

ASIA PACIFIC REGIONAL OUTLOOK

NOVEMBER 2018



Featured in this issue...

Uighur's at risk in China

Risk eases in Indonesia

Situation
remains critical
in Myanmar

REGIONAL ATROCITY RISK ASSESSMENT



Very High

Myanmar
Democratic People's Republic of Korea (DPRK)
The Philippines

High

China

Moderate
(high to low)

Low

Cambodia, Indonesia, Laos, Papua New Guinea ,Thailand, Timor-Leste and Vietnam

Very low

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



Myanmar -Very High Risk/Ongoing Atrocity Crimes

The risk of atrocity crimes in Myanmar remains very high/ongoing. In 2017-2018, the country's Rohingya population was subjected to widespread and systematic atrocity crimes, likely including the crime of genocide.

The Rohingya population who are still in Rakhine remain very vulnerable to persecution and attacks by the military and nationalist militias remain common, amidst the closure of some Rohingya IDP camps by the government, which started in August.¹ In Bangladesh's Cox's Bazaar, over 700,000 Rohingyas who fled the Tatmadaw's campaign of atrocity crimes last year are still living in dire conditions even as humanitarian agencies and the UNHCR face enormous challenges to meet their needs. The bilateral agreement signed by Bangladesh and Myanmar governments for the initial repatriation of Rohingyas before end of this year has been denounced by refugees, UN officials, and human rights advocates as it failed to guarantee their voluntary, dignified, and safe return to Rakhine. Protests by refugees in Cox's Bazaar forced Bangladesh to postpone the initial repatriation indefinitely.² Amidst all these concerns, an internal document of the UN High Commission for Refugees (UNHCR) reportedly said that the refugee agency will not assist the process if returnees are to be interned in camps and if guarantees of the protection of their human rights are not forthcoming.³ It is imperative that repatriation occur only when the protection of returnee's fundamental human rights can be guaranteed. The government has provided no grounds for hope that rights will be protected and every reason to believe that returnees will face serious rights violations and a high risk of atrocity crimes.

The closure of Rohingya IDP camps in Kyaukpyu, Pauktaw, and Sittwe townships, along with the Kaman Muslim camp in Ramree township, were undertaken by the government not just as part of implementing the Rakhine Advisory Commission's recommendations in 2017 but, importantly, to ease international pressure on Myanmar prior to the opening of the UN General Assembly session in September.⁴ The Rohingya IDPs affected by the closure of the camps were not allowed to return to their original residences, which was their preference, and instead will be housed in another village. Accordingly, the displaced Rohingyas have asked the government to provide them jobs, build schools for their children, open a market to do business, and safety for their travel within the state.⁵ These demands, however, are unlikely to be met even though Myanmar officials claimed that they are committed to fully implement the advisory commission's recommendations. As such, the camp closures effectively amount to another round of forced displacement.

In September, the UN Fact-Finding Mission (FFM) released its 444-page report, which found the military to have committed atrocities against the Rohingya with 'genocidal intent' and criticized the civilian government for its failure to hold the Tatmadaw accountable for these crimes. It also pointed to the failure of the UN to prevent further atrocity crimes against the Rohingyas following the eruption of violence in Rakhine in 2012. The NLD government and the Tatmadaw continue to deny the allegations made in the report and have strenuously resisted all calls for a full investigation and proper accountability. It has denounced efforts by Bangladesh and international community to bring the matter to the International Criminal Court (ICC). Specifically, the Myanmar government disputes the ICC's view that it holds jurisdiction for some crimes of displacement and asserts that the ICC does not have any jurisdiction over the case filed by Bangladesh—a party to the Rome Treaty—following the Rohingya exodus in 2017. In an apparent attempt to counter mounting international pressure, the NLD government in July created its own Independent Commission of Enquiry (ICoE) composed of two foreign and two local members to conduct its own investigation of human rights violations in Rakhine. The ICoE, which was tasked to finish its report in 12 months, contains individuals known to be sympathetic to the government and is unlikely to produce a credible investigation. The commission's credibility has been tarnished by own chair, Ambassador Rosario Manalo, who stated during a press conference in Naypidaw in August said that there would be no finger-pointing or blaming for the crisis in Rakhine.

Meanwhile, some members of ASEAN have become more vocal in expressing their frustrations with the NLD government for its failure to hold accountable the perpetrators of atrocity crimes against the Rohingya. In particular, Indonesia and Malaysia through their respective representatives to the ASEAN Inter-Governmental Commission on Human Rights (AICHR) have called for a special meeting of the body following the release of the UN fact-finding mission in September. AICHR representatives agreed to hold a special meeting in late November to discuss the FFM's report. For his part, Malaysian Prime Minister Mahathir Mohamad criticised Suu Kyi's indefensible position on the Rohingya issue and has even publicly said that the Malaysian government has 'lost faith' in her leadership. For its part, Singapore as chair of ASEAN this year has also exerted pressure on Suu Kyi to do more to ensure the safe, dignified, and voluntary return of Rohingya refugees. Foreign Minister Dr Vivian Balakrishnan stated that while ASEAN supports the creation of the ICoE, the commission should conduct its inquiry 'impartially, expeditiously, independently - and hold people who are responsible fully accountable.'⁶ In the recent summit of leaders in Singapore in November, the ASEAN chairman's statement reiterated this collective position even as it also conveyed to the Myanmar government that the group is ready to support its efforts in fully implementing the recommendations of the Rakhine Advisory Commission.⁷ ASEAN also underscored the responsibility of the Myanmar government to ensure the safe, voluntary, and dignified repatriation of the refugees from Bangladesh.

US Vice President Mike Pence, in a bilateral side meeting with Suu Kyi during the ASEAN Summit, strongly expressed Washington's position of holding the military accountable for human rights violations against the Rohingyas. He also expressed concerns about the safety of refugees who will be repatriated to Myanmar and the plight of two local journalists who were convicted under the country's colonial-era secrets act.⁸ Suu Kyi however took a defensive position on these issues and reportedly retorted that her government understands Myanmar 'better than any other country does'.⁹ In September, a number of US lawmakers called on the Trump administration to seriously consider the Tatmadaw's campaign against the Rohingya as genocide even as they also called for the release of two local journalists in Myanmar.¹⁰ The call from the lawmakers came in the aftermath of a US State Department report on the military's attacks against the Rohingyas, which was quietly released in September and stopped short of calling the crime as genocide.¹¹

In the meantime, the European Union (EU) is reportedly considering lifting all trade preferences for Myanmar's exports in response to human rights violations in the country. This came in the aftermath of a trip by an EU delegation's visit to Myanmar in October to investigate whether the Tatmadaw were continuing to commit atrocities against the Rohingyas, as well as ethnic groups in Kachin and Shan states.¹² In October, Switzerland joined the EU in imposing asset freeze and travel ban on high-ranking military officials in Myanmar for human rights violations, which took effect in June.¹³

The UN General Assembly has also increased pressure on the government. In November, the General Assembly's third committee, which addresses human rights, adopted a resolution strongly critical of Myanmar. The Resolution condemned grave violations of human rights by the armed forces of Myanmar and called for action to ensure that those responsible are held legally accountable. In a strong signal of mounting international concern, a large majority of 142 states supported the resolution. Only 9 states, including Myanmar voted against.

Elsewhere in the country, the peace process between the government and ethnic armed organisations continue to falter as the Tatmadaw derails peace talks. Specifically, the military staged attacks against the rebels and civilians in Shan and Kachin states in September. Some 200 civilians were displaced Shan state as the Tatmadaw engaged the Ta'ang National Liberation Army (TNLA). Two civilians were abducted by military forces from their homes in Kachin state were charged under the Unlawful Assembly Act, while seven civilians were detained by the Tatmadaw in Shan state after two soldiers went missing.¹⁴ Meanwhile, armed ethnic groups that were signatories to the National Ceasefire Agreement (NCA) concluded a summit meeting with the government in mid-October and agreed on a set of guidelines for further discussion on key peace issues. Specifically, they agreed to meet again in November to discuss the process of forming a unified military and the Tatmadaw's insistence that ethnic armed groups will never seek secession from the Union. These issues have been stumbling blocks to peace negotiations for over a year.¹⁵

Recommendations

The government of Myanmar must:

1. Take immediate steps to fulfil its legal obligations by ending atrocity crimes by security forces and preventing their recurrence.
2. Uphold its primary responsibility to protect vulnerable populations, especially the Rohingyas in and displaced from Rakhine, and civilians in Shan and Kachin states, from atrocity crimes.
3. Take tangible steps to implement the recommendations of the Advisory Committee on Rakhine State, chaired by Kofi Annan.
4. Ensure the full and prompt investigation of allegations of atrocity crimes, including sexual and gender-based violence, and take urgent steps to ensure legal accountability.
5. Ensure that the work of the ICoE in investigating the human rights violations in Rakhine are truly independent, impartial, and transparent.
6. Provide full and unfettered access to the UN-mandated fact-finding mission to conduct an independent investigation of atrocity crimes;
7. Ensure immediate, safe, and unhindered access of humanitarian assistance to all affected communities in Rakhine, Shan, and Kachin states as required by international humanitarian law.
8. Lift restrictions on journalists and access to and reporting of information with respect to affected communities in Rakhine, Shan, and Kachin states, and immediately cease the prosecution of journalists that report on the perpetration of atrocity crimes.
9. End systematic discrimination against the Rohingya by, amongst other things, immediately repealing the Protection of Race and Religion laws and the 1982 Citizenship Law.

The international community should:

1. Support efforts to ensure that atrocity crimes are properly investigated, evidence collected, and alleged perpetrators held accountable for violations of international humanitarian and human rights law. Specifically, the UN Security Council should refer the matter to the International Criminal Court. Should that proposal not succeed, the UN General Assembly should establish an investigatory mechanism.
2. Utilize diplomatic means to demand that the Myanmar government and Tatmadaw fulfil their obligations to prevent atrocity crimes, grant humanitarian access, protect vulnerable populations, cooperate with the United Nations, and hold perpetrators accountable.
3. Support efforts to bring the perpetrators of atrocity crimes against the Rohingyas and other ethnic groups in Myanmar to justice through the International Criminal Court and other avenues that may be available, based on the findings of the UN Fact Finding Mission and the Special Rapporteur on Human Rights in Myanmar.
4. Employ targeted measures, including sanctions, travel bans, and investment freezes, and the withdrawal of cooperative arrangements, against institutions and individuals thought responsible for atrocity crimes, until legal accountability is achieved.
5. Suspend all military aid and training programs with the Myanmar armed forces.
6. Place an embargo on the sale of arms and ammunition to Myanmar.
7. Provide adequate and sustained humanitarian assistance to Rohingya refugees in Bangladesh and refugees from other conflict-affected areas who are in Thailand, as well internally displaced persons in Rakhine, Shan, and Kachin states.
8. Take steps to prepare for the safe and dignified resettlement of displaced Rohingya in Myanmar. This process should be overseen by the UNHCR and should include guarantees that the human rights of Rohingyans will be full protected and mechanisms to ensure that their full protection.
9. Carefully review development programming to ensure that it does not in any way reward or support the government's actions in Rakhine or support programs connected to individuals and institutions responsible for the commission of atrocity crimes.
10. ASEAN should take a more pro-active stance by using its diplomatic mechanisms to influence the Myanmar government, taking steps to ensure protection of all civilians in conflict-affected areas and humanitarian access in these areas, and strongly encourage Myanmar to commit implement the Rakhine Advisory Commission's recommendations in full.
11. ASEAN should take steps to ensure that the work of the ICoE in investigating the human rights violations in Rakhine are truly independent, impartial, and transparent. In particular it should provide guidance on what 'independent, impartial, and transparent' means and monitor and report on the ICoE's compliance.
12. ASEAN should seriously consider suspending Myanmar's membership if the government continues to fail to take concrete steps in fulfilling its primary responsibility to protect, including holding accountable the perpetrators of human rights violations in Rakhine and other conflict areas in Myanmar and ensuring the safe, dignified, and voluntary repatriation of refugees.
13. ASEAN should take seriously the findings of the UN Fact Finding Mission and take steps to ensure that the perpetrators of atrocity crimes in Rakhine are held accountable.
14. Civil Society actors should continue to raise international awareness about the commission of atrocity crimes and advocate for accountability, humanitarian protection, and atrocity prevention in Myanmar.

Democratic Peoples Republic Korea - Very High Risk



The people of the DPRK continue to suffer from abuses that, according to the report of the 2014 UN Commission of Inquiry, could amount to crimes against humanity. In his most recent report released in September 2018, the UN Special Rapporteur on the situation of human rights in DPRK, Tomás Ojea Quintana, reported that ‘there have been no substantial changes in the serious human rights situation.’¹⁶ Grave human rights violations are associated with

the DPRK’s extensive use of political prison camps and labour camps, as well as human trafficking, enforced disappearances and abductions, and severe restrictions on freedom of expression, movement, and access to information.

An estimated 200,000 people are held in political prison or labour camps in the DPRK without formal criminal charges or due process rights. There are credible reports that prisoners in these camps, as well as people who undergo interrogation by the Ministry of State Security, are routinely subject to torture and ill-treatment.¹⁷ Recently published survivor testimonies also reveal patterns of sexual violence and abuse against women in detention, with perpetrators including high-ranking party officials, prison guards and interrogators, police officers, prosecutors, and soldiers.¹⁸ Sexual violence and abuse in detention reflects broader patterns of impunity for widespread sexual violence against women in society, which is reportedly “so common that it has come to be accepted as part of ordinary life” for DPRK women.¹⁹

Recent concern over widespread sexual violence against women held in detention echoes previous alarms over the treatment of women who are forcibly returned to the DPRK after crossing the border with China. As the Committee on the Elimination of Discrimination against Women observed in late 2017, women (many of whom are trafficked) who are returned to the DPRK from China face charges of ‘illegal border crossing’ and are reportedly sent to prisons or labour camps, where they face grave risk of further human rights violations including sexual violence.²⁰ For this reason, forcible return of DPRK citizens, particularly women, should be considered as an act of refoulement.

China maintains that persons crossing into its territory are not refugees, but have entered China illegally for economic reasons.²¹ Earlier this year, China showed signs of greater flexibility on forced repatriation of DPRK citizens, and on an ad hoc basis released people from detention and allowed them to stay in China. China should be encouraged to continue such measures in the spirit of humanitarian protection. This, however, is not a sufficient or durable solution. There is an urgent need for China to adopt a formal protection policy and legal framework to protect the rights of DPRK citizens transiting through or living in China, and for China to grant the UNHCR access to areas and persons of concern.

The UN continues to pursue accountability for alleged perpetrators of crimes against humanity. This year, the OHCHR field office in Seoul has established a new investigation team dedicated to monitoring and documenting human rights violations with the aim of creating a central repository of information for any future criminal proceedings. While this is a positive step in seeking truth and justice for victims, the UN’s sustained attention to human rights accountability has not been matched by key world leaders. Indeed, the Special Rapporteur has continued to voice concern that US and ROK leaders have made no apparent effort to raise the dire human rights situation in their overtures to improve political relations with Pyongyang. Apart from not mentioning human rights in the statements emanating from recent high-level meetings with the DPRK, both the US and ROK have failed to fill key diplomatic posts intended to sustain a spotlight on the human rights situation. The post of Ambassador Robert King, who served in the US State Department as special envoy for North Korean human rights, has been left vacant under the Trump administration since January 2017. Similarly, Seoul has not appointed a replacement for Ambassador Lee Jung-hoon, who vacated the post of ROK’s ambassador for North Korean human rights in September 2017.

Despite these trends, the recent political rapprochement between ROK and DPRK has opened some limited space to address human rights concerns outlined in the Commission of Inquiry. For the first time since 2015, in August ROK and DPRK authorities coordinated the reunion of separated families. While these reunions were limited in number, Ojea Quintana has welcomed the initiative and stressed that reuniting separated families, like resolving cases of international abductions and enforced disappearances, ‘involve basic human rights and deserve our utmost solidarity.’²²

Another potential inroad into improving the human rights situation relates to amnesty provisions for political prisoners. In June, Ojea Quintana urged Pyongyang to start releasing prisoners under a gradual general amnesty. That same month, the Korean Central News Agency reported that DPRK would “grant amnesty to those who had been convicted of the crimes against the country and people” to mark the occasion of the seventieth founding anniversary of DPRK.²³ On 12 July, the Supreme People’s Assembly issued a decree indicating that the program would commence 1 August. While this could be a positive sign, it is worth recalling that DPRK authorities have announced similar amnesties in 2015 and in 2012 (respectively, to mark the 70th anniversary of the founding of the Workers’ Party, and to mark the centennial of the birth of Kim Il Sung and 70th birthday of Kim Jong Il). Pyongyang has offered very little information on how the current amnesty program has progressed, including the number of prisoners and location of their detention. If this year’s amnesty program is to be considered a gesture of good faith on the part of DPRK, Pyongyang should grant the UN’s request to share this information, and commit to eliminating the use of political prison and labour camps.

The dismal humanitarian situation in the DPRK is also a serious concern at present. The robust sanctions regime on the DPRK has effectively shut down the operations of many humanitarian aid agencies, despite that roughly 40% of the population is in dire need of life-sustaining assistance.²⁴ Total funding for UN and NGO humanitarian aid activities in DPRK dropped from \$117.8 million in 2012 to \$31.6 million so far this year.²⁵ The limited number of organisations that are still operating in the DPRK report delays for months or even more than a year for basic aid deliveries.²⁶

On 6 August, the UNSC committee monitoring sanctions on DPRK adopted the US-drafted ‘Guidelines for Obtaining Exemptions to Deliver Humanitarian Assistance to the Democratic People’s Republic of Korea’, which are intended to address some of the delays and barriers to delivering humanitarian assistance. However, since September, the US State Department has refused to grant special permission to humanitarian workers to travel to DPRK, which affects programs to tackle tuberculosis, offer medical training, and to provide farming assistance to address chronic food insecurity. Some aid organisations with activities in the DPRK have recently criticised the Trump administration for targeting humanitarian assistance as part of its ‘maximum pressure campaign’ for denuclearisation.²⁷ In early November, the US blocked a proposal by Russia to ease UN sanctions on the DPRK to deliver humanitarian aid, stating that Russia was using humanitarian concern as an excuse to lift banking restrictions and allow Russian entities to circumvent the sanctions regime more generally. China has supported Russia’s call for sanctions relief for humanitarian reasons, and in recognition of positive developments in Pyongyang’s political engagement.

Recalling that the 2014 UN Commission of Inquiry explicitly includes ‘the right to food and related aspects of the right to life’ as core aspect of DPRK human rights, there is a need to review the impact of the sanctions regime on the humanitarian situation, and to consider how upscaling humanitarian funding may contribute to the improvement of human rights in the DPRK. One practical way Russia and China could demonstrate their genuine commitment to the welfare of the DPRK population is for any proposal for sanctions relief to be conditioned on: (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. The latter could help open a parallel track for dialogue on human rights alongside denuclearization and peace talks. As Ojea Quintana has previously noted, human rights dialogue could first address economic and social rights of the people of DPRK, which is ‘a priority that all actors can agree on—the Government of the DPRK, as well as the international community’.²⁸ The UNSC should also add a humanitarian expert to the Panel of Experts of the 1718 DPRK Sanctions Committee, who would be responsible for monitoring the impact of sanctions on well-being and rights of the civilian population.

Recommendations

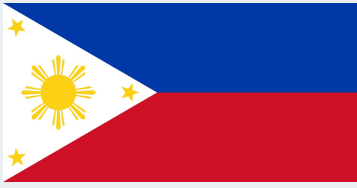
The government of the DPRK should:

1. Immediately cease the perpetration of crimes against humanity.
2. Investigate reports of widespread sexual violence against women in detention, and address the pervasive culture of impunity for sexual violence and abuse by holding perpetrators to account in accordance with due process and the rule of law.
3. 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 for technical assistance to faithfully implement human rights treaty obligations as well as the universal periodic review recommendations that were accepted by the DPRK in 2014. The DPRK should engage with the OHCHR prior to May 2019, when it will undergo its third cycle of the Universal Periodic Review.
4. Follow through on the September 2015 invitation from the DPRK’s Minister of Foreign Affairs to the High Commissioner for Human Rights to visit the country and respond favourably to the outstanding requests for country visits from four special procedure mandate holders.
5. Ensure that the treatment of prisoners is in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners and other international instruments, and initiate discussions with the International Committee of the Red Cross concerning access to detention facilities.
6. Engage in bilateral and regional human rights dialogue.

The international community should:

1. Reaffirm that the DPRK has a Responsibility to Protect its population from atrocity crimes, and actively affirm that addressing widespread and systematic human rights violations in the DPRK is central to achieving stability on the Korean peninsula.
2. Welcome discussion of human rights accountability in the DPRK in regional dialogue platforms and support continued consultation and information gathering.
3. Support the ROK and DPRK in initiatives to build confidence between the two countries.

4. Use the upcoming third cycle of the universal periodic review, in May 2019, as an opportunity to urge the DPRK to implement the recommendations accepted during the first and second cycles.
5. Address grave human rights violations in the DPRK in a coordinated and unified manner. Specifically:
 - The Human Rights Council should continue to support the Special Rapporteur and implement the recommendations of the group of independent experts on accountability to secure truth and justice for victims of crimes against humanity in the DPRK.
 - The OHCHR, including the field office in Seoul, should closely monitor human rights in the DPRK; investigate unresolved human rights issues; prepare to provide technical assistance and deepen its support for the UN's engagement.
 - The General Assembly should continue to maintain visibility of the human rights situation and call for accountability in the DPRK.
 - The Security Council should request a report from the Secretary-General assessing the impact of sanctions on the human rights and humanitarian situation in the DPRK.
 - The Security Council should hold regular briefings on the issue with the participation of the UN High Commissioner for Human Rights, Special Rapporteur and other relevant experts.
 - Donor states should increase humanitarian funding for the DPRK as requested by the UN Emergency Relief Coordinator.
6. The US and ROK should place human rights high on the dialogue agenda with the DPRK, urgently fill vacant diplomatic posts that were established to improve the human rights situation in the DPRK, and continue to provide funding to organisations working on the human rights situation in the DPRK.
7. The US should resume granting special permission for humanitarian workers to travel to the DPRK without undue delay.
8. As a condition for sanctions relief, the US, ROK, China and Russia should encourage DPRK authorities to: grant free and unimpeded access to the UN country team, cooperate with the OHCHR, to invite special procedure mandate holders for country visits, and to engage in parallel human rights dialogue alongside peace and denuclearisation talks.
9. China should respect the principle of non-refoulment, adopt measures to protect the rights of DPRK citizens residing in or transiting through China, and adopt measures to protect victims of trafficking in China.
10. Civil Society actors should continue to raise awareness and visibility of the human rights situation and advocate for accountability, including supporting efforts to map suspected perpetrators of serious crimes and the related chain of command structure in the DPRK.



The Philippines Very High Risk

The risk of atrocities in the Philippines remains very high/ongoing as the number of alleged extra-judicial killings (EJKs) continue. Although the Philippine National Police (PNP) in August claimed that the rate of drug-related deaths has decreased significantly, lawyers and human rights defenders have become targets of EJKs more recently as reported in the local media. Meanwhile, the delayed rehabilitation of Marawi more than a year after the

extremist attacks in the city has increased frustration among many residents and may be used by ISIS-affiliated militants to attract local support and recruit terrorists in the area.

In August, the PNP claimed that drug-related deaths had reached a new low of 23 per week during the period from 5 December 2017 to 13 August 2018, compared to 39 per week between March to October 2017.²⁹ PNP Chief Oscar Albayalde said that the decline in the number of deaths may be attributed to the shift in the police operations against high value targets (HVT) from drug users and pushers.³⁰ It also reported that more than 200 police officials were relieved from posts as they tested positive for illegal drugs, while 95 PNP personnel were dismissed from the service for drug related offenses.³¹ Since July 2016, at least 4,814 deaths have been recorded in police anti-drug operations throughout the country, or an average of six deaths daily.³² Meanwhile, the Philippine Drug Enforcement Agency (PDEA) reported that close to 5,000 people have been killed in drug-related operations over the last two years from 1 July 2016 to end of September 2018. Specifically, 4,948 drug suspects were killed while over 158,000 persons were arrested in 110,395 anti-drug operations. It also reported that police arrested 582 government workers, including 250 elected officials and 270 employees, and 60 uniformed personnel in the anti-drug operations.³⁴ Additionally, 286 law enforcers were dismissed for drug use and another 105 were sacked for drug-related offences over the last two years.³⁵

While the PNP claims that the number of deaths related to the government's drug war has declined, an estimated 23,000 homicide cases under investigation (HCUI) remain unresolved many of which are suspected to be drug-related killings.³⁶ Although the PNP denies this high estimate for homicide, the last figure that it released for deaths under investigation was in December 2016. The reliability of data from the PNP on drug-related killings under the Duterte administration has been consistently questioned by local and international media and human rights advocates. For example, research conducted by the German news *Deutsch Welle* pointed to the lack of reliable data on deaths related to the drug war. It noted that human rights advocates, local media groups, and the PNP have conducted their own tallies of deaths. Within the PNP, there are discrepancies between the numbers reported by its internal data management system and its Bantay Krimen (Crime Guard) monitoring system even though they both draw from the same e-blotter reports. The lack of cooperation between the PNP and the national Commission on Human Rights (CHR) has made the latter's attempt to conduct investigations into the drug killings more difficult.³⁷

Over the last two years since the start of the Duterte administration until 31 July 2018, 3,275 police personnel were charged with administrative cases related to anti-drug operations, of which 778 police officers have been exonerated while 2,438 cases were dismissed.³⁸ During the same period, 267 police personnel have been dismissed for drug use and another 95 were dismissed for drug-related offences. The PNP acknowledged that between 65% to 75% of dismissed police personnel were of lower rank.³⁹ So far, many ranking police chiefs of erring policemen have not been held accountable, which is a reflection of a deeply hierarchical culture in the national police.⁴⁰ Accordingly, data from the PNP and media sources show that temporarily relieving erring cops did not necessarily result in a decline in the number of deaths connected to drug operations and homicide cases under investigation (HCUI).⁴¹

Meanwhile, Human Rights Watch has called on the government to form an independent commission to look into alleged participation of police officers in the killing of suspected people involved in the drug trade. This came in the aftermath of a statement made by a high-ranking police official in central Philippines alleging that some hitmen hired by drug lords were retired military or police officers.⁴² Clearly, the Duterte administration has not effectively contained the drug problem in the country after more than two years given the involvement of corrupt government officials and law enforcers in the network of drug syndicates in the country.⁴³ In fact, there are still ongoing investigations in the Philippine Congress over drug smuggling incidents in the Bureau of Customs in May 2017 and in September 2018 worth Pesos 6.4 billion (US\$123 million) and 6.8 billion (US\$130 million), respectively, which involved customs officials and anti-drug law enforcers.⁴⁴ President Duterte was strongly criticised for defending the two customs chiefs under whose watch the separate drug smuggling incidents happened respectively and for reappointing them to other government positions instead of dismissing them from the cabinet.

Notwithstanding the continuing deaths related to the drug war, Duterte's approval and trust ratings remain high—75% and 72% respectively—based on latest surveys.⁴⁵ Although approval rating for the government's efforts in fighting crime remains very high (83%), fighting inflation (63%) has become the most urgent public concern.⁴⁶

Impunity remains a major risk factor in the Philippines as human rights defenders, judges, and lawyers have been targets of EJKs. Between July and November 2018, five lawyers and a judge have been killed by unidentified gunmen. Specifically, lawyer Benjamin Ramos, who was gunned down on 6 November, is a well-known human rights defender of political prisoners, farmers, and other members of the marginalised sector in the country. Edmundo Pintac, an executive judge of a regional trial court handling drug and firearms cases was gunned down on 8 October. Since July 2016, there are now 35 judges, lawyers, and prosecutors who were killed under the Duterte administration.⁴⁷

Meanwhile, there have been 99 recorded cases of threats and attacks against the Philippine media after the Duterte administration took over in July 2016. Of these, 12 were cases of killings of media practitioners, of which 7 happened in Mindanao. Of the seven killed in Mindanao, five happened after martial was declared in July 2017. The Duterte administration is reportedly seeking another extension of martial law in the island after the current extension expires in December this year⁴⁸.

An important first step towards legal accountability for some of the killings was taken in late November when a Court in Caloocan City sentenced three police officers to between 20 and 49 years in jail for the drug-related killing of a 17-year old school student in 2017. In handing down his judgment, Judge Rodolfo Azucena said 'A shoot first, think later attitude can never be countenanced in a civilized society. Never has homicide or murder been a function of law enforcement'. The judgment was hailed as a victory for justice by human rights defenders, who also recognized that it was only a small step towards ending the killings and achieving accountability.⁴⁹

Meanwhile, the delay in the rehabilitation of Marawi remains a major risk factor for atrocities in Mindanao as local residents affected by the crisis have not rebuilt their lives more than a year after the attacks by ISIS-affiliated militants. Following protests in mid-October by affected communities, the government finally started the ground-breaking rites for the rehabilitation of the city, which will initially focus on debris clearing and debris management operations in the main affected areas. It is estimated that the debris clearing and management, as well as construction of new road networks will take between 12 to 18 months, which will be followed by building of houses. Currently, there are still 65,000 internally displaced residents of Marawi staying in evacuation centres or staying with their relatives many of whom remain frustrated over the slow pace of rehabilitation.⁵⁰ The extent of destruction in Marawi, along with bottlenecks in the creation of a consortium of local and foreign firms who will be engaged in undertaking the projects, have contributed to delays in launching the city's rehabilitation.

Recommendations:

- With regard to the anti-drug war, the Philippine government should:
1. Take positive steps to ensure that the security forces conduct themselves in a manner consistent with its legal obligations under international human rights law.
 2. Continue to ensure that the Philippines Drug Enforcement Agency leads anti-drug policy, and that there is adequate oversight of police.
 3. Ensure that allegations of extra-judicial killings committed by police and security forces against drug suspects, journalists, indigenous peoples, and environmental protection activities are properly investigated and the perpetrators held accountable before the law.
 4. Create an independent commission to investigate the involvement of customs, police, military, and other law enforcement agents in drug-related deaths and drug smuggling.
 5. Immediately cease the public incitement of violence against drug users, drug dealers and other targeted communities.
 6. Comply with the Supreme Court's ruling by providing full documentation of police operations taken as part of the anti-drug war as part of ensuring accountability.
 7. Fulfil its international legal obligations by cooperating with the Prosecutor of the International Criminal Court.
 8. Reconsider its decision to withdraw from the International Criminal Court

With regard to the peace in Mindanao and the rehabilitation of Marawi, the Philippine government should:

1. Ensure the efficient and effective implementation of the Marawi rehabilitation plan and respond to the growing frustration of affected communities in the area.
2. Continue to provide protection for civilians and support humanitarian assistance to internally displaced persons especially those who are now returning to their residence in Marawi.
3. Respond adequately and effectively to the needs of residents of Marawi as they attempt to rebuild their lives and address the concerns in relation to the government's rehabilitation plans.

CHINA HIGH RISK



China - High Risk

The treatment of Uighurs and other Turkic Muslim minorities in China's Xinjiang Uighur Autonomous Region (XUAR) is a matter of serious concern. The systematic targeting of specified groups and the violation of their human rights creates a high risk of atrocity crimes. Indeed, large-scale arbitrary detention on identity grounds may already constitute crimes against humanity.

The arrival of Chen Quanguo as Community Party Secretary in charge of XUAR in August 2016, along with a 92% upsurge in security spending in Xinjiang from 2016-17, has ushered in a dramatic increase in the scale and intensity of social and religious control in the region.⁵¹ China's blunt approach to combatting 'religious extremism', which Chinese authorities assert is the driving force behind numerous violent attacks by Uighurs in recent years, has resulted in large-scale arbitrary detention, severe restrictions on religious practice, and pervasive surveillance and control of the Muslim population of Xinjiang. In August 2018, the UN Committee on the Elimination of Racial Discrimination likened Xinjiang to a 'no rights zone', where Muslim minority groups are 'being treated as enemies of the State based on nothing more than their ethno-religious identity'.⁵²

Of particular concern in recent months are reports that upwards of a million Uighurs and other Turkic Muslim minorities are being detained in 're-education' or 'de-extremification' facilities for minor or seemingly arbitrary infractions, without formal charges, due process rights, or access to legal representation.⁵³ Former detainees have reported that they were subjected to abuse and torture, ill-treatment and forced political indoctrination.⁵⁴ Family members both within China and overseas also report that they have very limited or no access to information about persons held in detention, which resembles a program of enforced disappearances.⁵⁵ Reports suggest that in some cases, all adults of an extended family have been detained.⁵⁶ As a result, children are treated as de-facto orphans and reportedly taken into state-run child 'welfare centres' while their parents and extended family members undergo 're-education training' sessions on Mandarin, Chinese law, ethnic and national unity, de-radicalisation and patriotism.⁵⁷ Detention for 're-education training' is reported to last anywhere from three months to two years.⁵⁸

Along with the mass detention program, over the past year China has upscaled its unprecedentedly large police presence and sweeping surveillance system in Xinjiang. Chinese authorities have implemented surveillance systems that monitor the daily lives of Uighurs, including what they read, the content of their communications, and the people with whom they interact.⁵⁹ Data is reportedly used to profile persons at risk of extremist thought and violence, which is the basis for people being taken into 're-education' programs. Authorities also reportedly collect Uighur's DNA during medical check-ups, install a GPS tracking system on all vehicles, and monitor and control all mobile and online communications.⁶⁰ Due to its 'big data' surveillance program, constant police patrols, and 'grid system' of police checkpoints, Xinjiang has been characterized as 'one of the most heavily policed places on earth'.⁶¹ The impact of such pervasive surveillance and control on the local people's basic rights and fundamental freedoms is a grave concern, and may amount to widespread or systematic religious persecution or other crimes against humanity.

The dramatic expansion of detention and surveillance programs in Xinjiang has occurred against the backdrop of increasing restrictions on religious practice in the region. In March 2017, XUAR authorities passed the Regulation on De-extremification, which prohibits a range of behaviours, such as "abnormal" beards, wearing full face covering veils in public places, and refusing to engage in state-sponsored cultural or education programs.⁶² At a national level, in recent years China has introduced new and stricter social and religious regulations under amendments to the Criminal Law, and the adoption of the National Security Law of 2015, the Counter-Terrorism Law of 2016, the Cybersecurity Law of 2017, and the Revised Regulations on Religious Affairs of 2018. UN human rights experts have expressed concern that amendments to the legal code have "[e]stablished imprecise and too broad definitions on national security offenses related to 'terrorism' and 'extremism' that enabled abusive, arbitrary and discriminative prosecution and conviction".⁶³

Amidst international criticism that the systematic detention of Turkic Muslims has no basis under Chinese law, in October 2018, XUAR authorities amended the Regulation on De-extremification to allow local governments to "educate and transform" people who are "influenced by extremism" through enrolling them in "vocational training centres".⁶⁴ Rather than address the risk of atrocity crimes, legal amendments that provide post-facto justification for the mass detention program exacerbate existing concerns that Chinese authorities are expanding the legal framework to allow for even stricter control of China's minority and religious groups. On 12 November 2018, some of the UN's top human rights experts and Special Mandate holders conveyed a letter to China expressing their concern that the revised Regulation on De-extremification includes provisions that are in contravention of China's obligations under international law and pose a grave risk to fundamental rights in Xinjiang.⁶⁵

Recommendations

The government of China should:

1. Immediately halt alleged widespread violations of basic human rights and fundamental freedoms in XUAR, including arbitrarily depriving Turkic Muslims of their liberties or subjecting them to torture or mistreatment, and take active measure to prevent the re-occurrence or escalation of such violations in accordance with international human rights law and China's primary responsibility to protect its population from atrocity crimes.
2. Repeal the Regulation on De-extremification, as called for by the UN Working Group on Arbitrary Detention, Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on minority issues, the Special Rapporteur on freedom of religion or belief, and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.
3. Respond favourably to the requests of the above mandate holders to undertake an official visit to China, and accept technical assistance and advice to ensure that China's national security, counter-terrorism or counter-extremism laws and practices adhere to China's obligations under international human rights law, including the defendant's right to due process, legal counsel of choice, timely notification of families, and fair and public trials by an independent court.
4. Ensure an impartial and credible investigation of allegations of abuse, torture, and ill-treatment of persons held in detention Xinjiang, and take appropriate measures to ensure justice and compensation for victims.

The international community should:

1. Urge Chinese authorities to take immediate action to uphold fundamental rights and freedoms in Xinjiang. Specifically:
 - The OHCHR and Special Mandate holders should continue to call for the immediate release of persons involuntarily held in detention without due process, closely monitor the situation in Xinjiang, and be prepared to provide technical assistance.
 - The UN Human Rights Council should continue to urge China to uphold human rights of Turkic Muslims and to accept independent UN observers in Xinjiang.
 - The UN Office on Genocide Prevention and the Responsibility to Protect should closely monitor the situation and assess and communicate increasing risk of atrocity crimes in Xinjiang, as appropriate.
2. Recognizing the important influence they may have in urging China to reconsider its policies in Xinjiang, Muslim majority countries as well as neighbouring states whose nationals are allegedly detained in Xinjiang should urge China to respect the rights of its Turkic Muslim population.
3. Civil society actors should closely monitor the situation and continue to raise awareness and visibility of the treatment of Turkic Muslims in Xinjiang and advocate for an end to any violations of their basic rights and fundamental freedoms.

The risk of atrocity crimes in Indonesia has declined to low. Indonesia continues to be a stable democracy and continues to adopt measures that contribute to the implementation of R2P. It has relatively strong National Human Rights Institutions and has developed a National Plan of Action for the Promotion and Protection of Human Rights. In addition, Indonesia has resolved violent disputes in Timor-Leste and Aceh, and the Widodo government is committed to making progress to easing tensions in West Papua. Although risks of Islamist terrorism and communal violence remain, the likelihood of these escalating

beyond isolated incidents is not high given the steps being taken to prevent violence and the government's demonstrated willingness and capacity to respond to it.

Islamist terrorism (country-wide)

A number of Islamist terrorist groups, some of them with alleged ties to the Islamic State (IS) or Al Qaeda operate inside Indonesia, and there is a persistent threat of terrorism. With the defeat of IS in the Middle East, there are strong concerns that Indonesian foreign fighters in the Middle East may begin to return to Indonesia in greater numbers. Indeed, IS-linked individuals are increasingly carrying out lone wolf terrorist attacks within Indonesian society. Thus far, more than 400 Indonesian jihadist foreign fighters have been arrested in Turkey. It is thought that the total number of Indonesia foreign fighters in the Middle East numbers in the 'thousands'. Increasing terrorism appears to be having a negative impact on the wider appeal of Islamism within Indonesia, however, with recent polls suggesting a decline in support for Islamist parties there.

Islamist attacks remain quite common. In early May, a series of attacks on churches and police buildings killed 14 police officers and civilians. In another incident, extremists attacked police buildings with swords and were killed. The worst attacks, however, were in Surabaya on May 13-14, where two families detonated suicide bombs, killing themselves and 14 others.

Indonesia is acutely aware of this issue and has stepped up measures to combat it. It is increasing the size of its anti-terrorism police unit, Detachment 88. A new anti-terrorism law gives the security forces wide ranging powers to arrest and detain terror suspects for up to nine months without trial. More than 180 suspects were arrested in the wake of the May attacks. In the same month, 18 terrorism suspects were killed in security operations and in July counter-terror forces tracked and killed three suspected terrorists. The judiciary has also begun to adopt a harder line against Islamist terrorism. Besides its increasingly hard-line approach, Indonesia has adopted large scale education and de-radicalization programs aimed at preventing violent extremism. It has also stepped up security and intelligence cooperation with neighbouring states to prevent the undetected return of foreign fighters.

Communal conflict and incitement in Aceh, Sumatra, and Kalimantan

Communal violence between the country's many different ethnic and religious groups remains a source of risk but the incidence has declined over the past two years and the government has proven able and willing to prevent escalation and prosecute perpetrators. Over the past two decades, the government has performed relatively well in preventing the escalation of violence, intolerance and inter-communal violence - which has escalated to atrocity crimes - is still prevalent in some parts of the country. Communal violence remains a potential issue in Aceh, Sumatra, and Kalimantan especially.

Conflict in West Papua

Separatist conflict in West Papua persists. There are sporadic violent and sometimes lethal clashes between West Papuans and the Indonesian government. The Indonesian military is accused of recurrent human rights violations and the West Papuan National Liberation Army in the Papuan Highlands made a fresh declaration of war against the Indonesian military. Much of this conflict is centred around the control of resources in Papua, a mining rich area, with the West Papua National Liberation Army looking to close the operations of foreign companies that are exploiting the resources.⁶⁶

The problem is also exacerbated by the government's tight control over access to West Papua which makes it difficult to independently verify the situation there. Indonesian government is growing sensitive over the publication of issues within the region and recently expelled a BBC journalist from West Papua.⁶⁷

Sexual and Gender-Based Violence

It should also be noted that there has been a sharp increase in reports of sexual violence across Indonesia. In 2017, authorities recorded more than 348,000 reports of sexual violence. It remains unclear whether this is the result primarily of increasing violence or increasing reporting. More investigation is required but attention needs to be paid to preventing sexual and gender-based violence.⁶⁸

Recommendations

The government of Indonesia should:

1. Appoint a senior official as National R2P Focal Point to coordinate national and international efforts to implement R2P.
2. Develop and implement a comprehensive strategy for tackling violent extremism that strengthens the security forces whilst protecting core human rights.
3. Take steps to strengthen the rule of law and order in areas afflicted by sectarian violence.
4. Conduct a thorough assessment of risks of sectarian violence and implement an action plan to address it.
5. Promote inter-faith dialogue and local capacities for conflict resolution in regions affected by communal strife.
6. Accelerate efforts to reform the governance of West Papua, to make it more inclusive, accountable and responsive to the people's needs, and stimulate economic development.
7. Ensure that security operations against non-state armed groups, including those in West Papua, are conducted in a manner consistent with Indonesia's international legal obligations.
8. Support efforts to report and monitor patterns of communal violence.
9. Carefully examine the rise of sexual and gender-based violence and take measures to prevent it.

The international community should:

1. Encourage Indonesia to take active steps to fulfil its responsibility to protect.
2. Explore avenues for cooperation with the Indonesian government and society in the areas of combatting violent extremism and terrorism, preventing sectarian conflict, and reducing incitement and hate speech.
3. Provide assistance when requested to help the government and civil society tackle their remaining challenges.
4. Support efforts to monitor, report, and prevent communal violence.

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