

ASIA PACIFIC REGIONAL OUTLOOK

EARLY WARNING ATROCITY CRIMES



MAY 2023 Featured in this issue...

- Further forced displacement in Myanmar
- No improvement in China and DPRK
- Combatting fake news central to atrocity prevention

REGIONAL ATROCITY RISK ASSESSMENT



Very High

China
Myanmar
Democratic People's Republic of Korea (DPRK)

High

The Philippines

Moderate
(high to low)

Papua New Guinea (High)
West Papua (Indonesia) (moderate)

Low

Fiji, Cambodia, Indonesia (except West Papua) Laos, Solomon Islands, Thailand, Timor-Leste and Vietnam

Very Low

Australia, Brunei, Japan, Kiribati, Malaysia, Marshall Islands, Micronesia, Mongolia, Nauru, New Zealand, Palau, Republic of Korea, Samoa, Singapore, Taiwan, Tonga, Tuvalu, Vanuatu

Myanmar Risk: Very High/Ongoing

Myanmar remains at very high risk for atrocities as the junta sustained its violent attacks against civilians. It has been ignoring regional and international calls to end the violence in the country and remained uncooperative in implementing ASEAN's Five-Point Consensus. The junta also dissolved the National League for Democracy (NLD) as the latter failed to comply with new registration requirements imposed by the military government for all political parties to enable them to participate in the planned elections this year. This clearly indicates that the military regime is unwilling to engage in a dialogue with anti-coup democratic forces in the country to end the crisis in the country.

The Myanmar military has adopted more brutal tactics amidst growing attacks by civilian armed resistance including beheading and other forms of mutilation of captured People's Defence Forces (PDF) as part of sowing terror against those who support the PDFs especially in central Myanmar.¹ As of 25 April, there are over 3,400 people confirmed killed by the military in Myanmar, with more than 21,500 arrested, and over 17,600 people in detention. Of those arrested, 110 are death row prisoners while 42 others have been sentenced to death in absentia.²

The junta's security forces have been conducting air strikes against civilians especially in central and northern parts of Myanmar where the combined forces of the PDF and ethnic armed organisations (EAOs) are based and can mount strong resistance against the military on the ground. On 11 April, some 200 people were killed in Pa Zyi Gyi township in Sagaing region after the military conducted deadly airstrikes against civilians during an opening ceremony of a public administration building. Despite international condemnation, the military conducted another airstrike in the area on 20 April although there were no casualties reported from this incident as many civilians were either killed or fled after the deadly airstrikes earlier.³ Between 20 March and 18 April, the military conducted a total of 28 airstrikes in Sagaing and Bago regions, as well as in Chin, Kayah, Kachin, and Karen states. This resulted in a total 210 people killed and 60 others wounded.⁴

In early April, an estimated 10,000 people from Myanmar fled into Thailand's border Tak province after fierce fighting between ethnic armed groups and the junta's security forces in southern Karen state. However, over 3,000 of these 'evacuees' returned to Myanmar on 12 April with the Thai military insisting that they all returned voluntarily.⁵ The Karen National Liberation Front (KNLF) attacked military troops in Shwe Kokko, a notorious casino town in Myawaddy state controlled by pro-military Border Guard Force where a number of foreign nationals from Southeast Asia, Hongkong, and Taiwan were reportedly trafficked or kidnapped to operate cybercrime activities controlled by criminal syndicates from China, which are apparently tolerated by the junta. Since the February 2021 coup, there is a notable increase in drug smuggling, human trafficking, illegal animal, gems, and mineral trade, as well as cybercrime activities in Myanmar. Income from 'dark economy' activities provide revenue for the military and militias that support the junta. The military is also resorting to land-grabbing activities against farmers and other landowners in the country, many of which are being converted to military bases.⁶

The alarming humanitarian crisis in Myanmar continues to worsen amidst ongoing armed clashes across multiple states and regions between junta forces and the combined PDF and EAO resistance. Specifically, the number of internally displaced persons (IDPs) are rising, which is now close to 1.8 million people. Of this, 1.4 million were displaced by conflicts since the coup on top of over 328,000 who were already displaced before the military takeover.⁷ Some 60,000 civilian properties have been burned or destroyed since the coup⁸ as the junta continues to conduct airstrikes and arson of villages in many parts of the country. Accordingly, humanitarian operations have been hampered by both physical and administrative obstacles, including the junta's efforts in denying delivery of humanitarian assistance to those who are in need especially in conflict areas with strong armed resistance against the coup.

Meanwhile, Rohingya refugees continue to fall victim to human trafficking as they try to escape their desperate situation in the camps in Cox's Bazaar as well as those from IDP camps in Rakhine. Increasing crime against refugees and attacks by militant groups in Bangladesh, as well as lack of educational and work opportunities have driven many Rohingyas to take risks via perilous boat journeys at sea.⁹ (The UN High Commissioner for Refugees reported a significant spike in Andaman Sea crossings by Rohingya refugees in 2022: 1,920 from January to November 2022 compared to 287 in 2021, or a six-fold increase)¹⁰. In March, simultaneous fires broke out in various parts of refugee camps that destroyed 2,800 shelters and some 90 facilities including hospitals and learning centres, which left over 12,000 refugees homeless. A local district official called the incident a "planned act of sabotage" by militants based on the findings of a seven-member panel of investigators.¹¹ Separate fires again broke out on 18 and 25 April in two camps, with hundreds of Rohingya shelters made of bamboo and plastic were burned.¹² Between January 2021 and December 2022, there were 222 fire incidents in Rohingya camps in Bangladesh, of which 60 were arson cases according to defense ministry report released in February 2023.¹³

There is also strong resistance among Rohingya refugees to ongoing efforts by China, Bangladesh, and the junta in Myanmar to begin their repatriation back to Rakhine without guarantees of citizenship and protection of their human rights. China is mediating between Bangladesh and the military in Myanmar to begin a pilot repatriation project for the Rohingyas. Diplomatic visits between Bangladesh and Chinese officials took place in March and April, even as some Myanmar military officials conducted interviews with some Rohingya refugees in Cox's Bazaar. Human rights advocates were skeptical about the repatriation project, which they consider to be a tactical move by the junta to reduce pressure from the International Court of Justice. The ICJ recently rejected the request of the junta to postpone submission of a reply by six months on the case filed by The Gambia. Accordingly, the UNHCR asserted that the conditions in Rakhine are not conducive to a sustainable return of Rohingya refugees.¹⁴

Overall, the humanitarian crisis in Myanmar is likely to worsen in the coming months as the junta remains desperate to hold on to power amidst widespread armed resistance. ASEAN's diplomatic efforts in ending the violence in the country is unlikely to be realized soon given the Myanmar military's continuing defiance in implementing the Five-Point Consensus (FPC) to which it agreed to more than two years ago. To date, Indonesia's 'quiet diplomacy' in attempting to bring all protagonists in the conflict to the negotiating table is not making any progress thus far. In fact, its diplomatic efforts as Chair of ASEAN in realizing the FPC is being undermined by independent initiatives of some members and regional actors perceived to be more friendly to the junta. Two separate meetings were held in Bangkok and New Delhi under the so-called "Track 1.5" dialogue where representatives from Myanmar's military government attended but no representatives from the National Unity Government (NUG) were invited. Thailand convened the first meeting in March that brought together "like-minded" participants from ASEAN and non-ASEAN members. India convened the second meeting in April where participants agreed that the meeting is complementary to ASEAN's diplomatic efforts although India and Bangladesh expressed frustration over the 'slow pace' of the ASEAN process and the need for the regional organization to consider the concerns of Myanmar's neighbors.¹⁵ Thailand's prime minister, who recently convened a consultation meeting with Lao and Myanmar heads of government to address the transboundary haze problem affecting their countries, addressed Min Aung Hlaing as "prime minister" of Myanmar.¹⁶ Thailand's Deputy Prime Minister and Foreign Minister Don Pramudwinai also visited Nay Pyi Taw and met with the junta chief and discussed boundary problems related to peace and stability, human and drug trafficking, as well as arms smuggling. He was accompanied by Thailand's special envoy on Myanmar who is an advocate of greater engagement with the Myanmar's military regime as a way out of the ongoing crisis.¹⁷

Recommendations:

The Tatmadaw should:

- Immediately cease all violations of international humanitarian law.
- Ensure that those responsible for violations are held accountable.
- Take tangible steps to return authority to the democratic government.
- Fully comply and implement the FPC agreement with ASEAN leaders without preconditions
- Allow the unrestricted delivery of and access to international humanitarian assistance to IDPs and other affected communities in conflict affected areas in Myanmar

ASEAN and its members should:

- Impose more stringent measures on the military regime for its non-compliance with the FPC. These should include suspending Myanmar's membership of ASEAN and considering the recognition of the NUG as Myanmar's legitimate government.
- Engage directly with the NUG and other democratic forces in Myanmar.
- Ensure protection of refugees from Myanmar, including the Rohingyas, who are fleeing violence in Myanmar and who are victims of human trafficking.
- Refrain from forcibly repatriating refugees, victims of human trafficking, and anti-coup activists back to Myanmar

- Oppose plans by the junta to hold general elections that excludes the participation the NLD and other democratic parties who are opposed to the coup and refuse recognition of any government that will be set up by the military regime after the conduct of such elections.
- Cooperate with the UN special envoy to coordinate more fully in exploring options to break the current stalemate in Myanmar, giving priority to delivery of humanitarian assistance to affected communities in the country, including food, medical and health services, and assistance to the growing number of internally displaced peoples before and after the coup in 2021.
- Expand the delivery of humanitarian assistance given the collapse of Myanmar's economy that could bring close to half of the population below poverty line by expanding the mandate of the ASEAN Humanitarian Assistance (AHA) Centre and coordinating humanitarian response with independent humanitarian organisations within Myanmar.

All UN Member States should:

- Increase humanitarian support, in coordination with ASEAN and other independent humanitarian organisations working within Myanmar, to civilians suffering as a result of ongoing atrocity crimes and conflict.
- Increase humanitarian assistance to Rohingya refugees.
- Expand and implement targeted sanctions against the Tatmadaw and its business holdings in Myanmar and call on other UN member states including those in ASEAN that continue to do business with the military regime to do the same.
- Take steps to give to implement an arms embargo against Myanmar, as recommended by the UN General Assembly.

Democratic Peoples' Republic of Korea Risk: Very High/Ongoing

The DPRK continues to commit widespread and gross violations of human rights in the Democratic People's Republic of Korea, which the UN's High Commissioner for Human Rights has reported as recently as February 2021 could constitute crimes against humanity.¹⁸ In October 2020, the UN's special rapporteur on human rights in North Korea reported that the human rights situation remained "very severe" and that there were no signs of progress in any respect. Human rights violations are compounded by regime-induced malnutrition which the UN reports now affects 40% of the population or more than 12 million people. There is pervasive discrimination in the distribution of food as a result of which many citizens, including even farmers, do not receive adequate food. There has also been little to no progress on reducing political prison camps where torture and killing are commonplace. The UN estimates that there are 200,000 people held in political prisons. There has been no discernible reduction for some time. Large numbers of people, including children, are also routinely forced to perform unpaid labour. The UN found that this can amount to enslavement, a crime against humanity.¹⁹

None of this is new. In 2019, the UN General Assembly expressed "very serious concern" over continuing reports of, inter alia: torture and other cruel, inhuman or degrading treatment; political prison camps; enforced and involuntary disappearances; the forcible transfer of populations and severe limitations on the freedom of movement; the situation of refugees and asylum seekers; "all-pervasive and severe restrictions" on civil and political rights; violations of economic, social and cultural rights; and gross violations of the human rights and fundamental freedoms of women and girls.²⁰ The COVID pandemic has introduced new threats as the government has reportedly adopted a policy of using lethal force against people trying to cross its border with China.²¹

The Biden administration has refocused attention on human rights in DPRK which is welcome but unlikely to yield concrete concessions from Pyongyang though it may build some momentum for positive international action to address the DPRK's violations through the UN system in 2023. Any proposals for sanctions relief should be tied to: (1) Pyongyang allowing the UN country team free and unimpeded access to all parts of the country in order to assist in meeting the needs of vulnerable persons, and (2) DPRK authorities engaging with the UN Office of the High Commissioner for Human Rights and accepting the UN Special Rapporteur's request for a country visit.

It is imperative that in the world's engagement with the DPRK renewed emphasis is given to human rights. Regional security and the improvement of human rights in the DPRK are indivisible. With the Biden administration indicating new resolve on the issue, it is important that allies such as Japan, South Korea, and Australia also take a lead in pressing for renewed action through the UN Security Council, Human Rights Council, and General Assembly as well as other available multilateral and bilateral channels.

Recommendations**The government of the DPRK should:**

- Immediately cease committing crimes against humanity.
- Engage constructively with the UN Office of the High Commissioner for Human Rights (OHCHR), the Special Rapporteur and the OHCHR field office in Seoul to develop plans to faithfully implement human rights treaty obligations.

UN Member States should:

- Appoint a Special Envoy on Human Rights in North Korea.
- Collaborate to utilize the UN Security Council, Human Rights Council, and General Assembly to promote and protect human rights in the DPRK.
- Explore the use of multilateral, informal, and bilateral channels to encourage the DPRK to fulfil its responsibility to protect.

The UN Security Council should:

- Revive its informal dialogue on human rights in North Korea.
- Ensure that human rights concerns are integrated into any proposal for sanctions relief, including conditioning sanc-

tions relief on DPRK authorities.

The UN Human Rights Council should:

- Review what meaningful steps might be taken to achieve compliance with its previous recommendations.
- Ask the OHCHR to monitor patterns of abuse that may amount to crimes against humanity in the DPRK, investigate unresolved human rights issues, raise awareness and visibility of the human rights situation, and work with civil society and other governments to continue to press for accountability and an end to impunity.

China and the Republic of Korea should:

- Recognise DPRK citizens as refugees *sur place* and respect the principle of non-refoulement. China should adopt measures to protect the rights of DPRK citizens residing in or transiting through China, particularly women and girls who are systematically subjected to sexual violence, exploitation and abuse.

China Xinjiang Risk: Very High/Ongoing

Under policies purported to combat terrorism and ‘extremism’, the Chinese government has subjected Uighurs and other Turkic Muslims in the Xinjiang Uighur Autonomous Region (‘XUAR’ or ‘Xinjiang’) to serious human rights violations consistent with crimes against humanity and acts of genocide.²² Widespread or systematic violations include large-scale arbitrary detention, an invasive system of mass surveillance, discrimination and persecution on the basis of religious expression and identity, enforced disappearances and family separations, forced labour, torture, forced abortion and sterilization, and sexual and gender-based violence.

In 2018 it was estimated that upwards of one million Uighurs and other Turkic Muslims were remanded in state custody for ‘re-education’ or ‘de-extremification’ in what Chinese authorities refer to as “Vocational Education and Training Centres” (VETC). Former detainees have described torture and ill-treatment in the prison camps as variously involving crowded cells, indoctrination that drove some to suicide, waterboarding, food deprivation as punishment, beatings, being shackled to chairs for extended periods of time, sleep deprivation, forcibly being drugged, electrical shock treatment, rape and sexual humiliation, and other forms of extreme physical and mental abuse.²³ On 24 May 2022 a group of 14 news organisations published the Xinjiang Police Files, which contained thousands of leaked documents and images from internal police networks in Xinjiang that affirmed the militarized nature of the camps and refuted the Chinese government’s claims that they were benign education facilities.²⁴

In its August 2022 report on the human rights situation in Xinjiang, the Office of the UN High Commissioner for Human Rights (OHCHR) concluded that “the extent of arbitrary and discriminatory detention” in Xinjiang in the period of 2017-2019 and potentially thereafter “may constitute international crimes, in particular crimes against humanity”. It likewise noted that even though China has claimed to have reduced the scope of its VETC program “the laws and policies that underpin it remain in place”, and “there appears to be a parallel trend of an increased number and length of imprisonments through criminal justice processes, suggesting that the focus of deprivation of liberty has shifted towards imprisonment, on purported grounds of counter-terrorism and counter-‘extremism’”.²⁵ The OHCHR called for urgent action as “the conditions remain in place for serious violations to continue or recur”.²⁶ This concern over ongoing abuses was echoed in the March 2023 report of the UN Economic and Social Council (ECOSOC) Committee on Economic, Social and Cultural Rights, which noted “severe, systematic, vast and undue restrictions” of human rights in Xinjiang, particularly in relation to large-scale arbitrary detention, forced labour and enforced family planning.²⁷

There is also credible evidence that Uighur, Kazakh and other ethnic minorities in Xinjiang have been subjected to forced labour on a widespread basis. Xinjiang’s current Five-Year Plan (2021-2025) set in place unemployment and poverty alleviation targets and a system of surveillance that has formally consolidated forced labour practices, such that “individuals who were coercively mobilized into work placements are now effectively prevented from leaving them”.²⁸ Estimates of upward of 2.2 million Turkic Muslims, including several hundred thousand former re-education camp detainees, have been forced to work in state-mandated placements in the agriculture and manufacturing sectors.²⁹ In July 2022, the UN Special Rapporteur on contemporary forms of slavery concluded that some instances of forced labour of Turkic Muslims in China may amount to “enslavement as a crime against humanity” due to “the nature and extent of powers exercised over affected workers during forced labour, including excessive surveillance, abusive living and working conditions, restriction of movement through internment, threats, physical and/or sexual violence and other inhuman or degrading treatment”.³⁰

There have been numerous and credible reports of the destruction of Uighur cultural heritage in Xinjiang that could constitute atrocity crimes. Using satellite imagery, the Australian Strategic Policy Institute found that of a sample of 533 mosques across Xinjiang, 31.9% had been destroyed, 32.8% were damaged, and 35.3% were undamaged.³¹ Extrapolating this data to mosques across Xinjiang, approximately 16,000 mosques may have been damaged or destroyed and 8,450 completely demolished since 2017.³² Besides mosques, ASPi’s data and analysis suggested that 30% of other sacred sites (including shrines (*mazar*), cemeteries, and pilgrimage sites) have been demolished, mostly since 2017, and an additional 27.8% have been damaged in some way.³³

Additionally, the government has allegedly separated Uighur children from their parents and enrolled them in state boarding schools, which resembles a government-led “parallel campaign to systematically remove children from their roots” alongside the broader effort to “transform the identity of Xinjiang’s adults” through repressing Uighur religious and cultural expression.³⁴ In February 2023 the Uyghur Human Rights Project issued a report that argued that China’s attacks against Turkic Muslim culture in Xinjiang constituted what UNESCO labels a strategy of “cultural cleansing”-“the intentional and systematic destruction of cultural heritage, the denial of cultural identity, including books and manuscripts, traditional practices, as well as places of worship, of memory and learning”.³⁵ The International Criminal Court’s Policy on Cultural Heritage, issued in June 2021, affirms that attacks against cultural heritage may provide evidence of specific

genocidal intent to destroy a group, and may constitute crimes against humanity.³⁶

In relation to the question of genocide, there is significant evidence available to establish forced sterilisation as having occurred in Xinjiang. With the intent to destroy a group, forced sterilisation and other forms of SGBV fall within the definition of genocide under the Genocide Convention by causing serious bodily or mental harm, inflicting conditions to bring about the group's destruction, and imposing measures to prevent births within the group. As a matter of law, the crime of "forced sterilisation" occurs when: (1) the perpetrator deprives one or more persons of biological reproductive capacity; and (2) the conduct was neither justified by the medical treatment of the person nor carried out with their genuine consent. Individual reports by NGOs and news agencies documenting interviews with Uighur women, as well as doctors that have treated Uighur women both in Xinjiang and abroad,³⁷ are evidence that numerous women have been sterilised by Chinese authorities and without their genuine consent. The occurrence of these sterilisations is consistent with official government statistics, which document a significant decline in birth rates in Xinjiang and a disproportionate rise in sterilisations in Xinjiang as compared to the rest of mainland China.³⁸ This evidence points to a deliberate government strategy to change the demographic balance in Xinjiang in favour of Han Chinese by depressing the Muslim population and increasing the Han.³⁹ As well as a potential act of genocide, this practice is consistent with the UN's definition of ethnic cleansing, which, although it is not a stand-alone crime under the Rome Statute, is among the atrocity crimes governments committed to prevent and respond to under the Responsibility to Protect framework.

The international response to atrocity crimes in China has been uneven and inadequate, mostly led by Western states. The US government and parliaments of Canada, the UK, the Netherlands, Lithuania and France have publicly identified China's human rights violations as genocide, and the parliaments of Belgium and the Czech Republic condemned China's treatment of Uighurs as crimes against humanity.⁴⁰ The European Union, the UK, US and Canada jointly imposed sanctions on Chinese officials,⁴¹ as well as passed legislation to prevent the import of goods associated with state-sponsored forced labour in Xinjiang.⁴² Several major brands identified as having links with forced labour in Xinjiang have likewise ceased their presence in the region.⁴³ Countries, mostly from the West, have sought to discuss the situation in the UN Human Rights Council and issued joint statements of concern at the UN General Assembly, most recently the October 2022 joint statement in the UN General Assembly Third Committee that was supported by a record 50 countries.⁴⁴ China responded with a counter-statement read by Cuba, which was supported by 66 signatories.

China has reacted with predictable hostility, endeavouring to silence criticism and secure statements of support for its treatment of Muslim minorities in Xinjiang, primarily from countries from the Global South. After its failed efforts to suppress the August 2022 OHCHR report on abuses in Xinjiang,⁴⁵ China publicly denied and disparaged the report's findings and led an intense campaign to successfully prevent the UN Human Rights Council from holding a debate on the situation (in a failed vote of 17 for, 19 against, and 11 abstentions on 6 October 2022).⁴⁶ Sixteen member states of the Organisation of Islamic Cooperation (OIC) voted against or abstained on the resolution. This is a departure from the OIC's position in other cases of atrocities against Muslim minority populations, such as its support for Gambia filing a case before the International Court of Justice in November 2019 alleging that atrocities against Rohingya Muslims in Myanmar violated the Genocide Convention.

Recommendations

The government of China should:

- Immediately halt violations in XUAR that may amount to crimes against humanity and genocide and take active measures to prevent the recurrence or escalation of such violations.
- Repeal policies that institutionalise abuses in XUAR and respond favourably to outstanding requests for UN special procedures mandate holders to undertake an official visit to China with unhindered access in Xinjiang.
- Cease its campaign to prevent discussions of the OHCHR report on the situation in Xinjiang and engage in a process to meaningfully implement the recommendations of the report.

UN Member States should:

- Continue to bring attention to and condemn atrocity crimes by Chinese authorities in XUAR, including through public statements.
- Examine what bilateral measures to take to encourage China to immediately halt violations in XUAR and take tangible steps to apply pressure and uphold accountability.

- Cooperate to utilize all multilateral avenues, including the UN Security Council, General Assembly, Human Rights Council, and other bodies as appropriate, to express disapproval of Chinese policies and encourage the authorities to change course.
- Actively counter China's campaign to silence criticism of its policies in Xinjiang, including through building a broader coalition of states in support of the UN's mandate to investigate and report on atrocity crimes in Xinjiang.

The UN Human Rights Council should:

- Urgently establish an investigation to gather information to assess whether patterns of abuses in Xinjiang constitute crimes against humanity or other atrocity crimes that are universally prohibited under international law, and to recommend avenues for holding perpetrators accountable.
- Utilise treaty-body and other human rights reporting processes such as China's Universal Periodic Review scheduled for early 2024 to draw critical attention to atrocity crimes in Xinjiang.
- **The OHCHR and special procedures mandate holders should:** Continue to call for the immediate release of persons involuntarily held in detention or in forced labour, closely monitor the situation in Xinjiang, and continue to urge China to implement the recommendations of the August 2022 OHCHR report on Xinjiang.

The Philippines Risk: High

The Philippines remains at high risk for atrocities as drug war related killings continue and the average number of killings stood at about 5 people per week over the last two months. Meanwhile, politically motivated extra-judicial killings (EJKs) in the country are apparently on the rise since the start of the year, prompting the national government and the legislature to conduct investigations on the use of private armies and local police officers by some local politicians.

In March 2023, 26 people died in relation to the government's anti-drug war campaign, while another 17 were killed as of 22 April. For the months of January and February, there were a total of 45 people killed.⁴⁷ The National Capital Region (NCR) of Metro Manila stood as the top hotspot in drug-related killings, which were undertaken mostly by unknown assailants. Davao Del Sur and Davao City were in the second spot where the killings were all done by cops.⁴⁸ Davao City is the hometown of former President Duterte. In March, a local court found a police officer guilty of murdering two teens in relation to the drug war under President Duterte's term. The trial took over five years and the officer was sentenced to 40 years in prison without eligibility for parole.⁴⁹

Corruption continues to plague the Philippines anti-drug war campaign as 'ninja cops' are involved in criminal activities during operations. Some 49 police officers are facing criminal and administrative charges in connection with drug raid cover-up and pilferage try in October 2022 following a fact-finding investigation by the Department of Interior and Local Governments (DILG) and the Philippine National Police Commission (NAPOLCOM). The cover-up involved 990 kgs of crystal meth worth P6.7 billion (US\$120.4 million) with two drug enforcement officers taking 42 kgs before the 990 kgs were inventoried.⁵⁰

Meanwhile, President Marcos Jr on 28 March said that the Philippines will 'disengage' with the International Criminal Court (ICC) after the court rejected the government's appeal to suspend its drug war probe while its separate appeal is being heard in the Court's pre-trial chamber for the resumption of the investigation. The Appeals Chamber of the ICC did not find the reasons behind the request of the Philippine government to be persuasive even as the pre-trial chamber has yet to rule on its request to reverse its decision for a full investigation of the drug war killings.⁵¹ For his part, the head of the Department of Justice (DOJ) also thumbed down a suggestion to create an independent commission to investigate the drug war killings under the Duterte administration. He asserted that the DOJ is transparent in its ongoing probe of police officers allegedly involved in the drug war killings and in providing documents to the ICC to demonstrate that it is not failing to prosecute cops accused of arbitrary killing drug suspects.⁵²

The risk of atrocities in the country is also exacerbated by the rise of politically motivated killings in the country since the start of the year. In February, four separate ambushes were carried out in Lanao Del Sur and Maguindanao Del Sur in Mindanao and in Aparri, Cagayan province and in Batangas province in Luzon, which resulted in four and six people killed, respectively. The governor of Lanao Del Sur survived the ambush, while the vice mayor of Aparri was killed. On 3 March, the governor of Negros Oriental in the Visayas was killed inside his family compound while distributing cash relief to his constituents, along with eight other people.⁵³ The alleged mastermind behind the killing were political rivals of the governor who are siblings (a suspended congressman now in hiding abroad and his brother, the ousted governor of the province who had to vacate his position following a ruling by the Supreme Court that he lost in the last elections in May 2022).⁵⁴ Both denied that they were behind the assassination of Governor Degamo.

The Commission on Human Rights (CHR) launched its probe on the assassination of Governor Roel Degamo along with other local government officials who were targeted in the spate of killings in the country.⁵⁵ A Senate committee also started its own investigation of Degamo's murder which so far revealed the alleged involvement of some cops and a private army composed of dishonourably discharged army men under the payroll of the rival political clan. Between 2016 and 2021, there were a total of 927 elected local officials killed in the country, with most of these cases remaining unsolved.⁵⁶ Apart from local politicians, EJKs under the Marcos administration targeted political activists and suspected communist sympathisers who fell victim to the government's counter-insurgency operations.⁵⁷

Recommendations**The government of The Philippines should:**

- Uphold the state's primary responsibility to protect by complying with international norms on human rights protection.

THE PHILIPPINES - HIGH

- Hold members of the security sector legally accountable for violations of human rights in relation to the war on illegal drugs during the Duterte administration and after.
- Amend Republic Act 6891 on Witness Protection Program (WPP) to include members of the security section.
- Permit the Office of the Prosecutor of the ICC to resume its investigation of drug war related killings during the term of President Duterte and cooperate fully with the probe and abide by the Supreme Court's 2021 resolution that the ICC has jurisdiction.
- Dismantle private armies that serve politicians, warlords, and drug lords and file criminal charges against them.
- Strengthen efforts to curb illegal gambling operations, proliferation of small arms and light weapons, and other criminal activities involving local politicians and warlords.

Indonesia General: Low West Papua: Moderate

Indonesia has seen an increase in the reporting of sexual violence against women as a result of the nation's new legislation aimed at curbing sexual and gender-based violence. As noted in the *Jakarta Post* in March 2023, the number of sexual violence incidents reported has nearly doubled since 2021, and this reflects societal changes amongst Indonesian women who feel they can report incidents given progressive governmental reforms.⁵⁸

This sits alongside the recent acknowledgement and expression of regret from President Joko Widodo who publicly admitted to past governments committing 12 serious human rights violations across many decades, including the 1965-66 killings of anti-Communists, or those killed under the accusation that they were Communist. The statement issued by the President has been met with a positive response by the UN High Commissioner for Human Rights, Liz Throssell, who also compelled the government and the President to continue to work towards the non-reoccurrence of these types of violations and atrocities.⁵⁹

Indonesia's next step to help reform legislation associated with human rights abuse, is to bring to law a Bill that protects domestic workers, including migrant workers working for Indonesian households. Under instruction from the President, the new legislation sets out punishments for those who act violently against their domestic help and sets the legal age of these workers at eighteen. According to Channel News Asia, there are approximately four million domestic workers that this reform in law seeks to protect. The law also looks to help Indonesian workers who live and work elsewhere across the globe.⁶⁰

While new laws and other progressive measures do not speak to the prevention of atrocity crime directly, they show the current government's move towards ensuring the country has a strong human rights record, and also the need of the current President to leave a positive human rights legacy.

While these examples show progressive governmental reform in regard to the commission of atrocity crimes and human rights violations, reports from areas such as Papua and West Papua show that violations are still a problem for the government and its military. "Hoax news" and "fake news" was recently blamed for the killing of 12 people by Indonesian authorities in the town of Wamena in the Papuan highlands. Indonesian officials in the region blamed Indigenous Papuans for thinking the fake news real and then reacting to the news that, in turn, led to Indonesian military intervention and the subsequent deaths. As Jenny Munro states, "recent incidents in West Papua show how the rhetoric of the 'hoax' or 'fake news' may be used by those in power to justify violence, perpetuate discrimination, and deny people's capacity to analyse their own social contexts."⁶¹

Recommendations**The government of Indonesia should:**

- Ensure legislative decisions do not compromise Indonesia's democracy and will not lead to human rights abuse across all regions.
- Swiftly proceed stalled legislation criminalizing the abuse of human rights.
- Implement legislation to stop hate speech and discrimination and hoax news, and to effectively eliminate sexual and gender-based violence.

UN Member States should:

- Encourage Indonesia to take active steps to fulfil its responsibility to protect.
- Explore avenues for cooperation with the Indonesian government and society in the areas of combatting disinformation and misinformation related to the pandemic.
- Discourage the use of hoax news as justification for military and police intervention.

West Papua

Tensions between the Indonesia government and West Papuan independence activists remains high. This is no better highlighted than in the conflict that has ensued due to the abduction by the West Papuan National Liberation Army of

New Zealand pilot Philip Mehrrens. This abduction has also been used by media outlets to highlight the Australian and New Zealand government's silence or "hands off" approach to this ongoing conflict, writing that "The silence suggests the limits of Australian and New Zealand 'values-based' diplomacy and outlines the real constraints that geography and trade relationships have for middle powers with a commitment to human rights and values."⁶²

The abduction of the pilot recently led to several Indonesian soldiers being killed or wounded in rescue attempts, with exact figures unknown but with at least six dead and others missing.⁶³ This has since led to indiscriminate bombing by the Indonesian military in the region they believe the pilot is being held, and in a recent video by the abducted pilot, he asked the Indonesian forces to stop the bombing as it was putting his life at risk alongside the rebels who held him hostage.⁶⁴

Recent killings have also occurred in Central/West Papua due to civil unrest that spread due to a false rumour that a Papuan child had been kidnapped by migrant populations. Papuans supposedly attacked migrant groups and police officials. It led to the Indonesian government suggesting that indigenous populations had become violent, hence justifying military intervention.⁶⁵ While the deaths appear to be correct, suggesting that Papuans are violently affected by disinformation and hoax news appears a tactic used by Indonesian forces to forcefully intervene and to further justify their need to be in the country to act as peacekeepers and a policing force.

Recommendations

The government of Indonesia should:

- Prevent the expression of racial discrimination, hate speech, fake news and incitement against West Papuans, and provide clear advice to security forces to abide by international law and refrain from the use of violence and torture.
- Ensure human rights are protected in all Indonesian territories, including freedom to protest and gather and freedom of speech.
- Consider the aspirations of West Papuans and the underlying issues fuelling the protests, and endeavour to take into account these aspirations in future dealings with the province.

Papua New Guinea Risk: Moderate-High

Papua New Guinea has been found to have the second highest crime rates in the world by the World Population Review. Underlying social, economic and political issues were noted as influencing factors for violent crime, including in terms of 'Raskol' gangs. Organised crime and corruption, as well as drug and human trafficking, were also noted.⁶⁶ PNG has exceptionally high rates of gender-based violence. A new research study has found that intimate partner violence is impacted by alcohol use in PNG, with women whose partners consumed alcohol more than 2.8 times more likely to experience physical and emotional violence and more than 2.5 times more likely to experience sexual violence.⁶⁷

Inter-tribal violence also continues to occur in the Highlands. On 10 March 2023, five people were killed in ethnic violence,⁶⁸ and a woman was kidnapped. The victims were asleep when they were ambushed; the perpetrators claimed they had been sent by the police and defence force, and forced the victims out by setting fire to the houses.⁶⁹ The increasing brutality and lethality of inter-tribal violence remains of great concern, and the roles of the security and justice sectors are also an ongoing issue.

In March 2023, the PNG Defence Force received their first training on reducing gender-based violence, from the US Indo-Pacific Command Office of WPS.⁷⁰ 30 members of the PNGDF participated and graduated as 'Gender Focal Points'. The course included UNSC Resolution 1325 on WPS, gendered impacts of natural disasters, and the importance of including a gender lens in operations. The PNGDF developed a gender-based violence prevention and response framework and learned new skills on improving gender equity. A review of issues surrounding the 2022 election by the Special Parliamentary Committee is focusing on ensuring the accuracy of the electoral roll for the 2027 election, in order that all citizens can vote.⁷¹

Recommendations

The government of Papua New Guinea should:

- Consider issues and recommendations raised by independent observers and the internal Inquiry on the election.
- Prioritise action on gender-based violence and work towards gender equality across society.
- Increase police presence in violence hotspots and ensure perpetrators of inter-tribal violence are held accountable.
- Continue to work towards institutional change within the security sector to better respond to victims of SGBV and other forms of violence.

UN member states should:

- PNG to reform and improve the election process.
- Provide capacity building training to the security sector.
- Continue to support strategies for achieving gender equality and a reduction in gender-based violence.

Solomon Islands Risk: Low-Moderate

The 2023 edition of Freedom in the World by Freedom House has noted some concerns regarding freedom of the press and government transparency in the Solomon Islands.⁷² Of particular note, Parliament extended its term by seven months, and has exerted more direct control over the Solomon Islands Broadcasting Corporation, potentially vetting articles. Both of these may be indicators of increasing human rights violations and potential conflict.

Also a potential risk factor in the Solomon Islands is the impact of climate change. 80% of the Solomon Islands population lives in rural, low-lying coastal communities, which are reliant on services delivered by provincial governments, churches, and civil society.⁷³ Climate change effects on agriculture, social and economic opportunities, and the potential for displacement of communities, may exacerbate the risk of conflict and violence.

Recommendations

The government of the Solomon Islands should:

- Ensure freedom and independence of the media.
- Work towards greater transparency and reduce corruption.
- Support provincial governments and civil society to prevent and respond to climate change effects.

SEXUAL AND GENDER BASED VIOLENCE

Sexual and Gender-based Violence

More than 100 civilians were killed in an airstrike launched by the Myanmar military on 11 April 2023.⁷⁴ The attack targeted a village as people gathered for a local celebration, and according to Women's Peace Network, the majority of casualties were women, children and the elderly.⁷⁵ This comes as further evidence of the systematic use of sexual violence by the Tatmadaw comes to light. Human rights defender May Sabe Phyu claims the military continues to use rape as part of its attacks against opposition groups, while the National Unity Government (NUG) says at least 122 women have been sexually assaulted since the start of the coup, and at least 3,125 women detained.⁷⁶ Those detained are often subject to torture, including of a sexualised nature. These figures may be underestimated, with other human rights groups putting the numbers at more than 4000 arrested, with 400 women killed, or more.⁷⁷

The military's actions have specific impacts on women, who are often close to civilian infrastructure that the Tatmadaw targets, and who are often forced to flee, becoming internally displaced or asylum seekers in neighbouring countries. This situation leaves them further vulnerable to sexual and gender based violence, trafficking, poverty and retraumatisation.⁷⁸

Burmese women continue to be at the forefront of resistance against the Tatmadaw, both armed resistance but also in information collection, fundraising and humanitarian assistance.⁷⁹ The Rohingya population continues to suffer the after-effects of the 2017 genocide, and ongoing persecution in Rakhine state, such as restrictions on freedom of movement, increasing security checkpoints, arrest, detentions, and extortion.⁸⁰ The gendered effects on women include the risk of sexual violence and trafficking, a lack of education or economic opportunities, and the absence of justice or reparations.

Gender inequality and gender-based discrimination and violence continues to plague other parts of the region, though some progress is being made in terms of legislation and government policy. During Indonesia's Universal Periodic Review outcome, for example, the majority of recommendations related to the promotion and protection of gender equality and the rights of women and children.⁸¹ Indonesia pointed to legal frameworks and supported 205 of 269 recommendations, and speakers noted its initiatives on combatting violence against women and children, such as the establishment of regional technical units on the protection of women and children and the Criminal Code 2022 which exempts abortion on the grounds of rape. However, targeting of human rights defenders and civil society actors was raised. In addition, Indonesia suggested that the concept of Indigenous peoples "did not apply to Indonesian society," and claimed that there were "no internationally accepted laws, rules, norms or principles" relating to lesbian, gay, bisexual, transgender, intersex and queer groups.

The treatment of women and the LGBTQ+ community in Malaysia has also been problematic, with increasing bigotry among the government and security sectors. Some participants in the 2023 Women's March, for instance, were later questioned by authorities.⁸²

In the Pacific too, particularly in Melanesian countries, people from the LGBTQ+ communities face a lack of social acceptance and restrictive legislation.⁸³ In the Solomon Islands, LGBTQ+ people are unable to be visible or to advocate for their rights, due to social and religious backlash, while in Fiji, although homosexuality has been decriminalised, discrimination and social stigma remain. Anti-LGBTQ+ laws exist in the Solomon Islands, Papua New Guinea, Tonga, Kiribati, Samoa, Tuvalu and the Cook Islands.⁸⁴

Also in Fiji, violence against women continues to be rife, with 94 percent of victims of serious sexual crimes being women and girls.⁸⁵ Extremely high rates of child sexual abuse are also found in Fiji, with children constituting 74 percent of all reported sexual violence cases.⁸⁶ The Fiji Women's Rights Movement has highlighted gaps in the criminal justice system including the discounts given by the courts for being a "first offender" where the perpetrator committed multiple sexual offences. In addition, domestic violence restraining orders were only issued for 32 percent of all the rape cases heard in court.⁸⁷

Steps being taken by the Fiji government include the roll out of the Fiji Women's Economic Empowerment Plan (2023-2028), the Fiji National Action Plan to prevent Violence against all Women and Girls (2023-2028), and a policy focus on women's economic empowerment and leadership, reproductive health rights, employment, climate change, technology and better collection of gender data and statistics.⁸⁸

Recommendations

The Tatmadaw in Myanmar should:

- Immediately cease the practice of using sexual and gender based violence as a form of torture against detainees,

SEXUAL AND GENDER BASED VIOLENCE

and as a tactic of persecution against women activists, and those from ethnic and religious minorities.

- Immediately cease the targeting of civilian infrastructure, which may constitute a war crime and a crime against humanity.

The UN and regional bodies should:

- In line with the ASEAN Regional Plan of Action on Women, Peace and Security, and the Five-Point Consensus, take urgent and serious action on the situation in Myanmar to protect women from the high risk of sexual and gender based violence, and hold perpetrators accountable.
- Support pro-democracy movement and work towards the protection of human rights in Myanmar by supporting civil society organisations, human rights defenders, Burmese youth and women.
- Support Rohingya women with education and economic opportunities, and work towards effective settlement of refugee women in host communities and out of the camp system in a timely manner.
- Progress investigations into the genocide of the Rohingya, which included systematic targeting of women with sexual violence, in order to hold accountable the perpetrators of these atrocities.
- Continue to support programs in the Asia Pacific to reduce violence against women and promote gender equality.

Disinformation, Hate speech and Incitement

Hate speech and disinformation, and its links to violence and atrocity, remain prevalent across Southeast Asia, most notably in areas where there is either the risk of conflict, or where conflict already exists. Recently, in Papua and West Papua, disinformation led to the deaths of many civilians when the fake news of a kidnapping went viral via social media, igniting tensions between Indigenous populations and minority groups living in the region, and Indonesia policing forces.⁸⁹

To help combat the problem of fake news and disinformation, ASEAN held a two-day workshop in March 2023 to finalise a set of guidelines for ASEAN countries. The result is a document aimed at helping governments in the region to combat fake news and disinformation, stressing the need for multi-sector approaches “involving not only the information sector but also those in the fields of telecommunications, transnational crime, law, youths and education in order to protect the citizens of the ASEAN region.”⁹⁰ The Guidelines will be officially launched at the June 2023 ASEAN Senior Officials Meeting Responsible for Information (SOMRI).

Over the past few years, there has been discussion about the use and misuse of deepfakes and AI in the promotion of violence, with global commentators talking about pros and cons to this recent phenomenon across many media outlets. In Asia and the Pacific, for example, deepfakes and AI have been a concern since the 2020 elections in India where fake political campaigns circulated widely, hoping to influence election results. Yet this deepfake and AI technology is now being merged with GPT (or Chat GPT) technology that can “amplify the work of malign actors to produce even more convincing media artifacts for hostile intent, further destabilizing societal trust and credibility.”⁹¹ This poses a very new challenge that is yet to be understood and regulated by legislators and media companies alike.

Recommendations

Southeast Asian governments should:

- Realise the importance of direct fake news, hate speech and danger speech legislation, and implement this legislation in its civil and penal codes.
- Work to recognise the difficulties associated with Chat GPT or GPT, when combined with deepfake and AI technology.
- Work with the private sector, including social media sites and internet companies more broadly, to implement a range of generic policy measures across the region, rather than on a state-by-state basis.
- Work with CSOs and NGOs at large-scale educational programmes for all ages and all users.
- Learn from and work with the European Union and the European Council, and their partners, to implement measures to curb hate speech and danger speech in Southeast Asia.

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