

ASIA PACIFIC REGIONAL OUTLOOK

JUNE 2019 ISSUE 12



Featured in this issue...

New rounds of violence
in Rakhine

Post-election turmoil
in Indonesia

Brunei come back
from the brink

Government
sponsored sexual
violence in Myanmar

REGIONAL ATROCITY RISK ASSESSMENT



Very High

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

High

China

Moderate
(high to low)

Indonesia

Low

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

Very low

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



The risks of atrocities remain very high in Myanmar as violence continues in Rakhine state amidst fierce battle between the Tatmadaw and the insurgent Arakan Army (AA). In May, Amnesty International accused the Tatmadaw of committing fresh war crimes in Rakhine using extrajudicial killings, arbitrary arrests, enforced disappearances, and torture against AA insurgents and civilians. It also claimed that some Rohingya Muslims who have remained in Rakhine were also killed during the military's operations against AA rebels. The safe repatriation of Rohingya from Bangladesh has been stalled and access to humanitarian aid to Rohingya villages in Rakhine has been severely restricted due to continuing military operations against AA insurgents.¹

As of 31 May, some 20 civilians have been killed since January, along with 100 AA insurgents and 31 border police based on information provided by the central government. Accordingly, 32 police and 43 civilians have been wounded, with six police officers gone missing since the start of the clashes in January. For its part, the AA claimed that the Tatmadaw suffered 1,114 casualties resulting from more than 100 clashes since the beginning of the year. Although the government claims that there are now 33,000 internally displaced persons in Rakhine as a result of the infighting, civil society groups dispute this with a higher estimate of close to 42,000 IDPs.² Grave threats to Arakanese civilians remain high as the military indiscriminately fires upon villages, schools, and monasteries (where many Arakanese flee) and often leaves unexploded ordnance. In mid-June, at least three men and a child were wounded in Mrauk-U Township after a military unit opened fire along a village road. It was the second attack by the military on the same village (the first one was in March when it launched a mortar that resulted in two people being injured).³ Violence in Rakhine is likely to continue as the Tatmadaw and the AA, together with the other armed insurgent groups that compose the Northern Alliance, fail to negotiate a ceasefire agreement.⁴

Against this backdrop, the Tatmadaw refuses to be held accountable for atrocities committed by its troops against the Rohingyas in Rakhine. In fact, it granted an early release of seven soldiers who were jailed for the killing of 10 Rohingya men and boys during the military's clearing operations in August 2017. The soldiers were freed in November 2018 or less than a year after they were sentenced to 10 years in prison.⁵ In contrast, the two Reuters local journalists who reported on the massacre of Rohingyas in Rakhine, were released only in early May after spending 511 days since their arrest in December 2017.⁶

Meanwhile, the repatriation of the Rohingya people who fled to Bangladesh following the military's clearing operations in 2017 remain uncertain as the Myanmar government's commitment to their safe, dignified, and voluntary return remains in doubt. Bangladesh and Myanmar have traded blame over the stalled efforts in repatriating over 740,000 Muslim Rohingyas back to Rakhine, with the former accusing the latter of being reluctant to take back the refugees despite a bilateral agreement signed in November 2017 and an MOU signed by Myanmar with the UN High Commission for Refugees and the UN Development Program in June 2018. For their part, Myanmar officials claimed that Bangladesh failed to hand over completed forms signed by Rohingya refugees, which stipulate that the repatriation must be voluntary and that they (Rohingyas) would submit to Myanmar laws.⁷ These conditions however are unacceptable to the refugees as Myanmar refuses to guarantee that they would be granted citizenship or any legitimate status that would ensure their freedom of movement within the country, as well as access to livelihood and other basic services after repatriation. Most likely, returning Rohingya people will be placed in camps or resettled in restricted areas in Rakhine with limited movement with no access to livelihood and basic services. They are also vulnerable to threats from Buddhist nationalists, local militias, and the military even as they will also be caught in the crossfire between the Tatmadaw and AA insurgents in Rakhine.

Thus far, ASEAN has been unable to act effectively in persuading Myanmar to stop the atrocities being committed by the Tatmadaw in Rakhine. While the ASEAN Humanitarian Assistance (AHA) Centre has been tasked by ASEAN leaders to undertake a needs assessment survey of affected communities in Rakhine in relation to the planned repatriation process, its preliminary report was criticised by human rights organisations and Rohingya refugee communities for failing to address the atrocities committed by the military and the concerns of those who will be repatriated.⁸

During the 34th ASEAN Summit in Bangkok on 22-23 June, foreign ministers sought a clear timeframe from both Bangladesh and Myanmar for the repatriation of Rohingya refugees.⁹ For his part, Malaysian Foreign Minister Saifuddin Abdullah stressed that the perpetrators of atrocities against the Rohingyas must be brought to justice even as he pointed out that their repatriation from Bangladesh must include grant of citizenship in Myanmar.¹⁰ In its Chairman's Statement issued at the end of the Summit Meeting in Bangkok, ASEAN: 1) reaffirmed its continuing support in providing humanitarian assistance to Myanmar, facilitating the repatriation process, and promoting sustainable development in Rakhine; 2) recognised the work of the ASEAN Humanitarian Assistance (AHA) Centre in undertaking a preliminary needs assessment in connection with the repatriation of refugees; 3) expressed support for Myanmar's commitment to ensure the safe, voluntary, and dignified repatriation of refugees; 4) encouraged the government of Myanmar to fully implement the remaining recommendations of the Kofi Annan Commission on Rakhine; and 5) expressed its expectation that the Independent Commission of Enquiry (ICoE) established by the Myanmar government would seek accountability by "carrying out independent and impartial investigation into alleged human rights violations and related issues."¹¹

Due to dismal conditions in Bangladesh, a number of Rohingya refugees are desperate to go out to sea by boat into Indonesia, Thailand, and Malaysia, risking their lives if not falling victim to human traffickers. Thai navy officials reported on 12 June that

some 65 Rohingya Muslims were shipwrecked and stranded in southern Thailand¹² while Malaysian authorities in April were on the lookout for some 200 Rohingya refugees on boats after a number of children and men aged 14 to 30 were detained after landing in a beach in the state of Perlis.¹³ The number of Rohingya refugee boats crossing the Andaman Sea from Rakhine and Bangladesh usually increases before the start of the monsoon season in June. Since December 2018, the flurry of Rohingya exodus by boat into Indonesia, Malaysia, and Thailand has reached the same level as that in 2015.

Overall, communal tensions in Myanmar may be expected to increase further as Buddhist nationalists continue to incite violence against Muslim communities even as the government ordered the arrest a leading nationalist monk. During the Ramadan period, a number of Buddhist nationalists forced the shutdown of three Ramadan worship sites in Yangon even though these had permits.¹⁴ Meanwhile, some 300 followers of nationalist monk Wirathu staged a protest rally in Yangon denouncing an arrest order from the court against him on sedition charges.¹⁵ Wirathu, who has been in hiding following the arrest order, will be tried in absentia. The government's crackdown against the nationalist monk is unlikely to restrain his group's attacks on Muslims in the country as the military recently donated 30 million kyats (or USD 19,600) to his foundation (formerly known as MaBaTha). A Tatmadaw spokesman said that the donation was a "necessity" and in support of Buddhism, while defending the group's "intention" to protect race and religion.¹⁶

Recommendations:

The government of Myanmar must:

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

The international community should:

1. Ensure that all policies and practices are guided primarily by concerns for the protection of fundamental human rights.
2. Support efforts to ensure that atrocity crimes are properly investigated, evidence collected, and alleged perpetrators held accountable for violations of international humanitarian and human rights law.
3. Support the ICC's preliminary examination of atrocities committed against the Rohingya and ongoing UN investigation on its failure to act in preventing the escalation of conflict in Rakhine since 2012.
4. Utilize diplomatic means to demand that the Myanmar government and Tatmadaw fulfil their obligations to prevent atrocity crimes, grant humanitarian access, protect vulnerable populations, cooperate with the United Nations, and hold perpetrators accountable.

5. Employ targeted measures, including sanctions, travel bans and the withdrawal of cooperative arrangements, against institutions and individuals thought responsible for atrocity crimes, until legal accountability is achieved.
6. Suspend all military aid and training programs with the Myanmar armed forces.
7. Provide adequate and sustained humanitarian assistance to Rohingya, Arakanese, and other Myanmar refugees in Bangladesh from other conflict-affected areas who are in Thailand, as well internally displaced persons in Rakhine, Shan, and Kachin states.
8. Take steps to prepare for the resettlement of displaced Rohingya in Myanmar. This process should be overseen by the UNHCR.
9. Carefully review development programming to ensure that it does not in any way reward or support the government's actions in Rakhine or support programs connected to individuals and institutions responsible for the commission of atrocity crimes.
10. Coordinate efforts in shaping an effective regional response with ASEAN.
11. ASEAN should use diplomatic mechanisms to influence the Myanmar government, taking steps to ensure protection of all civilians in conflict-affected areas and humanitarian access in these areas, and strongly encourage Myanmar to commit implement the Rakhine Advisory Commission's recommendations in full.
12. ASEAN should also seriously consider suspending Myanmar's membership if the government continues to fail take concrete steps in fulfilling its primary responsibility to protect, including holding accountable the perpetrators of human rights violations in Rakhine and other conflict areas in Myanmar and ensuring the safe, dignified, and voluntary repatriation of refugees.
13. ASEAN should take seriously the findings of the UN Fact Finding Mission and call on the ICoE to ensure that its findings are impartial, transparent, and independent in holding the perpetrators of atrocity crimes in Rakhine accountable.
14. Civil Society actors should continue to raise international awareness about the commission of atrocity crimes and advocate for accountability, humanitarian protection, and atrocity prevention in Myanmar.

THE PHILIPPINES VERY HIGH RISK



The risk of atrocities in the Philippines remain very high as deaths from the government's anti-drug war, extra-judicial killings (EJKs), and politically-motivated killings continue to rise. While the recent mid-term elections in May were generally peaceful and orderly, there were 144 incidents of election-related violence that were reported in Mindanao involving the use of explosions and brawls among political supporters of candidates. As Mindanao is under martial law, these incidents are relatively low compared to previous elections. However, these violent incidents usually spill over into clan-violence and other identity-based con-

licts in Mindanao.¹⁷

The Philippine National Police (PNP) on 6 June reported that as of 31 May 2019, there have been 6,600 drug suspects who were killed under the government's anti-drug operations since the Duterte administration took over on 1 July 2016.¹⁸ However, an independent consortium of academic institutions in April placed the number of drug-related deaths in the country at over 7,000 (for the period 10 May 2016 to 31 December 2018) based on media reports of anti-drug killings throughout the country.¹⁹ While the number of drug-related killings remain disputed, the Supreme Court of the Philippines in April said that the number of deaths in the government's drug war is "a matter of grave public concern" as it directed the Duterte administration to release police reports related to its anti-drug operations. The Supreme Court granted the petition of human rights defenders for the release of these reports despite strong objections from the government.²⁰ An initial examination of police reports by human rights lawyers indicate that there was a pattern of lack effort on the part of the PNP to investigate the killings related to the drug war.²¹

Meanwhile, the Philippine Drug Enforcement Agency (PDEA), which is the lead civilian agency in the government's anti-drug war, reported in April that the conviction rate for drug related cases in 2018 increased by 46.82 percent (31,111 out of 41,583 cases filed in 2018, or 81.82 percent) compared to 35 percent of 41,224 cases filed in 2017.²²

On 8 June, eleven independent international experts called on the UN Human Rights Council to launch an independent investigation on "the sharp deterioration of human rights" in the Philippines based on the staggering statistics on unlawful and violent killings of drug suspects. The Philippine government however rejected the call and branded it as an "act of bad faith" that aims to undermine the country's domestic legal processes. Specifically, the Department of Foreign Affairs accused the experts of showing bias and political agenda even as it argued that they ignored accountability measures and other information provided by the Philippines in good faith.²³

Extra-judicial killings in the Philippines in relation to the government's drug war appears to have contributed to the rise of homicide rate in the country, which is three times more than what it was before Duterte took over in 2016 and five times higher than the average in Southeast Asia.²⁴ Specifically, these drug-related EJKs may have encouraged more political killings, vigilantism, turf wars, violent land grabs, and settling of scores in the country, which were all carried out on the pretext of anti-drug operations by corrupt policemen, local officials, or vigilantes according to a researcher of Human Rights Watch.²⁵ The PNP has confirmed that apart from confirmed deaths related to the drug war, there are some 29,000 homicides since mid-2016 that are still under investigation. Together with official figures on drug-related deaths, the average rate of non-conflict homicide in the Philippines increased to 22 per 100,000 people from 9 per 100,000 people before Duterte came to power, according to UN Office on Drugs and Crimes. Clearly, this is higher than the Southeast Asia average of 4.3 per 100,000 people.²⁶

Notwithstanding concerns over drug-related killings in the country, Duterte's overall satisfaction rating in the country remain high at 79 percent as of March 2019, which is a 5 point increase from his satisfaction rating of 74 percent in December 2018. In Mindanao, his satisfaction rating improved by 15 percent from 83 percent in December 2018 to 92 percent in March 2019. This may be due to the passage of the Bangsamoro Organic Law (BOL), which was ratified in January this year, and the creation of the Bangsamoro Transitional Authority (BTA) that will oversee the implementation of the organic law.²⁷ The high approval rating of Duterte also contributed to the dismal loss of opposition candidates in the Senate during the mid-term elections in May as they focused on criticising the government's anti-drug war and its timid response to China's aggressive behaviour in the South China Sea.

Recommendations

The government of The Philippines should:

1. Take positive steps to ensure that the security forces conduct themselves in a manner consistent with their legal obligations under international human rights law.
2. Continue to ensure that the Philippines Drug Enforcement Agency leads anti-drug policy, and that there is adequate oversight of police.
3. Ensure that allegations of extra-judicial killings committed by police and security forces against drug suspects, journalists, indigenous peoples, and environmental protection activities are properly investigated and the perpetrators held accountable before the law.

THE PHILIPPINES VERY HIGH RISK

4. Create an independent commission to investigate the involvement of customs, police, military, and other law enforcement agents in drug-related deaths and drug smuggling.
5. Immediately cease the public incitement of violence against drug users, drug dealers and other targeted communities.
6. Comply with the Supreme Court's ruling by providing full documentation of police operations taken as part of the anti-drug war as part of ensuring accountability.
7. Fulfil its international legal obligations by cooperating with the Prosecutor of the International Criminal Court despite the effective withdrawal of the Philippines as of 17 March 2019.
8. Reconsider its decision to withdraw from the International Criminal Court.
9. Reconsider its opposition to the call made by 11 international experts on 8 June for the UN Human Rights Council to conduct an independent investigation on the deterioration of human rights in the Philippines due to continuing unlawful killings in relation to the drug war.



Five years since the UN commission of inquiry on human rights in the DPRK, no meaningful progress has been made in addressing ongoing violations that could amount to crimes against humanity, including: murder, imprisonment, enslavement, torture, enforced disappearances, sexual violence, forced abortions, deliberate starvation, and persecution.

On 9 May, the UN Human Rights Council discussed the DPRK's third cycle of the Universal Periodic Review process. In remarks at the meeting, a representative of Pyongyang rebutted concerns raised over serious human rights abuses linked to its use of political prison camps by stating that "there is no such thing as a political prisoner, or a political prison camp, in the vocabulary of the criminal law and criminal procedure law of the DPRK."²⁸ These remarks only serve to draw attention to the acute need for legal reform in the DPRK, particularly in relation to the criminal code.

The critical importance of legal reform pertains not only to ending the widespread and systematic abuse of political prisoners, but extends to broader, everyday violations of the basic subsistence and livelihood rights of DPRK citizens. At the end of May, the UN Office of the High Commissioner for Human Rights (OHCHR) issued a report documenting cycles of human rights violations stemming from Pyongyang's failure to uphold the right to an adequate standard of living for its population.²⁹ The collapse of the public distribution system in the mid-1990s has forced people to "eke out a living in a legally precarious parallel economy", where they are "exposed to arbitrary arrest, detention and extortion".³⁰

Highlighting the "vicious cycle of deprivation, corruption and repression" this situation presents, the OHCHR called on DPRK authorities to undertake major reforms of the criminal code to end prosecutions of people involved in informal market activities and to uphold the right to freedom of movement within the country and across its borders. The UN assessed that legal reform measures could help to establish a legitimate private sector and combat the endemic system of corruption and bribery that undercuts DPRK citizens' right to shelter, food, health and work. As UN High Commissioner for Human Rights Michelle Bachelet remarked, "People must not be arrested, detained, prosecuted or subjected to extortion simply for trying to acquire an adequate standard of living... Addressing these issues could open a path to tackling the wider range of human rights concerns that exist in the DPRK today".³¹

The pressing need for the DPRK undertake legislative reforms to establish the rule of law with due process and fair trials was also reinforced by the release of a report in early June by the Seoul-based Transitional Justice Working Group. Drawing on over four years of research and interviews with more than 600 DPRK escapees, the report documented 323 sites of summary or public executions and extrajudicial killings in state custody—a practice that is reported to continue under Kim Jong-un.³² Beyond the grave impact on family members and individuals who witness the killings, the report assessed that state-sanctioned killings have a chilling psychological and socio-cultural impact at the community level and are "deliberately designed to consolidate the regime's control over the behaviour of citizens".³³

The plight of DPRK citizens in China remains a serious concern. A report issued in May by the UK-based Korea Future Initiative documented patterns of sexual and gender based violence (SGBV) against DPRK women and girls in China, including "systematic rape, sex trafficking, sexual slavery, sexual abuse, prostitution, cybersex trafficking, forced marriage and forced pregnancy".³⁴ The report raised alarms that "urgent and immediate" action is required to save the lives of potentially thousands of DPRK women and girls who are presently at risk of sexual violence and exploitation in China.

The priority emergency protection measure is for China to recognise DPRK citizens as refugees sur place and grant access and support to them.³⁵ The urgency for raising this issue with Chinese authorities is compounded by recent reports by family members and activist groups that China is holding at least 30 DPRK citizens in detention after a series of raids on safe houses since mid-April.³⁶ The raids exacerbate concerns that China may be upscaling arrests in an effort to disrupt the informal 'underground railroad' network assisting DPRK escapees.³⁷

Although the UN OHCHR office in Seoul continues to pursue accountability for alleged crimes against humanity, there have been no apparent high-level, concrete efforts to raise human rights concerns with DPRK authorities in recent months. Since early May, attention has focused on Pyongyang's most recent short-range ballistic missile tests, which was in contravention of UN sanctions.

From 17-21 June, the UN Special Rapporteur on the human rights situation in DPRK, Tomás Ojea Quintana, visited South Korea to meet with senior representatives of the South Korean government, DPRK escapees, and civil society organisations to receive information on the human rights situation in the DPRK. Despite repeated requests, Pyongyang continues to deny Ojea Quintana access to the country.

Recommendations

The government of the DPRK should:

1. Immediately cease the commission of crimes against humanity.

2. Revise the criminal code to recognise legitimate market activities, respect the freedom of movement, and uphold due process and fair trial rights.
3. Engage constructively with the UN Office of the High Commissioner for Human Rights (OHCHR), the Special Rapporteur and the OHCHR field office in Seoul to develop plans to faithfully implement human rights treaty obligations as well as the universal periodic review recommendations.
4. Engage in bilateral and regional human rights dialogue.

Regional actors should:

1. Reaffirm that the DPRK has a Responsibility to Protect its population from atrocity crimes, and actively affirm that addressing widespread and systematic human rights violations in the DPRK is central to achieving stability on the Korean peninsula.
2. As a condition for sanctions relief, the US, ROK, China and Russia should encourage DPRK authorities to: grant free and unimpeded access to the UN country team, cooperate with the OHCHR, to invite special procedure mandate holders for country visits, and to engage in parallel human rights dialogue alongside peace and denuclearisation talks.
3. Welcome discussion of human rights accountability in the DPRK in regional dialogue platforms and support continued consultation and information gathering.
4. China should recognise DPRK citizens in China as refugee sur place, respect the principle of non-refoulement, and adopt measures to protect the rights of DPRK citizens residing in or transiting through China, particularly women and girls who are systematically subjected to sexual violence, exploitation and abuse.

The international community should:

1. Follow through on DPRK's recent third cycle of the universal periodic review by urging the DPRK to accept and implement recommendations.
2. Address grave human rights violations in the DPRK in a coordinated and unified manner. Specifically:
 - The Human Rights Council should continue to support the Special Rapporteur and implement the recommendations of the group of independent experts on accountability to secure truth and justice for victims of crimes against humanity in the DPRK.
 - The OHCHR, including the field office in Seoul, should closely monitor human rights in the DPRK and investigate unresolved human rights issues.
 - The General Assembly should continue to maintain visibility of the human rights situation and call for accountability in the DPRK.
 - The Security Council should hold regular briefings on the issue with the participation of the UN High Commissioner for Human Rights, Special Rapporteur and other relevant experts.
 - Donor states should increase humanitarian funding for the DPRK as requested by the UN Emergency Relief Coordinator.
3. Civil Society actors should continue to raise awareness and visibility of the human rights situation, including supporting (1) reform of the criminal code and (2) efforts to map suspected perpetrators of serious crimes and the related chain of command structure in the DPRK.



There is continued risk of crimes against humanity against China's Turkic Muslim population in Xinjiang. China's sweeping counter terrorism and extremism campaign has utilized repressive surveillance technology and resulted in the arbitrary detention of an estimated million Uighurs and other Turkic Muslims in what Chinese authorities are referring to as 're-education' or 'de-extremification' facilities in Xinjiang.³⁸

Members of China's Muslim minority population have been taken into state custody for wide-ranging and minor infractions, which Chinese authorities deem are signs of "pre-criminal" behaviour.³⁹ This practice appears to represent a deliberate and systematic dereliction of basic due process and fair trial rights, as the Xinjiang Propaganda Department is on record for asserting that the program defines "a person who's on the edge of committing a crime" as "a minor criminal", and on this basis detains people for an indefinite period of time without formal conviction.⁴⁰ Some former detainees have reported that while in state custody they were subjected to abuse and torture, ill-treatment and forced political indoctrination.⁴¹ There are also numerous and mutually consistent reports that family members both within China and overseas have limited or no access to information about persons held in detention, which resembles a large-scale program of enforced disappearances.⁴²

Chinese authorities recently granted the BBC rare access inside the network of high-security facilities, reportedly to offer proof that they serve an education or school-like function rather than as prisons. Observing that detainees undergo long hours of rote learning of Mandarin and lessons on China's legal code and tightened restrictions on religious practice, the BBC characterised the curriculum as a form of "brainwashing" aimed at the "replacing of faith and cultural identity" with loyalty to the Chinese Communist Party.⁴³ The BBC also likened the facilities it visited to "show camps", as satellite imagery has revealed that some of the prison-like security infrastructure, such as barbed wire fencing and watch towers, were taken down before journalists arrived, and cement exercise yards were transformed into sports facilities.

UN Secretary-General Antonio Guterres raised the mass detention of China's Turkic Muslims with President Xi Jinping during his trip to China in April. In June, the head of the UN Office of Counter-Terrorism, Vladimir Ivanovich Voronkov visited Xinjiang. The trip attracted criticism from human rights activists, as well as the US and other western governments, for appearing to affirm China's policy as "legitimate counter-terrorism" as opposed to a question of massive human rights violations that could amount to crimes against humanity.⁴⁴ Such criticism has raised pressure for the UN High Commissioner for Human Rights, Michelle Bachelet, to obtain unimpeded access to detention facilities in Xinjiang. China's ambassador to the UN in Geneva has confirmed that China has invited Bachelet for a visit, but her office has recently conveyed that it is continuing to negotiate "full access" as a condition for this visit.⁴⁵

Recommendations

The government of China should:

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

The international community should:

1. Urge Chinese authorities to take immediate action to uphold universal human rights and fundamental freedoms in Xinjiang. Specifically:
 - The OHCHR and special procedures mandate holders should continue to call for the immediate release of persons involuntarily held in detention without due process, closely monitor the situation in Xinjiang.

- The Human Rights Council should continue to urge China to uphold human rights of Turkic Muslims and to accept independent UN observers in Xinjiang.
 - The UN Office on Genocide Prevention and the Responsibility to Protect should closely monitor the situation and communicate increasing risk of atrocity crimes in Xinjiang, as appropriate.
2. Muslim majority countries as well as neighbouring states whose nationals are allegedly detained in Xinjiang should advocate for China to respect the rights of its Turkic Muslim population.
 3. Civil Society actors should continue to raise awareness and visibility of the treatment of Turkic Muslims in Xinjiang and advocate for an end to any violations of their basic rights and fundamental freedoms.
 4. All actors should protect the rights of organisations and actors that are assisting Turkic Muslims who have left China and are working to collect and disseminate information on human rights violations in Xinjiang.



On 21 May 2019, Indonesia's Electoral Commission announced the results of the April election.⁴⁶ This occurred a day earlier than planned and in the middle of the night, ostensibly to reduce the risk of immediate protests. Incumbent President Joko 'Jokowi' Widodo was named the winner of the presidential poll, with 55.5 per cent of the vote, or approximately 17 million votes ahead of his challenger, retired General Prabowo Subianto. The result was not accepted by Mr Prabowo, who threatened a legal challenge.

The potential for post-election violence had been highlighted as a concern and did in fact eventuate after the result announcement. On the first day of mass rallies in Jakarta, which initially began peacefully, six people were killed and 200 injured.⁴⁷ Protests continued, with those involved throwing rocks, Molotov cocktails and fireworks, and setting cars on fire. At least 10,000 protestors were involved.⁴⁸ Riot police fired tear gas at the crowds and the government restricted social media, reportedly to stop the spread of misinformation, blaming organised groups from outside of Jakarta for provoking the mass violence. Hundreds of protesters were arrested.⁴⁹

Although the protests were contained fairly quickly, they left eight people dead, hundreds injured, many shops financially affected. They also obscured what was otherwise a peaceful, free, and fair democratic process. Further, the riots stoked fears among Chinese Indonesians of a return to ethnic violence similar to that which occurred in 1998.⁵⁰ It is possible that ethnic and religious tensions between different will escalate as a result of the violence, but there is no clear evidence of that happening yet.⁵¹

One of the sources of tension is the perceived use of legal mechanisms and other forms of control by the Indonesian government, for instance with the aim of suppressing Prabowo supporters. Further, the influence of social media in spreading misinformation and inciting hatred (with both political and ethnic/religious overtones) had been significant during this election period.⁵² The government's order to internet service providers to restrict access during the riots raises issues around freedom and free speech, and what authority governments should have around the control of social media platforms, particularly when these are being used for incitement and hate speech.

The effect of the riots reverberated across the country and in local contexts. For example, a riot in the province of Papua triggered by the election result led to four people being shot by police.⁵³ In West Papua, there has been a movement for a boycott of the election led by exiled leader of the United Liberation Movement, Benny Wenda.⁵⁴ Independence activists claimed a majority of West Papuans did not vote, however the official results from the electoral commission do not support that claim. Activists have claimed that Widodo has not effectively addressed human rights issues in West Papua. Indonesian authorities have been accused of using white phosphorous in the region, and clashes between 'rebels' and authorities have led to deaths. Despite the re-elected government promising greater infrastructure development in Papua, some West Papuans are not anticipating any positive change for their community post-election. It is therefore crucial for the human rights abuse allegations in West Papua to be dealt with.

Of ongoing concern in Indonesia is the continuing rise of radical Islam which appears to be spreading beyond Sharia-ruled provinces such as Aceh. The post-election result period was characterised not only by riots but also by threats of terrorist attack. As such, the risk of Islamic terrorism remains high in Indonesia.

Recommendations

The government of Indonesia should:

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

The international community should:

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

BRUNEI LOW RISK ONE TO WATCH



In April 2019, Brunei moved forward with the next phase of its strict Islamic penal code, which made homosexuality punishable by the death penalty. Aspects of Sharia law had been in place since 2014, with laws around marriage and inheritance, adultery, blasphemy and the sale of alcohol. Such laws tend to have an adverse and disproportionate effect on women, who are disempowered in marriage, have little protection from domestic violence, and whose ability to defend against adultery charges is restricted. The laws also target the

LGBTQ community. Although homosexuality was already outlawed, the phase introduced in April entailed brutal punishments for those found guilty, including stoning to death.

Initially Brunei's leader, Sultan Hassanal Bolkiah, pressed on despite criticism, saying the move was 'a must' under Islam.⁵⁵ However, the protests became more vocal and international, with several countries officially objecting, including Australia, the United States, United Kingdom, France, Austria, and Germany.

ASEAN civil society organisations released a statement on 3 April urging "the government of Brunei to immediately halt the full implementation of the Sharia Penal Code".⁵⁶ It noted that Brunei's laws would be in conflict with a range of international human rights standards, and warned that it may "set a dangerous precedent for its neighbouring countries in Southeast Asia and broader Asia as it perpetuates the practice of violating fundamental freedoms, particularly freedom of expression, in the region." In addition, public campaigns advocated strategies such as boycotting Brunei-owned luxury hotels, large companies such as Virgin Australia cancelled contracts with Brunei, while the Sultan was pressured to return an honorary degree from Oxford University following a petition signed by 120,000 people.⁵⁷

In May, as a result of widespread criticism and condemnation, as well as potential economic repercussions for the country, Brunei confirmed it would continue its longstanding moratorium on executions and not carry out the death penalty by stoning for people convicted of adultery and homosexuality.⁵⁸ However, several other harsh punishments including whipping and amputation do remain potential punishments for homosexual acts, and the Sultan has not ruled out resuming the death penalty in the future. The laws themselves have not been repealed, which means that LGBTQ people and women found guilty of adultery can be prosecuted and if found guilty, physically punished with lashing or whipping, or with jail time. It is therefore important that the situation in Brunei continues to be monitored, and the discriminatory laws publicly condemned.

There remains a risk that plans will re-surface at some stage to impose the harshest punishments under Sharia Law for homosexual acts and adultery. The laws themselves as well as the punishments contravene a range of international human rights law and international treaties. Violations of human rights are a strong indicator of future atrocity crimes.

Recommendations

The government of Brunei should:

1. Repeal laws that enable the killing, torture, and mistreatment of people on the basis of their sexuality.
2. Take steps to ensure that the human rights of women and LGBTQ people are fully respected.
3. Take steps to end systematic discrimination against any group.

The international community should:

1. Continue to condemn the laws being implemented by Brunei that discriminate against vulnerable groups including the LGBTQ community and women
2. Acknowledge that Brunei's laws contravene legal obligations under international human rights law and entrench impunity for perpetrators of sexual violence against women by punishing the victims.
3. Consider repeated use of measures such as censures and targeted sanctions against the Brunei Government while these laws remain.
4. Ensure that those fleeing Brunei and seeking asylum elsewhere as a result of these laws be considered as persecuted under the refugee convention.
5. Raise the treatment of Brunei's LGBTQ community in the next round of the country's Universal Periodic Review
6. Encourage the UN Human Rights Council to further investigate the situation and bring forward recommendations
7. The ASEAN Intergovernmental Commission on Human Rights should ensure a right to remedy in the face of clear violations of the ASEAN Declaration on Human Rights.

SEXUAL AND GENDER BASED VIOLENCE

On 23 April 2019, the UN Security Council passed Resolution 2467 on Conflict Related Sexual Violence (CRSV).⁵⁹ This builds on previous resolutions relating to Women, Peace and Security (WPS) and Sexual and Gender Based Violence (SGBV) by enshrining the concept of 'survivor-centered' approaches to service delivery and investigation of crimes. The resolution reaffirms its commitment to relevant resolutions such as 1820 (2008) and 1325 (2000) and explicitly recognises that "States bear the primary responsibility to ... ensure the human rights of all persons within their territory..." Of major importance is the recognition of the need for survivor-centred approaches "in preventing and responding to sexual violence in conflict and post-conflict situations... for survivors of sexual violence to receive non-discriminatory access to services such as medical and psychosocial care..."

The resolution highlights the importance of women's participation in post-conflict peacebuilding and political leadership. In relation to justice, it stresses the need for legal accountability for perpetrators of CRSV and the influence of impunity on the potential for future crimes, encouraging States to strengthen legislation to prosecute perpetrators of sexual violence in conflict. In reference to improvements needed in documentation processes, the resolution recognises that "...all efforts to document and investigate sexual violence in conflict and post-conflict situations should take into account the specific needs of survivors, be well-coordinated, and respect safety, confidentiality and informed consent of survivors as well as independence and impartiality..."

Meanwhile, current cases of CRSV continue to occur on a large scale. The Armed Conflict Location and Event Data Project (ACLED) recorded an overall increase in reported sexual violence events in the past year, with the primary perpetrators being political militias and state forces.⁶⁰ Although few Asia Pacific nations are identified as 'high risk' areas, ACLED's report mentions India and Myanmar in relation to "government-perpetrated sexual violence events".

The Myanmar Government continues to deny evidence⁶¹ of widespread and systematic SGBV committed against Rohingyas and to further inflame religious divisions. During her visit to Hungary in June 2019, Myanmar's leader Aung San Suu Kyi and Prime Minister Viktor Orban stated that "one of the greatest challenges at present for both countries and their respective regions – South East Asia and Europe – is migration," and raised "the issue of coexistence with continuously growing Muslim populations."⁶²

Recent episodes of violence between the Tatmadaw and the Arakan Army in Rakhine State, as well as threats made against Muslims during Ramadan in Yangon, could foreshadow further incidents of sexual violence. Women are also at risk in Myanmar's Kachin and Shan states, exacerbated by continued armed conflict. For example, Human Rights Watch has released research on the issue of trafficking of women and girls from Myanmar's Kachin State to China for forced marriage to Chinese men.⁶³

Other areas of risk of SGBV in the Asia Pacific region that require monitoring include the Philippines and Indonesia. The rise of ISIS-inspired local non-state groups in Southern Philippines represents a significant regional threat. SGBV continues to affect women and children in Marawi and Mindanao.⁶⁴

A May 2019 article in Human Rights Quarterly describes the effect of the Mindanao conflict on Moro women, among the most marginalised groups in the Philippines.⁶⁵ Issues disproportionately affecting Moro women include poverty and the use of sexual exchanges for basic needs; gendered laws and ownership; a lack of sanitary facilities for women resulting in health issues; difficulty accessing reproductive health care; and exclusion from justice processes. In addition, cultural traditions mean that women without a strong tie to a clan or male protection are vulnerable to sexual violence and subsequent stigma. The broader context of gendered hate speech in the Philippines should also be noted. President Duterte has made several public comments condoning sexual violence against women, thereby contributing to a culture of impunity for perpetrators.⁶⁶

On 7 June 2019, UN human rights experts called on the UN to establish an independent investigation into human rights violations in the Philippines, to look into the deterioration of human rights in general as well as specific issues like arbitrary executions, torture or degrading treatment, gender-based violence against women human rights defenders, and freedom of expression. Sexual exploitation of children is also of concern in the Philippines.⁶⁷

Violence and discrimination against LGBTQ individuals in Bangladesh, Brunei and Indonesia remain of concern.⁶⁸ Although Brunei has responded to criticism of its laws against homosexual acts stating the Sharia punishment of death by stoning will not be implemented, it has not repealed the law itself. Following Indonesia's election outcome, which saw incumbent President Widodo win power along with Vice-President, conservative Islamic scholar Ma'ruf Amin, some human rights groups foresee the possibility of further deterioration of LGBTQ rights. Human Rights Watch stated that Mr Amin has called for homosexuality to be outlawed.⁶⁹

A conference on Ending Sexual and Gender-based Violence in Humanitarian Crises was held in Oslo in May 2019,⁷⁰ and resulted in financial commitments from 21 donors totalling US\$363 million. From the Asia Pacific region, Australia and the Republic of Korea both contributed substantial amounts.⁷¹ The conference focused on addressing gender inequality, and reflected UNSC Resolution 2467 in highlighting survivor-centred approaches and accountability.⁷²

SEXUAL AND GENDER BASED VIOLENCE

19 June marked the International Day for the Elimination of Sexual Violence in Conflict. The UN Secretary-General stated: "Sexual violence in conflict is a threat to our collective security and a stain on our common humanity. It is used as a tactic of war, to terrorize people and to destabilize societies. Its effects can echo across generations through trauma, stigma, poverty, long-term health issues and unwanted pregnancy.... Together, we can and must replace impunity with justice and indifference with action."

Recommendations

The government of Myanmar must:

1. Take immediate steps to fulfil its legal obligations by ending atrocity crimes including SGBV and preventing their recurrence.
2. Ensure the full and prompt investigation of allegations of atrocity crimes, including SGBV
3. Implement the recommendations of the FFM including to "cease the perpetration of sexual and gender-based violence by Myanmar security forces against women, girls, men and boys" and issue instructions that it is prohibited, and to acknowledge the role of the Tatmadaw and other security forces in committing SGBV.
4. Review legislation and the Penal Code to ensure that SGBV is adequately covered under Myanmar law and that victims have legal recourse.
5. Develop formal agreements with China to prevent trafficking of women and children from Myanmar for forced marriage.

The Government of the Philippines should:

1. Immediately cease the use of gendered hate speech and the condoning of sexual violence against women.
2. Ensure the use of SGBV by non-state groups is monitored and prioritise the protection of women and girls in areas where ISIS-linked groups are active.
3. Develop policies to support particularly marginalised groups of women, such as Moro in Mindanao, and implement education on gender equality across the country.

The Indonesian Government should:

1. Ensure the rights of LGBTQ people are protected under Indonesian Law and hold accountable perpetrators of hate-based crimes against LGBTQ individuals.

The international community should:

1. Continue to support efforts to raise awareness of SGBV and to hold perpetrators accountable.
2. The UN Security Council should refer the Myanmar situation to the International Criminal Court or establish an investigatory mechanism and criminal tribunal.
3. Exert diplomatic influence on the Myanmar government to fulfil its obligations to prevent atrocity crimes, protect vulnerable populations and dismantle the culture of impunity for SGBV.
4. Support humanitarian aid for Rohingyas in refugee camps in Bangladesh, including health care and psychological support for survivors of sexual violence, and improve the safety conditions in the camps.
5. Increase the number of humanitarian visas available and ensure timely processing of refugee applications from survivors of SGBV in Myanmar.
6. Support women's human rights defenders and LGBTIQ rights groups to promote acceptance and equality.

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