monarchy. In 2017, amendments to the CCA added the terms "distorted" and "partially distorted" computer information, which essentially extended the ambiguity of the law and how it could be applied to silence regime critics. According to Thai Lawyers for Human Rights, government agencies and large corporations have since regularly used the CCA to facilitate strategic lawsuits against public participation in criticism, comment, or action on issues of public interest).[13] Changes to the CCA have also given the state greater authority to exercise censorship online, stifle free speech, and thwart critical voices. Online commentary against the CCA can now constitute false information and lead to prosecution Additionally, the Thai army has set up its own Army Cyber Center in tandem with the already existing Technology Crime Suppression Division. These organizations seem to have a wide scope to monitor dissent and protect the monarchy and to interpret what information could be false, partially false, distorted, and

partially distorted. Shortly after the organizations were established, hundreds of websites were shut down on the grounds that they could disturb the quality of public life.

The most consequential institution set up to combat disinformation is the Anti-Fake News Center (AFNC), established in 2019 by the Ministry of Digital Economy and Society.[14] Thailand does not have an independent fact-checking organization (it is only part of the AFP-affiliated fact-checking initiative), so the AFNC seeks to fill this void, but it is a wholly governmental effort and thus lacks independence from the state. The AFNC was designed to combat false content and was regularly used to counter misinformation and conspiracy theories relating to COVID-19. Also among its mandate, however, is the review of content that could disturb the peace and order of the nation. As a state-run agency, the AFNC engages in countering false information through the dissemination of corrective information.[15] But opposition parties have accused the government of using the AFNC only to investigate disinformation campaigns against the incumbent.[16]

BEST PRACTICES AND POLICY RECOMMENDATIONS

Thailand's best defense against disinformation will come from the ground up. Strengthening the networks of grassroots groups and individuals who understand and demand digital rights is the best antidote against a domineering, illiberal, and autocratic internet regime. While not all digital rights activism is successful, such collective opposition to state initiatives that could increase information control and opportunities for manipulation is instrumental in signalling to the incumbent that their actions are unacceptable.

The most effective grassroots effort in Thailand to fight against the state's crackdown on internet freedom was the "anti-single gateway" campaign in 2015. The military junta sought to consolidate internet traffic through the creation of a single, harmonized, government-controlled gateway that would permit additional policing of information flows. Internet advocacy groups created online petitions on change.org that elicited more than

500,000 signatures and much heated conversations across a number of Thai Web board communities. Another online group was created on Facebook, 🔲🔲🔲🔲🔲🔲🔲🔲🔲🔲🔲 Single Gateway 🔲🔲🔲🔲🔲🔲🔲🔲🔲🔲🔲🔲 🔲🔲🔲🔲🔲🔲🔲🔲🔲🔲 ("Citizens against the Single Gateway for Freedom and Justice"), in retaliation against the state's plan to tighten control over the Thai cyberspace. This Facebook group received more than 200,000 likes and similarly generated grassroots pressure on the government's controversial plan.[17] Eventually, the Thai government backed off from the single gateway proposal.

The Thai case has shown the importance of identifying and understanding disinformation campaigns that emerged within the state. Specifically, disinformation operations organised by the state to attack political opposition groups and manipulate public opinion toward public institutions.

Lessons learned in studying Thailand's state-sponsored disinformation operations provide the following policy recommendations:

- It is challenging to prove the existence of disinformation campaigns without the cooperation of tech platforms. There is very limited public access to data that could provide hard evidence of disinformation campaigns and reveal their nature and attributes. Tech platforms need to cooperate more with Thai internet and social media users to identify disinformation, particularly if the content comes from the state. Platforms can label state-run disinformation accounts, shut down accounts that spread false information more efficiently, and provide resources in the Thai language to help users identify disinformation.

- Civil society and opposition groups are often at the front line of state-backed disinformation operations, as they are likely targets and victims of such actions. Because of these groups' vulnerability to disinformation, tech platforms and civil society networks should provide them with training on how to manage such problems and what resources are available to strengthen their call for investigation.

- Grassroots digital literacy campaigns and social technologies that focus on raising

awareness of disinformation, misinformation, and propaganda are crucial to building public immunity against disinformation. A notable effort is the 606 Fake News Game developed by Opendream, a Thai social enterprise, which has been shown to improve players' ability to spot false information[18]. The game was designed to increase Thai youths' capability to identify false information, measured by a pre- versus post-game knowledge test. The game's success demonstrates how gaming can be used to reduce young people's vulnerability to false information.

- Disinformation from foreign actors remains challenging to identify systematically, as it takes many different forms and comes through various vehicles such as foreign investment. To enhance their ability to detect and map foreign interferences in the information environment, Thai civil society, media organizations, and academic institutions need to strengthen their capacity for investigative and data journalism. They can do this by prioritising digital analytic skills, such as participating in free online trainings offered by the Google News Initiative Training Center and Thailand Data Journalism Network.

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INEQUALITY

| **Andrew Yeo**

Kok-Hoe Ng

Byunghwan Son

Meredith L. Weiss

Teresa S. Encarnacion Tadem

OVERVIEW: DEMOCRACY AND INEQUALITY

ANDREW YEO

INTRODUCTION

A key challenge to democracies in Asia is persistent or rising inequality. The diversity of cases in Asia — characterized by varying levels of economic and political performance — indicates, at best, a complicated relationship between inequality and democracy. To help address this issue, four scholars examine inequality and democratic governance in the Philippines, Malaysia, Singapore, and South Korea and provide a set of policy prescriptions for policymakers, civil society, and the private sector. Although there is no one-size-fits-all solution, the case studies highlight several common challenges, such as the institutionalization of past unequal practices, and policy prescriptions, such as greater political decentralization. Taken collectively, the papers provide important insights and recommendations to combat inequality, with the aim of strengthening democracies in Asia.

BACKGROUND

The scholars were chiefly interested in economic inequality. However, in their assessments, they recognized other related dimensions of inequality, including limited or uneven access to education and government services, racial and ethnic inequality, and unequal access to the political process. Unsurprisingly, economic inequality is correlated with many others forms of inequality, which, in turn, limit democracy. For instance, the poor may not be able to exercise their right to vote to voice their concerns, whereas the rich may use their wealth and political connections to influence policy. Practitioners must therefore be mindful of how one form of inequality relates to other forms.

The scholars adopted a flexible understanding of democracy. However, there was greater emphasis on democratic governance given the wide variation in the quality of democracies in Asia. Procedural and normative conceptions of democracy were also considered to a lesser extent.

The Gini coefficients measuring inequality in the four countries ranged from 0.3 on the lower end to 0.5 on the higher end of the spectrum. Ordered from the highest to lowest degree of inequality are the Philippines (0.48), Malaysia (0.43), Singapore (0.40), and South Korea (0.31).[1] The Philippines and Malaysia are considered middle-income countries, and South Korea and Singapore are categorized as high-income countries. Even in a wealthy, highly democratic and low inequality society such as South Korea's, perceptions of inequality can still linger, as depicted in popular Korean dramas and movies such as "Squid Games," "Sky Castle," and "Parasite."

CHALLENGES AND RECOMMENDATIONS

Despite wide economic and political variation among the four countries, several common challenges and policy recommendations were identified.

- **Inequality is only loosely associated with weaker democracies.** A loose correlation between inequality and reduced political freedoms (as measured by Freedom House index scores) can be identified when comparing the four countries. However, the fact that some nondemocracies in Asia are characterized by lower economic inequality

(in other words, countries with low Gini coefficients) but limited political freedom, such as Cambodia, Myanmar, and Pakistan, indicates that there is no direct, linear relationship between inequality and democracy. Targeting inequality alone will therefore not necessarily improve democratic quality, as other variables such as corruption or racism also correlate with inequality and democracy.

- **The problems of inequality and democratic decline are linked to deeper historical legacies and path dependent processes.** For example, the dominance of political family dynasties (as seen in the Philippines) contributes to political inequality and corruption. And deep-rooted economic policies favoring particular ethnicities (as seen in Malaysia), as well as programs that single out specific demographic groups (as found in Singapore), lead to the marginalization and social stigmatism of targeted groups, which further contributes to inequality. Policies, both in their design and implementation, should therefore aim to not only fight inequality, but also gradually change public attitudes toward social welfare policies. Principles of universalism that contribute to normalizing access to public services are thus welcome.

- **COVID-19 has exacerbated inequality in Asia, but it also provides a window of opportunity.** The pandemic may have widened the gap between the rich and poor in Asian countries. However, governments could use the crisis to shift policy in a direction that helps alleviate rising inequality. For instance, in South Korea, the government could use its surplus fiscal capacity to support those small-business owners hit hardest by the pandemic. In the Philippines, additional revenue from a "wealth tax" applied to those at the highest income bracket could help cover the large cost of tackling the COVID-19 pandemic.

- **Decentralization offers a means of addressing economic and political inequality.** Three of the four papers advocate devolving political and economic processes from the national level to the regional and local levels. The rationale for decentralization may differ in each country, but it commonly helps to redistribute wealth and resources, enhance local political participation, and empower marginalized regions and populations.

- **Improved data analysis and greater data transparency could help policymakers better understand and address problems of inequality and democracy.** For example, further disaggregation of Bumiputera groups in Malaysian government statistics reveals disparities between peninsula Malays and other ethnic groups. Data disaggregation can help "refine categories and targets so that policy benefits reach the especially vulnerable segments." The systemic collection of high-quality international data that can be easily compared, as well as increased data access for independent researchers, could help offer new insights and provide additional scrutiny of government policies. For instance, in Singapore, inequality indicators "should be calculated using all household income sources instead of work income only, as is current practice."

CASE STUDY SUMMARIES

Philippines

Raising the issue of inequality has been a major political challenge in the Philippines. Filipino politicians regularly mention poverty and corruption, but as Teresa S. Encarnacion Tadem notes, they rarely address class inequality and its effect on democracy, even though inequality in the country ranks among the highest in Asia. Tackling inequality would mean shedding an uncomfortable spotlight on political family dynasties and their dominance in Philippine political and economic life — a core factor perpetuating inequality and democratic weakness.

To address the interrelated issues of inequality, corruption, and democracy, Tadem points to national and local efforts at decentralization. In particular, she reflects on the 1991 Local Government Code (LGC), a major decentralization policy that "sought to address inequality

and empower people to take part in the decision-making process of their respective local government units." In the spirit of the LGC, Tadem offers several remedies to address regional and class inequality. In the short term, the Philippine government could strengthen socioeconomic policies and nationwide social protection programs, such as the Universal Health Care Act and the Pantawid Pamilyang Pilipino Program (more popularly known as the conditional cash transfer program) and "push for national programs that encourage popular participation." In the longer term, Tadem advocates passing an anti-dynasty bill and levying higher taxes on the wealthy to help cover the large cost of addressing the COVID-19 pandemic.

Malaysia

In Malaysia, the relationship between inequality and democracy is also complicated and exacerbated by additional factors. As Meredith L. Weiss argues, "the tight interweaving of political stratification, racial identity, and economic interest in Malaysia" makes reducing inequality an "elusive target." More specifically, the special status accrued to ethnic Malays and other indigenous communities vis-à-vis other groups (in other words, ethnic Chinese) has "rendered Malay political rights issues inseparable from economic issues." And these issues have been made more acute by the COVID-19 pandemic.

Malaysia has made rapid economic progress in the past two decades. Its gross domestic product per capita nearly tripled during this period (excluding the 9% decline attributed to the pandemic), and its absolute poverty declined. Inequality has also steadily improved. However, other data point to more limited economic success. For instance, Weiss notes that "60% of the top 1% by income were Chinese and 33% were Bumiputera" in 2014. Although laws favoring the Bumiputera are unlikely to change, inequality can still be addressed by "prioritizing redistributive policies that benefit the many over the already-privileged few, and optimizing transparency and accountability in policy implementation and evaluation." As a quick and immediate step, "given sharp disparities between peninsular Malays and other Bumiputera," Weiss suggests disaggregating

the Bumiputera in government statistics "to help refine categories and targets." This step will help ensure that policy benefits reach the most vulnerable populations. In the longer term, institutional decentralization and the devolution of policy authority and fiscal resources could give those in more peripheral areas a greater voice, thereby enhancing democratic inclusivity.

Singapore

Singapore remains an outlier. As Kok-Hoe Ng states, the country has an "enviable economic track record, high standards of social well-being, and a technically competent bureaucracy." The public's trust in government is also high. However, undemocratic practices persist, and Singapore's pro-market approach to economic growth has resulted in greater inequality. Ng notes that "the top 1% own 32% of the wealth in the economy, while the bottom 50% own just 4%." Although state intervention is generous in areas that encourage economic markets (for example, universal public education), welfare support for people toiling outside of these markets is minimal. Income (in)security and housing are two areas that highlight how neoliberal economics, existing political practices, and social policymaking hinder democratic growth in Singapore.

In light of these problems, Ng advocates changes in policy design, principles, and processes that could ultimately shift the mindset of Singapore's relatively "high tolerance" for inequality. As he states, "Minor adjustments to policy design can amount to a shift in the policy paradigm if they are based on a consistent set of principles. From an equality perspective, the most important principles are espousing universalism, prioritizing needs, and normalizing access to public services." Anti-welfare rhetoric could also be replaced with "policy rules and language that stress universal access and the importance of meeting needs." Increased transparency would also strengthen policy accountability and efficacy. Greater access to information and the collection of high-quality, internationally comparable social and economic data for independent research and analysis could place checks on policymaking, particularly in polities such as Singapore where electoral competition remains limited.

South Korea

South Korea seems to present an ideal case in which inequality is relatively low and democratic governance and political freedoms are generally high. Moreover, somewhat contrary to popular beliefs, Byunghwan Son finds that economic inequality has not increased in recent years, nor have public perceptions of "unfairness." However, although these and other data indicators suggest reason for optimism, a narrative of economic injustice seems to persist in popular media. If not managed carefully, Son warns of a potential democratic crisis created by perceptions of inequality, as evidenced by the importance of domestic economic issues in South Korea's highly polarized 2022 presidential election. Most notable is the shortage in housing in and around Seoul, which reflects a deeper structural problem related to a growing wealth gap between the rich and poor.

To avoid a crisis, Son suggests maintaining, if not further improving, levels of income distribution through fiscal expansion. In the short term, more aggressive social spending is warranted given South Korea's surplus fiscal capacity, as noted by the International Monetary Fund, and its below average spending compared to other member countries of the Organization for Economic Co-operation and Development. In particular, it would be prudent to further support those small-business owners hit hardest by the COVID-19 pandemic (and that comprise a significant portion of South Korea's real economy). Also, instituting supply-driven housing policies could help staunch the surge in housing prices and reduce the wealth gap. In the longer term, "decentralization of the national economy, which is heavily centered around Seoul, needs to be more aggressively pursued." Son argues that decentralization would help "ease up the asymmetric population pressure on the capital area and offer a structural solution to the wealth inequality problem."

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INEQUALITY AND DEMOCRACY IN SINGAPORE

KOK-HOE NG

DEFINING THE CHALLENGE

Singapore is a wealthy nation with an enviable economic track record, high standards of social well-being, and a technically competent bureaucracy. Its government enjoys a consistently high level of public trust. But, at the same time, Singapore has an unequal society where economically vulnerable groups have difficulty meeting basic needs. Undemocratic practices also detract from six decades of efficient, unbroken rule by the dominant political party. This paper addresses these contradictions by considering the relationship between inequality, politics, and social policy in the country. The first section presents the basic argument for democracy and equality, and highlights the linkages among Singapore's neoliberal economics, political practices, and social policymaking. The second section reviews the country's major social policies in this context and how they shape distributional outcomes. The closing section proposes recommendations for policy design, principles, and processes which, if successful, will help reform social welfare and strengthen democracy.

Equality is integral to democracy. At a basic level, formal democracies are distinguished by political equality in terms of fair elections, universal suffrage, accountability of the state, and freedom of expression. Advanced social democracies go further by also aiming for social and economic equality.[1] The distribution of social and economic resources is critical because advantages in these domains easily spill over into the political sphere. Wealth can be used to sponsor political campaigns and lobby governments, while small, privileged groups can use their social influence to shape public discourse. In political systems that fall short of even basic criteria for formal democracy, the impact of inequality on the prospects for democratization depends on the balance of power between classes, how far elite political advantages have been institutionalized, and the extent of ideological domination by the state.

Following neoliberal economic principles, Singapore has a pro-growth, pro-business policy stance and a high tolerance for inequality. As a result, it has become more unequal over time. The population's top 10% national income share (pre-tax) rose from about 35% in the 1970s to 46% in the 2010s, and the bottom 50% national income share fell from around 22% to 17%.[2] The disparity is even starker in terms of wealth. The top 1% owned 28% of the wealth in the economy in the 2010s, while the bottom 50% owned just 5%. Policy interest in social inequality is growing, partly spurred by the COVID-19 pandemic. The 2022 national budget pledged greater redistribution within a narrative of fairness and progressiveness. Even so, the Gini coefficient before taxes and transfers hovers stubbornly at around 0.44.[3]

Theoretically, neoliberalism stresses freedom from state intervention in favor of competition and enterprise in the free market. But in practice, neoliberal economies depend heavily on government policies to create conducive market conditions and suppress countervailing forces such as social mobilization against inequality. Advanced neoliberalism therefore tends to be associated with elite decision making and illiberal politics.[4] In a similar fashion, Singapore's neoliberal economics forms a tight nexus with political practices and social policymaking. The

state's ideological dominance, often institutionalized through legislation, is key.[5] When sources of scrutiny — such as the media, academia, civil society, and political opposition — face constraints, the state can more freely direct public attention to economic achievements and reframe inequality as inevitable (for example, due to meritocracy or global forces). In return, the narrative of economic success vindicates technocratic policymaking and, alongside a discourse of national vulnerability, provides justification for limits on political freedom. The risk for such regimes is that hampering the flow of corrective feedback from society will dull the state's sensitivity and responsiveness to policy problems.

ASSESSING POLICIES AND PRACTICES

Singapore's welfare state is complementary to its economic model. It valorizes personal and familial responsibility and minimizes redistribution and other social policies that are seen to provide alternatives to market participation. State provision is generous and broad-based in social domains that are seen to aid economic production, such as education. But support for people outside the market is residual: eligibility criteria for assistance are strict, coverage is narrow, and amounts are inadequate. This dualistic approach is politically stable in the short run because it secures the support of the majority while containing any unhappiness within small constituencies. But it also creates sharp divisions in society by localizing hardship within marginalized groups. This approach to social welfare is most clearly illustrated by income security and housing policies.

Income security

The Central Provident Fund (CPF) is the primary instrument for income security in Singapore. It is a defined contribution public pension scheme that requires monthly contributions from workers and employers. These contributions are then deposited into individual accounts. After any pre-retirement withdrawals for housing, health care, and children's education, pensions are paid as annuities from 65 years

old. Compared to defined benefit schemes, the CPF has a lighter fiscal footprint and is less vulnerable to the demographic risks of population aging as there is no redistribution across cohorts. It provides a majority of the population with basic income protection in old age and is a major factor behind broad access to homeownership and positive health outcomes.

However, because the CPF is almost entirely driven by earnings, income disadvantages during working age are carried over into retirement. Older women are particularly vulnerable, as their careers are more likely to be interrupted by childbirth and care needs in the family. Many low-wage workers delay their retirement due to insufficient savings. Despite the high contribution rates, older people are heavily dependent on intra-familial cash transfers from working-age children, which is an unsustainable arrangement in an aging population with shrinking family sizes.

Wage inequality has been a serious policy concern. To maintain cost competitiveness, Singapore depends on a huge migrant workforce that exerts downward wage pressure in the lower-skilled sectors of the economy. Having rejected calls for a universal minimum wage, policymakers introduced a system of wage ladders for selected job sectors in 2012. The Progressive Wage Model (PWM) sets out pay increments tied to skills and productivity, with a mandatory minimum as the starting point. It has the effect of a sectoral minimum wage. In 2021, it was announced that these protections would be extended to cover more sectors and occupations. This is a significant step with the potential to reshape wage distribution. Yet gaps remain. For lower-skilled migrant workers, their housing is separate from housing for local residents, their use of public spaces is policed, and they cannot migrate with their family or marry Singapore citizens.[6] They are also excluded from employment and wage protections such as the PWM, as well as national wage statistics. The minimum salaries for migrant domestic workers are less than half of the lowest mandatory minimum under the PWM for nationals.

Outside the labor market, working-age persons who need financial assistance (due to unemployment, for example) confront the harshest

face of the social welfare system. The assistance regime is in the mould of "workfare" (as opposed to welfare), as found in places like the United States and the United Kingdom. The flagship program, ComCare Short-to-Medium-Term Assistance, is strictly means-tested, provides short-term and ungenerous cash support, and is conditional on applicants demonstrating their efforts to seek work. Such approaches have been criticized for keeping vulnerable people in the lower strata of the economy without addressing problems with work conditions and structural pathways that lead to poverty.[7]

Housing

Public housing built and sold by the state on 99-year leases accommodates around 80% of Singapore's population.[8] Between 1970 and 2020, the public housing stock grew from 118,000 to 852,000 units without straining public finances, as housing is paid for with CPF savings. This scale of state intervention to deliver owner-occupied housing instead of subsidized rentals (in other words, social housing) makes Singapore an international outlier. It is also the most tangible evidence of the state's bureaucratic capacity and urban planning skills. Public housing in Singapore is of a high physical standard, and residents' satisfaction ratings are generally positive. High rates of homeownership are also politically advantageous. Analysts argue that ownership discourages voting against the incumbent and promotes work participation and labour discipline (to meet mortgage obligations).

Once purchased from the state, public housing may subsequently be freely traded on the open market. However, there are inequalities associated with ownership. The public housing menu offers a wide range of options in terms of size, location, the number of years remaining on a lease, and price, with different potential for market appreciation. And, of course, people with greater means can purchase more valuable housing. The most glaring inequality is between sold housing and social housing. As part of the homeownership campaign, social housing rented directly by the housing authority to low-income persons has been cut back to around 6% of the public housing stock in the past few decades. Only small flat types are now available to rent in this residual housing sector, while larger flats are reserved for sale. Insufficient supply leads to long waits for housing and overcrowding is a problem for larger families.

A comprehensive public housing system offers policymakers a unique tool for social regulation. Ethnic quotas ensure that neighborhoods at least retain a numerical diversity that reflects the composition of Singapore society. However, the conservative vein in Singapore's welfare regime is also evident. Housing rules allow married heterosexual couples to purchase housing at a younger age and give them more generous subsidies compared to those given to widows, divorcees, and unmarried singles. Same-sex couples are not recognized and have no formal rights to public housing.

BEST PRACTICES AND POLICY RECOMMENDATIONS

Policy design

Direct levers to improve distributional outcomes may be found in specific aspects of policy design. For income security, reforms must temper market dependence and inequalities. First, there is scope to introduce a universal basic pension for all persons of retirement age. This will reinforce income security for the most economically precarious people and help address the reproduction of wage inequality in old age. Second, a state-financed carer's allowance could be deposited into the CPF accounts of people doing unpaid care work. This will help reduce gender inequality and strengthen the familial care that the state is keen to promote. It will address the vulnerability of persons, primarily women, who give up wages and retirement savings to care for family members.

Housing policy must put housing needs first. In practical terms, this means increasing the supply of social housing and providing larger flat types to cater for bigger households. An expanded social housing sector that offers better housing quality at slightly higher rents will also help to narrow the gap with sold housing and

make the transition to ownership less forbidding. Raising supply to match the actual needs for affordable housing will reduce the temptation to use strict qualifying criteria to dampen demand and will allow a more rational eligibility regime. For instance, the qualifying income limit — last revised in 2003[9] — can be brought up to date.

Policy principles

Minor adjustments to policy design can amount to a shift in the policy paradigm if they are based on a consistent set of principles. From an equality perspective, the most important principles are promoting universalism, prioritizing needs, and normalizing access to public services.

Narrowly targeted services tend to attract social stigma because users are marked as outsiders. These services are also generally of poor quality, as the constituency is too small to demand change. Public service and program coverage should therefore be broadened. Where universalism is not possible, the standards of public services for vulnerable persons must be raised to reduce the quality gap between state and market provision.

Prioritizing according to needs is the fairest way to allocate public resources. A first, and urgent, step is to remove all forms of discrimination in policy rules that treat people differently based on arbitrary hierarchies of deservingness. Instead, the formal rules for allocating public services should be explicitly based on needs, for example, space needs when it comes to social housing.

Societies with limited notions of rights to public services tend to be more stratified and unequal. Replacing anti-welfare rhetoric with policy rules and language that stress universal access and the importance of meeting needs can help to rehabilitate perceptions of public services like social housing and financial assistance. People would more likely view the provision of these services as a collective responsibility rather than state charity.

Policy processes

Tackling inequality effectively requires standards. Clear benchmarks of what is "good enough," such as housing and income standards, can safeguard service quality and provide targets for measuring policy outcomes and social progress. Thresholds, such as a poverty line, can serve as warning indicators to alert policymakers to social problems. Both means-test limits (where means testing is necessary) and provision levels should be decided rationally, such as by indexing to economic measures like prices or incomes, adopting scientific measures of need, or taking guidance from independent and representative advisory bodies. Resorting to bureaucratic discretion to create wiggle room around unrealistic eligibility criteria must be avoided.

Greater transparency and openness to scrutiny are helpful for policy accountability and efficacy, and are especially critical where electoral competition is limited. Achieving these objectives requires the regular collection of high-quality, internationally comparable, social and economic data, as well as increased access to data to conduct independent research and analysis. Inequality indicators, for example, should be calculated using all household income sources instead of work income only, as is current practice. Datasets from major public surveys, such as on household incomes and expenditures, should be made accessible.

CONCLUSION

Even in competitive democracies, major policy shifts do not happen easily. They often require extraordinary pressures to overwhelm the advantages of incumbency and the forces of path dependency. Still, policy traditions rest on ideological settlements that always contain openings for contestation and reformulation. The current conditions in Singapore may have just created such an opening. As in many other places, the COVID-19 pandemic turned a spotlight on economically marginalized groups. The 2020 general election in Singapore produced

one of the lowest vote shares in history for
the ruling party and the largest parliamentary
representation for the opposition, albeit just 10
seats out of 93.[10] During campaigning, social
and economic inequality featured prominently.
A year after the election, policymakers finally
mustered the will to extend the PWM to more
job sectors and occupations.[11] A full reform of
social welfare to reverse the long-term trajectory
of inequality in Singapore must consider what is
attainable over different time periods, account
for the possible consequences of reform, and
set out not just what needs to happen but also
how. The directions and priorities identified
above provide a starting point.

https://www.opendream.co.th/project/606-fakenews-game.

INCOME INEQUALITY:
A DISTANT BUT SIGNIFICANT THREAT TO SOUTH KOREA'S DEMOCRACY

BYUNGHWAN SON

INTRODUCTION

One of the buzzwords that defined the March 2022 presidential election in South Korea was "fairness."[1] Along with unfairness, domestic and foreign pundits invoked conspicuously ominous social problems, such as skyrocketing housing costs and plummeting marriage rates, and pointed to inequality as the fundamental root cause. Socioeconomic inequality seems to have become one of the most salient political issues in the country. Given the well-established social science research on the relationship between inequality and the public perception of democracy, the issue's prominence bodes ill for South Korea's democracy. In fact, commentators suggest that an inequality-driven democratic crisis is on the horizon, as populism, in their view, is rising.

This is a plausible concern, but not an entirely warranted one. Income inequality in the country has stagnated, if not declined, in the last decade. More importantly, survey data reveal that South Koreans' collective opinions about inequality and fairness have not changed much during this period. The doomsayers pointing to a pending democratic crisis, in other words, seem to have been overrepresented in the social discourse in South Korea.

However, the absence of red flags does not mean that inequality is not a problem or that South Korea's democracy is foolproof. The widening wealth gap, largely caused by increasing asset prices, is a potential threat. If and when the wealth gap (for example, differences in

properties and investments) trickles down to create an income gap (for example, wage differentials), a democratic crisis may materialize.

These potential threats could be kept at bay by employing (1) expansionary social spending schemes to hold income inequality at a low level, (2) supply-driven housing policies and further implementation of decentralization to mitigate the income effect of the wealth gap, and (3) improving transparency to secure the political momentum to pursue these two strategies.

THE SOCIOPOLITICAL CONTEXT OF INEQUALITY IN SOUTH KOREA

Researchers have established that economic inequality negatively affects democracy. In particular, recent political economy research shows that ordinary citizens are significant drivers of democratic decay. Perceived economic injustice, usually spurred by high levels of income inequality, makes citizens question the performance legitimacy of democratic governance.[2] People may ask, "if democracy does not bring about justice, what is it good for?" (see figure 1). Citizens eventually become disappointed about, and often disenchanted with, democracy. Mass disenchantment with democracy then undermines the public's confidence in political institutions and opens up opportunities for illiberal alternatives such as populism to gain attention.[3] It is ominous news for democracy when growing inequality leads to public disappointment with democracy.

FIGURE 1

Inequality, citizenry, and democracy

inequality → citizens (fairness) → democracy

To see if inequality poses an existential threat to South Korea's democracy, two questions need to be answered: Is income inequality rapidly rising in South Korea? And is the public's perception of inequality having an effect on democracy?

Regarding the first question, analysis from scholars and pundits tend to affirm rising inequality. By the late 2000s, it was widely believed that the level of inequality in the country had increased dramatically following the 1997 Asian financial crisis and the host of economic liberalization measures that ensued.[4] Sociocultural signs of the supposedly rising inequality were repeatedly highlighted by the media in the past decade: for example, the strict stratification of the already-precarious labor market,[5] the "spoon theory" (life is pre-determined by hereditary wealth—'gold spoon' regardless of individual efforts)[6] and the "Hell Joseon" (hyper-competition in the Korean society leading to the low quality of life—as if one lived in hell) reference.[7]

But an examination of income inequality data reveals that such a characterization of South Korean society is not entirely warranted. Figure 2 depicts the distribution of disposable income over time in South Korea in a comparative perspective. With some mild ebb and flow, the level of income inequality in South Korea has remained relatively stable, at a level substantially below the global average. In fact, the South Korean government's official statistics reported to the Organization of Economic Cooperation and Development (OECD) indicate that in the last couple of years that the Standardized World Income Inequality Database does not cover, income inequality has declined. If income inequality were the sole concern, the South Korean democracy would be under no immediate threat.

FIGURE 2

Income inequality in South Korea, Gini coefficients (disposable income) and 95% confidence intervals
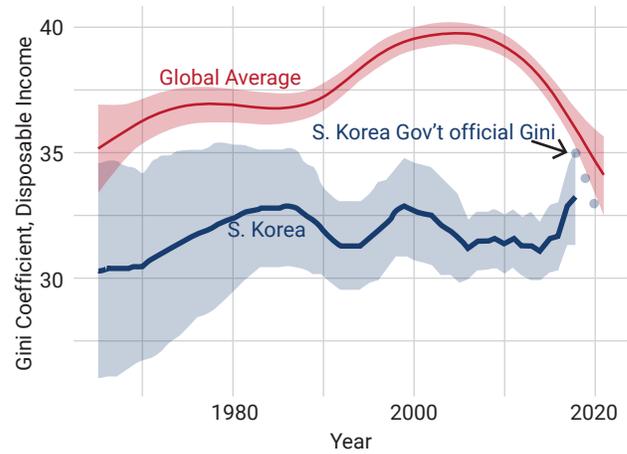
Source: Frederick Solt, "Measuring Income Inequality Across Countries and Over Time."[8]

Alluded to in the second question, however, is that even without objective income inequality being on the rise, a public's perceived level of inequality can still lead to anti-democratic sentiments.[9] Of particular interest here is a public's sense of fairness. High levels of perceived inequality can lead individuals to believe that democracy does not bring about the fairness it promised. If there is a sense of fairness, however, citizens could view even rampant inequality-driven income gaps as "legitimate" under certain circumstances, and democracy would remain unscathed.[10]

Identifying a sense of unfairness as one of the sources of potential democratic decline in South Korea is in line with the arguments of prominent social debates in the 2010s. In the 2012 presidential election, for example, economic democratization became a primary campaign promise of both conservative and liberal candidates.[11] Inequality and fairness also took center stage during the Candlelight Protest between 2016 and 2017, which led to the impeachment of former President Park Geun-hye.[12] When assessing prominent social discourse alone, the South Korean public's sense of unfairness seems to have definitely increased in recent years.

But, again, an examination of relevant data suggests otherwise. The Korea Social Integration Survey, conducted by the Korea Institute of Public Administration, has asked ordinary South Koreans (roughly 3,000) every year since 2010 about the level of fairness in 10 different political, social, or economic domains, such as taxation, gender, and employment. Figure 3 shows the yearly trend of their average fairness opinions, which are expressed as a mean of all 10 of these fairness indicators for each year.

For South Korea's democracy to be at risk due to income inequality, the fairness opinions should trend downward or at least stay at a dangerously low level. The trend, however, remains stable at a level only slightly below the hypothetical neutral point (2.5). If anything, the opinions have been trending more positive in the last three years, with a statistically significant difference from the pre-2018 levels (as the 95% confidence intervals indicate). And the aggregation does not lump together very different indicators. When broken down, all ten indicators still trend fairly similarly, though at different levels.

FIGURE 3

Public opinions on fairness
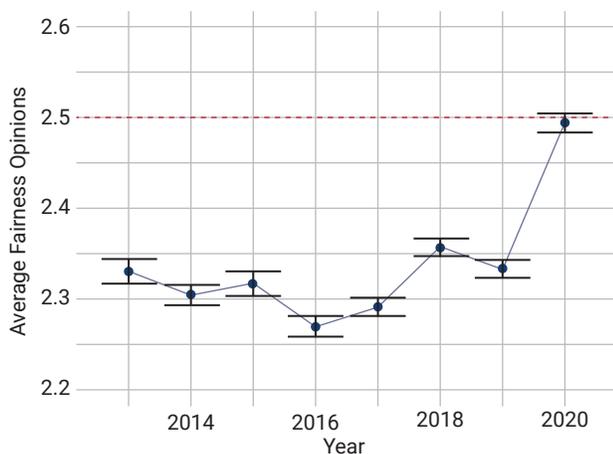
Notes: Average fairness perceptions, aggregated. 1 (very unfair) to 4 (very fair). The horizontal dashed line represents the neutral point, 2.5.

Source: "Korea Social Integration Survey," Korea Institute of Public Administration.[13]

In short, the surveys suggest that the public's sense of unfairness has not been simmering over time. Nor does income inequality seem to be rapidly widening or contributing to a rise in unfairness sentiments. Taken together, there is little, if any, indication that income inequality poses an immediate threat to South Korea's democracy. This does not imply, however, that inequality on the whole is not a cause for concern. Quite to the contrary, the notion of a possible democratic crisis, to some extent, rightly gained political significance in the presidential election in 2022.

THE THREAT OF WEALTH (HOUSING) INEQUALITY

Property prices in general and housing costs in particular have recently become major determinants of South Korean election outcomes.[14] The politics surrounding the issues of housing costs reflect a structural problem: The wealth gap between the poor and the rich in South Korea has been widening significantly in the past decade largely due to rising housing prices.

Data on inflation-adjusted, city-level housing prices indicate that between 2017 and 2020, prices in Seoul have been increasing at an above-average rate compared to those of other major cities in OECD countries.[15] Considering the global real estate boom, this price growth in Seoul is a notable one. Given the low home ownership rate in the country (<60%), a continued growth in housing prices may eventually translate into income inequality. Greater housing prices imply that more disposable household income would have to be drawn out to finance home-buying. A compounding factor is South Korea's—and particularly Seoul's—high household indebtedness, which has climbed up steadily in the past decade to the level of 200% of the gross disposable income.[16] The heavy debt burden will only accelerate the process of the wealth gap leading to an income gap. And if this occurs, public opinions on fairness might trend downward.

POLICY RECOMMENDATIONS

Three broad policy recommendations could help prevent or slow the effects of wealth inequality on income inequality: (1) maintain, or reduce, the historically stable level of income equality through fiscal expansion; (2) address the wealth gap through supply-driven housing policies and economic decentralization; and (3) improve transparency in governance.

First, as the International Monetary Fund pointed out, the South Korean government should take advantage of the country's "ample fiscal space."[17] Its surplus fiscal capacity could be used toward social programs, a domain in which spending has been grossly lagging behind the OECD average.[18]

The comprehensive polices put in place over the past five years in wage, tax, welfare, and other related areas have proven effective in addressing inequality to a certain degree. The annual pace of poverty reduction accelerated recently, mostly due to expansive social spending policies.[19] Indeed, despite some reasonable criticisms on the sluggish performance of investment and innovation strategies, the income-led growth strategy eventually resulted in raising the incomes of the bottom echelons and promoted upward mobility. [20]

With necessary modifications in response to negative externalities, more aggressive fiscal policy toolkits could be utilized. For instance, given the disproportionate damage the COVID-19 pandemic inflicted on small-business owners (who make up a large share of the real economy in the country), nontraditional, large-scale social programs targeting them are not only necessary but perhaps inevitable. Based on recent campaign promises, the government seems to be poised to pursue this policy route to a certain extent, although there are already signs of setbacks in areas such as pension systems.

Second, innovative, supply-driven housing policies need to be implemented to curb the growing wealth gap. While low borrowing costs were the primary reason for skyrocketing housing prices in many countries around the world, it is also undeniable that the South

Korean government's regulation-focused approach was ineffective in containing the price surge and increasing housing availability.[21]

Fortunately, there has been a slowdown in the asset price growth in recent months, which experts attribute to the increased housing supply. The government can continue to improve the supply side of the housing market, but not only by resorting to traditional measures focused on easing taxes and regulations. The government could consider more innovative, unconventional policies. For example, expanding high-speed rail networks around the Seoul metropolitan area could address supply issues, with a limited risk of contributing to inflationary pressures.[22] On a more fundamental level, decentralization of the national economy, which is heavily centered around Seoul, needs to be more aggressively pursued and implemented. While some policy innovations relating to economic decentralization are already in process such as the 'Administrative Capital Sejong,' significant enhancements such as further relocation of government agents and public enterprises will ease up the asymmetric population pressure on the capital area and offer a structural solution to the wealth inequality problem.

Finally, improving transparency in governance could help muster the political momentum necessary for implementing the two policy recommendations discussed above. The historically low presidential approval ratings, as well as a series of controversies surrounding Cabinet appointments, point to a political landscape not very favorable to the government. This contextual challenge principally stems from secrecy and incoherent messaging that compounds the already-dwindling level of public trust in the government. The low trust will make it difficult to pursue the recommendations, as housing and expansionary fiscal policies are highly combustible agendas in South Korean politics. While not a sufficient measure on its own, improving transparency in governance would be a good first step toward restoring public trust.

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ADDRESSING INEQUALITY IN MALAYSIA

MEREDITH L. WEISS

As of this writing, general elections are imminent in Malaysia. Amid the COVID-19 pandemic and unprecedented political upheaval, these elections offer especially stark choices among normative frameworks and public policies. Malaysia was similarly poised in May 2018, when the political coalition Pakatan Harapan (Alliance for Hope) defeated the coalition that had been in power since independence, the communally (in other words, racially) structured Barisan Nasional (National Front). But the new government collapsed in February 2020, and two successor administrations have sustained only some of Pakatan Harapan's initiatives — leaving some reforms unimplemented and the root issues behind the coalition's rise largely unaddressed, especially corruption and fraught socioeconomic and political cleavages.

To an extraordinary extent, since the 1970s, Malaysian policymaking has centered on addressing the inter-ethnic inequality entrenched in colonial-era development. By its own reckoning, Malaysia has made substantial headway, notwithstanding the financial crises in 1997–1998 and 2008–2009 and now the COVID-19 crisis. Yet such focused policies have to some extent exacerbated both inter- and intra-ethnic disparities in complex ways. Neither ethnic nor concomitant spatial inequality will fade easily, given the allure of exclusivist agendas and patronage networks. Indeed, Malaysia's experience is a cautionary tale against the zero-sum framing of organizing politically around ethnic identity. Concrete measures could help reorient targets and facilitate a more democratic sociopolitical order. In particular, enhancing data transparency, embracing need-based metrics, devolving decision-making, and reducing space for rent-seeking could further such progress.

To grasp both the challenges entailed and possible solutions, this paper first discusses the roots of contemporary inequalities and where progress to address them lags. Next, it examines Malaysia's policies thus far: The country has worked assiduously to combat inequality, yet it has not always done so in the most effective way and these efforts have sometimes resulted in undesired sociopolitical externalities, such as ethnically skewed patterns of "brain-drain." Finally, the paper offers specific short- and longer-term adjustments both to refine economic strategies and to facilitate more democratic politics.

DEFINING THE CHALLENGE

The tight interweaving of political stratification, racial identity, and economic interest in Malaysia makes inequality an elusive target. A racially segmented economy predates the end of British colonialism in 1957. Malays were then about half the population; they are now over two-thirds, but grouped in official statistics together with smaller indigenous communities as "Bumiputera," or "sons of the soil." Initially upon independence, Malays remained largely rural and agrarian; rural areas remain largely Malay, though three-fourths of Malaysians overall now are urban.[1] Malaysia's constitution enshrines the *kedudukan istimewa*, or "special position," of Bumiputera, embodied in reservations in education, public employment, and more. Nonetheless, wealth remains concentrated among foreigners and non-Malays, especially ethnic Chinese, the next-largest group.

Malay economic aggravation fueled anti-Chinese riots after an electoral upset, when the Malay-led incumbent Alliance coalition fared worse than anticipated, in May 1969.[2] The Alliance regrouped, restructured as the Barisan Nasional, and introduced the New Economic Policy (NEP) the following year to combat poverty and inter-ethnic economic inequality. Successor policies — the 10-year National Development Policy, National Vision Policy, New Economic Model, and Shared Prosperity Vision 2030, which are overlapped by five-year Malaysia Plans (currently on the 12th plan) and the 30-year Vision 2020, launched in 1991, which articulated economic, political, and social targets for full development — have stayed the course for over 50 years.

Malaysian governments' political legitimacy rests significantly on economic performance, which pre-election surveys perennially show to be voters' top priority. Yet far-reaching, preferential policies have rendered Malay political rights issues inseparable from economic issues. Redistribution efforts in the context of sustained rapid growth have mitigated the costs of policies that favor one ethnic community, or the most privileged group within it, over other citizens. Particularly as Malaysia struggles to regain its economic footing amid the pandemic and global recessionary trends, these costs will be more apparent. Economic inequality impedes democratic governance: As in other countries, class structures in Malaysia have an impact on citizens' access to decision-making processes, and policies to remedy inequality sometimes spur rent-seeking, degrading governance.

Malaysia has made credible progress toward meeting its economic targets. The gross domestic product (GDP) per capita nearly tripled from 2000 to 2019 (before a 9% pandemic dip in 2020). Absolute poverty declined from 16.5% in 1989 to 5.6% in 2019 (before a jump to 8.4% in 2020).[3] The country's multidimensional poverty index scores (inclusive of income, education, health, and standard of living) improved through 2019 as well. While by the mid-1990s, the World Bank rated Malaysia's income inequality the worst in Southeast Asia — and the country's Gini scores remain among the highest in the region[4]

— the Gini index has declined, if inconsistently, from 0.513 in 1970 (peaking at 0.557 in 1976) to 0.407 in 2019 (dipping as low as 0.399 in 2016).[5]

Importantly, growth has been strikingly inclusive overall: From 2002 to 2014, growth for the bottom half of the population was 84%, versus 55% overall,[6] with the rate declining with income (the reverse of the pattern found in the U.S. or China). By 2019, Bumiputera median household income was 73% that of Chinese, up from 58% in 1989.[7] Moreover, urban Bumiputera household income was 81% that of urban Chinese and slightly exceeded that of urban Indian households.

Yet other indicators suggest the limited success of economic restructuring thus far:

- In 2014, 60% of the top 1% by income were Chinese and 33% were Bumiputera; a stable three-fourths of the bottom half by income were Bumiputera.[8]

- The share of total household income of the top 20% *increased* marginally from 46.2% in 2016 to 46.8% in 2019, while that of the bottom 40% *decreased* from 16.4% to 16.0%.[9]

- Average rural household income declined from 63% to 58% of that of urban household income from 1989 to 2019.[10]

- As of 2015, 82.8% of Bumiputera-owned small-and-medium enterprises remained low value-added and micro-scale.[11]

- As of 2009, none of the top-10 publicly listed companies or top-20 industrial firms was Bumiputera-owned.[12]

- Bumiputera participation in skilled occupations now exceeds 60%, yet corporate equity ownership lags at 16.9% (well short of the over-30% target).[13]

- Those with by far the highest growth rate in real income from 2002 to 2014 were Bumiputera in the top 1%; the next highest rate was among Bumiputera both in the top 10% and bottom 50%.[14]

- Corporate equity ownership by foreign investors remained around 45% in 2018.[15]

Spatial inequality has likewise increased; disproportionate benefits from preferential policies flow to those in urban areas and especially prosperous rural regions. The income and development gaps among states have widened in recent years, too.[16] Most notably, non-Malay Bumiputera (Orang Asli and Orang Asal) areas in peninsular Malaysia and East Malaysia (Sabah and Sarawak states) lag in infrastructure and public services. These communities confront far worse opportunities in education and labor than Malays — disparities that overall data for Bumiputera obscure. Nine of Malaysia's 10 poorest districts are in Sabah (eight) and Sarawak (one); the tenth is in the peninsular east coast state of Kelantan (long governed by a party that was until recently in the federal opposition).[17]

The "special position" of Bumiputra is beyond the pale of political debate, but there remains ample scope to address inequality across economic, political, and spatial axes and between and within communities. Favoring "democratic" outcomes — prioritizing redistributive policies that benefit the many over the already-privileged few, and optimizing transparency and accountability in policy implementation and evaluation — will not only help to improve outcomes but also mitigate the electoral liability of real or perceived social immobility or imbalance.

ASSESSING POLICIES AND PRACTICES

The NEP (inclusive of follow-ons) has been central to Malaysia's effort to combat inter-ethnic economic inequality. Its core foci are to eradicate poverty and "eliminate the identification of race with economic function."[18] Parts of the NEP, especially poverty mitigation, have been highly effective; other parts have been less successful or have generated negative externalities, such as the inequities noted above. Regardless, these policy provisions, initially intended to be temporary, have become entrenched.

One major focus of Malaysia's preferential policies has been to expand Bumiputera access to higher education and managerial/professional careers, including via a Bumiputera-specific network of secondary and tertiary institutions,

scholarships, and loans under the government agency, Majlis Amanah Rakyat (MARA), or the Council of Trust for the People. But while enrollments have surged as a result, the quality and performance of public education have not kept pace. Bumiputera graduates of local institutions have struggled to find employment, especially in the private sector. Moreover, by the mid-1980s, only a small minority of government scholarship holders were from poor families.[19]

A second major focus has been to deepen and widen Bumiputera participation in business. Initially, public enterprises acquired foreign-owned assets on behalf of Bumiputera. But the strategy shifted in the 1980s to nurturing Bumiputera capitalists via preferential access to loans and government contracts and the privatization of public assets. As a result, the intra-ethnic and urban–rural income and wealth gaps widened. In the late 1990s, the Asian Financial Crisis led to a renationalization, via government-linked companies (GLCs) helmed by increasingly oligopolistic, overlapping political and business elites. Fading Malay popular support prompted greater focus on Bumiputera small-and-medium enterprises in the 2000s, as well as government promises to push back against politically connected Malay business elites. But the vested interests of ruling-party "warlords" ensured that neither effort thrived. Investment in equity shares, subsidies, and contracts for well-placed Bumiputera capitalists has fostered rent-seeking, economic inefficiency, and dependence rather than entrepreneurialism.[20]

Despite targets for better spatial distribution, lopsided investment and industrialization persist, sustaining regional underdevelopment and high levels of internal and external labor migration. By withholding oil royalties, the federal government also financially punishes opposition-held states on the less-developed (but heavily Bumiputera) east coast and in East Malaysia.[21] This practice deepens maldistribution and disaffection, including among Bumiputera; recent elections have seen increasing calls for regional autonomy or even secession, especially in East Malaysia.

A third major focus has been to tie access to housing, higher education, and other services to ethnic identity rather than need, leading to the suboptimal allocation of resources and the continued unequal distribution of political voice and power. Meanwhile, the wealthy continue to have access to private health care and education, even as public institutions decline, aggravating class inequality. That the already-bloated civil service absorbs disproportionately many Bumiputera (and rarely others) feeds both administrative inefficiency and other communities' sense of unfair treatment. The mix of policies deployed has exacerbated class-based inequality, increased brain-drain, and further lowered the quality of public institutions.

It should be said that Malaysia *has* partly attempted to shift to need-based support (and to a lesser extent, merit-based selection). Starting with the 10th Malaysia Plan (2011–2015), policymakers tentatively adopted the noncommunal language of "B20" and "B40" for the lowest economic quintiles. Race-blind quotas and incentives, including at least limited access to MARA institutions, have targeted B40 students since the 2000s. But the shift has done little to change partisan discourse or the risks politicians take by questioning Malays' right to special accommodations, even to facilitate investment and growth.[22] The demotivating effects of these policies are reflected in high and racially skewed emigration rates, as well as in perennial demands for political patronage.

Through it all, government spending on social protection has lagged, hovering around 2.5% from the mid-1990s through 2015 — among the lowest level in the Asia-Pacific region.[23] Taxes and transfers have minimal effect on Gini coefficients, indicating paltry redistribution: Fewer than 10% of those over 15 years old pay personal income taxes.[24] The social safety net is inadequate, amounting to 8% of total welfare for households in the B20, versus a regional average of 9% and an average for Malaysia's income group of 23%.[25] Responses to the pandemic and natural disasters have made clear the extent to which Malaysians rely instead upon aid from civil society in times of strife.

BEST PRACTICES AND POLICY RECOMMENDATIONS

The coming general election in Malaysia and the demonstrated critical importance of reliable, adequate social protections (particularly due to the pandemic) offer a window of opportunity to recalibrate efforts to mitigate socioeconomic inequality and improve political buy-in.

Short-to-medium term measures

- **Disaggregate the Bumiputera population in government statistics.** This would be a small but important step, given the sharp disparities between peninsular Malays and other Bumiputera. Taking the step will help to refine categories and targets so that policy benefits reach the especially vulnerable segments.

- Further shift toward reframing need-based support in terms of B20 and B40, moving away from racial criteria. Bumiputera, who constitute the majority in these two categories, would still benefit, but so would other citizens who are equally entitled to support. The unconditional cash-transfer program, Bantuan Rakyat 1Malaysia, pioneered this approach in 2012, determining eligibility by income alone for the first time in Malaysia; programs to come should continue that approach, better-targeting more substantial payments.

- Base access to public programs (for example, public tertiary education) on need rather than race, and reinvest in public institutions. This will be especially important to ensure that wider economic restructuring benefits reach the B20 and B40, to build capacity, and to increase social mobility. Such a perspective is in line with government pronouncements, including Vision 2020's sweeping objectives, prior initiatives such as "1Malaysia," and the (current) 12th Malaysia Plan's focus on socioeconomic "inclusivity." Policies would thus acknowledge the salience of implications for democratic governance and citizenship, beyond those related narrowly to economic standing and opportunities.

- Enhance and sustain the design, implementation, and assessment of programs through nonpartisan, transparent, and accountable public agencies. This approach would diminish the moral hazard that targeted state interventions may foster. Malaysian politicians see electoral advantages to being communal champions, and they therefore have an incentive to sustain underdevelopment, or the perception of it, that maintains constituents' dependency on them for help. Indeed, simple assessments of progress toward NEP targets have proved controversial: Declaring success would obviate further intervention.[26]

Medium-to-long-term measures

- **Devolve policy authority and fiscal resources.** Malaysia is an extraordinarily, and increasingly, centralized federation, in terms of both authority and resources. The 12th Malaysia Plan addresses both standards of living and economic "potential" to mitigate urban–rural and cross-state development gaps, yet stark regional disparities persist. Devolution would allow geographically and/or socially peripheral areas greater say in their own development and signal democratic inclusivity — and thereby combat spatial inequality.

- **Expand participatory budgeting at the local level.** Already piloted in a few constituencies, this process would enhance the effects of decentralization, helping to ensure appropriate priorities and metrics and to increase empowerment.

- **Ensure that GLCs are independent of politicians and parties and that expropriation is rule-bound and rare.** Proliferating GLCs and inconsistent nationalization and privatization expand politician and board member rents, raise conflicts of interest, and deter domestic investment. GLCs overlap, too, with a complex world of party-linked businesses and holding companies; this pattern further concentrates wealth among a narrow stratum of party-linked, and

increasingly dynastic, elites. The outcomes are inflated project costs to accommodate side payments, privileged political access for developers and industrialists, and factionalized parties and disillusioned voters. Systematic reform of the state sector, including shrinking it by deemphasizing NEP-legacy policies that target a Bumiputera capitalist class, would help. More broadly, emphasizing programs that build capacity and competitiveness rather than wealth ownership per se would ensure greater investment in helping those not already well-off.

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DEMOCRACY AND EQUALITY IN THE PHILIPPINES:
CONFRONTING THE CHALLENGES OF CLASS AND REGIONAL DIVIDE

TERESA S. ENCARNACION TADEM

DEFINING THE CHALLENGE

Among Asian countries, the Philippines has the highest level of income inequality, measured at 42.3 on the World Bank's Gini index.[1]

TABLE 1

Asian Inequality based on Gini Index[2]

COUNTRY	GINI	YEAR
Philippines	42.3*	2018
Iran	42.0	2018
Papua N.G.	41.9	2009
Malaysia	41.1	2015
Turkmenistan	40.8	1998
Singapore	39.8	2018
Sri Lanka	39.3	2016
Lao PDR	38.8	2018
China	38.5	2016
Indonesia	38.2	2019
Bhutan	37.4	2017
Cambodia	36.6	2018
India	35.7	2018
Vietnam	35.7	2011

COUNTRY	GINI	YEAR
15. Uzbekistan	35.3	2003
16. Thailand	34.9	2019
17. Tajikistan	34.0	2015
18. Japan	32.9	2013
19. Nepal	32.8	2010
20. Mongolia	32.7	2018
21. Bangladesh	32.4	2016
22. Pakistan	31.6	2018
23. Korea, Rep.	31.4	2016
24. Myanmar	30.7	2018
25. Kyrgyzstan	29.7	2019
26. Timor Leste	28.7	2014
27. Kazakhstan	27.8	2018

Sources: The World Bank Group: "World Development Indicators" 25 Jan 2022. For Singapore, "World Data Atlas."

*The PSA FIES for 2018 cites a higher PH Gini index of 42.67

The combined net worth of the 50 richest Filipinos was $128 billion (7.2 trillion Philippine pesos) in 2020, amounting to a staggering 37% of the country's gross domestic product (GDP).[3] Furthermore, despite the COVID-19 pandemic, the wealth of the richest 15 Filipinos increased by 49% from $29.1 billion in 2020 to $43.4 billion in 2021 (144 trillion to 2.15 trillion Philippine pesos)[4].

Yet the issues of democracy and class inequality are hardly raised during Philippine elections. A major reason why they have not generated campaign slogans actually hits at the very core of the source of the problem: the political and economic dominance of family dynasties that have ruled the country since the American colonial period (1898-1946). The May 2022 national elections have further cemented this reality, with the overwhelming victory of presidential candidate Ferdinand R. Marcos Jr., son of the dictator who was ousted in the 1986 People Power Revolution.

A window for addressing class inequality, however, remains open in the clamor to address regional inequality — the latter of which was part of outgoing President Rodrigo Duterte's 2016 campaign. Duterte blamed the country's unequal development on "imperial Manila," which steadily impoverished peripheral areas, especially the regions of Mindanao and the Visayas, by siphoning off their resources. This development created what is called the "Metro Manila" area, or officially, the National Capital Region (NCR). Table 1 illustrates the status of regional inequality by comparing

poverty rates in the NCR and in its peripheral regions. It clearly shows that the poverty rate is significantly lower in the NCR and that the rate increases as distance from the NCR increases.[5] It is therefore not surprising that Duterte's campaign slogan appealed to all classes in non-Metro Manila provinces.

A crucial reason to address class and regional inequality — beyond the poverty rate and other economic-related reasons — is that they adversely impact the democratization process, which, in turn, negatively impacts both the equality of opportunity, which is "everyone has the same starting-point or equal life chances," and the equality of outcome, which is "the equal distribution of income, wealth and other social goods."[6]

The first section of this paper therefore examines the decentralization experience in the Philippines and how the country sought to address inequality and to push for the democratization process. Of particular focus is the 1991 Local Government Code (herein referred to as the 1991 LGC), as it sought to address inequality and empower people to take part in the decision-making process of their respective local government units (LGUs).

The paper then provides recommendations to help overcome obstacles to decentralization efforts that could reduce inequality. The recommendations include both short-term and long-term responses at the local and national levels to address class and regional inequalities as well as contribute to the democratization process.

TABLE 2

Poverty rates in the NCR and nearby peripheral regions

	NCR	REST OF LUZON	VISAYAS	MINDANAO
2016	32%	40%	55%	51%
2017	31%	43%	58%	52%
2018	32%	43%	62%	54%
2019	31%	39%	59%	52%
2020	45%	42%	60%	54%
2021	35%	41%	60%	53%

Source: Social Weather Stations, as cited in de la Pena 2022

ASSESSING DECENTRALIZATION POLICIES AND PROGRAMS

Despite shortcomings in the implementation of the 1991 LGC during the past 30 years, decentralization is still viewed as a panacea for the country's regional inequality and as a means to strengthen democracy.[7]

This is understandably the case, as inroads have certainly been made through devolving more funds at the local level to more efficiently deliver social services to communities as well as through implementing development projects at the local level.

Progress in implementing the 1991 LGC

The following are notable 1991 LGC efforts, which political leaders could build on:

Fiscal empowerment, equality, and democratization. The 1991 LGC seeks to bring about financial decentralization by shifting decision-making powers and financial resources away from the NCR. And it has made some progress by increasing the capacity of LGUs to raise their own revenues and increasing the internal revenue allotment (IRA) for LGUs from 11% to 40% of the national internal revenue taxes[8].

The IRA was to be one of the main sources of funds to finance the delivery of public services and the provision of infrastructure for urban development. Moreover, as of 2022, the IRA, now referred to as the national tax allotment (NTA), has been increased by more than 200 billion Philippine pesos. This is a result of the Supreme Court ruling in the Mandanas case, which stipulated that the just share must be from both national internal revenue taxes collected by the Bureau of Internal Revenue and customs duties collected by the Bureau of Customs.[9]

Popular empowerment, equality, and democratization. The 1991 LGC also seeks to break up the concentration of political power over countryside development projects, shifting it from bureaucrats and congressmen to mayors and governors. The latter are viewed as more accountable to their constituents.

The 1991 LGC furthermore gives impetus to the formation of people's organizations (POs) and nongovernmental organizations (NGOs) and their participation in local government processes, local development councils, and local special bodies as a counterbalance to entrenched political dynasties.[10] It encourages popular participation in the efficient delivery of social services and in development efforts by linking LGUs with NGOs, POs, and the private sector. This effort is viewed as a means to thwart the prevalence of pork barrel politics.

Problems in implementing the 1991 LGC

Although the 1991 LGC has brought forth greater democratization and development outside the NCR, political leaders need to address the following issues that greatly hinder efforts such as the ones described above:

Inadequate financing. The IRA shares from the national government are still inadequate for most of the LGUs to efficiently and effectively fund social services delivery and development projects. This is especially so for the less-endowed LGUs that cannot collect enough local revenues for these purposes.

Political dynasties and patronage politics as obstacles to popular participation. Decentralization efforts continue to be stymied by the dominance of political dynasties, which have bred patronage politics and corruption at the national and local levels. Just like wealth inequality, political dynasties create obstacles to the meaningful and participative devolution of political power. Reportedly, 70 percent to 85 percent of members in the Philippine Congress belong to long-standing political dynasties. These dynasties also have a significant presence in all of the country's 82 provinces. This explains why efforts to enact an anti-dynasty law have been rendered futile and why IRAs have been used as a source of patronage.

National economic policies that breed inequality. Despite the noted decentralization efforts, there has been a persistent centralization of finances, human resources, and technical capacity. Furthermore, the domains of national development planning and budgeting continue to be mainly housed with national

agencies. LGUs, therefore, have no choice but to go along with the development thrust set forth by the national government. The development agenda continues to have a neoliberal development framework that emphasizes the market, liberalization, and privatization — a framework concerned mainly with growth, not equity.

BEST PRACTICES AND RECOMMENDATIONS

The Philippines' decentralization experience has opened the door to addressing regional inequality and inevitably class inequality given that the solutions to the former may also be viewed as a panacea to the latter. Although the majority of best practices and recommendations below have been outlined before, they are even more important now due to the COVID-19 crisis, which has heightened poverty and socioeconomic inequalities in the Philippine society.

Short-term responses in addressing regional inequalities at the local level

1. Conduct capacity-building training for elected local officials and appointees to increase substantively the competent and qualified personnel for LGU social services delivery and local development projects;

2. Provide adequate resources to Local Development Councils (LDCs) and Regional Development Councils (RDCs) as well as autonomy from the national government, so that these councils can forge effective development plans (and integrate the LDC plans into the RDC plans) as mandated. Increase coordination between and among national agencies, their regional offices, and local governments to improve public service delivery and performance.[11]

3. Concerning the financial constraints of LGUs:

   a. "Amend the distribution formula of the shares in national revenues to ensure that provinces and municipalities, particularly poorer LGUs, can receive more share than cities and other more economically developed local governments."[12]

   b. Enable LGUs to tap other sources of funds in addition to generating their own, so that they do not rely only on the NTA.

   c. Encourage further metropolitan arrangements whereby LGUs may pull their resources together in order to cooperate and/or collaborate with regards to social services delivery and development efforts.

   d. Merge the smallest administrative units of LGUs (called barangay), as they are not financially viable separately and cannot achieve economies of scale.[13]

Short-term responses in addressing regional/class inequalities at the national level

These short-term responses are not new, but there is a need to link the listed national economic policies to local decentralization efforts to address inequality.

1. Strengthen or introduce new socioeconomic policies and social protection programs at the national level to address regional and/or class inequalities:

   a. Republic Act 11223: Universal Health Care Act, which aims to provide equitable access to high-quality and affordable health care goods and services to all Filipinos.

   b. Pantawid Pamilyang Pilipino Program, (4Ps) more popularly known as the conditional cash transfer program.

   c. Kapit-Bisig Laban sa Kahirapan — Comprehensive Integrated Delivery of Social Services or KALAHI-CIDDS program and livelihood program; this latter program seeks to empower communities in targeted poor municipalities to achieve improved access to sustainable basic public services and to participate in more inclusive LGU planning and budgeting.[14]

2. Continue to push for national programs that encourage popular participation — for example, the Bottom-up Budgeting program, which involves citizens at all stages of the budget process in LGUs.

LONG-TERM RESPONSES IN ADDRESSING REGIONAL/ CLASS INEQUALITIES

With the exception of pressuring the incoming Philippine Congress to enact an anti-dynasty law, these long-term responses are relatively new in regards to decentralization efforts to address regional and/or class inequalities.

1. In further pursuing decentralization, create an enabling environment for popular organizing by removing obstacles to participatory democracy:

    a. Widely disseminate information on the basic laws of the country to make the citizens aware of their rights and responsibilities vis-à-vis their local and national officials.[15]

    b. Uphold human rights by strengthening the independence of institutions such as the Commission on Human Rights and the Supreme Court.

    c. Hold the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) accountable for "red-tagging" community organizers[16] and students[17] which makes them susceptible to police military harassment.

    d. Amend or repeal the Republic Act. No. 10168: The Terrorism Financing Prevention and Suppression Act of 2012, more popularly known as the anti-terror law. This law has been blamed for the arbitrary and illegal arrests of community organizers, which inclu professionals such as medical doctors and lawyers. They have been accused, with no evidence, of being "communists and/or communist sympathizers."[18]

2. Impose a wealth tax that will levy higher taxes on the rich in order to help pay for the enormous cost of tackling the COVID-19 pandemic.

    a. Support efforts by the Philippine Congress to enact a wealth tax, which will generate revenue to help pay for medical assistance and education, employment, social protection, and housing for poor families.

    b. Examine international organizations' templates for a wealth tax, (for example, the International Monetary Fund and the Asian Development Bank).

3. Reexamine the following national economic policies that have fostered inequality:

    a. Liberalization policies that adversely impact marginalized sectors and the efforts to "establish mechanisms that would prioritize the welfare of local producers and build their capacities to compete with foreign exporters."[19]

    b. Legislation that unfavorably exposes micro, small, and medium enterprises to lopsided foreign competition.[20]

    c. Privatization policies that have escalated prices and have removed socialized pricing structures, which provide subsidies for the poor.

    d. Privatization that has locked out any form of democratic community participation between LGUs and NGOs and civil society organizations (CSOs) — which goes against the very spirit of decentralization.

There is a need to examine best practices in the Philippines. Examples of collaboration between public sector agencies and NGOs and CSOs include public-public partnerships, where public sector agencies collaborate to prevent privatization of water utilities. This is done through an arrangement between the public sector agency and one or more civil society or community-based organizations (CBO). Another example is public/non-profit partnerships (PuNPP) or co-privatization, where importance is placed on the key role which civil society and/or communities play in the delivery of water services. This is done through an arrangement between the public sector agency and one or more civil society or community-based organizations (CBO)

and single nonprofit agencies. This highlights the role of NGOs in developing non-commercialized water systems.[21]

Incremental changes that reduce regional and class inequality are possible when decentralization efforts on the ground level are supported by national laws that (1) help address elite

domination and (2) facilitate an enabling environment for popular participation and the implementation of social governance reforms.

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PUBLIC HEALTH

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OVERVIEW: DEMOCRACY AND PUBLIC HEALTH IN ASIA

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Since 2020, the COVID-19 pandemic has been a stress test for national and international institutions. In particular, governments have been forced to reckon with how effectively their health, economic, and political systems can withstand a crisis and manage its consequences. In 2020, with public health thrust to the forefront of daily discussion and policymaking, many democracies had to rapidly develop and deploy policies that could both protect the health of the population and uphold individual freedoms. Some democratic societies in the Asia-Pacific region were initially successful in controlling the spread of COVID-19, especially in 2020 and 2021. In these highly digitalized societies, governments relied on data and technology to inform their pandemic-related policies. However, data acquisition, movement restrictions, vaccine requirements, and other policies aimed at controlling the pandemic gradually came into conflict with the democratic values and norms of personal privacy and freedom. While some of these democracies garnered global attention for their successful initial responses to the pandemic, questions about how well they have protected democratic values have remained, as well as questions about the sustainability of those responses over time.

In this third year of the COVID-19 pandemic, there is an opportunity to evaluate how societies can strengthen the resilience of the region's democratic and health systems to this crisis and future ones by adapting, evolving, and innovating. In leading the public health working group for this phase of the Brookings Democracy in Asia project, the Center for Asia-Pacific Resilience and Innovation (CAPRI) considered myriad issues in public health that became evident during the COVID-19 pandemic. Given the many ways in which technology and data have been used in the pandemic, the working group sought to examine how Asia-Pacific democracies have harnessed the power of technology and innovation to protect public health while still giving priority to personal privacy. Drawing on its network of regional specialists, CAPRI recruited five scholars to offer their insights on the pandemic responses in Australia, India, Japan, South Korea, and Taiwan. The authors' diverse backgrounds resulted in a group of papers with different perspectives. Three papers (on India, South Korea, and Taiwan) focused on technology use and data privacy, and two papers (on Australia and Japan) offered broader case studies on the countries' pandemic responses, including the employment of technology and innovative public policy.

DEMOCRATIC GOVERNANCE DURING THE COVID-19 PANDEMIC

The three papers focusing on data and technology use during the pandemic also addressed their common topic from different perspectives — from the international to the individual levels. On South Korea, political economist June Park reflected on the reality that domestic data governance supersedes international frameworks regulating how personal data are used in research, commercial services, and public health surveillance. Given that data governance is unlikely to become standardized internationally, Park provided an example of how South Korea has defined its own rules for data governance. During the pandemic, South Korea revised its three major data regulations with the help of key stakeholders to strike a balance between

data protection for individual citizens and data utilization in the public and commercial spheres. Through data pseudonymization, a clearer legal framework, increased liability for data controllers, and clarification of what constitutes "personal information," the revised regulations attempt to protect individual privacy while facilitating the use of big data in pandemic research.

On Taiwan, Feng-Jen Jean Tsai, a lawyer and an expert in epidemic prevention and democratic governance at Taipei Medical University, examined data and technology use in the national-level pandemic response. Digital technologies and big data contributed to Taiwan's early success in controlling the spread of COVID-19. Multiple government databases, including those of the National Health Insurance system and the National Immigration Agency, were integrated to enable the government to trace, predict, and control the spread of COVID-19. However, the constitutionality of digital contact tracing and health data use is being debated because of concerns over individual privacy. Although, after the 2003 SARS outbreak, Taiwan developed a sound legal framework for government action in a health crisis, it did not govern how technology and data use should be applied to protect public health in prospective pandemics. Tsai argues that legal preparedness is crucial for governments to act effectively and maintain public trust in future crises.

Moving from the supranational perspective of Park and the national perspective of Tsai, Radhika Radhakrishnan, who specializes in gender justice and digital rights, examined the impact of digital health surveillance at the community and individual levels in India. Using a feminist approach to examine contact tracing and quarantine management apps in India during the pandemic, Radhakrishnan argues that people's data must be viewed as an extension of their bodies in order to protect their personal agency, dignity, and safety. During the pandemic, people's digital information — such as their location data, vaccination status, or recorded exposure to COVID-19 — has shaped their physical realities, such as their freedom of movement or access to public services. Without an established legal framework for data governance, India requires an approach centered on the entities that generate data to

clearly define lawful surveillance and prevent stigmatization of and violence toward marginalized communities.

The two case studies on Australia's and Japan's pandemic responses took a broader approach to the topic of public health and democratic governance. The authors note that both countries enjoy a reasonable level of public trust in the government and compliance with pandemic control policies. However, health economist Stephen Duckett of the Grattan Institute argues that the Australian government has struggled with shortcomings in transparency, accountability, and equity in its pandemic response, despite the level of trust and the successful stemming of deaths in 2020 and 2021. Different priorities and values held by the federal and state governments in Australia led to inadequate policy coordination and poor data collection. As a result of these failures, the governments could not effectively meet the communities' needs; they were unaware of how pandemic policies affected marginalized and vulnerable groups.

Yasushi Katsuma, an expert and government consultant in global health and governance at Waseda University, reviewed Japan's strategy of adopting nonpharmaceutical interventions (NPIs) as part of a "living with COVID" policy. Katsuma examined Japan's NPIs, such as restricting international travel, adopting new technology, limiting mass gatherings, and influencing personal behavior. He also evaluated Japan's successful top-down approach to pandemic control through public health campaigns and the use of technologies to perform contact tracing, educate the public, and adapt to a new reality of living with COVID-19. The government has relied on citizens' willingness to change their own behavior (for example, through avoiding the "Three Cs" of closed spaces, crowded places, and close contact and producing educational videos using the Fugaku supercomputer. Other NPIs have included encouraging the use of software such as COCOA to confirm contact with people who have tested positive for COVID-19 and replacing conventional air conditioners with ones that let in fresh outside air. However, the case study shows how the Japan government has been

careful not to implement excessive or arbitrary NPIs to ensure the protection of individual rights as appropriate in a democracy.

COMMON THEMES IN POLICY RECOMMENDATIONS

A few common themes emerged in the papers' policy recommendations that are crucial for effective democratic governance and resilience in the Asia-Pacific. First, several papers identify ways to enhance public trust, accountability, and transparency. Trust in government is a crucial factor in the success or failure of policy implementation in democracies. Taiwan and Australia's experiences during the pandemic illustrate that constant transparency around the data collected and decisions made is essential for ensuring the public's acceptance of public health policies. Transparency and trust-building also require engagement with the people. As Tsai observed, Taiwan's use of digital platforms in collaboration with civil society helped sustain public compliance with pandemic control measures. Similarly, as Radhakrishnan observed in India, Kerala state's employment of population control measures in coordination with public services, such as the distribution of food in community kitchens, helped increase public compliance.

However, public trust in government cannot be sustained without policy success and public accountability. Duckett identified the Australian government's efforts to keep decision-making power vested in elected officials as a measure that can ensure public accountability. Because trust in the government can ebb and flow, democratic tools need to be deployed to maintain it throughout a crisis, and citizens must feel assured that their rights will be protected. In Japan, where public trust in the government is high, Katsuma identified the ways in which the government encouraged behavior changes through public educational campaigns without enacting strict lockdowns or movement restrictions.

Second, several papers show how the pandemic has affected societies unequally, with lower-income and marginalized groups experiencing

worse health outcomes. In Australia, lower-income communities have recorded much higher death tolls from COVID-19 than have wealthier communities. In India, health surveillance measures that have involved mobile phone apps or location tracking have resulted in members of marginalized communities being stigmatized or denied access to public services. The papers' authors note that addressing these challenges of inequality requires the integration of complete information on marginalized communities as well as the engagement of these communities in policy design and implementation.

Based on the Australian experience, Duckett identified a need for better information to be collected and shared publicly on how well public health measures are reaching underserved communities. He also identified a need for increased engagement with leaders who can advocate for their communities and facilitate policy implementation locally. In the Indian context, Radhakrishnan recommends that to protect marginalized communities from violence or stigma, COVID-19 surveillance apps and contact tracing measures should collect only the data necessary to contain disease spread. In societies where the effects of the pandemic and public health measures have been uneven, marginalized groups should be at the forefront of policy analysis as response frameworks are developed.

Finally, some papers reflect on how a crisis forces democracies to rapidly reorient and prioritize their values to create a legal framework for policy responses. The debates on data privacy in India, South Korea, and Taiwan reveal how governments' collection and use of data to protect public health might conflict with values such as personal privacy and freedom of movement. Effective policies in a public health crisis must balance the "freedoms to" speak, gather, and organize with the "freedoms from" disease, want, and poverty. The pandemic has shown that the rights and freedoms of the individual may be at odds with the policy solutions that will save the most lives. The balance struck among these competing values will involve difficult and possibly contentious decisions that may differ from country to country and region to region. The

increasing differences among the systems of data governance in China, the European Union, and the United States — differences that have widened over the course of the pandemic — illustrate the importance of this development.[1]

Engaging major stakeholders, particularly the public, in crafting legal structures that define the government's authority and the restriction or protection of personal liberties is essential. While doing so before an emergency is ideal for reducing the risks and uncertainty associated with invoking emergency powers, the five societies examined have been looking for solutions during the pandemic. For example, although, after SARS, Taiwan established a legal framework for responding to future pandemics, it did not clarify the government's authority to collect personal data, which has caused controversy in the current pandemic. In the aforementioned case of Australia, to ensure public accountability, the state of Victoria transferred decision-making power in public health emergencies from the unelected chief health officer to the elected state premier. In the midst of the pandemic, South Korea amended its data privacy laws in anticipation of the new roles technology and big data would have in its economy. Democracies must invest the time now to improve their legal frameworks to better respond to public health emergencies in the future.

MOVING FORWARD

The COVID-19 pandemic has demonstrated how public health is connected to many other challenges facing democratic governance. Thus, interdisciplinary approaches are needed to improve societal resilience. While the five papers highlight different aspects of fighting the pandemic — from data governance to public campaigns for behavior change — their policy recommendations have common themes. These include the need to (1) maintain public trust through accountability and transparency, (2) consider how to prioritize values such as equity and privacy, and (3) ensure legal preparedness for the future. Innovative policies, new technologies, and adaptive institutions will all be essential in helping societies become more resilient in

the face of increasingly common global challenges — be they pandemics, economic crises, or climate emergencies.

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AUSTRALIA'S COVID-19 RESPONSE

STEPHEN DUCKETT

DEFINING THE CHALLENGE

The COVID-19 pandemic dominated public discourse in Australia during 2020 and 2021. Overall, based on available data, Australia initially handled the pandemic well, with relatively fewer cases and deaths in the first two years of the pandemic. Independent analysis suggests that the country's strong public health actions have helped to avert approximately 18,000 deaths.[1] However, as the country relaxed public health measures and opened its borders, cases and deaths increased and cases are now in line with comparable countries, but deaths still relatively low (see table 1).

Australia is a federation (six states and two internal territories) of about 26 million people as of March 31, 2022.[2] Public health is a state responsibility under the Australian Constitution. However, controlling the pandemic has been a shared responsibility, with the Commonwealth (federal) government handling external border control and economic management as well as vaccine procurement and distribution.

Australia closed its borders to China on February 1, 2020, within weeks of recording its first case of COVID-19. Borders were closed to citizens of other countries in the ensuing weeks. All international arrivals (primarily returning Australian citizens) were initially required to self-isolate for 14 days, but following a change in policy, they were required to officially quarantine for this time period. A National Cabinet was formed on March 13, 2020, to facilitate a national response.

As an island nation, Australia limited the spread of the virus into the country primarily by using external border controls. Strong action by state governments also limited the virus' spread within states when outbreaks occurred. Yet, despite Australia's overall success in averting deaths, its response to the pandemic in 2020 and 2021 had crucial weaknesses. Like in many other countries, the economic and health effects of the pandemic were experienced unevenly, with poorer people, particularly women, faring worse. As of April 30 2022, over 140 deaths per 100,000 population had occurred in the poorest socioeconomic quintile, compared to about 40 deaths in the wealthiest quintile; on an age-standardized basis, deaths in poorer areas were 2.6 times those in wealthier ones. [3]

Political infighting — based on the different value positions of the Commonwealth government and states — hindered coordination and effective, equitable policy implementation. Further, insufficient transparency and information dissemination impeded accountability. Although the recommendations in this paper are derived from the Australian experience, they could be useful for most Asian countries seeking to improve processes, data collection, information sharing, and transparency. This paper draws on previous research, which includes additional references on Australia's response to the pandemic.[4]

ASSESSING POLICIES AND PRACTICES: THE DIFFERENT VALUE POSITIONS

The pandemic quickly exposed political strains in the Australian federation. In the first two years of the pandemic, the Commonwealth was being governed by the right-wing Liberal-National Party coalition, which, in principle,

TABLE 1

COVID-19 total cases and deaths, selected countries, as of October 1, 2022

	CASES		DEATHS	
	Number (millions)	Per million population	Number	Per million population
Australia	10.24	395,069	15,221	587
Canada	4.28	112,178	45,430	1,191
New Zealand	1.78	346,910	2,030	396
United Kingdom	23.67	351,850	207,948	3,091
United States	96.4	286,047	1,059,826	3,145
China	0.99	696	5,226	4
South Korea	24.82	478,864	28,489	550
Japan	21.33	171,167	45,023	361
India	44.59	31,682	528,673	376
Indonesia	6.43	23,500	158,122	578

Source: "Coronavirus Pandemic (COVID-19): Explore the global situation," Our World in Data, https://ourworldin-data.org/coronavirus#explore-the-global-situation.

aims to minimize government intervention. It therefore discouraged states from imposing lockdowns and other stringent public health measures such as vaccine mandates and density limits. During 2020 and 2021, approximately 60% of Australia's population lived in states with center-left Labor Party governments (the Australian Capital Territory, Northern Territory, Queensland, Victoria, and Western Australia); the remaining 40% lived in center-right Liberal states (New South Wales, South Australia, and Tasmania).[5] Nevertheless, states of both political persuasions pursued restrictive public health measures, including the closing of borders. In response, Commonwealth ministers actively undermined the measures through launching media campaigns and restricting access to government funding by affected businesses.[6] This weakened the states' social license to impose the measures.

Policies differed among the states as well. For example, the apparent triggers for invoking and revoking restrictions were different in New South Wales than in Victoria. New South Wales was slower to lock down and quicker to relax restrictions. Although all political leaders claimed that they were following expert advice

in their decision-making, the significant policy differences among the states, and between the states and the Commonwealth, suggest that either advisers were interpreting the same evidence differently or their advice was not being followed. Furthermore, the inequitable impact of the pandemic suggests that disaggregated data were either unavailable or ignored.

This is not to say that evidence should never be contested.[7] "Following the evidence" involves making judgements — especially in the early stages of a pandemic when evidence is developing rapidly — about what studies to accept or weigh highly. In addition, decisions about public health measures involve weighing the associated risks and benefits, both of which affect people unevenly; this is particularly the case when the evidence may be unclear.

BEST PRACTICES AND POLICY RECOMMENDATIONS

The analysis of Australia's response to the pandemic reveals failures in both decision-making processes and information collection and dissemination.

Better processes

Decision-making

Better processes might have helped reduce the aforementioned policy differences during the first two years of the pandemic. Public trust in both the Commonwealth and state governments was mostly high during this time. This may have been the result of extensive communication and clear political accountability. In most states, the state premier — flanked by the state's chief health officer — engaged the media every day to report the number of daily cases, hospitalizations, and deaths. They also announced new and potential future changes in public health restrictions. The presence of the chief health officer gave scientific legitimacy to the process and the decisions being made. In mid-2020, governments began to be more transparent about the criteria for revising public health measures and lifting lockdowns. This might also have contributed to increased trust and the acceptance of decisions at the time. However, the actual advice provided by chief health officers and other advisers, including the actual and modelled economic impact of public health restrictions, was not made publicly available — thus creating a democratic deficit.

The public health measures were enacted under emergency powers, and they severely restricted individual freedoms, including the freedoms of movement and association. Without transparency on the advice being offered, the public had to trust that the measures were based on expert advice and the best available evidence. In some states (for example, Victoria and Queensland), emergency powers and public health legislation gave the authority to impose public health restrictions to an unelected official, the chief health officer. In others (for example, New South Wales), lockdown powers remained vested in an elected politician.

The issue of transparency around decision-making came to a head in Victoria in late 2021, when the state government sought to extend its emergency powers.[8] By then, Victoria had endured cumulative movement restrictions for more than 200 days since the start of the pandemic. The differences between New South Wales and Victoria were

becoming more apparent, with similar levels of infections leading to different restrictions. The Commonwealth government was also putting public pressure on Victoria's government to reduce public health measures and tolerate a higher level of infections.[9]

Although the vast majority of the state's residents continued to support their government's approach to public health measures, a vocal minority began to protest against ongoing public health measures imposed under "state of emergency" legislation.[10] These residents argued that the measures violated their human rights, and despite being in the minority, their protests spurred changes in Victoria's political dynamics. Special parliamentary approval was necessary to extend state of emergency legislation, but by the end of 2021, Parliament was reluctant to extend the existing arrangements without changes. Victoria's government does not have a majority in the upper house of parliament ('Legislative Council') and was therefore forced to negotiate with a range of "independent" politicians to gain parliamentary approval for new processes on imposing public health restrictions. In essence, the resulting processes set a new standard for transparency and democratic accountability for public health decision-making in Australia. The changes to Victoria's Public Health and Wellbeing Act transferred the decision-making power during public health emergencies from the chief health officer to the premier, ensuring public accountability. But the chief health officer must be consulted and provide written advice to be tabled in Parliament. The reasons for the premier's decisions must also be tabled (Section 165AG).

Undoubtedly, the new allocation of power is imperfect. The issues that advisers (including the chief health officer) and political decision-makers (the premier and minister for health) must take into account could be more specific. For instance, they could be required to consider the equity and economic impacts of decisions. Nevertheless, the new processes help address the lack of transparency and democratic deficit and thereby contribute to building trust in evidence-based, public health decision-making.

While processes have improved in one state (Victoria), little has changed at the national level. The National Cabinet was created in explicit recognition that public health powers rest with the states under Australia's constitution and that, therefore, a coherent national response needed to be negotiated. To take on a leadership role, the prime minister and the Commonwealth government had to set up a forum for those negotiations. The name "National Cabinet" evokes an expectation of solidarity, but the Commonwealth and state governments have pursued different policies during much of the pandemic, with policies in some states being undermined by Commonwealth ministers. The policy responses were highly politicized in 2020 and 2021, as there was little incentive for compromise or consensus building.

Transparent processes could have helped mitigate these problems. Records of the National Cabinet's decisions are not public, so the basis of those decisions and whether consensus was reached are unknown. The process could be improved by adopting the same approach Victoria now uses for the imposition of public health restrictions or a similar one. Both the evidence and reasons for decisions should be made public.

Access to information

Australia's 2020 and 2021 pandemic response included increased population surveillance, which infringed upon privacy in the interest of controlling outbreaks. This was a challenging trade-off, especially in lower-trust environments.[11] In addition to the ill-fated national COVID-Safe app, all states introduced check-in apps, whereby people were required to scan a QR code to record their presence at a venue to facilitate tracing and notification of any potential exposure. In 2021, the apps also recorded vaccination status, and most states regulated whether unvaccinated people could enter certain venues.

Although the apps were created for a public health purpose, several instances were reported where other agencies, including the police, accessed information despite government assurances of privacy when the apps were introduced.[12] A significant leak of

business information in New South Wales also occurred.[13] These breaches highlight the need for better privacy protection.[14]

To this end, some progress has been made. Specific legislation was introduced for the national COVID-Safe app,[15] as well as a raft of parliamentary oversight mechanisms.[16] Western Australia also introduced specific legislation (the Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Act 2021) in June 2021 to clarify and tighten controls over disclosure of information following unauthorized police access to app data.[17]

To further improve processes for public health emergencies, it is recommended that before significant measures or restrictions are imposed on populations,

- relevant experts such as the chief health officer should make clear why the restrictions are in the public interest and the basis for that conclusion;

- this information should be made publicly available within 24 hours; and

- the decision to impose significant restrictions should be vested in an elected official, who must also publish the reasons for accepting or rejecting the proffered advice.

Moreover, it is recommended that

- key national pandemic decision-making bodies ensure that the evidence base and reasons for all their decisions are transparent and published within 24 hours of the decision, and

- governments enact legislation to prohibit unauthorized access to public health information.

Better information

Comprehensive information is essential for monitoring and managing pandemic responses and for public accountability. In Australia, the availability of epidemiological information improved during the pandemic, but the performance of state-level infectious disease

information systems varied initially. Inefficient systems hindered, for example, epidemiological monitoring and contact tracing. In addition, although basic information about the number of tests, infections, hospitalizations, and deaths was routinely collected and regularly reported from the start, information to judge process performance, such as wait times for test results and the proportion of contacts traced within a threshold time, was not published until late 2020 and in only some states. Information on the distribution of the pandemic's impact and the response by the location of the person infected or industry of employment of those infected, for instance, was generally not collected or reported publicly.

Similarly, when vaccines became available, although the number of people vaccinated was published and classified by age, information that would expose gaps in vaccination coverage — such as rates by location and by cultural or linguistic group, or rates among First Nations Australians — was either not collected or not released.

The failure to collect information hinders an effective and equitable response to a pandemic. The failure to release information creates a democratic deficit and weakens accountability, raising the spectre that the lack of transparency is also hiding a competency deficit.

The failure to report information about the incidence of COVID-19 in different subgroups of the population is symptomatic of a broader problem in pandemic planning in Australia. The need for a differential, pro-poor response for at-risk groups was ignored in published pandemic plans. Without specific actions to address equity issues, a pandemic could be expected to impact subgroups differently, and it did. People who could not afford to self-isolate — for example, some essential workers or people with multiple jobs — became vectors for transmission. They also had lower vaccination rates because they could not take time off work to be vaccinated.

In addition, governments' failure to engage trusted community leaders to help combat misinformation about vaccinations and garner support for restrictions hindered initial vaccine uptake and public acceptance, respectively.[18] This failure likely led to family gatherings and religious events being held despite the lockdown rules. The engagement of local leaders trusted by residents might have prevented the bungling of the emergency lockdown of a public housing estate in Melbourne, Victoria.[19]

To improve the quality and dissemination of information in a health emergency, it is recommended that governments

- review their infectious disease information systems to ensure they are fit for purpose; and

- review the information collected at each stage in the pandemic response cycle (testing, tracing, and isolation as well as vaccination) to ensure that data collection allows for the monitoring and management of system performance (specifically access) and enables a high-quality, equitable response.

It is also recommended that

- pandemic plans explicitly consider the social and economic determinants of health and the impacts of pandemics on different groups in society; and

- pandemic plans include specific strategies to engage at-risk communities and trusted voices and to address social and economic factors that might inhibit the adoption of public health measures such as self-isolation or vaccination. This will require complementary, coordinated health and economic policies.

CONCLUSION

Overall, Australia managed the first two years of the pandemic well, resulting in a low death rate. Two main lessons can be identified from Australia's experience and applied in other countries.

First, a public's support of restrictive public health measures partly depends on its trust in government and public health agencies, and this trust is largely generated through clear and transparent public accountability processes. In Australia, transparency was strengthened as the pandemic

dragged on. However, a gross breach of transparency in the Commonwealth government's management of the pandemic came to light in August 2022: former Prime Minister Scott Morrison was secretly appointed minister for health while leaving the overt minister, Greg Hunt, in place.[20] This disrupted Australia's "Westminster" style of parliamentary accountability, as Parliament cannot hold a minister accountable if it does not know the person is a minister. The new government has announced an inquiry into this and four other self-appointments by the former prime minister.

Second, pandemic plans need to account for the uneven impacts on population subgroups, as measured by vaccination rates and deaths. In Australia and other countries, the impacts have been more severe for the most disadvantaged. Perhaps they could have been mitigated if data collection and reporting on these subgroups had started earlier. This might have forced authorities to respond with additional resources and strategies to address the revealed inequities.

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NONPHARMACEUTICAL INTERVENTIONS TO COMBAT EMERGING INFECTIOUS DISEASES:

JAPAN'S APPROACH TO COVID-19

YASUSHI KATSUMA

DEFINING THE CHALLENGE

Particularly in the absence of vaccines and therapeutics, nonpharmaceutical interventions (NPIs) can be crucial to stemming the transmission of emerging infectious diseases. Examples of NPIs include mobility restrictions, technology use, regulations on mass gatherings, suspension of businesses and schools, and the promotion of personal behavioral changes. However, these NPIs often affect personal freedom. If restrictions and regulations are imposed excessively and arbitrarily, democratic governance may be jeopardized. To help inform responses to future public health crises, this paper examines Japan's use of NPIs in response to the COVID-19 pandemic and offers policy recommendations that may be useful for other Asian democracies.

ASSESSING POLICIES AND PRACTICES

General policies in response to COVID-19

Japan has employed two general policies in its response to COVID-19: a "living with COVID" policy (as opposed to a "zero-COVID" policy) and a "herd immunity to COVID by immunization" policy (as opposed to by infection).

"Living with COVID" policy

Since the beginning of the pandemic, the Japanese government has promoted a "living with COVID" policy instead of the "zero-COVID" policy other Asian countries such as China have instituted. For example, Japan has never implemented any lockdowns. Its "living with COVID" policy partly comes from its experience with passengers aboard the cruise ship Diamond Princess.

The Diamond Princess docked at Yokohama Port on February 3, 2020. During the ship's subsequent quarantine period from February 5 to February 23, Japan learned many lessons, which it was able to apply to later measures in response to COVID-19.[1] For example, an examination of contact routes revealed that the virus transmitted through both respiratory droplets and aerosols (inadequate cabin ventilation exposed many passengers to COVID-19). The Diamond Princess case also revealed many asymptomatic cases, particularly among healthy, young people. Given the high possibility of aerosol infection and significant number of asymptomatic cases, Japan came to adopt a "living with COVID" policy.

"Herd Immunity to COVID by Immunization" policy

Some countries adopted a "herd immunity to COVID by infection" policy in addition to a "living with COVID" policy. One reason is that not all

people were being seriously affected by COVID-19. Moreover, the prospects of new vaccines and therapeutics for COVID-19 were unclear at the time. Sweden, in particular, promoted this herd immunity policy, but other countries established similar policies as well.[2] By contrast, Japan and many other countries chose not to adopt this policy and instead sought to control the pandemic through NPIs until vaccines and therapeutics became available. When COVID-19 vaccines became available, Japan promoted a "herd immunity to COVID by immunization" policy while continuing its NPIs.

NPIs can be important in combating infectious diseases, particularly before vaccines and therapeutics become available. Japan's policies for NPIs can be grouped into four areas: international travel, technology, regulations for mass gatherings, and personal behavioral changes.

Restrictions on international travel

Japan's first NPIs included placing top-down restrictions on international mobility and strengthening border controls. The use of border measures to prevent the spread of infectious diseases from abroad was not new to Japan. Most notably, in response to the 2009 pandemic influenza (H1N1), Japan legislated the Act on Special Measures for Pandemic Influenza and New Infectious Diseases Preparedness and Response in 2012.[3] In response to COVID-19, this Act has been revised.

Closing of Japan starting in January 2020

It was challenging for Japan to quickly implement restrictions on inbound travelers from mainland China. Although Japan's first identified case of COVID-19 was someone who arrived from Wuhan on January 6, 2020,[4] it was not until January 31, 2020, that Japan started to restrict inbound travelers from Hubei Province.

In the following month, in February 2020, Japan announced restrictions on inbound foreign travelers from all of mainland China and the Republic of Korea. Then, in by the end of March 2020, the restrictions were expanded to 24 countries[5] .Later, as the Omicron variant spread, Japan restricted the entry of all foreign nationals starting on November 30, 2021. Many Japanese

people were likely reminded of the Sakoku period from 1639 to 1854, when Japan was a completely closed country. From January 2020 to March 2022, Japan was essentially closed to many foreign nationals, with few exceptions.

Opening of Japan starting in March 2022

As immunization coverage increased in Japan, the government began to relax mobility restrictions on international travelers. Starting in March 2022, Japan began to allow foreign nationals arriving for study or business to enter, provided they had proof of receiving two doses and a booster of a COVID-19 vaccine recognized by Japan and a negative polymerase chain reaction (PCR) test result. Starting in July 2022, small groups of tourists from certain countries could obtain travel visas for Japan, provided they were accompanied by a tour guide and, as before, had proof of receiving two vaccine doses, a booster, and a negative PCR test. From September 7, 2022, people from most countries could obtain travel visas to enter Japan with only proof of immunization, with a daily arrival ceiling of up to 50,000 foreign nationals. On October 11, 2022, Japan abolished the daily arrival ceiling, and started to welcome visa-free independent foreign tourists from many countries with a visa waiver program with Japan.

Technology

Japan's COVID-19 response has employed technology in three areas: the development and use of mobile applications, the use of supercomputers to produce evidence in support of NPIs, and the promotion of specially designed air conditioners to improve ventilation. The latter area became particularly important because the government encouraged universities in Japan to resume face-to-face teaching in 2021.

Mobile application software

Japan started to use the Health and Location Monitoring App for Overseas Entrants (MySOS) for inbound travelers at Kansai International Airport from February 2022 and then at other airports from March 2022.[6] Since then, all travelers entering Japan, including Japanese nationals, have been encouraged to download MySOS to their mobile devices. Initially, travelers were asked

to upload their valid vaccination certificate, as well as a certificate of their negative PCR test result, before checking in at their airport of departure. But as of September 7, 2022, travelers are no longer required to take a test within 72 hours of departure; this requirement was a significant burden for many international travelers visiting Japan.

Another mobile application used in Japan is the COVID-19 Contact-Confirming Application (COCOA).[7] This app is not used for contact tracing but rather for contact confirmation. Mobile devices with the COCOA app use Bluetooth to communicate with other nearby devices using the same software. If someone is confirmed to have COVID-19 and reports it using the COCOA app, other COCOA users who were near that person are notified of having had possible contact with someone with COVID-19, without the personal details of the contact being revealed. One of the reasons for not using the COCOA app for contact tracing was to respect the right to privacy. In addition, the use of the COCOA app was never enforced for entry into public buildings, as excessive restrictions might jeopardize democratic governance.

The supercomputer Fugaku

Also notable is Japan's use of Fugaku, the world's fastest supercomputer, to simulate how droplet and aerosol dispersion patterns affect the risk of infection. Fugaku's simulation videos have been published on YouTube to demonstrate the efficacy of face masks and ventilation in reducing the risks of infection and have thus helped increase public awareness.[8]

Air conditioners that ventilate with outside air

Most air conditioners used in Japan do not let in fresh air from the outdoors. However, Fugaku's simulations emphasized the prevalence of aerosol transmission and the importance of ventilation. As a result, experts have recommended opening doors and windows for a few minutes each hour, among other measures.

In January 2021, the Ministry of Education, Culture, Sports, Science and Technology encouraged universities in Japan to resume face-to-face teaching from the start of the academic year in April 2021. While resuming in-person teaching, public health experts urged universities to improve ventilation in classrooms, and universities started to search for a new type of air conditioner that uses outdoor-air ventilation. One electronics company, Daikin, started to draw attention because they have produced these types of air conditioners since 2001.[9] Some other Japanese consumer electronics companies are now producing similar air conditioners because of the increasing attention to ventilation given not only by universities but also by public offices and private companies.

Self-restraint on mass gatherings

The Japanese government has never banned mass gatherings, whether indoor or outdoor, in response to COVID-19. Instead, the government has continued to implore event organizers to exercise self-restraint. Most organizers of mass gatherings that are subsidized by public funding have complied with this request. The most notable exception was the 2020 Tokyo Olympic and Paralympic Games, as Governor Yuriko Koike of the Tokyo Metropolitan Government and the late Prime Minister Shinzō Abe were determined to host them.

Nevertheless, the 2020 Olympic and Paralympic Games were postponed by one year, as announced in a telephone conference between Abe and the president of the International Olympic Committee, Thomas Bach, on March 24, 2020. Yoshiro Mori, then the president of the Tokyo Organising Committee of the Olympic and Paralympic Games, has claimed that in a private meeting before the conference, Abe rejected his recommendation for a two-year delay.[10]

The 2020 Tokyo Olympic Games were held from July 23, 2021, to August 8, 2021, followed by the Tokyo Paralympic Games from August 24 to September 5. During the two events, the following two measures were taken to mitigate the spread of COVID-19: First, a "bubble" system was introduced to separate competing athletes and their support teams from Japan's residents. Second, most events were held without spectators. Ultimately, a few hundred cases of COVID-19 among athletes and related personnel were recorded, while a surge in COVID-19 cases among Tokyo residents

was reported. However, a causal relationship between the cases inside and outside the "bubble" system has not been established.

Promotion of personal behavioral changes

Japan has also asked individuals, schools, and businesses to exercise self-restraint. Much attention has been given to public awareness and health education so that residents adopt behaviors to protect their communities from infection. These NPI education campaigns promote measuring body temperature before leaving home, sanitizing hands before entering buildings, wearing face masks in indoor settings, and physical distancing. The concept of physical distancing has been incorporated in the "Avoid the Three Cs" campaign (explained below). Scientific evidence collected through supercomputer simulations has been used to enhance the credibility of the campaigns.

Nonwoven face masks

Japanese citizens have been encouraged to use nonwoven face masks. Even without an explicit rule, many people have adopted this practice, which might be attributed to belief in scientific evidence or trust in the government. Additionally, wearing face masks in Japan was a common practice even before the pandemic, particularly in winter to limit the spread of seasonal influenza and in spring to mitigate the effects of pollen on those with allergies.

Supercomputer simulations have been used to demonstrate how nonwoven face masks are more effective in blocking aerosols than cotton face masks. The evidence has been widely shown on Japanese television, which may have further convinced people to wear nonwoven face masks.

"Avoid the Three Cs" campaign

The concept of physical distancing has been well accepted in Japan, but the use of the term has increasingly been replaced by "avoid the three Cs": closed spaces, crowded places, and close-contact settings. The government launched this campaign in February 2020 with the following recommendations: avoid closed spaces by

using proper ventilation, avoid crowded places by limiting participation in mass gatherings, and avoid close-contact settings through physical distancing.[11] When any of these factors fail to be avoided, the risk of infection increases. "Avoid the three Cs" has become a flagship campaign for Japan, consolidating the efforts made by various ministries, local governments, businesses, and civil society organizations.

BEST PRACTICES AND POLICY RECOMMENDATIONS

The "Living with COVID" policy and the "Herd Immunity to COVID by Immunization" policy

- Before vaccines become available for emerging infectious diseases, NPIs can help slow the spread of viruses.

- If healthy, young people tend to be asymp-tomatic or not to show serious symptoms when infected, then policies resembling the "living with COVID" policy may be consid-ered. However, the "herd immunity by infec-tion" policy is risky, as those who are healthy and young may still transmit the virus to those in more vulnerable groups. In addition, post-COVID syndrome, or "long COVID," may become prevalent among infected healthy, young people in the long term.

- After vaccines become available, vulnerable groups should be given priority in immuni-zation programs. This practice is in line with the "herd immunity by immunization" policy.

International travel during a public health emergency of international concern

- The International Health Regulations of the World Health Organization (WHO) discourage international travel restrictions. Banning inter-national travel can cause more harm than good by harming economies and hindering medical supply chains. . However, without travel restrictions such as testing, many asymptomatic travelers could transmit the virus to other countries. Policymakers must

find ways to slow the spread of COVID-19 through innovative travel restrictions while not harming the economy.

- Japan was slow to impose restrictions of inbound travelers from mainland China because of a planned visit by President Xi Jinping to Japan in April 2020. Japan waited until Beijing's announcement that Xi's visit would be postponed. In preparation for future pandemics, governments should hold multilateral discussions to establish standard diplomatic protocols when the WHO declares a public health emergency of international concern.

- NPIs such as the promotion of personal behavioral changes should be adopted widely, as has already been done by the WHO Western Pacific Regional Office.[12]

Technology for public health

- In Japan, the Fugaku supercomputer has been used to inform NPIs. Similar efforts in other countries should be coordinated, and the scientific evidence produced should be shared globally. Data and computer scientists have much to contribute to public health.

- When sharing scientific evidence, it should be translated into languages that the public can understand. Governments must demonstrate to their publics that policy is based on scientific evidence generated through academic processes.

- Consumer electronics companies should be encouraged to conduct research and development on innovative products that can improve public health. Collaboration among the public, private, and academic sectors should be promoted so that private companies can better understand public health needs.

The "Avoid Three Cs" campaign

- The conceptual framework of "avoid three Cs" has become a flagship campaign in Japan. It has helped consolidate efforts by ministries, local government, private enterprises, and civil society organizations. The widespread delivery of simple and consistent messages can be instrumental in helping to establish healthy behavioral norms.

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DATA PROTECTION VERSUS DATA USE FOR SCIENTIFIC RESEARCH AND PUBLIC HEALTH:

THE CASE OF SOUTH KOREA

JUNE PARK

DEFINING THE CHALLENGE

The variance in data governance in public health

The COVID-19 pandemic has made clear that data governance varies widely across countries. In the public health domain, countries have different approaches to data collection and processing and, in particular, data tracking (for example, to monitor individuals' compliance with quarantine mandates). Countries also have different comfort levels when it comes to personal data protection, as evidenced by the range of data regulations and methods used for COVID-19 tracking. South Korea uses GPS data to track public health in real time, in accordance with the country's Infectious Disease Control and Prevention Act (IDCPA). Whereas some European countries used apps based on Google/Apple application programming interfaces, in accordance with the European Union's (EU) General Data Protection Regulation (GDPR).[1] The pandemic has also made it apparent that public health officials' level of prowess in handling advanced or new digital technologies has a significant impact on how countries use digital tools to fight the pandemic.

The variation in data governance stems from not only different data protection regulations set by various jurisdictions, but also from the different ways in which the regulations are interpreted and implemented. This is partly because countries are at different stages of their digital transformation and have different capabilities. The problem with this variation in a pandemic situation is that effectively addressing public health crises with digital tools requires both a coordinated global response and cohesive national and local responses. However, advancing digital cooperation among states will not be easy. While data governance may be regarded as an element of regional or multilateral digital trade agreements, how the governance has manifested across jurisdictions during the pandemic reveals that a legally binding agreement on digital cooperation will be difficult to achieve. To be more specific, there are two major obstacles to digital cooperation: (1) the upgrading of digital infrastructure requires significant amounts of investment and political will, and (2) the legal structures and legislations of a jurisdiction supersede those laid out in a regional or international institutional framework.

A major issue related to the first obstacle is the stark digital divide among countries. This is even the case within the EU, with some population groups still lacking access to the internet, as seen in rural America. A central issue related to the second obstacle is how much the policy goals for data regulation vary across jurisdictions. The EU's GDPR is geared toward

protecting the personal data of citizens. China's recently promulgated Data Security Law and Personal Information Protection Law (PIPL) are structured like the GDPR, but the main purpose of the legalization is to preserve national security.[2] The United States currently does not have a single, or principal, federal law but its trade agreements primarily advocate the free flow of data in the interest of U.S. tech firms. The different approaches of the EU, China, and the U.S. alone — even if the U.S. were to write a federal law on data protection — are bound to hinder digital cooperation and any agreement on an international framework. Also strong-arming countries into a single framework may bring few policy outcomes when expectations are high. How countries themselves have characterized and compared their handling of public health data during the pandemic provides a hint that a 'single undertaking' (meaning that nothing is agreed until everything is agreed) approach at the WTO may not work. Furthermore, there are domestic, or local, perceptions of data collection and processing to consider as well.

This paper first outlines data regulation challenges at the domestic level by highlighting the case of South Korea. The country recently revised its data regulations in response to the pandemic, with an eye toward supporting the efficient and rational use of data for "scientific research." But implementation issues perceived domestically have affected the outcomes of the revision. The paper outlines these issues and compares South Korea's approach with those of several other countries in East Asia. Then, as it is the main focus of this piece, the paper underlines the struggle between protecting personal data and using it to safeguard public health and how feasible it would be to seek an integrated form of governance for the global digital space. In practice, such an effort is unlikely to bear fruit — regardless of how much like-minded countries would try to coordinate — as evidenced by some previous attempts at trade agreements. Data governance is largely jurisdiction-based, and some countries may not even be ready for digital cooperation. Some are trying their best to formulate data governance laws or execute them within their jurisdictions, while others are going ahead without laws that limit the use of personal data.

ASSESSING POLICIES AND PRACTICES

The case of South Korea and its East Asian neighbors

South Korea's 3Ts (testing, tracing, treatment), set under the IDCPA, became widely known and evaluated during the country's early response to the pandemic.[3] Some of the data collected through South Korea's COVID-19 Smart Management System includes GPS and credit card data, as well as CCTV footage in some limited cases, in order to determine the source of an infection case. This collection is authorized under the IDCPA, and the data are protected by unusually high levels of security: only a small number of epidemiological investigators at the Korea Disease Control and Prevention Agency have access to the system; no other government agencies have access to the intranet; the system stands behind a double firewall; and the highest levels of login security and record keeping are used. Yet, despite these security measures, some observers, particularly in the West, would perhaps see the government's data collection as an infringement on personal privacy.

Less widely known or evaluated are South Korea's three recently revised data regulations: the Personal Information Protection Act, the Act on Promotion of Information and Communications Network Utilization and Information Protection, and the Credit Information Use and Protection Act. The revisions aim to support ways to best utilize and protect big data for new industries that employ artificial intelligence; cloud services; Internet of Things (IoT) services; and future mobility services, including electric vehicles outfitted with an Advanced Driver-Assistance System and aerial vehicles that operate as part of an Urban Air Mobility (UAM) system. The draft revisions were an outcome of two "hackathons" (forums for innovative computer programming products and solutions) held by the Presidential Committee on the Fourth Industrial Revolution (February 6, 2018 and April 6, 2018). At the time, the committee included stakeholders from relevant ministries, civil society groups, and

industry businesses, as well as legal experts and academics. The committee proposed revisions to the three laws in May 2018, and the National Assembly passed the suggested revisions on January 9, 2020. The revised laws came into force on August 5, 2020, as the contactless economy under the COVID-19 pandemic began to accelerate. The revisions' main areas of focus include (1) deploying pseudonymized information to facilitate big data use, (2) streamlining redundant or overlapping law provisions and building an efficient governance system for personal information, (3) reinforce the legal liabilities of data controllers across industries, and (4) elucidating the ambiguous concept of "personal information," particularly when it comes to "scientific research" and financial/credit services.

One unique factor at the core of South Korea's legal revisions is the drive to incentivize and utilize pseudonymized data in order to boost industry research and development (R&D) in the biomedical and health sectors. However, early assessments of the laws' implementation are mixed. South Korea is striving for a more efficient digital future, but there are obscurities as to how far the purposes of "scientific research" would extend, and what they would entail regarding the collection and processing of public health data. Theoretically, the revised laws enable the use of pseudonymized personal health information for (1) statistics (commercial use included), (2) studies (industrial research included), and (3) the preservation of records for public use. It is emphasized that provisions on the use of pseudonymized data are in line with those in the EU's GDPR, whereby data can be collected and analyzed for scientific research purposes.[4] In practice, however, South Korea's statutes designate only a handful of data processing entities as controllers of public health data. They are tasked with the autonomous integration of data, or in Korean terms, the "self-integration (*selpeugyeolhab*)" of data, which refers to the combination of a piece of pseudonymized data owned by oneself and another piece of pseudonymized data processed by another data controller. Some stakeholders view the small number of data controllers as a big obstacle for agencies that have data but not authorization for self-integration from the government under the revised

laws. Since April 2022, legal developments are in the works in Korea to enable the autonomous integration of data by private data controllers in the domestic finance industry under the Financial Services Commission.[5]

A primary reason why data integration is limited in practice is that activist groups have been strongly arguing for the protection of citizens' health data. For example, in June 2020, personal data related to COVID-19 infections among gay clubs and bars in Itaewon were leaked.[6] Gossip on social media and word of mouth were the main sources of the leakage, prompting calls for greater protection of privacy rights. Criticism continues to circulate online, and the Personal Information Protection Commission has received an influx of petitions regarding personal data protection over the course of the pandemic. There is an evident clash between the goals of protecting personal public health data and of collecting and processing data for efficient R&D in the public sector — be it for commercial purposes or the common public good (e.g., the development of new remedies or medicines for cancer).

A notable demonstration of data integration limitations can be found in examining implementation of South Korea's Cancer Control Act, effective January 1, 2022. The government has been urging citizens diagnosed with cancer to participate in a big data pilot program through using a platform called K-CURE (Korea-Clinical Data Utilization Network for Research Excellence), launched by the Ministry of Health and Welfare (MOHW) and Statistics Korea. But while the MOHW runs the pilot program, and the National Cancer Center — one of the entities authorized to do autonomous data integration — serves as the delegated data center, it is unclear whether the minister of health and welfare should be requesting the cancer data integration or whether the pilot program itself should be eligible to do self-integration. Moreover, under the current law revisions, other available cancer-related data in the private sector cannot be integrated with the extant data that the National Cancer Center possesses. Over time, however, the government will likely review the venues of autonomous data integration to expand the bio and medical care market.

South Korea's approach to data governance has elements of both the EU and U.S. approaches, but it remains to be seen whether the country can achieve data efficiency in the digital world, while simultaneously protecting personal data to a sufficient extent. Most likely, the government will tilt its efforts more toward the first goal, and in the process, citizens will yield some privacy in support of data efficiency and the common good.

While South Korea is attempting to balance these two goals, its Northeast Asian neighbors China and Japan are taking a different approach. As noted earlier, China is prioritizing national security and mandates, aggressively pushing a digital agenda forward through its Data Security Law, Cybersecurity Law, and PIPL (enacted in 2021). Although Japan generally abides by Western standards and its own data governance law — the Act on the Protection of Private Information, revised in 2015 and 2020 — it has been unable to keep up with digital transformations.[7][8] Comparisons between South Korea and Southeast Asian countries make it seem even more unlikely that the digital gap can be closed; for some states, the enactment of data regulations seems far off in the future. One exception is Singapore, which has been implementing its Personal Data Protection Act for almost a decade.

BEST PRACTICES AND POLICY RECOMMENDATIONS

Protecting data while preserving its use for the public good

As the data-driven economy expands, institutions and forums at the international and regional levels are unlikely to dictate how countries govern data in their own jurisdictions.[9] Given the struggle between allowing the free flow of data and protecting the data of citizens, it may be difficult to amass many countries to join a global framework; they will almost always prioritize their domestic legislative frameworks. Countries may use forums to further their individual agendas and interests, but only as long as their own data governance practices are maintained.

As South Korea contends with how to govern its data domestically and within regional and global contexts, it considers the debates taking place in the EU and the United States. When it comes to the handling of data, there are tensions between the EU (which espouses data protection) and the U.S. (which espouses free data flows). These tensions and emerging issues such as digital taxation and the interoperability of central bank digital currencies (CBDC) will make data the prime issue of confrontation in the digital economy into the next decade.[10] Digital transformation and regulatory issues will be discussed at different forums, resulting in "forum shopping" by countries based on their interests. If the U.S. seeks to join the Digital Economy Partnership Agreement (DEPA), existing member states (currently Chile, New Zealand, and Singapore) and other countries seeking access will ask the U.S. where it stands on data protection at the federal level (outside of its trade agreements).[11]

Both the U.S. and EU models have their difficulties and present challenges to governance at the international and regional levels. Without a single, principal legal mechanism that functions at home, the United States' engagements at these levels may not be taken seriously. There is no U.S. federal law on personal information protection[12] and relevant laws are spread across different fields — as demonstrated in the U.S. Privacy Act of 1974, the Gramm-Leach-Bliley Act (also known as the Financial Services Modernization Act of 1999), the Health Insurance Portability and Accountability Act of 1996, and the Children's Online Privacy Protection Act of 1998. In other words, even if the U.S. seeks to engage in the development of digital frameworks to further its digital economic frontier, without a domestic regulatory law set in stone, other countries will question whether the U.S. intends to stay for the long haul. Credibility issues still linger for the U.S., emanating from its handling of the Trans-Pacific Partnership and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership.

Regarding the EU, while its GDPR impacts the activities of countries worldwide — and, thus, the EU may be becoming the world's strongest regulator in data governance — this does not mean that the EU is becoming a pioneer in tech and the

digital economy. As noted, there is still a significant digital divide within its jurisdictions. Also, the GDPR (Article 6) has some pitfalls; these were revealed when the EU practically disabled functional COVID-19 digital tracking.[13, 14]

Based on the analysis above, the United States and Asian countries should consider the following policy recommendations:

- For the U.S., it is crucial to close the gap in its digital infrastructure before discussing international data protection or cooperation. R&D and capital investment will be required to increase network connectivity equipment installations (5G/6G).

- In the U.S., due to vested interests (specifically those of big tech), a blanket law on data protection may not be feasible in the immediate future. Each U.S. state has a different approach or has yet to implement one. At the policymaking level, preliminary efforts should aim to consolidate the policy direction of various states.

- The U.S. should ultimately move towards legislating a data regulation at the federal level in the longer run. It would be ironic for the U.S. to press its allies to enable the free flow of data and advocate for international cooperation on data governance without its own data protection mechanism. This irony is made especially stark by the fact that U.S. tech companies continue to be slapped with fines from the EU and South Korea for violations of data protection regulations.

- As the digital economy grows in Southeast Asia, particularly in Vietnam, the use of digital banking as a tool to expand financial inclusion will grow. In the coming era of connectivity, the growth of digital health care and biotech will be key in the Asia-Pacific region. If South Korea's pseudonymized data use via data integration proves feasible, the experience could provide countries in the region with useful information. In digital finance, the test case for blockchains will be even more crucial if and when the Asia-Pacific faces the expansion of the Chinese digital yuan as a central bank digital currency (CBDC) for cross-border transactions.

- If they have yet to do so, countries in Asia must carefully assess the impact of digital transformations globally and adopt a regulatory framework to effectively shape their digital future.

The creation of an international or regional framework for data governance is highly unlikely in the near term. Democracies in Asia should be mindful of the future need for increased data governance across countries and consider how to best create frameworks that can be effective, protect privacy, and enable international digital cooperation. This will certainly be a difficult task. For a democracy like South Korea, balancing the use of technology for public health with the need for data privacy will be crucial not only for responding to future pandemics but also for presenting an alternative and improved model of data governance based on lessons learned from the COVID-19 pandemic.[15]

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INDIA'S PANDEMIC EXPERIENCE OF MOBILE PHONE-ENABLED DIGITAL SURVEILLANCE:
A FEMINIST PERSPECTIVE

RADHIKA RADHAKRISHNAN

DEFINING THE CHALLENGE

To help contain the spread of COVID-19, states worldwide have been using data to understand the pandemic, mobilize public health resources, and inform communications. They have also been conducting digital surveillance through optional or mandatory contact tracing, citizen location, and digital identification apps, as well as drones. This paper examines India's experience of state-enabled digital surveillance through mobile phones and the implications for individuals in particular.[1]

Though surveillance has historically been performed during epidemics, its nature determines how people experience it. Data governance policies conceptualize data as a disembodied asset whose worth depends on humans' ability to extract it ("data as the new oil"), but this data-as-resource framework often ignores the social context in which data are generated through individuals' bodies.[2] Today, data are used to determine bodily experiences to such an extent that a fundamental reconceptualization of data is required; when increasingly collected for surveillance, data can no longer be thought of as *about* the body but must be reconceptualized to be *part* of the body. In such a context, surveillance is experienced as control over not just individuals' *data* but also their *bodies*.

As a departure from the conventional data-as-resource framework, this paper proposes a feminist approach that accounts for the interconnections between people's bodies and their data. If data constitute who a person is, then how, by whom, and for what purposes data are used become grave concerns with far-reaching consequences for individuals' material bodies. These consequences are revealed in policy design since there are different policies for protecting bodies and data from intrusion.[3] Drawing on the experiences of marginalized communities whose voices are often left out in data protection discourse, this paper identifies specific embodied harms that arise from violations of data governance policies and then proposes recommendations for preserving not just data privacy but the bodily integrity, autonomy, and dignity of surveilled individuals during a pandemic.

ASSESSING POLICIES AND PRACTICES: DIGITAL SURVEILLANCE DURING THE COVID-19 PANDEMIC

Mobile phone apps

To manage the COVID-19 pandemic, governments worldwide launched an enormous ecosystem of contact tracing and quarantine management apps.[4] However, not all apps have been successful or are publicly trusted.

For instance, Singapore launched a short-distance Bluetooth-based app, TraceTogether, to contain outbreaks; however, only about 20% of Singapore's population used it, falling short of the minimum 60% coverage required to be effective.[5]

The Government of India's primary contact tracing app is Aarogya Setu, one of more than 70 apps launched by the central and state governments.[6] Because a discussion of all these apps is beyond the scope of this paper, this section focuses on Aarogya Setu and two state government apps (Ghar Ghar Nigrani and Quarantine Watch) to highlight some embodied harms of digital surveillance.

Aarogya Setu app (Government of India)

The central government released Aarogya Setu (meaning "bridge for liberation from disease") in April 2020. The contact tracing app was jointly developed with industry stakeholders. With over 100 million downloads on the Android Play Store, the app has been criticized for being a surveillance system because of concerns over proportionality, the legality and necessity of data collection and sharing, and insufficient accountability measures.[7]

Beyond these broader issues, however, there are equally important intrinsic ones to consider. The app categorizes bodies as "low-risk" or "high-risk" based on self-reported health data as well as data from nearby mobile devices with the app installed. Because the app is mandatory to access essential services such as railways, these categories determine a person's access to such services. Companies having access to employees' health data through the app may also use it to determine employees' pay and insurance, which impacts their livelihoods.

Further, the app's risk categorizations may not correspond to the individuals' physical realities. First, not everyone in a person's vicinity may have a smartphone or the app; India still has a wide digital divide.[8] Second, the self-reported data may not be reliable given the asymptomatic nature of COVID-19. Third, people may hesitate to self-report accurately because of the stigma associated with the disease. Fourth, the app is prone to incorrectly marking people as positive and negative.[9]

Yet, despite these issues, the *digital* reality constructed by the app takes precedence over one's *physical* reality; people testing negative have been forcibly and wrongly quarantined because of the app's alerts.[10] Basically, the app is determining whether individuals are diseased or healthy, irrespective of whether its data corresponds to the individuals' physical reality. And this is dangerous because the determination has a direct impact on people's access to essential services.

Ghar Ghar Nigrani app (State Government of Punjab)

Like the responses to syphilis and HIV/AIDS have done, the response to COVID-19 has propelled discourses and practices that have led some in society to blame, stigmatize, and produce violence against "others" who are portrayed as vectors of disease. While this has adversely impacted already stigmatized communities, female front-line health workers have emerged as a new affected group. For instance, in China, female health professionals working on the front lines of COVID-19 containment were ordered to shave their heads, as had been done with sex workers infected with syphilis.[11]

In India, stigmatization has been aided by contact tracing apps. In June 2020, the Punjab state government launched the Ghar Ghar Nigrani (meaning "home-to-home surveillance") app for Accredited Social Health Activist (ASHA) workers in the state to undertake door-to-door COVID-19 surveillance. ASHA workers are women from largely marginalized class and caste locations and have been on the front lines of community health care during the pandemic.

Ranjit Kaur, a union leader in Punjab for the All India ASHA Workers and Facilitators Union, said, "If someone has a cough in the village, and the ASHA enters that in the app, if they get called for enquiry, they blame the ASHA for putting them in that situation. ASHAs are facing violence due to it" (translated from Hindi).[12] Many incidents of violence against ASHA workers during their door-to-door surveillance tasks have been reported.[13] As the arms of state surveillance, ASHA workers face the brunt of public distrust of the state's data collection. Out

of fear that data collected by the app could lead to incarceration or quarantine, people resort to violence to keep their data-as-bodies safe.

Quarantine Watch app (State Government of Karnataka)

In 2020, the Karnataka government released the Quarantine Watch app, requiring all home-quarantined persons to upload geotagged mobile phone selfies every hour to prove their presence at home. If they fail to do so, a first information report is registered against them by law enforcement, which can lead to their arrest.

But this app likely creates significant uneasiness for women. Feminist studies have shown that women experience discomfort in filing cyber violence complaints due to their distrust of the state's ability to view private images on their phones during an investigation.[14] This discomfort likely extends to sending state officials selfies from home. Misuse of this data would not just be a data violation but could easily extend to voyeurism, slut shaming, and predatory actions, which threaten women's bodily integrity.

In the age of digital surveillance, the bodies of individuals within the home are now subjects of the digital state through data collected by home quarantine apps.[15] The physical body is disciplined to stay at home and follow state orders without the physical presence of the observer — in this case, a police officer. This is yet another way in which bodies are tracked, monitored, and controlled through data.

Mobile location tracking

Governments worldwide have used mobile location tracking to aid their COVID-19 responses. For example, to predict citizen exposures to the virus, Israel's government authorized its internal security service to collect location data from telecommunication operators without user consent.[16] The Russian government designed a national system to track people in contact with COVID-19 patients, using location data provided by individuals' mobile phone providers.[17]

In New Delhi, in March 2020, a religious congregation was organized by the Tablighi Jamaat, an Islamic missionary movement, in the Nizamuddin Markaz Mosque. The Indian government claims the event caused India's largest spike in COVID-19 cases, despite this claim being scientifically disproven.[18] The police used mobile phone data to trace people who attended or were near the event.[19] Various state governments also released public lists of people thought to have attended the religious event.[20]

On one of these public lists was Salim (name changed), a Kashmiri Muslim, who had not attended the congregation but received calls every day from local police stations. Salim said, "They are keeping an eye on me. … They can stop me from going anywhere. If they have a database, they can find me" (translated from Hindi).[21] The Indian government already exerts discretionary powers to digitally surveil and suppress its citizens in Kashmir — the suspension of the state's internet services is the longest ever internet suspension in a democracy — and COVID-19 has given the Indian government justification to amplify such surveillance.

For Salim, the state's tracking of his location *data* was experienced as the state's tracking of his *body*. His body was connected to the data to such an extent that he physically severed his connection with his phone (leaving it at home when he went outside) to avoid being controlled through his data. Salim did not just experience violations of data privacy. His fear of being publicly targeted and the impacts on his physical mobility indicate that there are devastating consequences not visible or reflected in disembodied data protection frameworks. To capture the true extent of these harms, the body must be visualized in constructions of data.

BEST PRACTICES AND POLICY RECOMMENDATIONS

Data protection rights in India are in legal limbo: in August 2017, the Supreme Court of India deemed privacy to be a fundamental right, including, crucially, the privacy of personal data. Subsequently, the 2019 Personal Data Protection Bill was introduced in Parliament and referred to a Joint Parliamentary Committee for review, but it was withdrawn in August 2022. In the absence of any formal legal regulation, many of India's digital surveillance tools are self-regulated.

The following policy recommendations are aimed at formally regulating the surveillance infrastructure in India by using a feminist embodied approach. Where applicable, these recommendations incorporate a comparative analysis of successful social participation towards building a framework for digital surveillance:

- The surveillance of diseases should not be conflated with the surveillance of bodies, and management of the COVID-19 pandemic should not be reduced to the management of disembodied data. Data governance policies must therefore be broadened to address the embodied harms identified in this paper to ensure that individuals retain control over not just their data but also their bodies.

- For surveillance to benefit and protect people, safety measures — not data collection — should be at the heart of surveillance practices. Safety measures should include providing safety gear to all individuals, as opposed to criminalizing violations without heeding social contexts.

- All surveillance measures must incorporate meaningful data protection safeguards and be lawful, necessary, proportionate, time-bound, and justified by legitimate public health objectives. For example, Singapore's TraceTogether app can be used only by its health ministry to access data that are used strictly for disease control, and the data cannot be shared with law enforcement agencies to enforce lockdowns and quarantine.[22] By contrast, India's Aarogya Setu app collects GPS location data in addition to the names, ages, health details, and professions of users, with no meaningful guidelines or safeguards for data sharing.[23]

- Digital requirements such as contact tracing apps should not be mandatory for accessing essential services and other rights during a pandemic, as in the case of Italy where their usage remains optional.[24] India is the only democracy that has mandated the downloading of a COVID-19 tracking app, or face jail or fines.[25] Although optional usage can lead to lower service coverage, resulting in ineffective contact tracing, users must nevertheless be permitted to opt in or out of data sharing and to uninstall the apps at any time.

- Contact tracing apps should not be mandatory for front-line health care workers, especially when there are disparities in mobile phone access and use. If apps are used, workers should be provided with smartphones, digital training, and monetary compensation for time spent on the app.

- Data that may put vulnerable groups at risk and are not strictly necessary to contain a disease's spread, such as images, should not be collected. Intrusive data collection (for example, to determine whether a person is following home quarantine) should also be limited when there are other means of obtaining the same information. Moreover, any personal data collected for tracking purposes should not be made public. In Slovakia, for instance, a law that permitted state authorities to access telecommunications data for contact tracing was declared unconstitutional.[26] In Taiwan, mobile phone sensor data were used to privately send alerts through SMS to people near potential COVID-19 hotspots for self-quarantine and self-monitoring without sharing data publicly or with third parties.[27]

- Feminist care practices must be established for surveillance by focusing on the protection of individuals' bodies and not just on the protection of data.[28] For example, the Tuberculosis Directly Observed Therapy program in India requires that patients approach their local anganwadi (rural child care center) to receive and use medication in the presence of a health care worker.[29] This monitoring constitutes manual surveillance, performed through the health care system by trained workers, ensuring that people's needs are met. Similarly, care protocols already exist for HIV/AIDS surveillance, such as not revealing patient names and offering counselling. By contrast, in India, personal data of people suspected to have COVID-19 have been released by the state on government lists and apps, and people have been criminalized for violations of state orders.[30]

- Because public trust in digital surveillance measures is low in India, sometimes leading to violence against public health workers, long-term investment to build trust in public health and state institutions is needed. This trust cannot be replaced merely by the use of data. For example, international bodies have praised the Indian state of Kerala for combating the COVID-19 pandemic.[31] And underlying many of Kerala's strategies is public trust, which increased willingness to observe home quarantine.[32] One way this was achieved was through community engagement; for instance, with support from local government bodies and self-help groups, community kitchens provided meals to the poor.[33]

Epidemics are similar to other political crises in that during such crises, the state can legitimately intervene in people's social lives.[34] The COVID-19 pandemic has been used to normalize state surveillance globally by justifying it as necessary insurance against future threats.[35]

Public health experts say that some form of disease surveillance is required to control the pandemic. But what form should this surveillance take, and how can it be performed while protecting peoples' rights? This paper establishes that while data can provide important insights, it cannot keep people safe as an end in itself, especially when the people surveilled do not control their data. Though presented as a justified safety measure, data-enabled surveillance can lead to violence and other corporeal threats to individuals.

Visualizing the connection between bodies and data reveals the specific harms that can arise from data violations. While these violations are not new, they are now occurring in opaque, digitally mediated ways that were previously impossible. In all the cases discussed in this paper, surveillance has undermined not just individuals' data privacy but their bodily integrity, autonomy, and dignity. Although the more specific harms will usually differ by case, all harms can be identified by recentering the analysis on bodies. Disregarding this embodiment would do injustice to the experiences of surveilled marginalized communities.

Data governance policies must abandon the data-as-resource framework and adopt an embodied approach so that individuals have agency over not just their data but also their datafied bodies. Such an approach would ensure that human rights are protected within legal frameworks in the digital age, especially during pandemics.

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USING TECHNOLOGY FOR PUBLIC HEALTH PURPOSES:
EXPERIENCE AND LESSONS FROM TAIWAN

FENG-JEN TSAI

DEFINING THE CHALLENGE

The challenge Taiwan faced before and during the COVID-19 pandemic was the balance between technology use and human rights protection. As one of the wealthiest democratic countries in Asia, Taiwan successfully introduced universal health care coverage in March 1995. As of 2021, almost the entire population (99.96%) is insured.[1] This mandatory public insurance covers most medical services through a single-payer insurance model administrated by a central public health care agency. Due to the combination of high accessibility to health services and low sharing costs, public satisfaction with the system reached 91.6% in 2021.[23] By collecting data through patients' electronic cards and health providers' reimbursement claims, the government has gathered comprehensive health data for the whole population. The National Health Insurance (NHI) Administration also integrated cloud technology in 2013, allowing doctors to access patients' medical care records from cloud servers and avoid duplicating treatment.[4] During the COVID-19 pandemic, this comprehensive electronic NHI system served as the main mechanism for implementing the government's public health policies.

The World Health Organization (WHO) declared COVID-19 a public health emergency of international concern on January 30, 2020.[5] As of October 2022, there have been more than 600 million cases and 6.5 million deaths worldwide due to COVID-19.[6] Compared with other countries, Taiwan was much less affected by the pandemic during 2020 and 2021. As of early April 2022, Taiwan had fewer than

10,000 confirmed cases and approximately 800 deaths,[7] with most cases having been imported. In 2020, Taiwan suffered only moderate economic impacts, with its gross domestic product declining by less than 1%, and the GDP gross further increased from 3.36% in 2020 to 6.57% in 2021[8]. Though Taiwan shifted its response approach from a zero-COVID strategy to a "new model" of living with COVID in 2022,[9] Taiwan has effectively mitigated the effects of COVID-19 in early stage of the pandemic through border management, which includes digitally assisted contact tracing and other public health measures. Linking NHI card data with other databases has been an important part of the government's response. Although this approach has been successful, some have voiced concerns over the possible violation of human rights.

The argument that the government's use of technology and data collection might violate human rights is not new in Taiwan. The Taiwanese government maintains a complete National Health Insurance Research Database (NHIRD), which researchers can apply to use for medical research.[10] The NHIRD data can be cross-referenced and merged with data from other government databases. This combination of data can enable complex analyses, making the NHIRD uniquely valuable for health-related research.[11] However, using this type of data for further research has been controversial in Taiwan.

In 2012, several human rights organizations launched a lawsuit to prohibit this usage of NHIRD data.[12] In January 2017, after five years of proceedings, the Supreme Administrative

Court eventually ruled that the practices regarding NHIRD data use were in compliance with the Taiwanese Constitution and relevant statutes.[13] Despite this final ruling, one of the plaintiffs, the Taiwan Association for Human Rights, further appealed to the Constitutional Court. In opposition to the action brought by human rights organizations, representatives from medical and academic fields also launched a petition with the argument that participation in medical research is a civic duty and that the government should maintain the provision of the NHIRD for research purposes.[14]

The main criticism against using the NHIRD for medical research is the lack of patient consent.[15] The mandatory NHI system automatically records insured individuals' information to ensure payment to health providers. Under this arrangement, patients in Taiwan are not asked to provide consent for the collection and (re)use of their data. Moreover, they cannot opt out if they become aware of research using their data and do not wish to participate. The government sees no need for opting in or out of personal data use, on the grounds that the data are sufficiently safeguarded, particularly through anonymization (actually pseudonymization) before transmission to researchers. Although the government insists these measures are enough to safeguard individuals' privacy, human rights organizations continue to argue that the risk of identifying individuals through this data remains and that individuals' autonomy and their right to opt out of inclusion in the dataset must be protected.[16] The final ruling of the Constitutional Court delivered in August 2022 required the NIH Administration to amend the regulation to protect individuals' right to opt out of the dataset.

ASSESSING POLICIES AND PRACTICES

The debate regarding the use of NHIRD data has not yet been settled, but it has inspired much societal discussion about the balance between individual rights and the use of technology for public health purposes. Conferences and national research projects have focused on the issue, as have congressional debates

regarding the related regulations. These discussions have provided the foundation for further debates about balancing the collective good with personal liberty during the COVID-19 pandemic in Taiwan.

As an island that frequently interacts with China, Taiwan was expected to be one of the worst-hit countries by COVID-19 in early 2020. However, Taiwan's experience with the SARS pandemic in 2003 made Taiwan highly conscious of the potential spread of pathogens from China. Therefore, when a Taiwan Centers for Disease Control (TCDC) doctor saw information on a possible SARS-like outbreak in Wuhan, China, in the early morning of December 31, 2019, the TCDC took it seriously and immediately notified the WHO and prepared internally for a potential pandemic.[17]

On January 21, 2020, Taiwan reported its first confirmed imported case of COVID-19, prompting the TCDC to establish the Central Epidemic Command Center (CECC). The CECC was tasked with facilitating interdepartmental coordination across the ministries of the Interior, Education, Transportation and Communications, and others.[18] In a prompt and immediate response to the possible pandemic, the CECC implemented the screening of all airline passengers arriving from Wuhan in the early stages of the COVID-19 outbreak.[19] Screening was then extended to all passengers entering Taiwan from high-risk areas and countries in late January and extended to all passengers in early February, regardless of their location of origin. Then, the entry of non-Taiwanese citizens or nonresidents was restricted in mid-March. In addition to border control, the Taiwanese government linked individuals' NHI card data with their travel histories recorded in the Ministry of the Interior's National Immigration Agency database. Hospitals and clinics were alerted if individuals at risk of having COVID-19 sought health services. This allowed hospitals to more easily identify potential cases in real time, preventing further spread of the virus to the community and providing appropriate health services to identified individuals.[20]

Additionally, implementing and managing contact tracing was achieved through digital assistance. Contact tracing efforts for

COVID-19 in Taiwan included case investigation, contact list generation, health monitoring, and quarantine measures for close contacts.[21] If necessary to identify the origin of a patient's infection, case investigators could access the records of the patient's movements from police and telecommunication companies. Then, people who had been in close contact with confirmed cases could be identified. If local public health officers could not reach the identified close contacts, the TCDC would provide more information from other data sources, such as the household registration system.[22] Close contacts and travelers returning from high-risk countries were required to quarantine at home for 14 days, followed by an additional 7 days of self-monitoring. During the quarantine period, their health status was monitored twice daily through self-reporting via an automatic text message or web app in addition to telephone calls or home visits by public health workers. The CECC also set up a smartphone-based system to track the real-time locations of people in quarantine and alert local authorities if anyone left their designated location or switched off their phone.[23] Those who triggered an alert would be contacted or visited by the authorities within 15 minutes.

Apart from digitally assisted contact tracing and quarantine management, other COVID-19 measures included mandating the use of face masks in public places, delaying the start of the new semester for schools in February 2020,[24] and banning gatherings of over 100 people indoors and 500 people outdoors in March 2020.[25] Through these controls, Taiwan successfully protected its population from the first wave of COVID-19. Even without stringent, broad restrictions on movement or local or national lockdowns, the number of confirmed cases in the community fell to zero in April 26, 2020.[26, 27]

Many of the aforementioned disease control measures involved not only individuals' health data but also their locations and mobile data. Data use during the pandemic involved both passive recordkeeping and active surveillance. The legal preparedness of Taiwan's public health bodies might partially explain its success in introducing the measures without vehement opposition. Laws are central to pandemic

responses in democratic societies. In Taiwan, relying on preexisting public health legislation meant that the government could manage the health crisis without declaring a public health emergency. In other words, Taiwan's public health measures remained subject to judicial review under the ordinary constitutional framework.[28] The stability of the legal framework that enabled Taiwan's COVID-19 response demonstrates how crucial it is to have the public's cooperation and trust.

However, the legal basis for the government's use of technology during the pandemic has not gone unchallenged. In early 2022, the highest supervisory and auditory governmental branch, Control Yuan, conducted an investigation on the government's use of active surveillance to enforce quarantine.[29] The legal basis cited for the government's approach is the Communicable Disease Control Act (CDC Act). The CDC Act was originally enacted in 1944 but was comprehensively amended in 2004, right after the SARS pandemic. Thoughtfully designed in the Parliament, the amended CDC Act provides an overarching legal framework for the government to adopt various measures deemed necessary to prevent and contain the spread of an infectious disease. The CDC Act describes the formulation, structure, and function of a cross-sector center for epidemic command (in other words, the CECC). The law also regulates the authorization of administrative agencies to undertake necessary actions for disease control. Yet the Control Yuan's investigation concluded that the Act does not clearly authorize administrative agencies to obtain individuals' locations or mobile data and therefore risks the "normalization of exceptional status" within the regulatory system. This investigation demonstrates that Taiwan's current laws remain insufficient for future pandemic responses.

Despite the investigation, Taiwan's society appears to understand and accept the tradeoffs between public health monitoring and privacy. One reason may be that technology has also been leveraged to improve the communication of health information and new policies. Early in the pandemic, the TCDC started using an existing digital messaging system (Line) to enable citizens to access real-time information

about COVID-19.[30] Throughout the pandemic, the CECC has conducted daily news briefings that provide updates on epidemiological evidence and the government's new policy approaches. Information from these daily press conferences is updated in a synchronous information system. These communication platforms provide not only a source of accurate and reliable information but also an outlet for the CECC to address social concerns regarding public health measures. For example, concerns about the violation of individual privacy through contact tracing were addressed in CECC press conferences. The CECC was transparent about the technology used and explained how individuals' data are required to be deleted after six months, striking a balance between using technology to improve public health and guarding individual privacy. By prioritizing transparency, the CECC strengthened public confidence and maintained its credibility, further enhancing public cooperation during the pandemic.

Civil society engagement has also helped to strengthen public confidence. For example, when confronted with a shortage of face masks, the government set a mask distribution policy and partnered with civil society actors to develop a digital platform to help citizens obtain masks.[31] Using open data, these civil society actors created maps and applications showing the availability of masks across the island. This technology, which improved the availability of information, served to ease public panic around the mask shortage.

In conclusion, the government has devoted much time to communicating with society about the balance between technology use for public health purposes and the protection of individual privacy and liberty — both during and before the COVID-19 pandemic. Although the debates around using NHIRD data for medical research and conducting surveillance to enforce quarantine have not been settled, open communication will continue to enhance mutual trust between the public sector and the community. In democratic countries, technocratic, evidence-based approaches to improving public health policy with technology must be balanced with significant efforts to protect individuals' privacy and liberty.

BEST PRACTICES AND POLICY RECOMMENDATIONS

Based on Taiwan's experience, the following policy recommendations could be broadly useful for other democracies:

- Transparency in the policymaking process is crucial for sustaining public trust in government and democratic institutions. Trust in government generally refers to the people's confidence in the national government. With such confidence, people are willing to follow implemented policies. Taiwan's experience in addressing the inherent conflict between using technology to promote public health while safeguarding human rights highlights the need for transparency. This experience might provide useful information for other countries in Asia that are considering a universal health coverage system or technology-based policies for public health, such as infectious disease control. However, governments must carefully consider what information should be accessible during a pandemic, as too much exposure to scientific uncertainty could cause the public to panic.

- A clear legal framework is the foundation for a stable policy environment. Although Taiwan's current CDC Act remains insufficient due to the rapid development of technology, it has nevertheless provided a comprehensive legal framework for COVID-19 control measures. The positive outcomes Taiwan has enjoyed reflect the importance of preparing legal frameworks in anticipation of possible crises. Importantly, the prioritization of conflicting values, which generally arise when developing frameworks, should be discussed and considered along with supporting measures in "peace time."

- Governments need to communicate risks to, and educate, both health professionals and the public. Health professionals should be aware of the impact of applying new technology — for both research and policy — on human rights. The public must also be engaged in policy discussions about the balance between technology use for public health and the protection of individual rights

and must have sufficient understanding of the issues. Multilateral communication can enhance understanding among government, academics, and civil society and, in turn, enable collaboration in policymaking and implementation. To foster an environment for meaningful public participation in peace time, policymakers should use technology to provide information before, as well as after, final policy decisions are made.

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