

ASIA PACIFIC REGIONAL OUTLOOK

EARLY WARNING ATROCITY CRIMES



AUGUST 2023 Featured in this issue...

- New details on drugs-related killing in The Philippines
- Atrocity crimes in Myanmar
- Inter-communal violence in Papua New Guinea



**THE UNIVERSITY
OF QUEENSLAND**
AUSTRALIA



Asia-Pacific Centre for the
Responsibility to Protect

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

Atrocities in Myanmar are continuing with the junta committing more war crimes against and crimes against humanity against civilians since the February 2021 coup. Civilian armed resistance to the military regime, with the help of ethnic armed organisations, appears to be strengthening even more across the country, forcing the junta to extend its emergency rule for another six months and general elections slated for August 2023 was again postponed.

As of 9 August, over 3,900 people are confirmed to have been killed by the military since the coup, which include pro-democracy activists and other civilians resisting the junta. More than 24,200 have been arrested and over 19,700 have been detained (of which more than 7,000 are serving sentences). A total of 105 people are death row prisoners.¹ The UN Independent Investigative Mechanism for Myanmar (IIMM) claimed in its recent report that it has gathered strong evidence of increasing war crimes in the country since the coup, which include mass executions and sexual violence. Specifically, it reported that the military is responsible for the surge in aerial bombardments, burning of villages, mass killings of civilians and detained combatants, as well as torture and sexual violence.² The IIMM, which was created by the UN Human Rights Council in 2018, was tasked to gather evidence of the most serious international crimes for criminal prosecution of perpetrators in Myanmar.

The continuing atrocities by the military has also worsened the humanitarian crisis in the country. As of 15 July, the UN reported that there are now an estimated 1.9 million internally displaced persons across the country, of which 1.6 million were displaced by clashes and insecurity since the February 2021 coup. Over 320,000 IDPs in the country were already displaced in Myanmar prior to the coup mainly in Rakhine, Kachin, Chin, and Shan states. About 70,000 civilian properties have been destroyed since the coup due to continuing aerial strikes by the junta against civilian targets in central Myanmar.³ The humanitarian crisis in the country is also exacerbated by continuing restrictions imposed by the junta on the delivery of humanitarian assistance in conflict affected areas as well as in Rakhine state since the onslaught of Cyclone Mocha even as the State Administration Council (SAC) suspended its humanitarian cyclone response.⁴

Meanwhile, the junta remains defiant of ASEAN's and the international community's calls for implementing the bloc's Five-Point Consensus (FPC) amidst continuing difficulties in breaking the stalemate between the military regime in Myanmar and the pro-democracy forces resisting the coup. Despite claims by Indonesia as ASEAN Chair that it has conducted more than 100 engagements with various stakeholders and parties in Myanmar, there is no clear indication that a breakthrough is in sight for peace and stability to return in the country. If anything, the regional consensus is apparently being undermined by separate initiatives led by Thailand and India who were acting in their own national interests as frontline states in engaging the junta to seek an end to the conflict. Both convened a series of track 1.5 meetings in Bangkok and New Delhi, which included representatives from the junta's SAC but was not participated in by some ASEAN members. Jakarta expressed disappointment over these initiatives and asserted that ASEAN's consensus must be upheld by all members and partners. Specifically, President Joko Widodo stressed that the crisis in Myanmar could only be resolved if there is 'political will' from all parties and that ASEAN, as a 'big ship', cannot sink as it is the group's responsibility to millions inside Myanmar.⁵ For his part, Timor L'este Prime Minister Xanana Gusmao said that his country is prepared to drop its bid to become the eleventh member of ASEAN if the group fails to convince the junta to end the Myanmar crisis. He asserted that, as a democratic country, Timor L'este "could not accept military regimes anywhere and could not ignore human rights violations in Myanmar."⁶

Coordination of diplomatic efforts between the UN and ASEAN in the search for a solution to the Myanmar crisis has also been stalled following the decision of Dr Noleen Heyzler to step down as UN Special Envoy to Myanmar after her term expired in June. So far, the UN Secretary General has not appointed a new special envoy. It is significant to note that during her term as special envoy, the junta in Myanmar refused her requests to meet with NLD leader Aung San Suu Kyi and other detained members of the party. The regime also refused similar requests from past ASEAN special envoys to meet with her. In contrast, the military allowed Thailand's Deputy Prime Minister and Foreign Minister Don Pramudwinai to meet with Suu Kyi in July,⁷ and reportedly a meeting with China's special envoy for Asian Affairs, Deng Xijuan, was to take place during the latter's visit in Myanmar in early August.⁸

Overall, the Myanmar crisis is likely to drag on as the junta remains defiant of international and domestic pressures in putting an end to its atrocities against civilians and complying with the ASEAN's FPC. As Indonesia's chairmanship will be passed on to Laos next year, it is unlikely that the regional organisation would be able to break the current impasse in Myanmar in the near future even as the junta and the anti-coup resistance movement are unwilling to engage in a dialogue without preconditions.

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.
- Uphold their commitment to the FPC even as they also explore alternative pathways in resolving the Myanmar crisis through engagement.
- 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.
- 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.

The UN Secretary-General should:

- Name a new Special Envoy to Myanmar who will work closely with ASEAN in implementing the FPC and explore other pathways to resolve Myanmar's crises.

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 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.⁹ 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.¹⁰

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.¹¹ 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.¹²

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 sanctions 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-refoulment. 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.¹³ Violations include large-scale arbitrary detention, a pervasive 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 report that they were subjected to torture and ill-treatment as well as sweeping cultural and political indoctrination.¹⁴ On 24 May 2022 a group of 14 news organisations published thousands of leaked documents known as the Xinjiang Police Files that affirmed the militarized nature of the camps and refuted the Chinese government’s claims that they were benign education facilities.¹⁵

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 extensive and discriminatory detention in Xinjiang in the period of 2017-2019 and potentially thereafter may constitute 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 a parallel uptick in imprisonment rates suggests that China has simply shifted towards arbitrary detention through criminal justice processes.¹⁶ The OHCHR called for urgent action as “the conditions remain in place for serious violations to continue or recur”.¹⁷ 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.¹⁸

There is 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”.¹⁹ Allegations of state-sponsored forced labour have tended to focus on Xinjiang’s outsized cotton, tomato paste, and solar-grade polysilicon industries, but recent evidence suggests Uighur forced labour is present in a much broader array of agricultural, raw materials, and manufacturing industries.²⁰ 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”.²¹

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.²² Extrapolating this data to mosques across Xinjiang, approximately 16,000 mosques may have been damaged or destroyed and 8,450 completely demolished since 2017.²³ 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.²⁴ 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.²⁵ In February 2023 the Uyghur Human Rights Project issued a report that argued that China’s attacks against Turkic Muslim culture 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”.²⁶ 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.²⁷

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 defi-

inition 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,²⁸ 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.²⁹ 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.³⁰

The international response to atrocity crimes in China has been uneven and inadequate, and 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 have condemned China's treatment of Uighurs as crimes against humanity.³¹ The European Union, the UK, US and Canada have imposed sanctions on Chinese officials,³² as well as passed legislation to prevent the import of goods associated with state-sponsored forced labour in Xinjiang.³³ In early August 2023, the US issued new sanctions on two Chinese firms, bringing the total number of sanctioned entities under its Uyghur Forced Labor Prevention Act to 24 companies.³⁴ The Canadian Ombudsperson for Responsible Enterprise launched investigations in July 2023 into Canadian companies allegedly using Uighur forced labour in their supply chains.³⁵ Several major brands identified as having links with forced labour in Xinjiang have likewise ceased their presence in the region.³⁶ Countries, mostly from the West, have also sought to discuss the situation in the UN Human Rights Council and issued statements of concern at the UN General Assembly, such as the October 2022 joint statement in the UN General Assembly Third Committee that was supported by a record 50 countries.³⁷ China responded with a counter-statement read by Cuba, which was supported by 66 signatories.

The UN system has also mobilised to address international crimes against Turkic Muslims in China. In addition to the findings of the OHCHR and the UN Special Rapporteur on slavery that the Chinese government's abuses in Xinjiang may constitute crimes against humanity, concerns over grave violations against Uighurs have been raised in reports of the International Labour Organisation and by UN human rights treaty bodies and special procedures.³⁸ Due to the lack of improvement in human rights in Xinjiang, on 24 November 2022 the UN Committee on the Elimination of Racial Discrimination (CERD) issued a decision under its early warning and urgent action procedure calling on Chinese authorities to cease and investigate violations.³⁹ The decision is relatively rare (the last one was in 2019) and unprecedented, insofar as it referred the matter to the attention of the Special Advisor of the UN Secretary-General on the Responsibility to Protect. Australia, Liechtenstein, the UK and US urged follow up action on this referral at the 4 July 2023 biennial dialogue of the Human Rights Council with the Special Advisor to the UN Secretary-General on the Prevention of Genocide, whose office shares a mandate with the Special Advisor on the Responsibility to Protect.⁴⁰

China has reacted to international scrutiny with predictable hostility, endeavouring to silence criticism and secure statements of support. Chinese authorities have reportedly pressured Uighurs living abroad to report on Uighur human rights activists by threatening family members that remain in China.⁴¹ After its failed efforts to suppress the August 2022 OHCHR report on abuses in Xinjiang,⁴² 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).⁴³ 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 requests for UN special procedures mandate holders to undertake official visits 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:

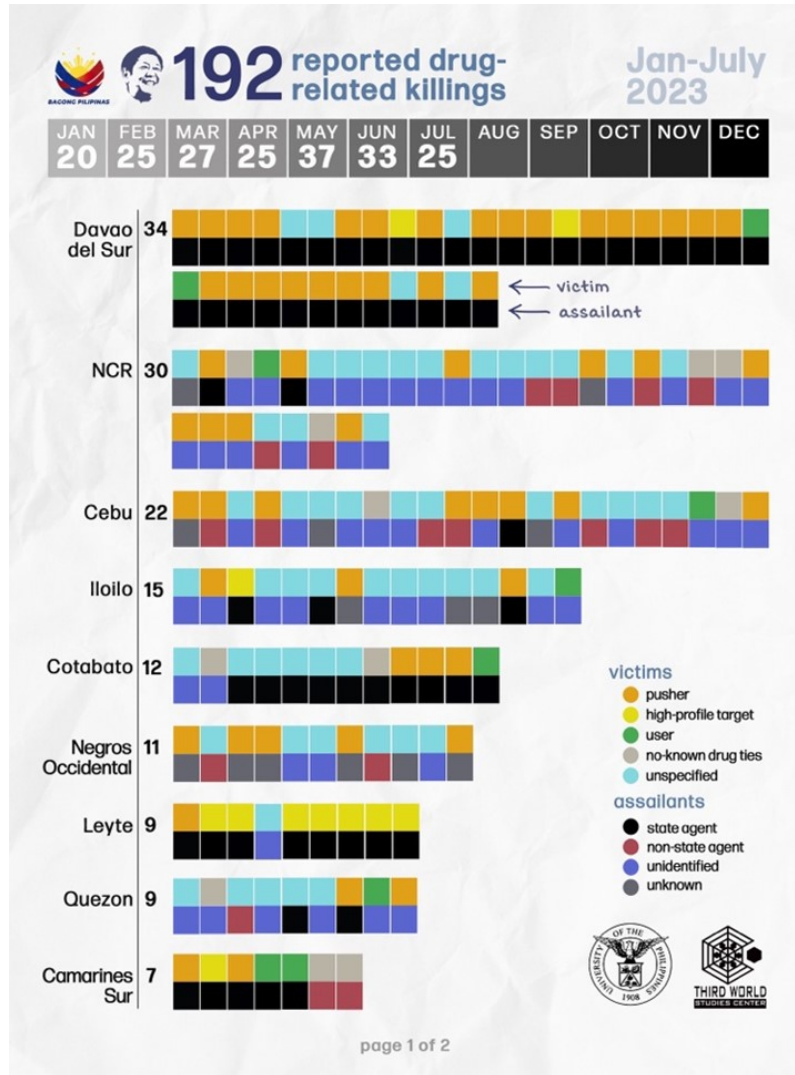
- Urgently establish an investigation to gather information to assess whether patterns of abuses in Xinjiang constitute crimes against humanity or other atrocity crimes that are universally prohibited under international law, and to recommend avenues for holding perpetrators accountable.
- Utilise treaty-body 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 the government’s drug war continues unabated resulting in 192 people killed as of end of July from the beginning of 2023, while another seven (7) people were killed in the first seven days of August. Thus far, 374 people have died in connection with the drug war under the administration of Marcos Jr. since he took office on 30 June 2022.⁴⁴ For the last seven months this year, Davao del Sur topped the number of people killed (34), followed by the National Capital Region (NCR) at 30, and Cebu at 22.⁴⁵ It is significant to note that the main victims in Davao del Sur were pushers who were all killed by state agents (see infographic below). Davao City, the capital of Davao del Sur, is the hometown of former President Duterte where he now resides.



Source: UP Third World Studies Centre Facebook Infographic

To demonstrate its resolve in cleaning up the ranks of the Philippine National Police (PNP) of police officers involved in the drug trade, criminal cases were filed in July against 69 policemen who were allegedly found to have pilfered 990 kilograms of methamphetamine worth Pesos 6.7 billion (US\$119 million).⁴⁶ For his part, President Marcos Jr. accepted the resignation of 18 third-level police officers of the PNP composed of three generals and 15 colonels who were reportedly linked to illegal drug trade. The Department of Interior and Local Government (DILG) said that it will file appropriate charges against these officers accordingly. The eighteen resigned officers were among the 953 PNP policemen who were investigated by the DILG for their involvement in illegal drug activities.⁴⁷

Meanwhile, the International Criminal Court’s (ICC) Appeals Chamber on 18 July dismissed the appeal of the Philippine government against the resumption of the investigation into the Duterte drug war in the country. In rejecting the appeal, the court said that it was not convinced that the Philippines government was making a “real or genuine effort” in conducting its own probe and prosecution of the Duterte administration’s drug war-related killings.⁴⁸ For his part, Solicitor General Menardo Guevarra said that the Philippines will continue its own probe into the drug war killings, while Justice Secretary Jesus Crispin Remulla reiterated his previous statement that the ICC will not be welcome into the country.⁴⁹

Recommendations

The Philippines government should:

- Uphold the state's primary responsibility to protect.
- Comply with international norms on human rights protection. Specifically, it should hold accountable law enforcers and other members of the security sector for violations of human rights in relation to the war on illegal drugs during the Duterte administration and after.
- Vigorously push for the amendment of Republic Act 6891 on Witness Protection Program (WPP) to cover law enforcers as part of encouraging them to turn state witness in the drug war related killings and other EJKs
- Reconsider its position on membership of the International Criminal Court (ICC)
- Cooperate with the ICC as it pursues its investigation of drug war related killings during the term of President Duterte and abide by the Supreme Court's 2021 resolution that declared the ICC to have jurisdiction over the country despite its withdrawal from the Rome Treaty in 2019.
- The Department of Justice should pursue its own credible and transparent probe into the drug war killings both under the administrations of President Duterte and Marcos Jr.
- Encourage PNP and Department of Justice to pursue vigorous investigation of killings involving policemen and other law enforcement agents in relation to the past and ongoing drug war operations and file appropriate criminal charges against them.

Indonesia General: Risk Low

Following the proclamation of apology from President Joko Widodo for human rights violations and the commission of atrocity crimes in Indonesia's past, the government has now begun to implement a non-judicial settlement plan for victims and families of victims. It includes the establishment of scholarships, vocational training, home renovation funding, and health insurance for those who have been affected by these past crimes.⁵⁰ While these incentives have been welcomed by those who benefit from the plan, there has also been criticism of its limitations. As reported in Aljazeera, Amnesty International's Indonesian Director, Usman Hamid, thinks that there needs to be more accountability for those who committed the crimes, and that the law should reflect these efforts alongside the non-judicial plan. As noted in the article, not a single person has ever been held accountable for any of the 12 mass human rights violations committed in Indonesia that the plan covers.⁵¹

Regionally, the Indonesian President has called on a cessation of violence in Myanmar, and in May 2023 offered Indonesian humanitarian assistance to Myanmar, which Indonesia has stated will be delivered in two stages. In providing this assistance the President spoke on ASEAN's five-point consensus plan, one of which calls on ASEAN to provide humanitarian assistance. In an ASEAN press release, the President stated that there had been some agreement between Indonesia and the Myanmar Junta, that would allow aid into the country.⁵² This agreement, alongside Indonesia's act to rectify past wrongs, speaks to the country's current move towards a more pronounced human rights agenda that seemingly hopes to sway ASEAN governments. Included in these incentives are the addition of Indonesian legislation that hopes to curb gendered violence, and workshops to amend the nation's Electronic Media laws to better encompass the risks associated with hate speech.

More regionally, there have been ongoing concerns about human rights violations being committed on the island of Lombok, where the government is investing heavily to build a tourist precinct that has been titled the "new Bali." In March 2023, the UNHCR released a statement concerned with increased military presence and the intimidation of the local indigenous populations who have stated that they were pressured into ceding their land to developers.⁵³ Since then, there have been further reports of military intimidation, environmental degradation, and a lack of consultation with the people of the region, the Sasak, by developers and government alike.⁵⁴

Recommendations

The Indonesian government should:

- Appoint a senior official as National R2P Focal Point to coordinate national and international efforts to implement R2P.
- Ensure the nation's move to compensate victims of atrocity crimes and human rights abuse is ongoing.
- Ensure legislative decisions do not compromise Indonesia's democracy and will not lead to human rights abuse across all regions.
- Ensure legislation that is stalled at Bills that does criminalise human rights abuse, is advocated for and adopted into legislation.
- Work to further implement legislation to stop hate speech and discrimination and hoax news, and to effectively eliminate sexual and gender-based violence.

International partners should:

- Encourage Indonesia to take active steps to fulfil its responsibility to protect.
- Continue to explore avenues for cooperation with the Indonesian government and society in the areas of combatting disinformation and misinformation related to the pandemic.
- Continue to provide humanitarian assistance when requested to help the government and civil society tackle challenges that stem from a lack of access to basic infrastructure.
- Explore dialogue with Indonesian officials to help discourage the use of hoax news as justification for military and police intervention.

West Papua region High Risk

The region remains volatile and there is high risk of human rights violations and atrocity. Due to the kidnapping of the New Zealand pilot, Phillip Mehrrens, the Indonesian government have deployed more military personal, which has increased tension. There has also been a breakdown in communication between the kidnapers, the West Papua National Independence Army (TPNPB), and the New Zealand government of late, with the New Zealand government unwilling to accept the TPNPB's demands that include recognising West Papua's freedom, ceasing military support for Indonesia, and to stop New Zealand citizens from working in and travelling to the region.⁵⁵

According to reports coming from local church officials, the region has also seen an increase in the suppression of student voices, disruption of learning activities due to violent clashes between Indonesian forces and liberation groups in nearby locations, and the early and unjudicial release from prison of Indonesians who had been convicted of human rights abuses in 2014.⁵⁶ These are exacerbating tensions while limiting freedom of speech.

Recommendations

The Indonesian government should:

- Address entrenched 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.
- As a member of the UN Human Rights Council, ensure human rights are protected in all Indonesian territories, including freedom to protest and gather and freedom of speech.
- Refrain from manipulating news to serve the interests of the Indonesian forces in the region.
- Consider the aspirations of West Papuans and the underlying issues fuelling the protests, and endeavour to consider these aspirations in future dealings with the province.

Papua New Guinea Risk: Moderate-High

The International Federation of Journalists has called for an investigation into the shooting of two media workers during a tour of a power station.⁵⁷ It is unclear who the shooters were. The availability of illegal weapons in PNG is a contributing factor to the lethality of conflicts in the country, such as tribal violence in the Highlands. Tribal violence over the PNG election for example, has caused dozens of deaths, including children, and displacement of whole villages.⁵⁸ In parts of Enga Province, modern weapons have replaced non-deadly weapons formerly used in tribal disputes, and rules about the protection of women and children are no longer respected. Defence personnel have been deployed to the region to keep the peace though police say parts of the region are considered 'no-go zones'.⁵⁹ The situation is complicated by new aspects of politics and money, corruption such as bribery and fraud; guns are valuable leading to theft, smuggling and more violence. Meanwhile those locals who fled during and after the election related violence are fearful of returning.

The illegal arms trade is a transnational problem in Melanesia and a priority issue for regional security. Combined with local conflicts, scarcity of resources, and displacement of large numbers of people, it poses a serious risk to peace and stability in PNG. A bilateral security agreement between Australia and PNG, whose finalisation was delayed in June, is intended to improve cooperation on a range of security issues, with plans for training, joint exercises, and information sharing on strategic threats.⁶⁰

The impact on women and girls is significant. There are reports that gangs have kidnapped women and children, held them in buildings such as churches, and raped and beaten them.⁶¹ The hostages were released after the perpetrators received a ransom payment. While police and defence personnel are investigating, the difficult terrain, large remote distances and limited roads and communication, mean that it is difficult to bring perpetrators to justice. One man allegedly involved was arrested in early August.⁶² Amendments to the Criminal Code Act 1974 to enhance response to 'domestic terrorism' are being considered by the PNG government to allow for police to respond more quickly.⁶³ Other forms of violence against women, such as sorcery accusation related violence, continue to be rife in PNG. Advocates say the violence against women accused of sorcery has worsened in the past 10-15 years, associated with poorer health and social services, and the desire to assign 'blame' for sudden deaths or disease in the community or other difficulties such as a financial loss.⁶⁴

Tribal violence and attacks appear to be getting more common and more brutal, and may be considered "repeated patterns of behaviour".⁶⁵ The nature of intergroup fighting is "systemic and cyclical", with scholars at the Australian National University calling for better planning around timing of interventions and engagement with networks in local communities (eg, clan leaders, pastors, youth and women leaders).⁶⁶ In light of this analysis and increasing reports and evidence, consideration should be given to whether these incidents form part of a systematic and widespread pattern of events which could amount to crimes against humanity. In addition, preventive actions need to be identified and implemented, in consultation with local communities, before violence escalates.

In late July, tribal clashes became so severe that a daily curfew was declared, and extra security sent to the area to mitigate risks of arson, looting and other violence.⁶⁷ Travel to Enga province was restricted. This combined with broader travel problems as PNG declared a national emergency due to a shortage of fuel supply, due to an ongoing dispute between the main fuel supplier Puma Energy and PNG's central bank.⁶⁸ Fuel rationing and potential effects on movement and transport are a concern, though negotiations are occurring to resolve the conflict.

There is a risk of violence around the reopening of the Porgera Gold Mine in September 2023. Previous fighting has led to closure of schools and businesses in the area, and leaders have appealed for an end to the conflict.⁶⁹

Recommendations

The government of Papua New Guinea should:

- Develop, in consultation with local communities and leaders, a preventive strategy to tackle intergroup violence;
- Prioritise action to halt the trade in illegal weapons;
- Ensure sufficient security personnel in at-risk areas and times of potential escalation;
- Develop policies and programs to address the rise in sorcery accusation related violence, and the high rates of other forms of violence against women;

PAPUA NEW GUINEA - MODERATE HIGH

- In addition to the Criminal Code, consider whether other legislative reviews or amendments may be necessary to ensure better accountability for perpetrators of violence;
- Work towards institutional change within the security sector to better respond to victims of SGBV and other forms of violence, including through training and other capacity building opportunities provided under the security treaty with Australia;
- Begin working towards fairer and more transparent elections to prevent election-related violence and displacement in future.

International partners should:

- Provide funding and capacity building to PNG to reform the election process and to equip the security sector to better respond to and prevent escalations in violence;
- Continue to support strategies for achieving gender equality and a reduction in gender-based violence.

Solomon Islands Risk: Low-Moderate

Concerns about freedom of the media in the Solomon Islands remain, including in relation to China's funding of the Solomon Star newspaper. According to Organized Crime and Corruption Reporting Project, a recent request for \$210,000 worth of equipment was linked with an explicit promise by the paper to give "positive coverage to China's development assistance to Solomon Islands."⁷⁰ Critical coverage of the Solomons' relationship with China has resulted in threats and intimidation of journalists, one aspect of concerns raised in Freedom House's 2023 report about freedom of the press and government transparency in Solomon Islands.⁷¹

More broadly, the Solomons' increased cooperation with China has culminated in the signing of nine agreements under a "comprehensive strategic partnership", during Prime Minister Sogavare's trip to China in July 2023. One of these deals is a police cooperation agreement which will see China provide further assistance to enhance Solomon Islands' law enforcement capacity.⁷² The Solomon Islands government dismissed concerns raised by the US, Australia and New Zealand, and referred to aspects of the pact such as improvement of traffic control, police equipment, and completion of the Forensic Autopsy Lab.⁷³ Drone training and cybersecurity may also fall under the agreement,⁷⁴ and the pact intends to plug gaps in policing exposed during the 2021 riots.

Despite Australia's previous involvement in and support for the Solomon Islands as part of RAMSI, which restored law and order to the country from 2003 and helped build a foundation for longterm security and stability, Sogavare has called for a review of a 2017 security treaty with Australia, under which policing support was provided during the 2021 riots.

Prime Minister Sogavare also suggested during his trip to China that the Solomons may set up its own military force to avoid future dependence on outside forces to help maintain stability.⁷⁵ While Australia's Defence Minister has offered to partner with the Solomons and support the set up of a military, others have raised serious concerns about the militarisation of the country. Suggestions include better resourcing the existing police force to maintain law and order, investing in youth and economic opportunity, addressing inadequate health care and education, and ensuring disaster preparedness in light of climate change effects.⁷⁶ Others have questioned the human security impact and civil society actors have raised concerns about the impact of militarisation and disruption to the country's tentative peace and stability, especially given the history of ethnic tensions, gun violence, weak accountability, and the strong potential for future violence.⁷⁷

It has also been argued that establishing a military would not be effective in addressing many of the identified security threats as outlined in the 2020 National Security Strategy, such as climate change and transnational crime.⁷⁸ A military would also be competing for limited resources which could further worsen the current under-resourcing of the police force. Further, public trust in governance and institutions is low and there does not appear to be widespread public support for a military force.⁷⁹

Recommendations

The Solomon Islands government should:

- Ensure freedom and independence of the media.
- Continue to work with regional partners security sector reform and to pursue reform in an open and inclusive fashion mindful of potential risks.

SEXUAL AND GENDER BASED VIOLENCE

Sexual and Gender-based Violence

On 19 June, the International Day for the Elimination of Sexual Violence in Conflict, the UN Secretary General released a message stating that “this despicable crime persists despite international commitments to stamp it out.”⁸⁰ In addition to committing to redoubling efforts to prevent atrocities and ensure accountability, the SG mentioned the importance of incorporating international humanitarian law into domestic legislation and training for security forces. This year emphasis was given to ‘technology and the digital divide’, pointing out positive effects of technology in helping people access support, while acknowledging the harms of sexual harassment and gender-based hate speech. The UN specifically states that “disturbing trends of gender-based hate speech and incitement to violence [have] fuelled conflict in which rape and other forms of sexual violence are used to humiliate and destabilize targeted communities.”⁸¹ Tackling this problem is an important part of gender-based atrocity prevention.

According to scholars Sara E. Davies and Jacqui True, conflict situations escalating over 2022-23 appear to have gender oppression as a “normative underpinning”, and the gender norms that “permit, legitimate and incentivise this violence are the consistent structural conditions always present.”⁸² They point to an number of recent examples, including Myanmar, where sexual violence continues to be used systematically by the military to target particular communities and intimidate opposition. Indeed, during the UN Security Council annual open debate on CRSV, a human rights defender with the Women’s League of Burma reiterated the well-documented fact that sexual violence is the Tatmadaw’s “modus operandi”.⁸³ Having collected more than 100 reports of CRSV since the coup, many of those associated with the WLB have had arrest warrants issued against them, and have either fled or are in hiding.⁸⁴

High rates of domestic violence and gender inequality are a risk factor for gender-based atrocities. A July 2023 study⁸⁵ has found that women in Cambodia and Vietnam experienced increasing and relatively high levels of sexual violence while physical violence declined, with Timor-Leste having the highest prevalence of physical partner violence among countries studied. Consistent decreases of violence were recorded in the Philippines.

Similarly, gender-based violence remains rife in the Pacific. Papua New Guinea, for instance, continues to experience kidnappings and massacres that target women and children, and sorcery-accusation related violence that often involves torture and murder.⁸⁶

In July 2023, Fiji’s Minister for Women, Children and Social Protection, Lynda Tabuya launched a whole of government National Action Plan to prevent violence against women 2023-2028. An initial commitment has been made of \$1 million from the Fiji Government and \$6 million from Australia, and Fiji is the first Pacific Island country to develop such a plan.⁸⁷

The future agenda of the Melanesian Spearhead Group will incorporate gender equality and prevention of gender-based violence as a priority. It is important to apply a gender lens to identified areas of concern, including security, trafficking, and climate change.

The nexus between violence against women and climate change is becoming clearer. An international study has found that gender-based violence may increase by 4.5% for every 1 °C increase in the annual mean temperature. Using data from India, Pakistan and Nepal, the report links temperature increases with the prevalence of intimate partner violence. For Pacific Island states, who are at the forefront of climate change, it will be crucial to incorporate gendered considerations in any preventive or responsive strategies.

Recommendations

The Myanmar military should:

- Immediately cease the practice of using sexual and gender-based violence as a form of torture against detainees, and as a tactic of persecution against women activists, and those from ethnic and religious minorities;
- Develop a code of conduct that explicitly prohibits the use of SGBV by the security sector, supported by accountability processes.

The UN and ASEAN 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;

SEXUAL AND GENDER BASED VIOLENCE

- Continue to support programs in the Asia Pacific to reduce violence against women and promote gender equality;
- Continue to platform Burmese human rights defenders in UN forums and support the work of civil society organisations in Myanmar, including by ensuring the safety of members and staff.

The Melanesian Spearhead Group should:

- Develop and implement a policy agenda to improve gender equality in the region, to reduce gender-based violence, and to better highlight the particular effects of issues such as climate change on women.

DISINFORMATION, HATE SPEECH AND INCITEMENT

Disinformation, Hate speech and Incitement

There has been much friction of late between social media companies and ruling parties in Southeast Asia, with regional media reporting that leaders have been banned for a period of time from using their accounts due to infringements. An example is Hun Sen, current Cambodian Prime Minister, who was banned from Facebook for one month for what Meta ruled as violent threats. The Prime Minister then deleted his Facebook account altogether and moved across to another platform, Telegram.⁸⁸ Originally, the post was allowed to remain even though it had been reported as violating Facebook policy, but in a remarkable turnabout Meta's Oversight Board ruled the harm it might cause was more potent than its newsworthiness.⁸⁹ Hun Sen has also stated that using Telegram allows him to post messages in countries such as Russia and China (and others), where Facebook is either banned or encounters governmental restriction.

There have also been concerns over governments, including Indonesia, misusing laws that might halt the spread of hate speech, for undemocratic purposes. As reported in Singapore's *TQC* newspaper, Indonesia has recently used its Electronic and Media law's defamation provisions to arrest human rights defenders who had spoken out against ministerial involvement in mining activity in West Papua.⁹⁰ In a call for better transparency, regional lawmakers called on governments, civil society and Human Rights Commissions in the region, to monitor social media and to "safeguard the democratic digital ecosystem, including debunking election disinformation and training young voters."⁹¹

There have also been reports of freedom of speech being curtailed in West Papua as part of Indonesian government incentives to curb the hostilities that have arisen from the independence movement, including restricting posts on social media.

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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