

Sexual and gender-based violence

On 23 April 2019, the UN Security Council passed Resolution 2467 on Conflict Related Sexual Violence (CRSV).¹ 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.² 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 evidence³ 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.”⁴

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.⁵

¹ [https://undocs.org/S/RES/2467\(2019\)](https://undocs.org/S/RES/2467(2019))

² <https://www.acleddata.com/2019/06/19/fact-sheet-sexual-violence-in-conflict/>

³ <https://www.ohchr.org/EN/HRBodies/HRC/MyanmarFFM/Pages/Index.aspx>

⁴ <https://www.kormany.hu/en/the-prime-minister/news/prime-minister-viktor-orban-in-talks-with-state-counsellor-of-myanmar-aung-san-suu-kyi>

⁵ <https://www.hrw.org/report/2019/03/21/give-us-baby-and-well-let-you-go/trafficking-kachin-brides-myanmar-china>

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.⁶

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.⁷ 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.⁸

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.⁹

Violence and discrimination against LGBTQ individuals in Bangladesh, Brunei and Indonesia remain of concern.¹⁰ 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 LGBT rights. Human Rights Watch stated that Mr Amin has called for homosexuality to be outlawed.¹¹

A conference on Ending Sexual and Gender-based Violence in Humanitarian Crises was held in Oslo in May 2019,¹² 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.¹³ The conference focused on addressing gender inequality, and reflected UNSC Resolution 2467 in highlighting survivor-centred approaches and accountability.¹⁴

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

⁶ <https://philippines.unfpa.org/en/news/women-come-together-address-gender-based-violence-marawi-philippines>; <https://reliefweb.int/report/philippines/save-children-philippines-calls-government-endorsement-safer-schools-declaration>;

⁷ Intersectionality, Transitional Justice, and the Case of Internally Displaced Moro Women in the Philippines Ronli Sifris (bio) and Maria Tanyag, <https://muse-jhu-edu.ezproxy.library.uq.edu.au/article/725311>

⁸ <https://www.abc.net.au/news/2019-01-01/rodrigo-duterte-says-he-sexually-assaulted-a-maid/10677124>

⁹ <https://reliefweb.int/report/philippines/un-human-rights-experts-call-independent-probe-philippines-violations>

¹⁰ <https://www.hrw.org/news/2018/10/29/indonesia-fresh-wave-anti-lgbt-rhetoric-arrests>

¹¹ <https://www.abc.net.au/news/2019-05-21/jokowi-elected-what-will-second-term-look-like/11130074>

¹² <https://www.endsgbvoslo.no/>

¹³ <https://az659834.vo.msecnd.net/eventsairwesteuprod/production-possibility-public/d736453498d042a3b77bcfb6845c6ab8>

¹⁴ <https://az659834.vo.msecnd.net/eventsairwesteuprod/production-possibility-public/df0a7525ad2e404cb72ab28df127e5e4>

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.