

ASIA PACIFIC CENTRE - RESPONSIBILITY TO PROTECT

ATROCITY CRIMES RISK ASSESSMENT SERIES

INDONESIA

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INTRODUCTION

Atrocity crimes pose a serious threat to human life as well as to national and international peace and security. Consequently, measures taken to prevent atrocity crimes are of great importance and also serve to reinforce state sovereignty by reducing the need for more intrusive forms of response from the international community. In 2014 the United Nations Special Advisers on the Prevention of Genocide and the Responsibility to Protect presented an updated Framework of analysis to assist with assessing the risks of genocide, ethnic cleansing, war crimes, and crimes against humanity (henceforth referred to as ‘the Framework’). The Framework serves as a working tool to identify those countries most at risk in order to support the prevention of atrocity crimes. This report aims to identify various risk factors which may lead to atrocity crimes in Indonesia, utilising the indicators set out in the Framework.

Note that in this report, due to the complexity of some of the cases, a number of risks have been categorised across various indicators. These issues include, but are not limited to, the forced relocation of Shi’a Sampang, the May 1998 tragedy, atrocities in Papua and East Timor and the socio-economic injustices experienced by Papuans. Despite such issues being reiterated in multiple indicators, within each indicator different aspects of the issue have been identified and examined. For example, in regards to the Shi’a Sampang case, the prejudice and inaction of police is discussed in indicator 3.4, and injustice and social trauma in indicator 4.9. The data has been assessed in this manner as the emergence of conflict and risk is caused by failures and issues across multiple indicators, rather than just a single indicator. Only by examining risk factors in their numerous and appropriate contexts is it possible to more fully identify the strengths and weaknesses of Indonesia’s current atrocity risk factors, and in doing so support the government’s responsibility to uphold human rights and prevent the potential for atrocity crimes to arise in the future.

Indonesia is currently relatively free from the actual threat of atrocity crimes; however, there are various risks that need to be anticipated to prevent their potential escalation in the future, including: development gaps, ethnic tensions, the rise of extremism, internal conflict, and governance issues. In regards to the development gap, despite impressive economic growth achieved over the last two decades, one of the biggest issues for the government remains how to address the unequal distribution of resources between central and local areas. In the case of Papua, where poor development and separatist tensions have been an ongoing issue for decades, there has been greater attention paid to the Province by the current Joko Widodo administration, evidenced by higher visits to the area compared to previous administrations and plans to implement an ‘equal fuel price’ policy designed to increase social justice.¹ Nonetheless, given the wide range of issues affecting Papua, economic policies are only part of solution and cannot address the deep-seated challenges surrounding fundamental human rights and the gravity of social inequality in evidence.

A key concern throughout much of Indonesia is the growing politicisation of religious and ethnic identity. At both local and national levels, there is clear evidence of politicians deliberately drawing on and animating religious and ethnic identity to garner favour with majority societal groups to bolster their election chances. Numerous examples proffered in this report demonstrate that such trends can and do fuel identity-based violence, as well as normalise discrimination and intolerance. Importantly, such sentiments linger long after election campaigns have finished. Another risk, often coupled to the instrumentalisation of identity politics, is the propensity towards extremism, with radical Islamic groups’ becoming bolder and their voices louder and louder. Select Sunni Muslim organisations have become increasingly powerful and sophisticated in their ‘advocacy’ campaigns, using social media to mobilise members and spread suspicion, fear and, sometimes, false information and hatred. Such rhetoric is targeted against those whom they consider ‘deviants’, ‘blas-

INTRODUCTION

phemous', 'seculars', and 'communist'. The rising power of these groups, concomitant with their inflammatory messaging, is challenging the legitimacy of the government. The continuous activities of homegrown terrorist networks intersects with this trend, and has the potential to animate atrocity crimes in the future. The intensification of religious intolerance evidenced currently within Indonesia speaks to a failure to effectively promote tolerance as a national value is one of the most pressing concerns highlighted in this report.

In terms of intra-state conflict, relative to the early period just after reformation era (2001-2003), Indonesia is currently stable and no longer threatened by substantive separatist violence. The peace agreement signed between the Indonesian government and the Aceh separatist group in 2005, followed by the completion of the EU-led monitoring mission in 2006, formally marked the end of a long era of instability in the Aceh region of northern Sumatra.. However, this does not signal that Indonesia is totally free from conflict; land and resource-based conflict in various parts of the country continue and are an ongoing concern that requires serious attention from the government. Worryingly, land and resource-based conflicts appear to frequently evolve into ethnic-based conflicts over time. Given the asymmetric and multifaceted character of these conflicts m they have the potential to advance into atrocity crimes.

Finally, despite significant improvement, lingering governance issues remain a major challenge in Indonesia. A relatively weak state structure is evidenced by indicators such as widespread government corruption, a pattern of impunity and a lack of capacity and transparency within key state institutions, i.e. law enforcement agencies and the judiciary. Whilst Indonesia has made significant progress via the ratification of various key international human rights conventions and through the domestic implementation of numerous regulations, there is certainly room for improvement. Among other things, the State is lacking practical guidance and training for law enforcement authorities on the ground, which is imperative to delimiting confusion and better equipping agencies to recognise and provide protection for minority groups and mitigate against the most substantive risk factors deemed capable of fuelling atrocity crimes in the future. This report is not intended to 'berate' the government or its subsidiary organs but rather assist in identifying some of the most pressing areas where the State, regional actors and the international community may better direct their attention to work towards a more just and atrocity free future.

MAP INDONESIA



Map No. 4110 Rev. 4 UNITED NATIONS
January 2004

Department of Peacekeeping Operations
Cartographic Section

Map acknowledgement Department of Peacekeeping Operations Cartographic Section
Map No 4110.Rev.4 United Nations January 2014

FRAMEWORK OF ANALYSIS

The Framework of Analysis consists of fourteen (14) Risk Factors of atrocity crimes, with each Risk Factor accompanied by a suite of 6 to 18 specific Indicators that are used to help to determine the degree of Risk present. Combined, these Risk Factors and associated Indicators guide the collection and analysis of data to determine the degree and kinds of atrocity crime risk present in Indonesia. This assessment deals only with the Risk Factors considered most relevant to the Indonesian context; hence, some Risk Factors are not engaged with (note that the absence of a Risk Factor or Indicator does not indicate that are not important or may not be a risk in the future, simply that they are presently of minimal concern).

The Risk Factors are delineated into two different groups: Common Risk Factors, which are the conditions that increase the probability of atrocity crimes occurring; and, Specific Risk Factors, which divided into the risks associated with genocide, crimes against humanity, and war crimes (ethnic cleansing is incorporated into the other atrocity crimes). A greater number of Risk Factors and Indicators denote an enhanced risk of atrocity crimes. The Risk Factors are not ranked by importance. In some cases, the Risk Factors assessed in this report relate to events and conditions that occurred decades ago. Nevertheless, how such events are being dealt with today can still contribute to the likelihood of other types of atrocity crimes arising in the future.

COMMON RISK FACTORS		
Risk Factor	1	Situations of armed conflict or other forms of instability
Risk Factor	2	Record of serious violations of international human rights and humanitarian
Risk Factor	3	Weakness of State structures
Risk Factor	4	Motives or incentives
Risk Factor	5	Capacity to commit atrocity crimes
Risk Factor	6	Absence of mitigating factors
Risk Factor	7	Enabling circumstances or preparatory action
Risk Factor	8	Triggering factors
SPECIFIC RISK FACTORS		
Genocide		
Risk Factor	9	Inter group tensions or patterns of discrimination against protected groups
Risk Factor	10	Signs of an intent to destroy in whole or in part a protected group
Crimes Against Humanity		
Risk Factor	11	Signs of a widespread or systematic attack against any civilian population
Risk Factor	12	Signs of a plan or policy to attack any civilian population
War Crimes		
Risk Factor	13	Serious threats to those protected under international humanitarian law
Risk Factor	14	Serious threats to humanitarian or peacekeeping operations

Each of these Risk Factors are accompanied by 6-18 more specific Indicators, which can be used to more precisely identify and analyse the risks of atrocity crimes. These Indicators and further information on the full UN Framework of Analysis for Atrocity Crimes can be found by clicking here or by visiting the UN website at www.un.org.

COMMON RISK FACTORS

RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OR OTHER FORMS OF INSTABILITY

The first Risk Factor concerns “situations that place a State under stress and generate an environment conducive to atrocity crimes”. Although atrocity crimes generally take place within the context of armed conflict, a State’s propensity to commit atrocity crimes can also be influenced by other forms of acute instability, such as a humanitarian crisis or political, economic and/or social volatility. Of the 11 Indicators subsumed under Risk Factor I, five have been identified as most pertinent to the Indonesian context.

1.1 International or non-international armed conflict.

Indonesia has not experienced national-wide armed conflict since the 1960s. The most acute and protracted separatist conflict to date was between the Government of Indonesia and the Free Aceh Movement (*Gerakan Aceh Merdeka*, GAM), which was settled through the Helsinki agreement and the granting of special territorial status for Aceh in 2005.² Many former leaders and members of GAM are now active in Aceh’s electoral politics.³ The only current armed challenges to the authority of the state come from radical Islamist militants and a low-level separatist movement in Papua; neither are considered to have the means to escalate violence beyond sporadic attacks.⁴

1.2 Security crisis caused by, among other factors, defection from peace agreements, armed conflict in neighbouring countries, threats of external interventions or acts of terrorism.

The possibility of a security crisis caused by major inter-state and intra-state conflicts in Indonesia is currently low. However, violent militants have extensive and longstanding ties with radical networks outside the country. Such ties were forged during the New Order era – c. 1965/6-1998 during the reign of President Suharto – when extremists went abroad to the Afghanistan-Pakistan border and to Malaysia, where exiled jihadis founded Jemaah Islamiyah (JI) in the early 1990s. The skills and networks forged abroad built the capacity of domestic Indonesian extremist organization – namely, Jema’ah Anshorul Daulah (JAD), the Bahrin Naim group and the now dormant Jema’ah Islamiyah (JI) – which, beginning in the early 2000s, have perpetrated a series of lethal attacks on Western targets, including the 2002 Bali bombings and further bombings in Jakarta and Bali. Moreover, Indonesian nationals have continued to join militant causes abroad: There were reportedly 500 Indonesians fighting in Iraq and Syria in 2015,⁵ and the National Agency for Combatting Terrorism (*Badan Nasional Penanggulangan Terorisme*, BNPT) reported that, as of 2017, 547 Indonesian supporters of ISIS have been deported back to Indonesia whilst attempting to enter Syria.⁶

The jihadi context in Indonesia has altered since the early 2000s, with key personalities jailed or killed and alignments shifting due to theological and strategic disputes. Across ASEAN members, Indonesia has been amongst the most effective in countering extremist and terrorist activities.⁷ With extensive foreign assistance, the Indonesian police – in particular Indonesia’s counter-terrorism squad, Densus 88 – have achieved a level of success in stopping terrorist attacks before they occur.⁸ This has led to a shift in home-grown Islamic terrorism: since 2010, most attacks have been small and poorly planned and executed, perpetrated by small groups with limited training and funding.⁹ Nevertheless, terrorist cells remain active, as evidenced by the Thamrin incident¹⁰ and a recent attempted attack involving a female suicide bomber.¹¹

Whilst undoubtedly effective in minimising terrorist attacks and demobilising extremist groups, the *Densus 88* have been criticised for taking extreme counter-terrorist measures that infringe on human rights; especially in regards to inhumane treatment and the use of excessive force. The Nation-

RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OR OTHER FORMS OF INSTABILITY

al Commission on Human Rights (*Komisi Nasional Hak Asasi Manusia, Komnas HAM*) reported that, between 2007 and 2016, at least 121 individuals detained during counter-terrorism operations have died in custody. In most of these cases, only administrative penalties were given to security personnel through internal police mechanisms and no formal criminal investigations were undertaken.¹² Furthermore, excessive violence (e.g. shoot-first policies) are a common practice during capture.¹³ Such acts are often witnessed by family members and children, leading to trauma and fuelling resentment towards the police.¹⁴ This can unintentionally bolster sympathy towards the terrorists and further romanticize their struggles, creating additional cycles of violence.

On the issue of armed conflict in neighbouring countries, the recent IS-inspired extremist attacks in Marawi – on the island of Mindanao, the Philippines – by the combined forces of the Abu Sayyaf Group (ASG) and the Maute Group, raises some concern in regards to Indonesia. Coupled by the historical relations of Filipino terrorist groups and Indonesian cells (particularly in the era of JI, who made Mindanao their 3rd *mantiqi* designated to train martyrs and jihadi),¹⁵ combined with lacklustre economic performance and poor border infrastructure in Indonesia's outer islands, the potential threat of a jihadi spill-over into Indonesian territory (whether for regrouping or recruiting purposes) does exist.¹⁶ The Indonesian government are cognisant of these risks,¹⁷ but whether they have the resources and capacity to act in a timely matter to mitigate against such potential developments is unclear. There is also said to be some potential risk in Aceh, should domestic and international Wahhabist-sympathizing actors manipulate the local administration for their own ends; e.g. leveraging the Province's broad autonomy to evade supervision and use the regions close proximity to Thailand, Malaysia and the Bay of Bengal (India, Bangladesh, Myanmar) as an economic and militant node of strategic connectivity.¹⁸

1.5 Political instability caused by disputes over power or growing nationalist, armed or radical opposition movements.

Acute political instability has occurred at several junctures in Indonesian's modern history. President Sukarno's anti-communist purge in late 1965, following an unsuccessful putsch by members of the military in concert with the Indonesian Communist Party (*Partai Komunis Indonesia, PKI*) is the most notable example. Following the coup, General Suharto – Sukarno's new head of the military – commenced stirring-up anti-communist fervour and incited a campaign of mass killing that lead to the death of an estimated 500,000 people across Central and East Java, Bali, and North Sumatra.¹⁹ In 1966, Suharto dismissed Sukarno's government and became president the following year, ruling uninterrupted until 1998 - the next instance of acute political instability in the country.

Amidst the impacts of the 1997 Asian financial crises and rampant inflation and following months of student protests that attracted some support from the middle-class, Suharto was eventually forced to resign. Violence escalated following the killing of four protesting students by the security forces in May 1998, which was followed by three days of riots in Jakarta and several other cities that targeted Chinese Indonesians and their businesses. An estimated 1,200 people were killed (mostly indigenous Indonesians caught-up in burning shopping malls) – and around 50-100 women (mainly of Chinese descent) were raped.²⁰

Since then, Indonesia has had four peaceful presidential transitions and has been relatively stable. However, election campaigns are marked by incidents of violence – mainly involving youth groups affiliated with political parties and candidates (cf. 5.1). There is, however, also a worrying trend for electioneering to pivot on nationalist, populist sentiments that draw on divisive rhetoric that ultimately discriminates against, and sometimes fuels violence towards, minority groups – primarily Chinese, Christians, and minority Muslim religious groups.

RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OR OTHER FORMS OF INSTABILITY

Opposition political parties in Indonesia have been characterised as populist “catch-all” parties in that they do not have a firm political and ideological platform and often draw on religious sentiments to rally support from majority groups (the dominant Sunni Muslim population.²¹ The proportional representational political system in Indonesia has inadvertently multiplied the use of such tactics, as candidates vie for election from multiple candidate constituencies. Recently, some candidates have thrown their support behind intolerant (or borderline violent) religious organizations to avoid charges of secularism and ensure that they are favourably viewed as responsive to the majority Muslim community.

This was evidenced in the recent 2017 Jakarta gubernatorial election (Pilkada DKI). The then-incumbent governor, Basuki Tjahaja Purnama (a.k.a. Ahok), has long been targeted by radical groups due to his double minority status (Chinese-Christian) and this was amplified during the campaign with his competitors fuelling anti-Christian and anti-Chinese sentiment to damage his election chances. This saw some candidates move closer to, or align themselves with, religious hard-liner groups such as the Islamic Defenders Front (Front Pembela Islam, FPI). The FPI organised mass public rallies in an attempt to persuade the Muslim community not to vote for a non-Muslim candidate, depicting such acts as a sin and suggesting that ‘good’ Muslims should not bury Muslims who vote for a non-Muslim candidate. During the voting period, the group mobilized their members to escort voting booths around Jakarta and strategically used celebrities and social media to further disseminate their message (cf. 5.3). These tactics successfully used secularism and racism as tools of persuasion that further contributed to the increasing polarization of Indonesians.²² Although no actual violence occurred, the level of intimidation exerted was enough to elicit a response from the police.²³

The use of religious sentiments and the tactical siding with key mass-religious organizations by politicians to inform electoral outcomes is not a singular occurrence. A similar case occurred in Sampang, Madura, during the 2012 regent (*Bupati*) elections,²⁴ when tensions arose between Sunni and Shi’a *ulama*²⁵ in the district. The then-incumbent regent, Noer Tjahja, was competing against some notable *ulama* in the election and purposefully co-opted anti-Shi’a sentiment in an attempt to gain votes. Tjahja provided funding and room in his office to the *Majelis Ulama Indonesia* [Indonesia Ulama Council] (MUI) and *Front Pembela Islam* [Islamic Defenders Front] (FPI) to plan rallies against Shi’a, and advocated for anti-Shi’a regulations (i.e. arguing for the relocation of Sampang children studying in Shi’a *madrasah* to be transferred to Sunni ones, and promising the forceful eviction of Shi’a communities from the area within 3 months of his re-election).²⁶ Although Tjahja was not re-elected, his provocations enabled and empowered anti-Shi’a groups, which ultimately led to the burning of Shi’a houses and the eviction of Shi’a communities in Sampang (cf. 4.5).

In summary, while there are minimal examples of acute political instability resulting from power struggles or growing nationalist, armed or radical opposition movements, there is some room for concern in regards to the politicisation of religious sentiment noted in the above examples. Such divisive opinions do not necessarily subside after electioneering has finished but linger on to flame animosity into the future. If such trends were to continue and/or intensify – and/or coalesce with other risk factors, such as humanitarian emergencies or substantive socio-economic instability (see 1.9 below) – this has the potential to create deeper cleavages within the fabric of Indonesian society that could potentially inform atrocity crimes in the future.

1.7 Economic instability caused by scarcity of resources or disputes over their use or exploration.

Whilst not causing substantive nation-wide economic instability, tensions around resource access and the asymmetric distribution of benefits are conflict drivers in various parts of Indonesia (e.g. Sulawesi, Kalimantan, Sumatra, West Papua and Aceh). The exploitation of natural resources by

RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OR OTHER FORMS OF INSTABILITY

multinational corporations and local governments have impacted, especially, the rights of minority indigenous groups. Numerous submissions to the Humans Rights Council (HRC) Working Group on the Universal Periodic Review in 2012 document that, between 2008 and 2011, indigenous populations experienced various forms of discrimination, coercion and the non-consensual exploitation of their lands, territories and resources.²⁷ Examples include: the occupation of indigenous lands in north Sumatra by a state-owned oil palm and sugar cane plantation company (PTPN II); the occupation of the lands of the Koronsi'e Dongi in south Sulawesi by PT Inco (a nickel mining company); and, the loss of land and forest resources to logging companies amongst the Dayak Punan communities in Kalimantan.²⁸ It is also alleged that islands of Flores, Timor, Lembata and Sumba have been mined through force by local governments in concert with multinational corporations without local consent.²⁹

Additionally, several communities in both Kalimantan and Sumatra have had their customary territories designated as “national conservation areas” without consultation or approval, whilst local governments have simultaneously allocated some of these very same areas for oil palm and timber plantations. This has fuelled several conflicts, e.g. in the Tesso Nilo National Park (*Taman Nasional Tesso Nilo*, TNTN). Although there has not been large-scale open conflict, there has been a continuous cycle of revenge violence between some local communities and government security forces.³⁰

One of the most pronounced, ongoing and serious examples of resource-related disputes is in West Papua (*Papua Barat*), where economic inequality, detrimental environmental impacts from mining and indigenous and cultural dispossession – associated with the governments transmigration programme – have coalesced to provide further impetus to the Papuan self-determination movement.³¹

Papua remains Indonesia's poorest province, with 28% of people living below the poverty line and experiencing the highest infant mortality levels, and lowest literacy rates, in all of Asia.³² The government have made various attempts to redress this but without real progress. In 2001, the Province of Papua was provided Special Autonomy under Law 21/2001 in recognition of the fact that “the management and use of the natural wealth of Tanah Papua has not yet been optimally utilized to enhance the living standard of the natives, causing a deep gap between the Papua Province and the other regions, and violations of the basic rights of the Papuan people.” The Special Autonomy Law was designed to ensure Papuans caught up with the rest of Indonesia in terms of living standards and opportunities. The Province was later split into two provinces - Papua and West Papua- and due to the slow progress towards meeting the socio-economic goals referred to in the Special Autonomy Law, in 2007 the government issued Presidential Instruction 5/2007 on the *Acceleration of Development of Papua and West Papua*, which directed all relevant technical ministries to dedicate special attention to the two Provinces in order to hasten socio-economic development. Despite these and other government measures (e.g. prioritization in state budget allocations), substantial improvement is yet to be realised. This paucity in progress is due to a myriad of factors, including elite corruption and ineffective political mechanisms, as well as improper and weak local electoral processes.³³ The paucity of accurate demographic statistics impacts both the monitoring of development goals and the accountability of elections.³⁴ Moreover, all Indonesian governments have too often equated “development” simply with allocating funds rather than instigating applied activities that result in poverty alleviation.³⁵

The Freeport-McMoRan Gasberg copper and gold mine (PT Freeport Indonesia) has operated in the remote highlands of the Sudirman Mountain Range in the province of Papua since 1967, and is renowned as one of the largest copper and gold deposits in the world. The Freeport mine is a prime example of how resource disputes can fuel local-level conflict. Although customary authorities are

RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OR OTHER FORMS OF INSTABILITY

recognized by the government, such recognition does not provide investors with the legal security they require to guarantee investment,³⁶ and thus decisions on mining concessions are largely carried-out by elites (specifically between companies and politicians). This delimits accountability and invites corruption, while issues of environmental sustainability and community livelihoods are also ignored. As a result, despite the mining operations profitability and (some) attempts by the mine to carry out local-level development programs, local people have remained largely excluded from the mines economic benefits.³⁷

Subsequently, the mine has become a conduit for expressing discontent and rallying point for promoting the self-determination aspirations of many Papuan's, with Freeport employees and infrastructure a recurrent target of violent attacks. For example: In July, 2009, the Gasberg mine was attacked by gunfire, resulting in two deaths and ten people being wounded;³⁸ In January 2010, a Freeport convoy of two buses and four cars was attacked by gunmen, resulting in 3 people being seriously wounded;³⁹ In January 2012, two Indonesian Freeport workers were shot dead by unknown gunmen as they travelled to Tembagapur;⁴⁰ and, in September 2017, several Freeport vehicles were again shot at by unknown assailants.⁴¹ The Indonesian Government restricts foreign access to the Papua and West Papua provinces, and thus it is difficult to gather independent and verifiable information about the Indonesian military's response to these acts.

Lastly, it is noteworthy that the 30 year conflict in Aceh was informed by the unequal distribution of resources. From the 1970s onwards, Aceh provided between a third to a quarter of the country's total oil and gas output, yet the region itself received only a pittance of this revenue (5% in the 1970s) and was amongst the poorest regions in the country.⁴² The 2005 Helsinki peace agreement, which provided for broad regional autonomy, addressed this disparity by awarding 70% of all revenue back to the province.⁴³

1.9 Economic instability caused by acute poverty, mass unemployment, or deep horizontal inequalities.

Despite a large number of unemployed⁴⁴ and under-employed,⁴⁵ since its recovery from the 1998 Asian financial crisis the country's GDP per capita has steadily risen (from \$857 in 2000 to \$3,603 in 2016) whilst the national poverty rate has been cut by more than half.⁴⁶ Nonetheless, wealth concentration is often unequally distributed across the country and divided along ethno-religious lines.

Inter-provincial inequality remains a substantial issue, with the majority of wealth generation and development occurring on the Island of Java, whilst the outer provinces continue to face a concerning lack of development.⁴⁷ For example, infant mortality rates remain extremely high in West Nusa Tenggara (where hospitals and health facilities are scarce);⁴⁸ industries are underdeveloped in Maluku due to a lack of public infrastructure (i.e. ports, power plants, roads);⁴⁹ and, human development indicators in many outer-regional areas are low due to underdeveloped and understaffed educational facilities.⁵⁰

In several Provinces, despite having relatively high provincial income, poverty and underdevelopment remains acute. This has led to resentment being directed towards the central government and acted as an impetus for anti-state conflict. This was a factor in the Aceh conflict, the Maluku movement for the Republic of South Maluku (*Republik Maluku Selatan*, RMS), and the Free Papua Movement (*Organisasi Papua Merdeka*, OPM) in Papua. For example, despite ranking 6th with a GRP (Gross Regional Product - a provincial equivalent of GDP),⁵¹ West Papua ranks the lowest Human Development Index in the country.

RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OR OTHER FORMS OF INSTABILITY

An additional concern is that, given the country's heterogeneous social character, wealth concentration is also often divided along ethno-religious lines. It is in these instances that inequality can be a determining catalyst for conflict. The case of Sampit in Central Kalimantan⁵² and Poso in Central Sulawesi⁵³ are a stark reminder of this (see 4.9, 9.5 below). Development gaps, combined with ethnic tensions and governance issues, are amongst the core suite of risk factors that can coalesce to fuel atrocities; not just in Indonesia but across ASEAN member states.⁵⁴

1.10 Social Instability caused by resistance to or mass protests against state authorities or policies.

Mass protests are a common occurrence in Indonesia; however, such protests are rarely directed against state authorities per se but rather are animated in response to specific issues or policies (e.g. minimum wage, corruption, reclamation, Papuan marginalization, blasphemy claims). Moreover, whilst such protests sometimes result in violence (between protesters and police),⁵⁵ protests are generally peaceful and have rarely resulted in substantive, wide-spread social instability. There is, however, a recent trend whereby religious sentiments are politicised and used to critique elected officials and inform political decision making. This is especially evidenced in two notable protests in 2017, commonly referred to as the '411' and '212' Muslim rallies.⁵⁶

The '411' and '212' protests are named after their date (4th November 2017 and 2nd December 2017), and were mass rallies directed against the then Jakarta governor Basuki Tjahaja Purnama in response to his perceived blasphemous statement regarding Quranic verse 51, known as Al-Maidah.⁵⁷ The public protests were coordinated by GNPf MUI (*Gerakan Nasional Pengawal Fatwa Majelis Ulama Indonesia*, the National Fatwa Guard Movement for The Indonesian Ulama Council), and attracted around 200,000 Muslims, with some participants travelling from outside Jakarta to attend the rallies.⁵⁸ There were also parallel protests in other Provinces, organized for the same purpose.⁵⁹ Although originating in response to the governor's supposed blasphemous statements, the '411' and '212' rallies were quickly co-opted by several religious organizations (e.g. Indonesian Ulama Council, Islamic Community Forum, and Islam Defenders Front) to become part of a wider social protest movement directed against Ahok's status as a Christian governor.

These two protests are especially concerning as their impacts reverberated long after the initial demonstrations had finished, feeding and fuelling latent ethnic-religious divisions and spawning further issue specific protests. The alumni and networks animated under the '411' and '212' rallies were re-ignited in subsequent protests, such as the "Defend Ulama" rally which demonstrated against the prosecution of the controversial FPI leader Habib Rizieq (cf. 5.3),⁶⁰ the so-called '299' rally (directed against the Regulation in Lieu of Law No. 2/2017)⁶¹ and the '313' rally (an attempt to pressure Indonesian authorities into convicting Ahok).⁶² Although not all of these protests were of the same size and gravity as the '411' and '212' rallies, they garnered considerable media attention, ensuring that the narratives and solidarity of the initial rallies were not forgotten. Most troublingly, the '411' and '212' rallies have empowered and further naturalised divisive and intolerant discourse within Indonesian society. This is evident in an increase in the vigilante activities of some members of Islamic organizations, as well as in the policing of criticism levelled against the *ulamas*. For example, in a well-documented case, a Chinese teenager was verbally harassed and threatened by a group of FPI supporters and forced to make a public apology for his criticism of the FPI leader, Habib Rizieq.⁶³ The growing politicisation of powerful religious organisations in Indonesia is currently one of the greatest threats to marginalised, vulnerable groups in Indonesia (cf. 4.4, 7.8, 7.13).

RISK FACTOR 2: RECORD OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

Risk Factor 2 concerns past or current serious violations of international human rights and humanitarian law that may have not been prevented, punished or adequately addressed and, as a result, can create a risk of further violations. Indonesia fares badly in this domain, with numerous examples of State reluctance to condemn – let alone prosecute – past human rights violations. Moreover, in cases where investigations and trials have taken place, there has been a clear reluctance to prosecute the perpetrators.

2.1 Past or present serious restrictions to or violations of international human rights and humanitarian law, particularly of assuming an early pattern of conduct and if targeting protected groups, populations or individuals.

During the New Order period (c. 1965/6-1998) under President Suharto, the Government of Indonesia actively participated in or supported a number of gross human rights violations. There are several notable cases: the 1968 nationwide massacre of communists; the 1984 massacre at Tanjung Priok by the military; and, the aggression mounted towards Chinese minorities which flared (especially) during the May 1998 riots. The intra-state conflicts in Aceh, East Timor and West Papua also involved violations of international human rights (**cf. 2.2**). More recently, the violence and governmental restrictions placed on minority Shi'a and Ahmadiyyah groups is of concern as they are a clear violation of international human rights law.

The 1965-66 nationwide killings of members and supporters of the Indonesian Communist Party (*Partai Komunis Indonesia*, PKI) was initiated in response to a supposed coup attempt by the PKI. Commencing in October 1965, the military arrested and murdered PKI members in the parliament and then began to systematically detain and execute PKI supporters in villages throughout the country by the thousands. As the narrative of the PKI as a 'national villain' was disseminated and popularised, civilian participation in the murders also intensified in some areas. The 'villain' narrative suggested that the communists, as atheists, would try to rid the State of religion, and consequently some Muslims across Indonesia responded to this threat by enthusiastically participating in the murders.⁶⁵ Although reliable data is hard to find, the estimated death toll from the 1965 killings range from 400,000 to 3,000,000,⁶⁶ with over 1 million people arrested and detained as political prisoners.⁶⁷ The rape and other sexualized forms of torture perpetrated against women and girls in the political detention camps following the October 1965 coup are considered by numerous scholars as crimes against humanity⁶⁸ and/or genocide.⁶⁹

The second case is the 1984 massacre at Tanjung Priok, where the Indonesian military purposefully and indiscriminately opened fire on the public.⁷⁰ Tensions had escalated after the detainment of mosque officials by the Military District Commando Operation in North Jakarta, following a sermon and display of materials that was critical of *Pancasila* (*Pancasila* being the five key principles formulated by the Indonesian nationalist leader Sukarno after World War II, and which become the blueprint of the Indonesian nation).⁷¹ Violence continued again the following day as people were arbitrarily arrested, including those who were not involved in the original sermon but preaching similar critiques. The evening following the sermon hundreds of Muslims marched to the local district military command post demanding the release of some of those arrested. The mob quickly swelled. Their request was ignored and, at around 11 p.m., they surrounded the military station. At some point soldiers suddenly began to fire indiscriminately into the crowd.⁷² The official casualty toll was 24 deaths and 54 injured, but reports from victims put the figure at 400 people killed/missing.⁷³

A further case is the aggression shown towards Chinese Indonesian minorities during sporadic anti-government rioting, which has occurred in numerous towns in Java from late 1996. e.g. Situbondo, East Java (10 October 1996), and Tasikmalaya, West Java (26 December 1996). The most destruc-

RISK FACTOR 2: RECORD OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

tive and recent example is the devastating riots that shook Jakarta during 13-15 May 1998. In the wake of the economic paralysis caused by the Asian financial crisis – which saw the rupiah collapse, food prices increase and economic growth slow to 1.4 percent – anti-government riots flared after protesting students were shot by security forces. The violence ultimately claimed the lives of more than 1,000 people, whilst many others were beaten or raped. Many of the victims were Chinese. Subsequent investigations suggest that, to deflect attention away from the government, rival elites attempted to blame the Chinese minority for amassing national resources and wealth, causing the monetary crisis, and there is evidence that, at times, military personnel directly orchestrated the violence.⁷⁴ Many Chinese shops and houses were looted and destroyed, and Chinese people killed, kidnapped, and raped.⁷⁵ On the 14 and 15 May, the violence spread to numerous cities throughout Indonesia, including Surabaya, Palembang, Surakarta, and Boyolali. Reports suggest that 1,000 people were killed⁷⁶ and over 100 Chinese women raped⁷⁷ in Jakarta alone. Whilst many of the fatalities were in fact non-Chinese Indonesian looters caught-up in a massive department store fire, the target of the violence were Chinese Indonesian's.

Additionally, the violence directed against the Shi'a community in the Sampang regency on Madura Island in 2012 – which was followed by their forceful relocation the Shi'a community to Sidoarjo, East Java⁷⁸ – and the central government's restrictions on Ahmadiyah groups – based on a joint decree of ministers which legally paved the way for district officials to forcibly relocate them⁷⁹ – are further examples of human rights violations targeting protected groups (cf. 1.5, 2.4, 4.5, 6.1, 7.10).

2.2 Past acts of genocide, crimes against humanity, war crimes or their incitement.

Whilst debated, there are several past incidents of state directed violence that equate to acts of genocide, crimes against humanity and/or war crimes in Indonesia. In addition to the 1965-66 anti-community purge already discussed, the Indonesian military's practices and policies associated with East Timor, West Papua and Aceh are the most salient examples of atrocities.

The invasion and occupation of East Timor by the New Order regime, from December 1975 until the eventual withdrawal of Indonesian forces in late 1999, was accompanied by reports of crimes against humanity directed against the civilian population, including torture and ill-treatment. The Final report of the Commission for Reception, Truth and Reconciliation of East Timor (CAVR – *Comissão de Acolhimento, Verdade e Reconciliação de Timor Leste*) found that torture and ill treatment were perpetrated against civilians throughout the period of Indonesian occupation, but was at its highest between 1976 and 1984. The CAVR report estimates that about 18,600 unlawful killings and disappearances occurred.⁸⁰ The majority of these crimes remain unprosecuted.⁸¹

Since the rise of separatist agitation in Aceh in the 1976 – through the *Gerakan Aceh Merdeka/Free Aceh Movement* (GAM) – until the cessation of hostilities in 2005 (with the signing of the Helsinki Agreement), the Indonesian military has been militarily active in Aceh. Twice during the 29 year conflict the Indonesian government designated it a "Military Operations Zone" (*Daerah Operasi Militer, DOM*).⁸² There are many reports of extra-judicial executions, torture and disappearances and whilst estimates vary, somewhere between 10,000 to 30,000 were killed during the conflict, many of them civilians.⁸³

Lastly, West Papua has been the site of ongoing conflict since Indonesia seized control after the Dutch pulled-out, following a 1969 United Nations supervised referendum (that many analysts consider a 'sham'). For decades, international media and NGOs have been largely banned from the territory, but many observers estimate that over 100,000 native Papuans have been killed since the 1960s – at least 10 percent of the population. Some, mostly foreign researchers, argue that "[There

RISK FACTOR 2: RECORD OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

is] a strong indication that the Indonesian government has committed genocide against the West Papuans.”⁸⁴ However, government stakeholders and a range of civil society actors reject such claims, whilst not denying that there are serious concerns over military atrocities in the past.⁸⁵

2.3 Policy or practice of impunity for or tolerance of serious violations of international human rights and humanitarian law, of atrocity crimes, or of their incitement

Impunity for human rights abuses and the lack of political will to resolve past atrocities is highlighted by many commentators a serious problem in Indonesia.⁸⁶ Some attempts to provide justice towards victims of past violations of human rights have been strategically elided by the Government of Indonesia, such as the elimination of the *Truth and Reconciliation Committee* (TRC), which was closed down by the Constitutional Court.⁸⁷ Moreover, in the instances where attempts to seek justice have occurred, such as the establishment of a fact finding team and the establishment of the National Commission of Human Rights (Komnas HAM), have not received adequate support from the government’s judicial branch, whilst the legal prosecution of perpetrators is rare.⁸⁸ Komnas HAM has completed investigations into five past human rights cases and recommended that the Attorney General’s Office establish *ad hoc* human rights courts for the following cases: Trisakti (1998), Semanggi I (1998) and Semanggi II (1999), May 1998, Talangsari Case (1989), and Wasior and Wamena (2000). However, the establishment of these human rights courts have been impeded by the unwillingness of the Attorney General’s Office to progress or prosecute cases.

A clear exemplar case is the efforts of the fact-finding team established to examine the events of the May 1998 riots. Led by the chair of Komnas HAM just two months after the incident, the team began to interview victims and witnesses across the nation, drawing testimonies from 124 victims across Jakarta, Solo, Palembang, Lampung, Surabaya, and Medan. Despite finding evidence for the participation of several high-ranking officers in the provocation and orchestration of the violence, the Attorney General’s Office (AGO) has been either slow to act or have refused to investigate key suspects.⁸⁹ They disputed whether the evidence was sufficient to begin a formal investigation or whether the AGO can prosecute violations retrospectively through Law No. 26/2000 without the approval of the House of Representative (*Dewan Perwakilan Rakyat*, DPR).

Moreover, in instances where a trial has occurred – such as in the case of the May 1998 riots – only 34 out of 137 names were submitted by Komnas HAM to the AGO) went to trial, and of these only 18 were convicted. Moreover, on appeal none of the convictions were upheld, resulting in a 100% acquittal.⁹⁰ Similar trends occurred in relation to atrocities committed in East Timor.⁹¹ Among other things, this reluctance and difficulty to attain or uphold convictions, it has been suggested, is due to the fact that during the New Order-era the AGO was responsible for prosecuting people who opposed the regime and its enforcing branch, the police, was (at the time) part of the military. Hence, in trialling suspects for human rights violation police and prosecutors often find themselves prosecuting former or current colleagues for acts that they themselves might have also participated in.⁹²

As Annie Pohlman (2013) notes, “The failure by successive Indonesian governments since the beginning of *Reformasi* to address past abuses, and the culture of impunity that exists for past and current abuses, are perhaps the greatest impediments for lasting reform in the protection of human rights, improving the rule of law and, ultimately, the continuation of the democratization process.”⁹³ Nevertheless, the current president has made numerous statements that signal his administrations intention to address past human rights abuses. Most recently, President Widodo stated that, “I am aware that there are still a lot of homework to be done related to human rights enforcement, including those that happened in the past. These will require collaborative work between national and local governments, as well as support from all components within the society.”⁹⁴

RISK FACTOR 2: RECORD OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

2.4 Inaction, reluctance or refusal to use all possible means to stop planned, predictable or on-going serious violations of international human rights and humanitarian law or likely atrocity crimes, or their incitement.

The Indonesian police and wider law enforcement agencies have generally been active and vigilant in dealing with and preventing multiple forms of crimes (e.g. drug related and petty crimes). However, when it comes to dealing with intimidation, threats, and human rights violations directed against minorities or ‘protected groups’ (as defined by the Framework of Analysis), police have often failed to adequately act or protect such people from harm.

Examining cases up until 2013, Human Rights Watch (HRW) have documented ten cases where police clearly failed to prevent and/or investigate complaints of violence against religious minorities (e.g. the attack and burning of HKBP Ciketing and four other churches in Kuantan Singingi, Riau).⁹⁵ On the few occasions where authorities have acted to investigate such cases, it has been largely reactive (following intense pressure from the media.) Additionally, HRW found that, at times, police officers have sided with the perpetrators, urging religious minorities to leave a contested area or close their houses of worship in order to “protect the public order”, stating that they “won’t be able to be responsible for what happens to them if they don’t [leave]”.⁹⁶

There are two recent cases that clearly demonstrate police inaction. The first is the case of the minority Ahmadiyah group where, on February 2011, around 1,500 Islamist militants (e.g. FPI, FUI) attacked 21 members of the Ahmadiyah community in Cikeusik, Banten. Three Ahmadiyah men were killed and five were injured. Amateur documentations of the incident, supported by victim testimonies to HRW, suggests that local police were present at the scene prior to the attack. However, many of them left as soon as the mobs approached the Ahmadiyah community.⁹⁷ Although some of the police officers remained at the scene, their small number and meagre actions were insufficient to quell the violence that followed.

The violence against the Ahmadiyah also has an administrative dimension, with various legal decrees normalising discrimination. Indonesia’s 1965 blasphemy law permits only six officially protected religions – Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism – and in June 2008 Susilo Bambang Yudhoyono signed an anti-Ahmadiyah decree which ordered the Ahmadiyah to “stop spreading interpretations and activities that deviate from the principal teachings of Islam”.⁹⁸ Such legal instruments naturalise and justify discrimination.

Similar to the Ahmadiyah case is the mob violence directed against Shi’a in Sampang, Madura. On December 2011, a mob of 500 people searched and torched multiple Shi’a houses, stores, and *madrasah*. According to reports from the Commission for the Disappeared and Victims of Violence (*Komisi untuk Orang Hilang dan Korban Kekerasan, KontraS*), police officers were aware of the impending attack yet did nothing but warn members of the community and send two security personnel to the area (where they did nothing but monitor and document the event). After the violence occurred, the police officers sided with the perpetrators, participating in their meetings with local parliamentary members to plan the relocation of the Shi’a community from the village. They reportedly went as far as supporting the recommendations of the *ulamas* to relocate the community from Madura island to “protect the conducive state of security in Madura”.¹⁰⁰

The reluctance of law enforcers, particularly the police, to protect religious minorities is, to a certain degree, related to the police reforms under taken since the fall of the New Order, which championed the establishment of a “community policing” strategy. Community policing focuses on systemic partnerships with neighbourhood groups, local organizations, and community figures to devise local

RISK FACTOR 2: RECORD OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

solutions to local problems and build public trust in the police.¹⁰¹ This ultimately results in police officers being unwilling to go against the demand of the majority of the community by assisting religious minorities.

2.5 Continuation of support to groups accused of involvement in serious violations of international human rights and humanitarian law, including atrocity crimes, or failure to condemn their actions.

In regards to human rights violations during the New Order period, there is no direct or clear evidence of state protection for individuals who were involved in or responsible for atrocity crimes. However, neither has there been any real attempt to condemn their actions or seek justice for victims. As noted above, attempts to prosecute human rights violations during the New Order-era have been constantly impeded.

Overall, there appears to be a lack of political will to investigate past human rights violations and to prosecute the perpetrators. Despite some promising actions and statements being made – e.g. President Abdurrahman Wahid (who assumed the presidency in 1999) enacted some reforms and removed several key generals from top military and civilian posts and supported the East Timor trials – he was subsequently impeached in 2001 under charges of corruption. Many observers believe the impeachment to have been an orchestrated backlash by key individuals involved in the violations.¹⁰² Subsequent presidents, cognisant of Abdurrahman Wahid's fate, have treaded carefully in examining past human rights violations. President Megawati Soekarnoputri and President Susilo Bambang Yudhoyono, who took office after Abdurrahman Wahid, have done little to address the issue of past human rights violations. There was some hope that the current President, Joko Widodo, would be a stronger advocate for justice after he promised during his campaign to “fully address and finish the issue of human rights atrocities”,¹⁰³ but little progress has been made. Indeed, President Widodo recently asserted that he would not apologize for what happened in 1965, after which some oppositional groups portrayed him as a sympathizer of the Indonesian Communist Party (*Partai Komunis Indonesia*, PKI).¹⁰⁴

As a result of state inaction, there is a paucity of momentum in transitional justice in Indonesia and a decided lack of willingness from the Government to examine, let alone prosecute, people for past atrocity crimes. It appears that politicians are increasingly advocating that their Government is not at fault for violations that happened under another government's tenure. This collective failure to investigate or condemn past crimes is a matter of concern.

2.6 Justification, biased accounts or denial of serious violations of international human rights and humanitarian law or atrocity crimes.

Whilst many past incidents of substantial violence are acknowledged – even if not properly investigated or legally examined (**see above**) – some serious past violations of human rights that may amount to gross infringements of humanitarian law or atrocity crimes, such as West Papua and East Timor, are typically denied or justified as not amounting to the seriousness that many critics claim they should be.¹⁰⁵

2.7 Politicization or absence of reconciliation or transitional justice processes following conflict

The Government of Indonesia has yet to provide transitional justice processes for the victims of atrocities conducted under the New Order regime, including but not limited to, the PKI massacres, the May 1998 riots, and possible war crimes committed during the fight against GAM. Although there were some attempts by the government to establish broad policies and institutions to provide justice for victims, such as the Truth and Reconciliation Committee (TRC) in 2004, such mechanism struggled to attract political support and gain traction.

RISK FACTOR 2: RECORD OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

The establishment of the TRC began with hopeful aspirations, as the upper house of the Indonesian parliament (*Majelis Perwakilan Rakyat*, MPR) passed Law No. 27/2004, which required the government to establish a TRC within six months. In March 2005, the president signed a decree to create a panel to appoint commissioners for the committee. However, after names were produced the then-President Yudhoyono, a retired military general, made no decision on the matter and the commission was placed in limbo.

In an attempt to rejuvenate the MPR's law, a coalition of human right NGOs requested a judicial review in which the Constitutional Court ruled that "the prerequisite of granting amnesties to perpetrators in order to provide reparations to victims contradicted rights enshrined in the Constitution," and the MPR Law No. 27/2004 was annulled.¹⁰⁶ The Constitutional Court further ruled that for any form of reparation to occur, the government would either need to pass a new law or make reconciliation efforts through political policies on rehabilitation and amnesty. The decision ultimately resulted in the politicization of transitional justice on a national level. Although there are other laws that have directed the establishment for TRCs on a local level, such as the Law on Governing Aceh (LOGA),¹⁰⁷ these are yet to prove effective in practice. Nevertheless, the Aceh Truth and Reconciliation Commission (Aceh TRC) has come closest to being operational. The peace agreement between the Government of Indonesia and the Aceh Independence Movement (*Gerakan Aceh Merdeka* – GAM) in the Helsinki Memorandum of Understanding (MoU) of 15 August 2005 mandated a judicial mechanism, in the form of a human rights court, and a non-judicial mechanism, in the form of a TRC, to address the human rights violations that occurred during Aceh's conflict period. These mechanisms have also been stipulated in the Aceh Government's Law No. 11/2006. Establishment of the Aceh TRC and the human rights court are obligations of both the Government of Aceh and the Government of Indonesia to fulfil victims' rights to truth, justice and reparation. But with the national TRC in legal limbo, the Acehne provincial parliament passed its own provincial legislation in 2013 to establish a locally mandated commission, called the KKR. A selection process was undertaken to choose seven commissioners, who were inaugurated in October 2016. Unusually for a TRC, Aceh's KKR is envisaged as a permanent body, although commissioners will be required to apply for re-election every five years.¹⁰⁸ However, little has actually happened and numerous hurdles remain.¹⁰⁹ The argument made by both local and national government officials is that they need to wait for a national TRC in order to implement a local TRC; ultimately stalling any efforts to provide transitional justice and leaving the process in the hands of the parliament.

The current administration, generally known for its detachment from New Order personnel and interests, has nonetheless had its attempts to seek justice and reconciliation for abuses committed during the New Order period continuously stalled. Earlier, in Jokowi's presidency, there were guarantees made to provide justice to the victims. However, Jokowi has thus far only supported ceremonial efforts, such as the '1965 Symposium' – a two day event on "Dissecting the 1965 tragedy" held in April, 2016¹¹⁰ – which did not have any follow-up support to implement its recommendations. More recently, Jokowi's government appears to have adopted a more combative and cautious approach, opposing reconciliatory efforts by, for instance, stating that he will simply "quell" members of the PKI if they still exist.¹¹¹ Such inaction and positioning are related to political self-interest and sensitivities, with issues of the PKI and the May 1998 violence being hijacked by political rivals and used against the government, as well as the strong presence and influence that the Indonesian military on contemporary politics. It seems unlikely that the current trend of impunity towards past violations will change in the near future.

RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

Risk Factor 3 concerns “Circumstances that negatively affect the capacity of a State to prevent or halt atrocity crimes”. There are five indicators considered pertinent to the current Indonesian context. These include the challenges surrounding the of domestic implementation of key international human rights laws in practice; the effectiveness and impartiality of national human rights institutions and the judiciary; as well as the lack of awareness and mainstreaming of human rights norms in the security sector.

3.1 National legal framework that does not offer ample and effective protection, including through ratification and domestication of relevant international human rights and humanitarian law treaties.

Since the fall of the New Order regime, Indonesia has made some notable progress in incorporating the protection of human rights in its constitution and in its institutions. During his seventeen-month tenure, President Habibie proceeded to ratify multiple international laws and, as of 2017, Indonesia had ratified eight core international agreements, including the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).¹¹² Aside from the ratification of international conventions, the state also undertaken various domestic measures. Key examples include: the issuance of Law No. 39 Year 1999 on Human Rights, which reinforced the creation of the National Commission on Human Rights (Komnas HAM);¹¹³ and Law No. 26 of 2000 on Human Rights Court, which called for the establishment of a human rights court tasked with hearing and ruling on cases of gross violations of human rights, including genocide and crimes against humanity.¹¹⁴ The government also expanded human rights laws in the constitution, with Chapter XA incorporated into the expanded Article 28 of the Constitution.¹¹⁵ Additionally, the state have set up a number of national institutions relevant to the promotion and protection of human rights, namely: the National Commission on Violence against Women (*Komnas Perempuan*); National Commission for Child Protection (KPAI); Judicial Commission of Indonesia; Ombudsman of the Republic of Indonesia; Corruption Eradication Commission (KPK); National Police Commission (*Kompolnas*); Prosecutorial Commission; and, the Constitutional Court; Witnesses and Victims Protection Agency (LPSK). Most recently, in Amy 2017, the Government launched a *National Action Plan on Business and Human Rights*, in recognition that corporations are also responsible for respecting human rights as their existence has the potential to violate the basic human rights.¹¹⁶

However, in practice the implementation of these developments have had little impact in providing effective protection to minorities. Indonesia is still yet to become a party to key international treaties such as the *Rome Statute*, which would allow international courts to trial war crimes and human right violations. Even the treaties and covenants that it has been ratified are not necessarily implemented. This is, in part, related to the ambiguity inherent in the Indonesian legal system.¹¹⁷ In some cases, treaties with specific subject matter (i.e. bilateral treaties whose application garner relatively little public attention) are applied automatically, whilst international agreements that introduce new legal concepts and contradict extant Indonesian laws, are not.¹¹⁸ As a result, the covenants and treaties that are ratified are often not domestically applied in practice.

Even in regards to the expansion of human rights in the constitution, they are sometime contradicted by existing laws whose powers are not automatically nullified. A key example is Indonesia’s blasphemy law (*Criminal Code Law No. 156a*). Despite the fact that freedom of religion is upheld in the constitution for all religion and sects, under the blasphemy law sects are easily criminalized for having different interpretations than the majority religion. The contradictory nature of Indonesia’s legal system also applies to district legalisation. Despite the national Constitution protecting the freedom of expression and belief, some district governments have passed local laws that are discriminative to some religions. The rise of shari’a bylaws in Tasikmalaya (West Java) in 2003 (i.e. the forceful use

RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

of hijab for civil servants) is an examples of this¹¹⁹, as is the forced application of shari'a law on non-Muslims in Aceh in 2014.¹²⁰

3.2 National institutions, particularly judicial, law enforcement and human rights institutions that lack sufficient resources, adequate representation or training.

The key institutions responsible for the protection and delivery of justice to victims of human right violations, mainly the police and Komnas HAM, lack adequate resources and the organizational capacity to carry-out their stated objectives. In the case of the police, although the reforms since 2001 have focused on increasing societal engagement and building public trust through “community policing” programs, an array of cultural, structural, and educational barriers continue to mitigate against such reforms resulting in increased human rights protection – especially against minorities.

Indonesia has one of the highest police-to-civilian ratios (1:600) in the world¹²¹ and efforts to reform the security sector have been slow and difficult.¹²² Culturally, police officers are said to maintain a sense of social superiority and hold fast to a institutional hierarchy of unflinching respect that often impinges on their performance and protection goals, as pleasing superiors through deference is the most effective way to rise quickly through the ranks.¹²³ Structurally, more than 90% of the police force are non-commissioned officers equipped with just a few months of training and recruited straight from high school. Moreover, community-policing duties are heavily rotated across various areas. Combined, these factors prevent a sustainable and effective area-specific program being implemented and mitigates institutional learning.¹²⁴ Whilst there are some educational material produced on community policing, many officers reportedly do not read the guidelines. In all of the 26 provincial police schools, there is yet no compulsory class on community policing. This means that newly deployed officers have to learn ‘on the job’ from their seniors, who often tend to cling to old elitist and patrimonial norms.¹²⁵ As a result, there is little incentive for officers to be more progressive in interacting with the public, including religious minorities.

Komnas HAM, the only institution capable of investigating human right atrocities, has been regularly criticized for its lack of success. According to KontraS, a human rights watchdog, this failure is partly related to internal conflict between commissioners, staff and the secretariat. KontraS link some of these internal issues directly to changes in the term-length of a commissioner, from 2.5 years to 1 year.¹²⁶ They argue that this, impinges on the ability of the commissioner to achieve a firm grasp of internal particulars and limits the organisations ability to establish solid working relations amongst its staff and the secretariat.¹²⁷

3.3 Lack of independent and impartial judiciary

The judicial branch of the Government of Indonesia is often perceived as impartial and unfair by the populace. Between January and December of 2014, for instance, the Judicial Commission received 1,781 complaints from the public about unfair trials.¹²⁸ Additionally, there were 2,003 written complaints regarding violations of the judicial system’s code of conduct.¹²⁹ In 2014, 96 judges received written warnings from the Supreme Court and 22 were given light punishments (e.g. one-year salary suspension/reduction, and suspension of promotions). Nonetheless, the 96 judges that appeared before court were only a portion of the 152 that were summoned.¹³⁰ Beyond the issue of complaints, there are also cases where judges have been charged for corruption. The case of Constitutional Judge Akil Mochtar and Patrialis Akbar are a case in point; the former was sentenced to life for involvement in money laundering,¹³¹ whilst the latter was sentenced to 8 years imprisonment for accepting bribes.¹³²

A recent case that many commentators view as acutely unfair involves the verdict given by the court of North Jakarta regarding a blasphemy case involving former Governor of Jakarta Basuki Tjahaja

RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

Purnama (see further Risk Factor 1.10). In a highly politicized and publicized trial (which occurred during the 2017 Jakarta gubernatorial election in which Basuki sought re-election), Purnama faced constant mob pressure and mass demonstrations from hard-line Islamists. The judges draw on an *ultra petita*, which is legally available only for “times of crisis”, to find Basuki guilty and handed down a sentence which was heavier than that originally sort by the prosecutor. Basuki was given a 2-year jail sentence under the Blasphemy Law (Criminal Code Law No. 156a), despite the fact that prosecutors were unable to establish a legally reasonable defence for intention to blaspheme.¹³³

The problem of an impartial judiciary is related to the fact that Indonesian law lacks an updated definition and legal interpretation on the meaning of certain actions. This is especially clear in regards to the Blasphemy Law, which lacks a clear definition of what is considered blasphemous, who can determine what constitutes blasphemy, and how to weigh the harms of blasphemy.¹³⁴ Similar definitional concerns also arise in relation to Indonesia’s defamation law (Article 27 on the Electronic Information and Transaction Law No. 11/2008), which has been used to harass and detain activists in the past under the charge of defamation against the state.¹³⁵

As a result of these vague definitions and the lack of clear legal guidelines and interpretations, judges are left to individually define what each of these terms mean. Given their limited understanding and capacity, judges often resort to well-known local experts (i.e. *Majelis Ulama Indonesia*, MUI),¹³⁶ who are groups that are usually biased towards majority views and hold non-progressive interpretations, which leads to discrimination towards minority people and their beliefs.

3.4 Lack of effective civilian control of security forces.

During the New Order-era, the military played a central role in the political sphere and was responsible for numerous human rights violations and widely feared and loathed by much of the population. During the first three years of the post-Suharto reformasi, there were numerous reforms in the security sector. The most significant of these being the separation of the police from the armed forces and removing the later from politics. With the emergence of a civilian police force, the military was to be responsible for external defense and the police for public order and internal security. From the very beginning, however, this division has been clouded by an additional obligation placed on the *Tentara Nasional Indonesia* (TNI) to defend national unity and integrity. New security laws have mandated further legislation to facilitate military assistance to the government or the police.¹³⁷

Regardless, civilian authorities are generally considered to maintain control over security forces; however, police inaction, the abuse of prisoners and harsh prison conditions have all been raised as ongoing issues in the sector.¹³⁸ So, the expansion of the TNI into non-military domains (e.g. government development programmes) is cited as a concern. Moreover, the TNI have been responsible for some serious human rights violations, yet perpetrators continue to enjoy impunity.¹³⁹ Whilst there is no suggestion that the TNI is bent on returning to the centre of the political sphere, key areas of concern include:

- Demand by the military for a greater role in counter-terrorism operations, especially in Poso;
- Perceived efforts to exclude the police from national security policy-making;
- Dubious military arrests of criminal suspects in a manner designed to embarrass or in-timidate police;
- Pushing for a contentious national security bill to be reinserted on the legislative agenda;
- Delaying the clarification of “grey areas” between the military and police; and
- Expanding military territorial commands.¹⁴⁰
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RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

The Indonesian National Police (*Kepolisian Negara Republik Indonesia*) have been implicated in numerous instances of human rights abuses – especially in conflict areas such as Papua¹⁴¹ – and public opinion overwhelmingly depicts the police force as “corrupt, brutal, and inept”.¹⁴²

3.5 High levels of corruption or poor governance

Indonesia is deemed to have high levels of corruption due, at least in part, to party cartels and oligarchs, systematic corruption networks, and a patron-client culture that has managed to transition with the bureaucracy from the New Order to the current political elite. Indonesia ranks 90th out of 175 countries in Transparency International’s corruption perception index.¹⁴³ This does not mean to say, however, that there has been no moves from the government to address the issue. Indonesia’s well-known Corruption Eradication Commission (*Komisi Pemberantasan Korupsi*, KPK) – established by President Megawati Soekarnoputri in 2002 – have made good use of its broad and independent powers to prosecute and investigate corruption, resulting in the jailing of several high-profile individuals. These include local leaders (e.g. governors, regents), political party chairmen, parliamentary members, high-ranking police officers, and some government ministers.¹⁴⁴

However, as consequence of these efforts key persons in the KPK have been the target of continuous attacks and scandals. The jailing of former KPK leader Antasari Azhar due to his alleged involvement in the controversial murder case of Nasrudin Zulkarnaen, has been viewed by many as ‘payback’ for his prosecution of high ranking officials.¹⁴⁵ Azhar is not the only example; the criminalization of Abraham Samad and Bambang Widjojanto in 2015, both key members of the KPK, has also been seen by many as politically motivated.¹⁴⁶ More recently, KPK’s famous investigator Novel Baswedan, who was working on a wide-reaching embezzlement case that implicated leading members of Indonesia’s parliament, was attacked with hydrochloric acid, forcing him to be hospitalized. Of further concern is that, in recent months, attacks towards KPK have not only targeted individual members but also its systematic powers. Not long after the KPK released the names of several parliamentary member’s accused of being involved in a nation-wide embezzlement case, the House of Representative activated its right of inquiry and established a team to investigate the work done by KPK. This development was vehemently protested against by numerous civil society organisations. After several months of interviewing jailed ex-parliamentary members and others charged with corruption, the inquiry concluded that the KPK risks becoming a super-body that dismisses criticism and could abuse its power for its own interest, without proper oversight by other organs of the government. The team proposed that KPK’s authority be weakened and better-integrated with bodies such as the DPR.¹⁴⁷

3.7 Lack of awareness of and training on international human rights and humanitarian law to military forces, irregular forces and non-State armed groups, or other relevant actors.

Ever since the post-Suharto ‘reformation’, the military has begun to reform its military education program by including human rights and rules of engagement in military training. There is a mandatory 140 hours of instruction on human rights and law in the three-year army-officer academy (AMN) curriculum, and also some specific training in areas of conflict (e.g. Aceh), including studying Acehnese culture, human rights, and rules of engagement.¹⁴⁸ Aside from internal changes, there have been attempts by the military to be involved in externally-led human rights education. In 2015 the Indonesian government partnered with the Association for the Prevention of Torture (APT), a Geneva-based NGO, for training in the implementation of the United Nations Convention against Torture.¹⁴⁹

However, such human rights education – on its own – is not sufficient to effectively instil a military culture that respects human rights. There are still a number of military personnel that have been involved in human rights violations but not brought to justice, such as the execution of three hu-

RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

man rights workers by civilian accomplices of the army intelligence unit based in Lhokseumawe in late-2000.¹⁵⁰ Additionally, whilst some TNI officers were jailed in regard to atrocities in East Timor, human rights advocates considered this tokenism as many former and still serving military and police personnel were acquitted.¹⁵¹ Ongoing challenges associated with embedding a respect for human rights in the military remain. These include that the military has yet to impose penalties for their violations, particularly in conflict areas such as Aceh and Papua,¹⁵² and they are still reluctant to criticize and report violations between and amongst their ranks, as a culture of loyalty permeates the sector and supports an aversion to directly criticizing anyone for a fear of weakening loyalty and patronage ties.¹⁵³

RISK FACTOR 4: MOTIVES OR INCENTIVES

Risk Factor 4 concerns “Reasons, aims or drivers that justify the use of violence against protected groups, populations or individuals, including by actors outside of State borders.” There are four indicators identified as currently applicable to the situation in Indonesia. These primarily concern economic interests, the homogenisation of identity in select areas, the perceived threat posed by minority religious groups by majority religious groups, and inadequate redress of past events that have caused social trauma.

4.2 Economic interests, including those based on the safeguard and well-being of elites or identity groups, or control over the distribution of resources.

Economically motivated conflict around land has been increasing over the last few decades as Indonesia has become host to a growing number of timber and oil palm companies. This adds to the numerous conflicts also readily discussed related to mining and exploration companies, such as in West Papua (**see further Risk Factor 1.7**). Watchdog groups recorded around 600 conflicts, resulting in 22 deaths and hundreds of injuries in 2011 alone, with the Indonesian national human rights commission reporting more than 5,000 human rights violations in 2012, mostly linked to deforestation by corporations.¹⁵⁴ A majority of these conflicts, such as the conflict over the forest area known as Register 45 in the Mesuji district, arise as communities protest and refuse to handover their lands to companies, resulting in security forces evicting them and then patrolling the land boundaries for the companies.¹⁵⁵

The cause of these conflicts cannot be separated from the economic interests of local governments. After decentralization, the governance of state forests (which comprise 70% of existing forests in Indonesia) were effectively given to locally elected officials (i.e. regents, governors) to manage. As a result, these local officials currently exercise almost complete control over land allocation. To help fund notoriously costly elections, it is not unusual for regents to raise funds by facilitating land access for plantations to companies, irrespective of the wishes of their voter base.¹⁵⁶ Even in instances where areas have been designated by the central government as conservation or protected areas, a lack of central oversight and the absence of coordinated and accurate maps provides leeway for local officials to provide permits to companies to operate in, or encroach upon, protected areas.¹⁵⁷ Local officials are legally allowed to refer to the map in their possession when giving-out concessions, regardless of whether the same map at the central level may include a conservation area.

A further issue informing land conflict in Indonesia is that the military are not a neutral player but frequently have a vested economic interests. Cases such as the conflict between the army and Urut Sewu farmers in Kebumen in January, 2011, is a case in point. Represented as a land-use dispute

RISK FACTOR 4: MOTIVES OR INCENTIVES

related to weapon system testing by the military, it was in actuality related to their intent to use the same land for iron mining.¹⁵⁸ On August 2015, as mining in the area began and farmers protested its legality, another bout of small-scale fighting occurred, injuring 17 locals and resulting in the hospitalisation of six.¹⁵⁹

4.4 Other interests, including those aimed at rendering an area homogenous in its identity.

There is no direct evidence of a formal policy to render an area homogenous in its identity, or to rid one identity in favour of another, but there is evidence of a systemic attempt to 'lock-in' the superiority of religious majorities' over the religious rights of minorities. This has resulted in some religious minorities being unable to gain recognition for, or openly practice, their religious rights and identities within Indonesian society without intimidation. There are several key illustrations of this.

The first example is the Joint Decree of the Ministry of Religion and the Ministry of Home Affairs regulating the establishment of a 'house of worship' (HoW).¹⁶⁰ The decree posits specific guidelines for attaining a building permit for a HoW. Aside from requiring the signatures and ID of 90 worshippers who would use the HoW, the decree further necessitates that the HoW committee attain signatures and IDs of another 60 locals within a radius of 500 meters of the intended site of construction.¹⁶¹ Although this does not necessarily make it impossible for religious minorities to establish a HoW, it does make it more difficult and, at times, legally justifies the wishes of the majority to reject the religious rights of minorities. Through this law it becomes almost impossible for minorities to use a common house of one of its members as a place of worship, as people can legally argue that the "house" does not have a permit. Moreover, Hindu and Christian groups report that they are sometimes refused building permits even though they have gathered the necessary signatures.¹⁶² The HoW decree is a symptom, rather than the cause, of the deepening religious intolerance evidenced within Indonesia.

Second, Indonesia's Blasphemy Law delimits religious diversity. Although there is legally no limitation of what religion an Indonesian citizen can uphold, the blasphemy law allows certain dominant groups to label a particular religion as blasphemous according to the majority interpretation and thus, similar to the Joint Decree regarding house of worships, 'locks' a majority enforced religious identity. Problematically, there is no clear definition or limitation specified within the law as to what can and cannot be considered blasphemous, which allows certain groups to stretch the definition to encompass any interpretation or action they find non-conforming to their interpretation. The aggression towards Shi'a in Sampang and Ahmadiyyah in Cikeusik were both preceded by the use of the Blasphemy Law to frame them as aggressors, normalise discrimination and justify the violent actions that followed.

Lastly, the application of Shari'a law in Aceh – one of the most religiously conservative regions of Indonesia – could be said to also impose a majority, homogenous religious identity across a single area. Previously, Shari'a law was only applicable to Muslims, but an amendment in 2015 extended its reach to practitioners of other religions in particular cases. In April 2016, the first non-Muslim (a 60 year old Christian women) was caned 30 times for selling alcohol.¹⁶³

These examples highlight the fact that there is an intensification of religious intolerance evidenced within Indonesia which speaks to a failure to effectively promote tolerance as a national value.¹⁶⁴

4.5 Real or perceived threats posed by protected groups, populations or individuals, against interests or objectives of perpetrators, including perceptions of disloyalty to a cause.

According to some hard-line Islamic groups – such as the Islamic Defenders Front (*Front Pembela Is-*

RISK FACTOR 4: MOTIVES OR INCENTIVES

lam, FPI), Islamic Society Forum (*Forum Umat Islam* FUI), and the National Anti-Shi'a Alliance (*Aliansi Nasional Anti-Shia*) – the Islam majority is under threat from Christians or Islamic sects, and (sometimes) from the government. A staple argument of such groups is that they are struggling against “Christianisation”; a term that refers to Christian efforts to convert Muslims and the alleged growing influence of Christianity in Muslim-majority Indonesia. For example, in interviews with *ulamas* who opposed the establishment of the GKI Taman Yasmin Church in Bogor, they stated that there is no reason for a church to be built in a Muslim dominant neighbourhood aside from the intent to increase their followers in the neighbourhood.¹⁶⁵ A similar rationale was made by the Islamic Jihad Front (*Front Jihad Islam*, FJI) when breaking-up a retreat planned by a Surakarta Church in Yogyakarta. They argued that, aside from having no official permit, the retreats prime purpose was to promote Christianity in the local community during Ramadhan.¹⁶⁶

Another religious group that hard-line Islamic groups have rallied against are minority Islamic sects such as Ahmadiyyah Shi'a. The view of many hard-line Islamic organisations is that, aside from tainting the sanctity of Islam, sects such as Ahmadiyyah divide and weaken the Muslim community. Particularly in the case of Shi'a in Sampang, a majority of the Sunni *ulama* and the population of Sampang perceived that Shi'a teachings had the ability to divide Muslim families, lead to an erosion in children respecting their parents, and sanctioning husbands to swap wives. A Sunni *ulama* in Sampang indicated that ever since Tajul Muluk – the leading *ulama* of the Shi'a community – increased his preaching's, husband and wives were separating and fathers and sons were fighting because there was both Sunni and Shi'a followers within a single household.¹⁶⁷

In an attempt to promote pluralism and maintain national unity, the government recently issued a decree – *Perppu* No. 2/2017 on Societal Organizations – which enables the government to strip social or religious organisations of their legal status. The first group targeted was Hizbut Tahrir Indonesia (HTI), who led much of the mass protest against Christian governor of Jakarta, Basuki Tjahaja Purnama.¹⁶⁸ HTI subsequently labelled President Joko Widodo a “dictator”, arguing that his administration was weakening Islam by unfairly targeting Muslim groups, whilst sympathisers and supporters of the Indonesian Communist Party are still roaming free.¹⁶⁹ Numerous human rights groups (e.g. Human Rights Watch) also condemned the decree, describing it as draconian, while others linked the decision to the battle for the presidency.¹⁶⁹ Regardless of intentions, such moves have fuelled animus towards the state, with Muslim groups presenting themselves as ‘victims’, and reiterates the point that ‘religious harmony’ is not simply something that can be legislated or imposed but rather requires sustained time and effort.¹⁷¹

It is important to qualify that religious intolerance is not simply a Muslim-Christian, Muslim-Shi'a or Muslim-‘other’ religious minority issue; there are victims and perpetrators on both sides. In this sense, it is critically important that the media responsibly attend to the facts and the nuances of intra-communal tensions and refrain from overly emphasising one narrative over the other. In Indonesia, the press tend to underscore Muslim perspectives whilst the international press focus on Christian victims. This representation establishes an unhealthy dichotomy that elides balanced debate. Whilst “Christianisation” has indeed become a politicised rallying cry that has strengthened the formation of anti-apostasy coalitions, there are numerous examples of evangelical organisations explicitly seeking to convert Muslims.¹⁷²

4.9 Social trauma caused by past incidents of violence not adequately addressed and that produced feelings of loss, displacement, injustice and a possible desire for revenge

The legacy of unaddressed conflict induced trauma is significant and arguably relevant in many parts of Indonesia.¹⁷³ Such trauma stems from both communal and anti-state (separatist-related) violence.

RISK FACTOR 4: MOTIVES OR INCENTIVES

On the communal level, the May 1998 riots that targeted the Chinese community generated a sense of loss, displacement, and injustice. However, this has not so much translated into a desire for revenge so much as a lingering sense of distrust and fear.¹⁷⁴ Past incidences that are perhaps more likely to have resulted in a possible desire for revenge are the numerous cases that have led to not only death but forced relocation, such as the relocation of Shi'a from Sampang, Madura, to Sidoarjo, East Java, in 2013 (see further Risk Factor 4.5 above). Previously farmers, the exiled Sampang Shi'a now reside in over-crowded government flats and, without their own land they, have struggled to find work and provide basic subsistence for their families.¹⁷⁵

There are other historical examples of communal violence and forced relocation that have not been adequately addressed and could lead to a possible desire for revenge. These include:

- Madurese migrant farmers in Kalimantan (many who had been in West Kalimantan since the 1970s, some much longer) were displaced after Dayak tribesmen attacked them in 1999 and again in 2001, leading to mass displacement;¹⁷⁶
- Inter-religious violence in Poso, Central Sulawesi in April 2000, also led to mass population movement, with Muslims fleeing to Palu and Christians to Tentena or Manado;¹⁷⁷ and,
- The sectarian violence in the Molucca islands in 1999, 2002 and 2011.¹⁷⁸

All three of the above conflicts – Kalimantan, Sulawesi and Molucca - ended up as communal conflicts but have their antecedents in a much more complex suite of political and economic factors. The death toll in Central Kalimantan was between 1,000-1,500, Sulawesi 600-800, and Molucca around 5,000.¹⁷⁹ There was major displacement and disputes as well as other unresolved grievances which continue to produce periodic clashes up to the present. The most recent 'aftershock' being the violence that racked Ambon (Molucca) in September 2011.¹⁸⁰ All of these examples have resulted in feelings of loss, displacement and injustice. In all cases attempts at reconciliation have been made, yet at least in some of the cases – such as Molucca – there has been no apology and the real drivers of the conflict have not been addressed.¹⁸¹ Moreover, many displaced persons have not returned to their homes. In sum, while it is uncertain if this results in a "desire for revenge", the spectre of long-standing communal harmony is far from certain.

Elsewhere, anti-state related violence has also had significant impacts that resonate with this indicator. The violence in Aceh, Timor and West Papua have all produced feelings of loss, displacement, and injustice, and have not been sufficiently addressed.

RISK FACTOR 5: CAPACITY TO COMMIT ATROCITY CRIMES

Risk Factor 5 deals with “Conditions that indicate the ability of relevant actors to commit atrocity crimes.” This Risk Factor recognises that atrocity crimes require a degree of resources and/or support to commit such crimes. The military and some other key organisations within Indonesia – primarily populist Islamic religious organisations - have the resources and capacity to commit atrocity crimes.

5.1 Availability of personnel and of arms and ammunition, or of the financial resources, public or private, for their procurement.

Indonesia’s military is currently ranked 14 (out of 133) countries by Global Firepower – one of the highest rankings in the region – with an active military force of 435,750 personnel, a reserve force of 540,00 and a “fit-for-service manpower” potential of 107,540,000.¹⁸² According to the Stockholm International Peace Research Institute (SIPRI), military spending as a percentage of gross domestic product (GDP) fell from 1.5% in 1998 to 0.9% in 2016.¹⁸³ The Indonesian Army (*Tentara Nasional Indonesia-Angkatan Darat*, TNI-AD) has a significant arsenal of equipment and in 2007 launched a 25 year plan to modernise its armed forces and increase its firepower capabilities under the so-called ‘Minimum Essential Force’ (MEF) doctrine.¹⁸⁴ Following the dispute over the South China Sea, the military has also begun to equip the Natuna islands with a port and extend its military air base to accommodate more planes.¹⁸⁵ The expansion of the TNI’s public role over the last decade (see **Risk Factor 3.4 above**) also provides the military with greater access to resources not conventionally available to the security sector (e.g. fertiliser, prisons, private infrastructure).¹⁸⁶

In addition to the military, there are numerous para-military, vigilante and other groups that have been, and continue to be, active in Indonesia and who have the potential to commit atrocity crimes due to their size, reach and – in some cases – proximity to state organs. Such groups have a long history in Indonesia. During the New Order period elites co-opted and politicized “youth” as a form of political capital, with the military concept of “total people’s defence and security” justifying the use of civilians and youth organizations – which were often little more than fronts for criminal gangs – to act as proxies for the state.¹⁸⁷ Following the overthrow of Suharto and before the general elections in 1999, more than one hundred new political parties emerged. On the streets of major cities, the new parties scrambled to form paramilitary forces, filling their ranks with *preman* (gangster/criminal) and unemployed youth, replete with military-style uniforms, command structures and an “us against the rest” mentality.¹⁸⁸ These “*satgas*” or paramilitary wings of political parties reflected the reproduction of New Order-style militarism within the new political culture.¹⁸⁹ By late 1999, the *Partai Demokrasi Indonesia Perjuangan* (PDIP) had a *satgas* force numbering around 30,000 nationally – many of whom were *preman* underclass.¹⁹⁰ Today, *satgas* are just one of many so-called “(un)civil groups” that also include vigilantes, militias, youth groups, civil security task forces, militant Islamic (and other religious) groups, ethno-nationalist groups, terrorist organizations and organized crime gangs.¹⁹¹

Whilst the capacity of such (un)civil groups to commit atrocity crimes is difficult to assess, and the current threat of such actions is relatively low. Nonetheless, given the character of past communal conflicts, the precedent of targeting minority groups, the intensification of religious intolerance and the ability of new communication technologies to mobilise people as never before, the potential for such groups to participate in atrocity crimes should not be under-estimated.

5.3 Capacity to encourage or recruit large numbers of supporters from populations or groups, and availability of the means to mobilize them.

The ability of influential actors to rally large numbers of supporters, particularly in times of heightened religious animosity and/or conflict, is evident in a number of cases. The most recent examples are the ‘411’ and ‘212’ mass demonstrations (cf. **Risk Factor 1.10**).

RISK FACTOR 5: CAPACITY TO COMMIT ATROCITY CRIMES

The strategic coordination and speed of public mobilization evidenced during the ‘411’ and ‘212’ rallies demonstrate the role that new communication technologies can play in animating mass social sentiment and action. National Islamic hard-line groups (e.g. MUI, GNPF MUI, FPI) were able to quickly communicate with and mobilise groups at the regional level (e.g. LUIS, BPPKB Bogor) through both announcements at mosques and through social media (e.g. Whatsapp, Facebook). The initial rally, guided by FPI leader Syekh Habieb Rizieq, gathered an estimated 10,000 people (4th November, 411).¹⁹² This escalated to 200,000 people by the second rally less than a month later (2nd December, 212).¹⁹³

Social media, in particular, also provides an unregulated means through which people can generate and disseminate hoaxes or ‘fake-news’ that can ignite and amplify divisive sentiments through the deliberate spread of untruths. This was a serious issue evident in the smear campaign directed against Jokowi during Indonesia’s 2014 presidential election, which falsely claimed that he was, among other things, the child of Indonesian Communist Party members, of Chinese descent, and a Christian.¹⁹⁴ More recently, in 2017, fake-news about communism has been blamed for a riot in Central Jakarta that injured five police officers and damaged property.¹⁹⁵ Whilst social media can be a positive tool for both general citizens and human rights activists,¹⁹⁶ it can also be a medium of societal destabilisation when used by vested interests to promote or normalise discrimination through false-hoods (**cf. 7.14**).

Nevertheless, the ability to generate and mobilise public sentiment and action is not dependent on new technologies alone. The networked, organisational structure of Islamic organisations – where members participate in the community-level stewardship of mosques and are structurally linked to the national level – allows large organisations to have a consistent, wide-reaching and dependable avenue through which to establish and disseminate their messages.¹⁹⁷ When linked to leaders revered for their religious and moral authority, such networks can be both a tool for mobilising the public ‘good’ and a means for fuelling divisiveness and intolerance.

RISK FACTOR 6: ABSENCE OF MITIGATING FACTORS

Risk Factor 6 concerns the “Absence of elements that, if present, could contribute to preventing or to lessening the impact of serious acts of violence against protected groups, populations or individuals”. Such elements, either internal or external, are important considerations in terms of early warning. Of the 11 sub-Indicators subsumed under Risk Factor 6, only three are deemed especially relevant to the Indonesian contexts: limited opportunities for empowerment by minority groups; a lack of civil society representation

6.1 Limited or lack of empowerment processes, resources, allies or other elements that could contribute to the ability of protected groups, populations or individuals to protect themselves.

Victims of past injustices and human rights violations generally lack the capacity to protect and empower themselves. For example, in the recent case of the forced relocation of the Shi’a groups already discussed, there has not been any adequate government or civil society monitoring or reintegration programs to assist with their integration into ‘mainstream’ Indonesian society. Members of the Shi’a community from Sampang and the Ahmadiyyah community relocated from their village in West Lombok, West Nusa Tenggara have found themselves stigmatized by both the local community and the local government in their new ‘homes’. They have been unable to attain national IDs, and thus cannot access basic services, such as the national healthcare system (i.e. BPJS), government economic empowerment programs (e.g. *Bantuan Keluarga Harapan*, *Kartu Indonesia Sehat*), or private-sector loans (banks require people to show a valid national ID as a prerequisite to access loans).¹⁹⁸ In the case of Ahmadiyyah community relocated to Kuningan, West Java, civil servants have reportedly stated that they will not produce IDs unless they convert back to Islam.

As for victims of human right atrocities during the New Order-era, such as the 1965 Indonesian Communist Party purge or the May 1998 riots, peoples capacity to protect and empower themselves has similarly been restricted. As already noted, various attempts to provide victims with some redress (through the establishment of fact-finding committees and campaign promises to address the injustices) have been stymied and co-opted by the vested interest of government authorities and a general lack of political will. Such impunity and the absence of reparations to the victims encourages, rather than dissuades, such actions occurring in the future. In the case of the hundreds of thousands of PKI members and supporters murdered in the 1965 anti-community purge, descendants of victims continue to undergo government monitoring and experience discrimination to this day.¹⁹⁹

6.2 Lack of a strong, organized and representative national civil society and of a free, diverse and independent national media.

Civil society and the media are much healthier and more independent today than under the New Order regime, when the press and civil society were severely curtailed by numerous draconian laws, such as Law No. 8/1985 regarding Societal Organizations which substantially restricted civil society. During the last days of the Suharto regime around 22 of activists disappeared, after which only 9 were safely returned from military custody. A truth-seeking committee was established by *Komnas HAM* to investigate the incident, but military commanders refused to cooperate. Despite a report being formulated, the key members of the military reportedly involved in the disappearances remain free to this day.

Today, the NGO community in Indonesia is large and active, with 48,886 organizations registered at the Ministry of Law and Human Rights.²⁰⁰ Nevertheless, there have been several key events, policies, and trends that raise concern. One of the most alarming incidents was the murder of leading human rights lawyer Munir Said Thalib; the founder of the Human Rights watchdog KontraS and Imparsial who investigated human rights abuses in East Timor in 1999. Munir was found dead with a large

RISK FACTOR 6: ABSENCE OF MITIGATING FACTORS

dose of arsenic in his system after a flight from Indonesia to Amsterdam in 2004.²⁰¹ Although some investigation and trials were conducted, the key actors allegedly involved in Munir's disappearance have not faced justice.²⁰²

Although in recent years there has been no attacks towards members of the press or human organisations as brazen as the assassination of Munir, violence and intimidation against journalists by the military, members of the government and radical religious groups, are still in evidence. According to a report by the Independent Journalist Alliance (*Aliansi Jurnalis Independen*, AJI), between 2006 and 2017 there were 602 acts of violence against journalists.²⁰³ Moreover, in 2016 some NGOs reported that security officials broke into their homes and offices and conducted warrantless surveillance on individuals, while LGBTI advocacy groups reported encountering difficulties registering their organisations.²⁰⁴

Moreover, whilst President Joko Widodo vowed to lift restrictions on foreign journalists covering Papua and West Papua during the May 2015 election campaign, access for journalists is still not automatic, unimpeded, nor granted quickly.²⁰⁵

Another issue hampering a robust civil society and independent media in Indonesia is the 2008 Law on *Electronic Information and Transactions* (ITE Law). With its vague clauses, the law has been used to harass and detain activists in the past under the charge of defamation against the state.²⁰⁶ Many journalists state that they censor themselves because of the threat from the anti-blasphemy and ITE laws.²⁰⁷

Lastly, minority religious and ethnic groups are underrepresented in radio, television, print and electronic media and generally lack a strong civil society voice in Indonesia.

6.11 Lack of an early warning mechanism relevant to the prevention of atrocity crimes.

There is no evidence that Indonesia has incorporated any early warning systems into their formal conflict analysis processes; however, at the 2015 Informal Dialogue on R2P, the Indonesian representative explicitly stated that it wished to build its atrocity preventative capacity by: putting in place a strong normative framework; creating a strong institutional framework (listing various existing human rights structures); and investing more on building community resilience.²⁰⁸ The current status of these developments are unknown.

RISK FACTOR 7: ENABLING CIRCUMSTANCES OR PREPARATORY ACTION

Risk Factor 7 concerns “Events or measures, whether gradual or sudden, which provide an environment conducive to the commission of atrocity crimes, or which suggest a trajectory towards their perpetration.” There six indicators under this risk thematic especially relevant to Indonesia. Of most concern are: the forced relocation of minorities (7.10), the politicization of identity (7.13) and an increase in inflammatory rhetoric (7.14).

7.1 Imposition of emergency laws or extraordinary security measures that erode fundamental rights.

Ever since the fall of the New Order regime, impositions of harsh emergency laws in Indonesia have been largely absent. Even in extreme cases – such as the 2002 Bali bombings – the government refrained from extreme or hasty action. President Megawati did issue a state sanctioned *Perppu* to allow new anti-terrorism laws to be implemented retrospectively, but they were quickly overturned by the Constitutional Court.²⁰⁹

Nevertheless, some laws – such as *Perppu* No. 2/2017 which amended the 2013 law on Societal Organizations (UU *Organisasi Kemasyarakatan* – often referred to in its abbreviated form as UU Ormas). – has raised some concerns. The *Perppu* erases some of the key safe-guards contained in UU Ormas (Articles 62-80) that govern the administrative procedures associated with disbanding societal organizations²¹⁰ The amended *Perppu* essentially centralizes the power of the state to disband organizations, removing the judicial check-and-balances inherent in the earlier *Perppu* by taking-away the right of legal self-defence for organizations. Thus far, the president has only disbanded one organization through the *Perppu* – Hizbut Tahrir Indonesia (**cf. Risk Factor 4.5**) – but the provision has far reaching implications for civil society and is open to governmental abuse.

7.2 Suspension of or interference with vital State institutions, or measures that result in changes in their composition or balance of power, particularly if this results in the exclusion or lack of representation of protected groups.

After the *reformasi* of 1998, aside from the military emergency law enacted in Aceh, Indonesia has rarely witnessed gross governmental interference. Generally, government institutions have acted responsibly. However, there are two incidences of some concern where State institutions have ignored or attempted to alter government edicts.

The first example is the refusal of the local government of Bogor to follow a Supreme Court decisions to reinstate the building permit of the GKI Taman Yasmin Church in 2009 (**cf. Risk Factor 4.5**). Following pressure from Islamic organisations, the HoW permit was revoked. Seeking justice, the coordinator of the GKI Yasmin church sued the government. The legal battle went as far as the Supreme Court, with the complainant’s winning each and every case, yet the government of Bogor continue to ignore the verdict.²¹¹ The blatant refusal to accept the judicial ruling of the State sets an unsettling precedent.

The second example concerns the attempt of several House of Representative (HoR) members to delegitimize and minimize the authority of the Indonesian Corruption Eradication Commission. As previously noted (**Risk Factor 3.5**), in 2017 the HoR launched an inquiry to investigate the possible misuse of power and funds by the KPK.²¹² The inquiry is widely viewed as an attempt to subvert the course of justice and tarnish and weaken the KPK.

Whilst far from the norm, these two cases raise some troubling questions and, if replicated more widely, could signal a shift in the balance of power and the weakening of the rule of law.

7.8 Increased violations of the right to life, physical integrity, liberty or security of members of protected groups, populations or individuals, or recent adoption of measures or legislation that affect or deliberately discriminate against them.

Statistics from the National Violence Monitoring System (NVMS) indicated that whilst there has been an overall decrease in violence since 2004,²¹³ there has been a steady increase in “identity-based conflict” from the late 1990s up until the present.²¹⁴ Statistics from various other organisations identify a similar trend.²¹⁵ The frequency of mob attacks show a 25 per cent increase between 2007 and 2014.²¹⁶ Moreover, a further trend is that some of the violence directed at minorities does not stem from the ‘public’ alone but is increasingly entwined with the State; e.g. police raids and local government bans on minority religious groups (e.g. Bogor).²¹⁷ This is especially evident in the threats and actual violence faced by the Shi’a community in 2012 (cf. **Risk Factor 1.5, 2.4 & 4.5**) and in the local government bans on minority religious groups (e.g. Bogor) (**Risk Factor 7.2**).²¹⁸ Such complicity is not just a consequence of a lack of political will at national and local levels but also symptomatic of a closer relationships between politicians, key chief police officers and powerful Islamist organisations. Additionally, as already noted, the lack definitional clarity inherent in the Blasphemy Law allows dominant groups to label minority religious group as blasphemous, naturalising discrimination and rationalising divisiveness (**Risk Factor 4.4**).

7.10 Imposition of life-threatening living conditions or the deportation, seizure, collection, segregation, evacuation, or forced displacement or transfer of protected groups, populations or individuals to camps, rural areas, ghettos or other assigned locations.

There are numerous cases where the government have forcibly relocated minority groups – generally under the guise of “protection”, “resolving tensions” and ensuring “peace and security” (**Risk Factor 2.4**) – to locations that, whilst not necessarily “life-threatening” have had a deleterious impact on their well-being. The relocation of the Shi’a community from Sampang, Madura, to Sidoarjo, East Java, and the relocation of Ahmadiyyah groups to Cikeusik, West Java, are the most prominent examples. For the past 5 years the Shi’a community that was relocated to Sidoarjo have faced extreme hardship. They have been forced to live in inadequate government housing (the Puspa Agro complex, which provides approximately 70 houses for 84 families), experience regular interruptions to their piped-water services (in August 2015, one lasted more than four days), and they are forced to find new livelihood vocations for which they have had no experience. Similarly, the government’s restrictions on Ahmadiyyah groups, based on a joint ministerial decree which paved the way for district officials to legally (and forcibly) relocate them, has also had a detrimental impact of their well-being.²¹⁹

7.13 Increased politicization of identity, past events or motives to engage in violence.

As elucidated in various indicators, the politicization of identity and past events is a common theme in Indonesia, especially during election campaigns. Moreover, it appears to be an effective political strategy and thus is likely to continue and probably intensify in the future. The most common identities politicized are religious identity (mainly Islam) and ethnic identity (mainly *Pribumi*, indigenous ethnicities of Indonesia). Moreover, tainting present day politicians as sympathetic towards the Communist (the PKI) – as has been levelled against Widodo – amounts to the politicisation of past event. Such politicisation was vividly on display during the recent 2017 Jakarta gubernatorial election (cf. **2.5, 5.3**). The use of religious identity for political means seems the most common and troubling trend at present.²²⁰

To elucidate: Multiple hard-line Islamic groups rallied in late 2016 advocating for, initially, the jailing of Basuki due to his alleged blasphemous act. The rally was quickly co-opted by hard-line groups to further their political aspirations, advocating, for example, that Muslims should only

RISK FACTOR 7: ENABLING CIRCUMSTANCES OR PREPARATORY ACTION

choose a Muslim governor. The ability to leverage the then-incumbent's alleged blasphemous act made it easy for hard-line groups to suggest that a non-Muslim would be a leader that does not respect Islam. The Ulama Council (*Majelis Ulama Indonesia*, MUI) reminded people of a fatwa urging Muslims to "choose leaders according to Islamic principles... and ones that fight for the interest of the Islamic society."²²¹

The MUI comprises ulamas from multiple Islamic organizations, from the moderate *Nahdlatul Ulama* and *Muhammadiyah* to hard-line groups such as FPI and MMI, yet it has always had a hard-line approach to many issues (in 2008 it promoted a fatwa that liberalism is *haram*).²²² Due to their large membership base, coupled with their legal monopoly to provide *halal* labels, the MUI has a quasi-state like status of authority and can significantly inform election outcomes by supporting or critiquing candidates. Additionally, through their large networks hard-line groups can disseminate narratives and mobilise people – such as mass rallies – quickly and effectively.²²³ These combined factors make the politicization of religious identities an easy and effective tool of persuasion.

7.14 Increased inflammatory rhetoric, propaganda campaigns or hate speech targeting protected groups, populations or individuals.

As elsewhere in the world, hate speech is a growing issue in Indonesia.²²⁴ In 2017, police uncovered a syndicate – called Saracen – who was being paid to spread incendiary material online through social media. The material involved religious and ethnic issues and posted defamatory claims concerning select government officials.²²⁵

Such inflammatory rhetoric has often targeted Chinese minorities; either in an attempt to use them as scapegoats for government failures, e.g. the recession following the Asian Financial crises, (cf. 2.1), or to rally voter groups for/against a cause, e.g. influence Jakarta's 2017 gubernatorial election by raising suspicions about governor Basuki Tjahaja Purnama by drawing on his double minority status (Christian-Chinese) (cf. 1.10). In regards to Basuki, ulamas affiliated with hard-line Islamic groups repeatedly argued that Jakarta's ongoing reclamation project (a project spearheaded by Basuki) was being undertaken so that Jakarta would have more land to sell to Chinese businessmen and citizens. In mosques and advertisements they argued that the reclamation project was already underway in China and such developments would result in the theft of *pribumi* land. Youtube videos proffering these views went viral, making their impact even more far reaching.²²⁶ Now, even after the campaign has ended, this divisive rhetoric is still at play; in his recent inauguration speech the elected Jakarta governor controversially spoke that "in the past, we *pribumi* were conquered. Now, it's time for us to be hosts in our own land."²²⁷ Not long after the governor's inauguration speech, Jakarta witnessed the rise of many banners romanticizing the *pribumi*.

²²⁸

RISK FACTOR 8: TRIGGERING FACTORS

Risk Factor 8 relates to 'events or circumstances that, even if seemingly unrelated to atrocity crimes, may seriously exacerbate existing conditions or may spark their onset'. There is only one key indicator deemed especially relevant to the Indonesian context, and again this primarily concerns religious intolerance.

8.6 Religious events or real or perceived acts of religious intolerance or disrespect, including outside national borders.

As already, elucidated, acts of religious intolerance are commonplace and appear to be on the rise in Indonesia. The most common example is legally disputing, blockading, and/or attacking minority religious house of worships, mainly Churches, e.g. the case of the GKI Taman Yasmin Church in Bogor (cf. 4.4 & 4.5). Other examples could be proffered, such as the destruction of 10 churches in Aceh in 2015.²²⁹

Further examples include the forceful relocation of minority religious groups rationalised by state actors by suggesting that they “would not be able to contain the oncoming violence”;²³⁰ e.g. Shi’a communities in Sampang in 2012 and the Ahmadiyyah in Cikeusik in 2008 (cf. 1.5, 2.4). An example not yet mention is the relocation of Gafatar members (a minority Islamic sect). Community attacks directed towards the Gafatar began as early as 2011, and was animated due to the groups belief that their spiritual leader, Ahmad Moshadeq, is a prophet. The violence, culminated in 2016 when Ahmad Moshadeq was convicted guilty of blasphemy. As a result, attacks towards the community in Kalimantan increased and ultimately around 7,900 people were forcefully relocated from Kalimantan to Java and elsewhere.²³¹

Such religious intolerance is arguably the prime ‘trigger’ capable of animating atrocity crimes within Indonesia.

RISK FACTOR 9:

INTERGROUP TENSIONS OR PATTERNS OF DISCRIMINATION AGAINST PROTECTED GROUPS

Risk Factor 9 relates to 'past or present conduct that reveals serious prejudice against protected groups and that creates stress in the relationship among groups or with the State, generating an environment conducive to atrocity crimes'. This Risk Factor is specific to the atrocity crime of genocide and refers to discrimination of a protected group on the basis of identity (national/ethnic/racial/religious). As already examined in various indicators above, they key concerns here are the discriminatory and restrictive policies and practices directed at minority religious and ethnic groups.

9.1 Past or present serious discriminatory, segregational, restrictive or exclusionary practices, policies or legislation against protected groups.

During the New Order-era there was widespread discrimination and exclusionary practices directed against numerous ‘protected groups’, including indigenous groups (e.g. in West Papua, Sumatra, Kalimantan, Sulawesi and elsewhere), as well as the Chinese minority.

For Indonesia’s numerous ethnic and sub-ethnic groups – estimated at over 1,000²³² – the economic strategies of the New Order regime, supported by the IMF's Structural Adjustment Programs, sort to increase economic development by opening-up its natural resources to investors, without due consideration to the indigenous peoples who lived in and owned these resources.²³³ The New Order regime passed the Foreign Investment Law (UU No 1/1967 Penanaman Modal Asing). A later

RISK FACTOR 9:

INTERGROUP TENSIONS OR PATTERNS OF DISCRIMINATION AGAINST PROTECTED GROUPS

Government Regulation (20/1994) permitted foreign investors to hold 100% of shares in Indonesian companies and allowed them to go through governors, mayors or district heads instead of the Investment Coordination Bureau (*Badan Koordinasi Penanaman Modal*). This law paved the way for investors to establish companies or factories in resource rich areas. Similarly, the Forestry Act 41/1999 defined customary forest as state forest, thus denying the existence of communal rights. This kind of legislation has led to the eviction of indigenous peoples whenever the state wished to use their land. Companies that invested capital in the forestry, mining, plantation and fishery sectors did not allow indigenous peoples into their concessions, and security guards would arrest community members and charge them with stealing company property if they did not respect these edicts. Moreover, the military were heavily involved; as a reward for the support of Suharto, they gained strategic positions in government agencies and in state-owned companies, establishing a vested commercial interest and ensuring that exclusionary laws and practices directed against indigenous peoples were enforced (e.g. acting as security guards for companies).²³⁴

In regards to the minority Chinese population, discrimination and exclusionary practices included the closure of Chinese schools and the forceful relocation of Chinese communities were from certain areas. In 1978, the culmination of discrimination to Chinese descendants came to a head when the government began requiring a Letter of Proof of Citizenship of the Republic of Indonesia (*Surat Bukti Kewarganegaraan Republik Indonesia*, SBKRI). Although the SBKRI was required for all citizens of foreign descent, it was generally applied and monitored only to Chinese descendants, ultimately making it difficult for them to enrol in state universities, gain employment as civil servants, or join the state's security apparatus.²³⁵

As outlined in various Risk Factors above, in the post-*reformasi*, such discriminatory and exclusionary practices have also been regularly directed towards religious minorities (i.e. Shi'a, Ahmadiyyah, and Gafatar) and are amplified and naturalised by laws and regulations, such as the Blasphemy Law and House of Worship Law. Additionally, the 2008 Joint Ministerial Decree on Ahmadiyyah (*Surat Keputusan Bersama Tiga Menteri tentang Ahmadiyyah, SKB Ahmadiyyah*) contains six clauses which direct Ahmadiyyah communities and organization to cease all activities that are perceived to run contrary to the majority Sunni interpretation of Islam, and further instructs all provincial and district government to follow-up on the directive by issuing guidance and legal measures to the Ahmadiyyah community.²³⁶ It is through this decree that the local government in Cikeusik was legally enabled to forcibly relocated the Ahmadiyyah community (see Risk Factor 4.5). Despite criticism from local and international actors, the decree still stands.

9.2 Denial of the existence of protected groups or of recognition of elements of their identity.

Since 2008, the Ahmadiyyah community have faced multiple forms of discrimination that amounts to a failure to recognise key aspects of their identity. As previously noted, the Ahmadiyyah in Manis Lor, Kuningan, Jawa Barat, have been denied state ID cards, which are a requirement to access essential state services. Additionally, in 2015, various actors attempted to coerce the Ahmadiyyah into signing a form that stated that they were now ready to be “guided” in the “right way” – meaning that they would desist from following their perceived heretical religious beliefs – and it appears that state authorities are reluctant to issue the ID cards in fear of the response it would generate from influential hard-line Islamic groups.²³⁷

9.5 Past or present serious tensions or conflicts involving other types of groups (political, social, cultural, geographical, etc.) that could develop along national, ethnical, racial or religious lines.

Multiple conflicts in Indonesia originate from economic and political factors but subsequently develop along ethnic and religious lines. Two key examples of this are the conflicts in Maluku and Poso.²³⁸

RISK FACTOR 9:

INTERGROUP TENSIONS OR PATTERNS OF DISCRIMINATION AGAINST PROTECTED GROUPS

The conflicts in Maluku (between Muslims and Christians in Maluku between 1999 and 2002) resulted in the deaths of almost 5,000 people and the displacement of a third of the civilian population in Maluku and North Maluku. The conflict stemmed from a sense of injustice dating back to Dutch colonisation. The Dutch favoured Christians over non-Christians, granting them greater educational, economic and political rights. Later, under Suharto's transmigration program and through the appointment of a Muslim as the governor of Maluku, Muslims steadily gained important political positions.²³⁹ Christians increasingly felt that their once privileged position was being unfairly eroded, and eventually conflict flared.

The conflict in Poso, Central Sulawesi, is similar to Maluku in that what developed into an inter-communal, sectarian conflict, originated in tensions around economic and political inequality. Whilst always a multi-ethnic region with a long tradition of Arab traders, Dutch missionary activity at the turn of the 20th century resulted in many of the indigenous peoples of the region – especially in the highlands (e.g. Pamona, Mori, To Napu, Behoa and Bada) – becoming Christians.²⁴⁰

However, following Suharto's transmigration program, by 1997 it had become demographically, economically, and politically dominated by Muslims. The sentiment of injustice felt by the Christian community deepened and reached a tipping point in 1998 and 2000.²⁴¹ On December 20, 2001, the Malino I Declaration was signed between the two conflicting parties, formally concluding the conflict. However, sporadic attacks, bombings and shootings persisted for a number of years, and the government responded by launching military operations for fighting what it referred to as 'terrorism'.²⁴²

Although both conflicts have been resolved and the central government has implemented various social and economic development initiatives and programs for the victims and refugees of the conflict, in both instances analysts have criticized the resolution processes and suggested that long-lasting 'peace' is far from assured.²⁴³

9.6 Lack of national mechanisms or initiatives to deal with identity-based tensions or conflict.

Indonesia has no standardized national conflict resolution mechanism to deal with identity-based conflict. The numerous cases examined herein (e.g. Ahmadiyyah, GKI Yasmin, and Shi'a) have not, as yet, been subject to any state supported reconciliation or mitigation programmes. Thus far, the key methods used to resolve identity-based tensions have been legal which, as addressed under various Risk Factors already (e.g. 3.1, 3.2, 3.3., 3.7), are prone to majority bias and rarely allow for the equal recognition and protection of minority rights. Oftentimes, such legal means have not resolved but rather normalised and escalated tensions. This was the case, for example, with the conviction of Tajul Muluk (leader of the Shi'a community in Sampang, Madura) under the Blasphemy Law, after which violence against the Shi'a actually rose. The use of such laws seems to embolden and further justify discrimination and violence.

Without any national mechanism to guide local government officials, regents are forced to rely on their own initiatives to resolve tension. More often than not, their decisions are calculated on short-term interests (favouring the religious majority who are crucial to their re-election). As a result, regents tend to resort to populist policies that sacrifice the rights of minorities, as evidenced in the examples of forced relocation of minorities (i.e. Shi'a, Ahmadiyyah, and Gafatar followers). This bias and partiality extends to the security sector. The "community policing" strategy, for example, results in police officers prioritizing their long term relationship with key community representatives, including *ulamas*, above that of minority groups, resulting in further inequality (cf. Risk Factor 3.2).

CONCLUSION AND RECOMMENDATIONS

Despite the significant progress that Indonesia has made towards strengthening democracy and addressing human rights issues since the reformation, it is clear that the country is not immune from the risk factors which can lead to atrocity crimes. In particular, Indonesia has not yet addressed past atrocities. Whilst the government have made some efforts in this regards – e.g. the ‘truth and reconciliation’ process – the State has not provided justice for the victims, it has not adequately investigated past atrocities, and nor has it brought perpetrator’s to trial to face justice. History reminds us that atrocity crimes are more likely to occur in contexts where the legacies of past atrocities or human rights abuses have not been adequately addressed through individual criminal accountability, reparation, truth-seeking and reconciliation processes. Addressing impunity is one of Indonesia’s most pressing challenges.

The second most concerning issues highlighted in this risk assessment is the number of indicators that capture the politicisation of ethnic and/or religious identity; especially during election campaigns. The most common identities politicized are religious identity (mainly Islam) and ethnic identity (mainly *Pribumi*, indigenous ethnicities of Indonesia), although tainting politicians as sympathetic towards the Communist (the PKI) is also in evidence. As elsewhere in the world, the use of inflammatory rhetoric, rise of nationalism and normalisation of intolerance is clearly on the rise. Combined with high-levels of ethnic diversity and the presence of religious minorities, alongside intra-State development gaps and land and recourse conflict, is a worrying combination that has proven to be an indicator of atrocity crimes in the past. These issues cannot be addressed in isolation and require sustained, substantive and coordinated attention.

In conclusion, Indonesia is currently not experiencing any substantial internal conflicts, genocide, or crimes against humanity. Moreover, the current administration has and is showing a welcome commitment to improving human rights. However, commitments alone are never enough and action, more than words, are needed to prevent any possibility of atrocity crimes occurring in the future. Based on this assessment, Indonesia currently meets nine out of the fourteen key risk factors outlined in the Framework of Analysis. This stands as a clear warning to the government, civil society, regional actors and the international community to work meaningfully, cooperatively and respectfully towards addressing each and every risk factor.

RECOMMENDATIONS FOR THE GOVERNMENT OF INDONESIA	
Regarding past human rights abuses, whilst reconciliation effort with the victims is necessary, the government should undertake real actions to settle these cases to prove its commitments by bringing perpetrators to justice	
In terms of institutions (regulatory frameworks and state agencies):	
1	Continue to ratify the remaining international human rights protection instruments, especially the Rome Statute, to prevent the conduct of mass atrocities.
2	Harmonise all national and local regulations to prevent any contradiction. For example, whilst the Constitution clearly protects religious freedom, there are many local regulations issued to limit this religious freedom. Moreover, there is also a need to scrutinise court rulings which essentially against the fundamental principles enshrined in the Constitution.
3	Conduct judicial review for some legislations containing controversial articles, such as Blasphemy law, the Information and Electronic Transaction law (on defamation article).
4	Create practical guidance for state authorities, especially for law enforcement authorities on how to deal with specific cases of ethnic/ religious-based conflicts and criminal acts.
5	As part of early-warning system, create specific mechanism for the relevant ministries and institutions (Coordinating Ministry for Political Affairs, Law and Security, Coordinating Ministry for Human Development and Culture, Ministry of Home Affairs, Presidential Staff Office), to have regular dialogue with civil society to detect and monitor any possible risk factor to develop.
6	Mainstream the understanding on risk factors to atrocity crimes to relevant state institutions, especially those responsible with elections process due to the increasing likelihood of election-related conflict/ tension.

Structural problems:	
7	Continue the effort to eradicate rampant corruption, particularly to create an independent and impartial judiciary system.
8	Address unequal distribution of resources among different areas in Indonesia.
Dealing with trigger factors:	
9	Ensure protection against the minority groups by treating every criminal/ vigilante acts against minority groups by bringing the perpetrators to justice. Inaction by law enforcement authorities should not be tolerated.
10	Prevent politicisation of identity by imposing clear sanction against any political parties/ politicians especially during election period.
11	Whilst media freedom should be guaranteed, take appropriate action or sanction against media which facilitate the spread of inflammatory rhetoric and hatred speech should be imposed.
FOR REGIONAL ACTORS	
1	The ASEAN Intergovernmental Commission on Human Rights (AICHR) as the key regional human rights body to actively provide early warning alerts whenever there is a serious human rights violation in any member state.
2	Enhance the role of the ASEAN Institute for Peace and Reconciliation (AIPR) to include assessment of various conflict potentials in member states, including internal conflicts, to prevent escalation into atrocity crimes.
3	Explore opportunities for exchange of information and best practices from other regional institutions, i.e. European Union, Latin American on human rights promotion and protection.
FOR CIVIL SOCIETY ACTORS	
1	Voice out concern, as part of early-warning, whenever there is a case that has strong tendency leading to atrocity crimes.
2	Enhance networking opportunities with civil society in other regions to exchange ideas and creative ways for atrocities prevention.
RECOMMENDATIONS FOR THE INTERNATIONAL COMMUNITY	
1	Provide appropriate resources necessary to the Indonesian government to develop its early-warning system for atrocity prevention. This assistance can take form in organising dialogue/visits with/for relevant stakeholders to learn from countries who are able to develop specific platforms and instruments for atrocity prevention. For example, to develop a system to conduct media monitoring or countering hatred speech; training for relevant state authorities on how to deal with or to adjudicate cases of atrocity crimes.
2	Continue to support Indonesian security sector reform, including police reform.
3	Assist the local civil society to develop various activities, particularly to campaign for atrocities prevention.

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