



ASIA PACIFIC OUTLOOK

MAY 2018 ISSUE 8

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action on Myanmar

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Atrocity risks
reduced in Thailand



Australian Government

Department of Foreign Affairs and Trade



AP R2P

Asia Pacific Centre for the Responsibility to Protect



THE UNIVERSITY
OF QUEENSLAND
AUSTRALIA

REGIONAL ATROCITY RISK ASSESSMENT



Very High

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

High

Moderate
(high to low)

Cambodia
Indonesia
Papua New Guinea

Low

China, Laos, Thailand, Timor-Leste and Vietnam

Very low

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



Myanmar -Very High Risk/Ongoing Atrocity Crimes

Myanmar continues to be in very high risk of atrocity crimes due to the ongoing persecution and displacement of Rohingya, who continue to flee to Bangladesh more than six months since the August 2017 ARSA attacks in Rakhine State. More than 600,000 Rohingya have been forcibly displaced to Bangladesh. Médecins sans Frontières estimates that more than 6,000 civilians were killed by security forces during the opening stages of the campaign, and it is likely that the number may have risen to as many as 10,000. These casualties result from a widespread and systematic campaign of atrocity crimes including crimes against humanity and possibly genocide. Meanwhile, the country's security forces are also continuing to wage war against ethnic minorities in Shan and Kachin states, which has endangered civilian populations in these areas.

In February, the Associated Press reported on at least five mass grave sites in Rakhine based on accounts of Rohingya refugees in Bangladesh. One of which is in Inn Din that contained bodies of about 10 Rohingya men executed by security forces, which was acknowledged by the Tatmadaw as early as January.[1] A subsequent Reuters special report confirmed the mass graves in Inn Din based on interviews with local Buddhist villagers who claimed the participation of security forces in executing the 10 Rohingya men and the torching of Muslim homes during "clearing operations" by the military in August last year.[2] This is the first time that the Tatmadaw acknowledged the participation of its security forces in executing Rohingya men based on testimonies of local Buddhist villagers in Rakhine[3] although it also denied the existence of other mass graves documented by the Associated Press report.[4] Accordingly, the NLD government said that the seven soldiers, three policemen, and six villagers who were involved in the Inn Din massacre arrested even before the Reuters report was published and will be charged in accordance with the law.[5] For her part, NLD leader Aung San Suu Kyi said that the Tatmadaw's admission of the massacre and taking action is a "positive step".[6] On 11 April, the Tatmadaw sentenced seven soldiers to 10 years in prison and hard labour for participating in the Inn Din massacre of Rohingyas.[7] Meanwhile, in a thinly veiled attempt to shut down further investigations of this kind, the journalists responsible to the reporting were also arrested.

There are also clear signs that government forces have acted to destroy evidence of atrocity crimes and prevent the return of displaced Rohingya to their homes. Some 28 burned Rohingya villages within a 50-km radius in Maungdaw were bulldozed by the government between December and February, evidenced by satellite pictures obtained by Human Rights Watch. Although the Myanmar government claimed that clearing these villages were meant to build over 700 new houses and infrastructure for villagers including Hindus and Buddhists, only 22 houses were meant for Rohingyas. The government organised a two-day tour of northern Rakhine's Maungdaw village for local journalists in April where a district officer admitted that about 10 villages have been bulldozed to make way for construction of new settlements and border police regiments. Only 13 village tracts out of the 93 villages in Maungdaw remained intact following the campaign in August 2017, further evidence of just how widespread and systematic the government's campaign was.[8]

Yang Hee-lee, the UN's Special Rapporteur on Human Rights in Myanmar, was denied entry to the country by the government in January and reported to the Human Rights Council in March about the pattern of human rights violations that include sexual violence, extrajudicial killings, and burning and torching of buildings with intention to kill in the three major Rohingya villages in Rakhine following the military's clearing operations in August last year. She noted in particular that in villages where both Muslim Rohingya and Rakhine Buddhist people live, only the latter's homes and infrastructure stood intact after security forces and some local Rakhine villagers torched houses, business establishments, and houses of worship belonging to the Rohingyas.[9]

Meanwhile, Marzuki Darusman also reported to the Human Rights Council the initial findings of the three-member Fact Finding Mission pointed out that the response of the NLD government and the military to the overwhelming evidence of atrocities committed against the Rohingya people were "inadequate and is of grave concern." He stressed that authorities Myanmar continue to accuse the international media of spreading "fake news" and still block unmonitored access to affected areas in Rakhine. He reported that the authorities had neither held any genuine consultation with the Rohingya population to address their needs and fears nor allowed the international community to play a role in their safe, voluntary, and dignified repatriation from Bangladesh.[10]

In April, the UN Secretary-General formally listed the armed forces of Myanmar among those armed groups responsible for perpetrating widespread and systematic sexual and gender based violence.[11] States are urged to consider steps they might take to ensure accountability for these crimes and stronger protection for affected communities.

The government of Myanmar proposed to commence resettlement of Rohingya but this is opposed by both the government of Bangladesh and the UN because the government has not taken sufficient steps to assure the protection of people and fulfilment of their human rights. Moreover, humanitarian access remains highly restricted. For its part, ASEAN has called on the Myanmar government to ensure the speedy, voluntary, safe, and dignified repatriation of all displaced communities in Rakhine during an informal retreat of its foreign ministers in February.

Despite overwhelming evidence of atrocity crimes, the Myanmar government and Tatmadaw continue to deny that atrocity crimes have occurred. The government also continued to reject an impartial and independent fact-finding investigation of atrocity crimes in Rakhine. Meanwhile, the military continues to restrict access to media and humanitarian organizations in affected Rohingya villages where atrocity crimes were committed.

Elsewhere in the country, the Tatmadaw's military assaults in Shan and Kachin state since the last quarter of 2017 have resulted in more civilian displacements in areas controlled by ethnic armed organizations. A major air and ground assault in late January in Kachin Independence Army (KIA) territories for example trapped some 3,000-5,000 civilians and migrant workers, particularly in the amber mining area of Tanai. Some civilians were forced to escape through land-mined forests as they face food shortage and strict checkpoints enforced by the military in order to limit humanitarian aid to civilian villages. [12] The UN Special Rapporteur on Human Rights Situation in Myanmar pointed out that the Tatmadaw is also committing war crimes in Kachin and Shan state "without so much murmur of disapproval from the international community." [13] She also said that the peace process appears to be losing ground as both the military and the central government failed to earn the trust of stakeholders, even as the Tatmadaw also barred peace consultations being conducted by some ethnic armed organizations in their respective territories. [14]

Recommendations

The Myanmar government should:

1. Take positive 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 in Rakhine, including the Rohingyas, from atrocity crimes;
3. Take tangible steps to implement the recommendations of the Advisory Committee on Rakhine State, chaired by Kofi Annan.
4. Ensure the full and prompt investigation of allegations of atrocity crimes, including sexual and gender based violence, against the Rohingyas and other communities and take urgent steps to ensure legal accountability;
5. Provide full and unfettered access to the UN-mandated fact-finding mission to conduct an independent investigation of atrocity crimes;
6. Ensure immediate, safe, and unhindered access of humanitarian assistance to all affected communities in Rakhine as required by international law;
7. Lift restrictions on journalists and access to and reporting of information with respect to affected communities in Rakhine, Shan, and Kachin states.
8. End systematic discrimination against the Rohingya by immediately repealing the Protection of Race and Religion laws and the 1982 Citizenship Law.

The international community should:

1. Support efforts to ensure that atrocity crimes are properly investigated, evidence collected, and alleged perpetrators held accountable for violations of international humanitarian and human rights law. Should the government of Myanmar continue to fail to properly investigate and prosecute alleged perpetrators of atrocity crimes, the UN Security Council should refer the matter to the International Criminal Court.
2. Utilize diplomatic means to demand that the Myanmar government and Tatmadaw fulfil their obligations to prevent atrocity crimes, grant humanitarian access, protect vulnerable populations, cooperate with the United Nations, and hold perpetrators accountable;
3. 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;
4. Suspend all military aid and training programs with the Myanmar armed forces;
5. Provide adequate and sustained humanitarian assistance to Rohingya refugees in Bangladesh and internally displaced persons in Rakhine;
6. Take steps to prepare for the resettlement of displaced Rohingya in Myanmar. This process should be overseen by the UNHCR;
7. Coordinate efforts in shaping an effective regional response with ASEAN;
8. ASEAN should take a more pro-active stance by using its diplomatic mechanisms to influence the Myanmar government, taking steps to ensure protection of all civilians and humanitarian access, and strongly encourage Myanmar to commit implement the Advisory Commission's recommendations in full.

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Philippines -Very High Risk/Ongoing Atrocity Crimes

The Philippines remains at high risk of atrocity crimes due to President Duterte's anti-drug war operations. Martial law in Mindanao was extended for a year after its expiration end of December 2017 as a result of continuing threats from ISIS-affiliated local extremists. The Philippines' decision in March to withdraw as a state party to the Rome Statute of the International Criminal Court has serious and negative implications for future atrocity prevention and is a clear setback. The decision does not, however, affect the Court's jurisdiction over atrocity crimes submitted prior to the country's withdrawal.

The Philippine Drug Enforcement Agency (PDEA) took over the anti-drug war from the Philippine National Police (PNP) in October 2017, contributing to a significant decrease in killings involving civilians. In his first 100 days since taking over as head of the PDEA in September, Aaron Aquino reported zero deaths in 3,476 drug-related operations, which resulted in 1,321 arrests and seizure of over \$200 million worth of drugs by end of December 2017. [1] Although the police forces were brought back in December as part of the PDEA operations, the number drug related killings are likely to remain low given certain changes in the anti-drug operations involving the police. In January, the PNP announced that anti-drug police operations in coordination with the PDEA will only be conducted during daytime and on weekdays, focus on high-value targets (drug pushers instead of users), require policemen to wear body cameras, and will include human rights officers or civil society advocates as part of the team.[2] Despite the new strategy adopted by the PNP, some 65 people were killed as of 14 February according to a lawyer's group against EJKs.[3] However, a US State Department drug official said that he is cautiously optimistic about the improvement in human rights in the Philippines as he noted that the trend in drug-related killings has been declining. [4]

Notwithstanding these positive developments, human rights advocates continue to call on the Philippine government to address the big disparity in the number of drug-related deaths as reported by the PNP, on the one hand, and those reported by media, human rights groups, and church organisations in the country. The PNP reported 3,968 deaths since 1 July 2016 until 17 January 2018 [5] while the PDEA reported 4,021 deaths as of 8 February 2018. [6] Other sources estimate that there are over 12,000 deaths since 1 July 2016 when the government launched its anti-drug war campaign. [7] For its part, the Philippine Supreme Court on 10 April unanimously passed a resolution against the Duterte administration's motion for reconsideration of the court's decision to take judicial notice of the alleged extra-judicial killings in connection with its anti-drug war. Specifically, the high court compelled the government to provide a full documentation of its drug-related police operations, which led to a high number of killings. The court's resolution noted that '[t]he government's inclusion of these deaths among its other accomplishments may lead to the inference that these are state-sponsored killings.' [8]

The change in the PNP's strategy may have been prompted by the announcement by the International Criminal Court (ICC) prosecutor's office in February that it had started preliminary examination of complaints filed against the Philippine government over alleged drug war-related EJKs. A month later, however, the Duterte administration announced that the Philippines would withdraw from the Rome Treaty of the ICC. [9] Despite this decision and assertions by President Duterte that the ICC has no jurisdiction over him, the effectivity of the Philippines' withdrawal will not commence until a year later and the Court retains full jurisdiction over crimes alleged to have been committed whilst The Philippines was a state party.

Meanwhile, the extension of martial law in Mindanao until the end of this year was overwhelmingly approved by the Philippine legislature and upheld by the Supreme Court despite the fact that majority of the public did not support it. [10] Those who opposed the extension were mainly from human rights groups and some opposition legislators who were mainly concerned about potential human rights abuses by military and police forces even as they expressed fears that the scope of the martial law could be expanded to cover the whole country and pave the way for one-man rule a la Marcos. Nonetheless, the threat of another militant or extremist attacks following the siege of Marawi remains high. In the first quarter of the year, the Armed Forces of the Philippines (AFP) conducted ground and air attacks against ISIS-affiliated Bangsamoro Islamic Freedom Fighters (BIFF) in Mindanao, which resulted in more than 50 militants and 1 soldier killed, and some 2,500 civilians fleeing their villages.[11] Increased clashes between the military and militants indicate that local ISIS-affiliates in Mindanao have regrouped following the end of the siege of Marawi in October last year and are expected to recruit more followers especially amongst residents of Marawi and nearby provinces. [12] The rehabilitation of Marawi is estimated to cost about US\$1 billion, which could probably increase further once a more comprehensive implementation plan is approved.[13] The urban rehabilitation of Marawi will be long and contentious even as displaced residents attempt to go back to rebuild their lives. Apart from clearing the area of unexploded ordnance and IEDs, properties destroyed and land claims complicate the rebuilding of Marawi. Most properties did not have formal titles even as a Marcos-era presidential decree declared a large part of Marawi as a military reservation.[14] A plan by the national government to construct a four-lane highway in the city and implement urban development projects could result in further displacement of former residents, thereby increasing discontent among the population and serve as fertile ground for recruitment by ISIS-affiliated local extremists.[15] Further delays in the passage of the Bangsamoro Basic Law (BBL) could alienate further many younger generation of Muslims in Mindanao, which could lead to increased support for local extremists.

The extension of martial law in Mindanao also has implications for protection of indigenous peoples who are caught in the cross-fire between government troops and communist rebels. With the collapse of peace talks with the Communist Party of the Philippines (CCP)/New People's Army (NPA) last year, President Duterte recently declared the CPP/NPA and its legal fronts as a terrorist organization. Human rights advocates who are promoting the rights of indigenous peoples fear that the "terrorist" tag could lead to increased rights violations, including the freedom of expression, association, and assembly as well as endanger the lives of those who are engaged in legitimate advocacy activities.[16] Recently, local and international human rights advocates denounced the terror list generated by the Department of Justice, which consists of 600 individuals that included the UN Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, who denied the allegation that she was a member of the CPP/NPA.[17] The inclusion of Tauli-Corpuz in the terrorist list was deemed by some of her colleagues as an act of retaliation for her criticisms of the military's attacks on indigenous peoples in Mindanao.

Recommendations

With regard to the anti-drug war, the Philippine government should:

1. Take positive steps to ensure that the security forces conduct themselves in a manner consistent with 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 are properly investigated, and the perpetrators held accountable before the law.
4. Immediately cease the public incitement of violence against drug users, drug dealers and other targeted communities.
5. 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.
6. Fulfil its international legal obligations by cooperating with the Prosecutor of the International Criminal Court.
7. Reconsider its decision to withdraw from the International Criminal Court

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

1. Continue to provide protection for civilians and support humanitarian assistance to internally displaced persons especially those who are now returning to their residence in Marawi.
2. Respond adequately and effectively to the needs of residents of Marawi as they attempt to rebuild their lives and address the concerns in relation to the government's rehabilitation plans.
3. Investigate alleged violated international humanitarian law and international human rights law during the siege of Marawi and hold perpetrators accountable.
4. Push for the immediate passage of the Bangsamoro Basic Law.

With regard to the communist insurgency, the Philippine government should:

1. Reviving the peace talks with the CPP/NPA
2. Review the terror list generated by the Department of Justice, remove the names of those included in the list and who were falsely accused of being supporters of the CPP/NPA, and ensure the protection of their rights to contest their inclusion in the list

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Democratic People's Republic Korea -Very High Risk / Ongoing Atrocity Crimes

The Democratic People's Republic of Korea (DPRK) continues to perpetrate widespread crimes against humanity against its own population. Since the 2014 UN Commission of Inquiry documented observations of extensive human rights violations by the Kim regime, these violations have continued to occur despite efforts by member states of the UN and regional actors to put a stop to them.

Chronic food insecurity, restricted freedom of movement within and without the territory of the DPRK and lack of access to sufficient health care by the government continue to plague DPRK citizens. Despite recommendations from various UN entities, the DPRK continues to maintain obedience from such citizens with arbitrary detention, forced labour and execution [1], while failing to address or recognise the human rights violations within the country.

In his statement following a trip to the Republic of Korea (ROK) where he met with defectors from the DPRK as well as ROK government officials, the Special Rapporteur on human rights in the DPRK, Tomás Ojea Quintana, acknowledged the continued social and economic discrimination within the country. He expressed further concern for what was a growing disparity in living standards between residents in Pyongyang and other parts of the country.[2] The national ideology of *juche*, based initially on national self-reliance and loyalty to the state, has no real purchase outside of Pyongyang, where ordinary DPRK citizens rely on clandestine economic activities to survive.[3]

The recent reviews of submissions by the DPRK to the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women have been encouraging signs of the regime opening to the international community and mechanisms of accountability. Yet both Committees noted in their concluding observations that the DPRK had a long way to go before practical implementation of the respective Conventions can be deemed satisfactory. [4] This held true for those citizens with disabilities as well, despite the recent ratification of the Convention on the Rights of Persons with Disabilities by the DPRK. In the UN Special Rapporteur's report on the Convention, the lack of legal and policy frameworks within the DPRK prevented persons with disabilities gaining '... equal recognition as persons before the law and their access to education and work to ensure their social and economic inclusion...' [5] into wider society. Currently women and children, along with persons with disabilities, are vulnerable to the same crimes against humanity committed by the state as are other DPRK citizens, yet institutional biases and stereotypes permeating through social, legal and economic systems further discriminate against them.

Throughout 2017, human rights violations within the DPRK were committed against a backdrop of increased ballistic missile and nuclear weapon tests including the detonation of a hydrogen bomb and the establishment of intercontinental ballistic missile (ICBM) capability to threaten cities within the US. The escalation of tensions during 2017 on the Korean Peninsula and between the DPRK and the US has risen the chance of nuclear conflict on the peninsula and the subsequent chance of war crimes and further crimes against humanity. The warning by Kim Jong-un in his New Year's Day speech that the DPRK would use nuclear weapons if threatened, in particular by the US, further cast the threat of nuclear war into the new year.[6]

Yet in his speech Kim also suggested sending a delegation to the 2018 Olympic Winter Games in Pyeongchang, which subsequently occurred after discussions with ROK officials. The two Koreas marched together in the opening ceremony and proceeded to field a women's ice hockey team comprised of athletes from the two countries. Annual military exercises between the ROK and the US were postponed in order to facilitate this participation which has brought about a genuine, albeit limited, *détente* between the two Koreas. An ROK delegation has been sent to the DPRK to discuss specifics of talks between ROK president Moon Jae-in and the DPRK, which delivered a significant joint statement.[7] In the wake of the bilateral *détente*, Quintana has urged the DPRK to build on the dialogue between itself and the ROK and include approaches to UN mechanisms, specifically human rights monitoring procedures.[8] In his most recent statement to the Human Rights Council, Quintana has urged the Council to ensure a focus on human rights in any future negotiations between the parties in parallel to those focusing on security issues. In particular, for the Council and UN Office of the High Commissioner for Human Rights '... to promote accountability for human rights violations through criminal responsibility, specifically through the implementation of the Human Rights Council resolution 34/24...' [9] in conjunction with other resolutions.

The United Nations Security Council (UNSC) imposed a new set of sanctions for the fourth time in December 2017 to augment the three rounds of sanctions previously enacted in June, August and September of that year. Resolution 2397 restricted the amount of crude oil member states could sell to the DPRK as well as industrial machinery and metals. It also expanded on bans for DPRK exports and provisions against unscrupulous maritime practices with countries in the region. Furthermore, member states were called on to repatriate DPRK workers in their states (without breaching the principles of non-refoulement) to stop funds from those workers furthering weapons programs.[10]

There is a continued need for the UN Security Council to review these existing sanctions for two reasons. First, to make sure they do not exacerbate the hardships and vulnerabilities already felt by ordinary DPRK citizens. Second, a recent UN report accusing the DPRK of making US\$200million in spite of sanctions regimes illustrates the enforcement mechanisms of the current regimes need to be re-evaluated to ensure proper adherence. The report also detailed that the DPRK provided assistance to Myanmar's government in the use of conventional and ballistic missile weaponry.

The continued visibility of the DPRK in UN proceedings in 2017 can only help in facilitating opportunities for further diplomatic engagement with the DPRK and the expansion of talks to include human rights issues as hoped for by the Special Rapporteur.

Recommendations

The government of the DPRK should:

1. Immediately cease the commission of crimes against humanity.
2. Explore further opportunities to implement the joint declaration with the ROK and engage in confidence-building with the ROK and in the wider region.
3. Engage constructively with the UN Office of the High Commissioner for Human Rights (OHCHR), the Special Rapporteur and the OHCHR field office in Seoul to develop plans for technical assistance to faithfully implement human rights treaty obligations as well as the universal periodic review recommendations that were accepted by the DPRK in 2014.
4. Follow through on the September 2015 invitation from the DPRK's Minister of Foreign Affairs to the High Commissioner for Human Rights to visit the country and respond favourably to the outstanding requests for country visits from four special procedure mandate holders, including the 2015 requests of the Working Group on Arbitrary Detention and the Working Group on Enforced and Involuntary Disappearances.
5. Initiate discussions with the International Committee of the Red Cross concerning access to detention facilities.
6. 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 that there is a collective responsibility to address widespread and systematic human rights violations in the DPRK to live up to the responsibility to protect principle and to achieve stability on the Korean peninsula.
2. Support confidence-building and peacebuilding initiatives between the DPRK and ROK to de-escalate tensions and reduce the DPRK's international isolation.
3. Encourage DPRK authorities to cooperate with the OHCHR and to invite special procedure mandate holders for country visits.
4. Welcome discussion of human rights accountability in the DPRK in regional dialogue platforms and support continued consultation and information gathering.
5. Respect the principle of non-refoulement in regards to complying with sanctions and refrain from repatriating individuals to the DPRK where they are likely to face torture or other serious human rights violations.
6. The government of the Republic of Korea should place human rights high on the dialogue agenda with the DPRK.

The international community should:

1. Support the ROK and DPRK in initiatives to build confidence between the two countries.
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 should closely monitor human rights in the DPRK; investigate unresolved human rights issues including the practice of sending workers abroad in conditions of forced labour; prepare to provide technical assistance and deepen its support for the UN's engagement.
 - The General Assembly should continue to maintain visibility of the human rights situation and call for accountability in the DPRK.
 - The Security Council should request a report from the Secretary-General assessing the impact of sanctions on the human rights and humanitarian situation in the DPRK.
 - The Security Council should hold regular briefings on the issue with the participation of the UN High Commissioner for Human Rights, Special Rapporteur and other relevant experts.
3. Civil Society actors should continue to raise awareness and visibility of the human rights situation and advocate for accountability, including supporting efforts to map suspected perpetrators of serious crimes and the related chain of command structure in the DPRK.

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Cambodia- Moderate Risk -Situation to watch

The deteriorating political situation in Cambodia has increased the risk of violence, including atrocity crimes, from low to moderate. In particular, in regards to the decisions to ban the opposition party, the Cambodia National Rescue Party (CNRP), and the imprisonment of opposition leader, Kem Sokha. Furthermore, the closure of independent media outlets, both news agencies and radio stations. The latest challenge is the passing of the 'lèse Majesteté law' [1], changing Cambodia's constitution; making it illegal and punishable, with up to five years imprisonment, to insult the king or the government. The constitutional changes will limit Cambodia's free speech and political participation. Similar laws have been introduced in Thailand to limit free speech and to stop political journalists and protesters [2]. These changes can be viewed as a direct challenge to the country's democratic process and to uphold Human Rights. Moreover, Cambodia can become indicted by the International Criminal Court (ICC), as they have signed the Rome Statute. The Cambodian government can, therefore, be prosecuted in the case of any atrocity crimes committed within the nation.

Cambodia has also seen the use of threats and incendiary language by the government intended to weaken the opposition and to fight the international community's pressure, as the democratic situation keeps deteriorating. Prime Minister Hun Sen, from the Cambodians Peoples Party (CPP), has for example used provocative language by calling Australian protesters "dogs" and threatening to "beat" any international protester discriminating him [3]. Hun Sen has, furthermore, warned of a civil war if he loses power [4], while he more recently has stated purchasing loads of weapons imported for joint military operations with China [5]. The armament could be an attempt to show military supremacy before the upcoming national elections in July 2018. This raises concern in regards to the potential role of the military amidst statements from the Prime Minister and senior military leaders that their loyalty lies with the Prime Minister and not the state. A ruling party spokesman warned that the army would not stay neutral and will side with the government if violent clashes ensue over 2018 election results.

However, within the latest Senate election, CPP claimed all Senate seats providing the leading party almost-absolute control of the upper house, [6] due to their dissolution of the opposition party last year. Smaller opposition parties are also having hard times getting candidates for the upcoming July elections. [7] The country's increasingly authoritarian leader, Hun Sen, claims that foreign powers are determined to engineer regime change. Many fear this will be used as an excuse to further crackdown on opposition parties in 2018. Furthermore, Hun Sen, for the second time, has vowed to the public that he wants to serve as the Prime Minister of Cambodia for 10 years or more to come. [8]

As a result of these moves, Cambodia's forthcoming national elections will not be free and fair, creating the potential for protests and disharmony that could provoke a violent response from the government. The 2018 election could also lead to a legitimacy crisis for the government if the opposition pulls out of the election, thereby driving the country into an internationally bad position. The lack of legitimacy and fairness of the 2018 elections is likewise outlined by the fact that international NGO's have been pulling out of the Senator election due to the worsening democratic situation, calling the Senate vote undemocratic.[9] The international community has also begun pressuring Cambodia. For example the US has cut aid programs, and the EU has threatened to do the same, as both urge Cambodia to reconsider the countries resent democratic setbacks, while both the EU and the US refuses to provide funds for the upcoming elections. [10] UN Human Rights experts have, furthermore, expressed concern for changes in the Cambodian constitution, as this will deteriorate the democratic situation even further. [11] The latest UN Human Rights report on Cambodia expressed concern about the political tension and intimidation of opposition supporters and civil society organisations. However, Cambodia's feedback on this report has been defensive, saying that the country has been protecting and improving its Human Rights and that the political measures purely have been made to obtain stability in the country.[12] The defensive nature of the country can be an attempt to legitimise their actions both nationally and internationally. Nonetheless, the defensive nature of the government is also seen in regards to a recent protest over land disputes turned violent, with security officials opening fire on the protesters, allegedly killing two and hurting multiple individuals. The government after the incident denies anyone being killed, while keeping UN Human Rights officials out of the area [13], which can be seen as an attempt to avoid being further investigated to retain its legitimacy.

The country confronts many political, economic, social and humanitarian challenges relating to underlying risk factors that will have to be addressed moving forward with the issue of land seizures and declining democratic situation foremost amongst them. Besides this, other challenges include persistent human rights violations including the freedom of speech, freedom of assembly and the freedom from torture and ill-treatment. In this context, the 2018 national elections will most likely create a further risk of political violence and hate speech/incitement that could give rise to atrocity crimes. The situation, therefore, should be carefully monitored and steps adopted to reduce tensions.

Recommendations:

The Government of Cambodia should:

1. Take steps to ensure that the 2018 election is free and fair, free of incitement and hate speech, is conducted peacefully and does not give rise to post-election violence.
2. Ensure that the military remains neutral and respect the results of the general elections.
3. Immediately end the use of incendiary language and threatens that inhibit the likelihood of free and fair elections and risk escalating tensions.
4. Ensure that those responsible for any political violence and other acts of violence are held accountable for their actions and ensure that there is no impunity.
5. Take steps to ensure the more consistent application of international human rights law in domestic settings.
6. Implement, in full, the measures proposed by Prime Minister Hun Sen in his 2015 speech on the Responsibility to Protect.
7. Work with partners, including civil society, to develop a national action plan that would address the risk factors that the country faces in order to prevent potential future atrocities.

The international community should:

1. Monitor the situation in Cambodia, carefully, up to the election in July 2018.
2. Underline to the government of Cambodia the importance of ensuring that the 2018 national elections are free, fair and peaceful and that moves to inhibit this could lead to significant consequences, including targeted economic measures and serious damage to Cambodia's international reputation.
3. Support national and local initiatives to promote peaceful elections.
4. Deploy monitors to observe and report on the election.
5. Evaluate policy options and prepare contingency plans to respond quickly should the elections not prove free and fair, or should violence erupt.

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Indonesia - Moderate Risk

Indonesia continues its transition into a stable democracy and continues to adopt measures that contribute to the implementation of R2P. They have relatively strong National Human Rights Institutions and have developed a National Plan of Action for the Promotion and Protection of Human Rights. In addition, Indonesia has resolved violent disputes in Timor-

Leste and Aceh, and the Widodo government is committed to making progress to easing tensions in West Papua. A number of potential risks remain, however:

Sectarian conflict and incitement in Aceh, Sumatra, Kalimantan and Jakarta

The most significant risk confronting Indonesia stems from the potential for communal violence between the country's significant ethnic and religious minorities and majority Muslim population. While over the past two decades the government has performed relatively well in preventing the escalation of violence, intolerance and inter-communal violence - which has escalated to atrocity crimes - is still prevalent within society. A recent poll conducted by UN Women and the Wahid Foundation indicate that 57.1% of Indonesian Muslims were intolerant against one or more minority groups, an increase from the 51% in 2016.[1] The Indonesian government have also recently made a series of political and legal moves that reflect this rising intolerance in society and are encouraging majority-minority tensions. Within the past two months, the government has banned Tumblr, citing issues with pornographic content on the social media giant. [2] The government are also considering introducing a new set of laws that tighten freedoms and discriminate against Indonesia's LGBTQ communities; including laws that mandate a total ban on sex outside of marriage, a ban on gay sex and a restriction on sex education in schools. [3]

Further, sectarian conflict continues to remain an issue in the provinces of Aceh (Muslim-Christian/ Buddhist), Sumatra (Muslim-Buddhist) and, most recently, Kalimantan. Granted significant autonomy by its peace agreement with Jakarta, Aceh's conservative regional government has subsequently tightened religious freedoms and allowed the passage of Sha'ria. Within the past two months, police in North Aceh have led raids on transgender beauty salons, arresting the transgender women found inside and subjecting them to harassment and abuse. The women were forced to shave their heads and wear male clothing.[4] Increasingly harsh punishments for minor offences are further signifying Aceh's growing religious fundamentalism and sectarian divides. In January, a couple were publicly whipped for being too "close" together (with "closeness" seen as a prelude to premarital sex)[5], while in March, an unmarried couple found in a house together were humiliated by an angry mob, with sewage water being dumped on their heads.[6] In February, a Christian couple were arrested and whipped for gambling. Aceh has further made it law that Muslim female flight attendants must be wearing the hijab upon landing in Aceh, regardless of their personal beliefs.[7]

In Sumatra, violence erupted in July 2016 in the town of Tanjung Balai close to Medan. A mob attacked property belonging to the Chinese Buddhist minority destroying at least three Buddhist temples. Order was restored by the security forces and an uneasy peace has prevailed since. More recently, sectarian violence emerged in East Kalimantan. In November 2016, a church in Samarinda was firebombed, allegedly by Muhammed Juhanda, a known extremist and former prisoner.

In the past twelve months, sectarian conflict and incitement to violence has also emerged in Jakarta. On 5 November, 150,000 protestors spearheaded by the militant Islamic Defenders Front took to the street to demand the arrest of Jakarta's Chinese Christian governor for allegedly 'defaming' the Qu'ran. Similar protests were held elsewhere. The city's Christian major, Ahok, was removed from power and subsequently imprisoned. These events have provoked concerns about the rising influence of extremist organisations and growing religious intolerance, further seen as a man, with connections in Syria, was arrested for launching an attack with a three-foot sword on a church in the Yogyakarta, Java.

Although the government has intervened each time to ease sectarian tensions and apprehend suspects, this is seen as a short-term solution to a deeper issue within Indonesian society. Ongoing low-level sectarian violence reflects deep-seated animosities between groups and is fuelled by hate speech and occasionally incitements. There are strong indications that in many parts of the country, including its capital, extremist organisations are becoming increasingly influential. The Indonesian government's proposal of the new laws governing sex are worrying, as research in Indonesia indicates conservative Islamic groups are using small issues like these to gain power in the governments, and popularity amongst Indonesian society. Indonesia has many sectarian fault lines and there are evidently extremist groups who seek to escalate tensions and incite violence against other groups. If not properly handled, small scale violence could rapidly escalate into atrocity crimes.

Conflict in West Papua

Separatist conflict in West Papua is intensifying. Clashes between West Papuans and the Indonesian government is leading to sporadic violence, and even death. The Indonesian military has recently been accused of shooting a West Papuan woman dead [8], and torturing a youth to death in an ambush plan [9]. In February, the West Papuan National Liberation Army in the

Papuan Highlands made a fresh declaration of war against the Indonesian military. They have “ordered a general mobilisation of all its soldiers in Papua to carry out operations against what it calls the “invaders”. Much of this conflict is centred on the control of resources in Papua, a mining rich area, with the West Papua National Liberation Army looking to close the operations of foreign companies that are exploiting the resources. [10]

The tensions in West Papua are being exacerbated by poor living conditions for many West Papuans, with what has been labelled a ‘famine’ by the international media leading to pervasive starvation and malnutrition[11]. This year, West Papua is also grappling with a measles outbreak, as a result of lacking clean health facilities and immunisations that has killed over 100 people [12]. The Indonesian government is growing sensitive over the publicisation of issues within the region, with an Australian BBC journalist recently arrested and later expelled from West Papua for re-tweeting information about aid conditions there that “hurt the feelings of soldiers”.[13]

Islamist terrorism (country-wide)

A number of Islamist terrorist groups, some of them with alleged ties to the Islamic State (IS) or Al Qaeda operate inside Indonesia, and there is a persistent threat of terrorism. There are indications for the rising support of extremists in some parts of the community, linked with the rise of fundamentalism within Indonesian society. With the defeat of IS in the Middle East, there are strong concerns that Indonesian foreign fighters in the Middle East may begin to return to Indonesia in greater numbers. Indeed, IS-linked individuals are increasingly carrying out lone wolf terrorist attacks within Indonesian society. Thus far, more than 400 Indonesian jihadist foreign fighters have been arrested in Turkey. It is thought that the total number of Indonesia foreign fighters in the Middle East numbers in the ‘thousands’.

Indonesia is acutely aware of this issue and has stepped up measures to combat it. Amongst other things, Indonesia has adopted large scale education and de-radicalisation programmes, and has recently announced that they would be addressing the rise in lone wolf terrorist attacks by doubling their counter-terrorism police unit, known as Detachment 88.[14] They are also stepping up security and intelligence cooperation with neighbouring states. One such example is the “Our Eyes: initiative launched January 2018, which sees six ASEAN states (Indonesia, Malaysia, the Philippines, Singapore, Thailand and Brunei) collaborate on the fight against Islamic terrorism through the sharing of intelligence and resources.[15]

Recommendations

The government of Indonesia should:

1. Appoint a senior official as National R2P Focal Point to coordinate national and international efforts to implement R2P.
2. Develop and implement a comprehensive strategy for tackling violent extremism that strengthens the security forces whilst protecting core human rights.
3. Take steps to ensure the maintenance of the rule of law and order in areas afflicted by sectarian violence.
4. Conduct a thorough assessment of risks of sectarian 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 to the people’s needs, and stimulate economic development.
7. Ensure that security operations against non-state armed groups, including those in West Papua, are conducted in a manner consistent with Indonesia’s international legal obligations.

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.

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Papua New Guinea - Moderate risk

Papua New Guinea's 2017 election was marred by violence and allegations that thousands of names were left off the electoral register. These come on top of recurrent allegations that the PNG police have opened fire on student protestors (2016) and unarmed suspects. Unless these related problems are addressed, they could sow the seeds for future communal violence, including atrocity, crimes around elections.

Papua New Guinea (PNG) also continues to confront a number of challenges which could give rise to atrocity crimes. High rates of violence are endemic across PNG. The town of Lae, for example, has one of the world's highest murder rates. In particular, PNG experiences extremely high levels of gender and sexual based violence. Sexual violence is endemic and the country is judged by many to have the highest rate of sexual and 'domestic' violence of any country in the world outside a context of armed conflict. In the past few months, there has been a spate of attacks on women accused of sorcery. Six women have been killed.

Recommendations:

The government of PNG and its partners should:

1. Thoroughly investigate all allegations of the use of excessive force by the security forces and ensure full legal accountability for all shootings and other acts of violence.
2. Publicize, educate and enforce the human rights of girls and women.
3. Ensure improved access to justice for the victims of gender and sexual based violence.
4. Tackle impunity by strengthening the training and accountability of security forces, including police.
5. Increase support for the victims of sexual and gender based violence.
6. Develop and implement a strategy for reinforcing anti-violence norms amongst men.
7. Empower women through increasing educational and economic opportunities.
8. Fulfil its responsibility to protect all populations on its territory, including refugees and asylum seekers.



Thailand - Low risk

The risk of atrocity crimes in Thailand has fallen from moderate to low as a result of the easing of tensions in Bangkok and reduction of violence in the country's south. Challenges remain, however. Thailand remains in a transitional state and its government claims that it is on track for a return to civilian rule in 2018, a move initially scheduled for 2017. The military-led government has curbed political and civil rights, especially rights of association and rights to protect, but has pledged that these rights will be restored once democratic and civilian government resumes following national elections

There also remain signs that the Islamic insurgency in the country's south could escalate. It is now thought that the 'Islamic State' group has fighters inside Thailand. There was an upsurge of violence and terrorist style attacks in June-July but the situation has calmed since then. Meanwhile, the oppositionist Barisan Revolusi Nasional (BRN) continues to reject peace talks and refuses to cooperate with the MARA Patani group in conducting negotiations with the government. Since then, the situation has stabilized. However, reports persist of the use of torture and other abuses by security forces against prisoners suspected of being members of non-state armed groups.

Recommendations.

1. Progress should be made on the transition to civilian and democratic government continues in full consultation with all the relevant parties.
2. The government of Thailand should fulfil its responsibility to protect by protecting civilians from terrorism and insurgent attacks.
3. The security forces should ensure that their actions are consistent with domestic law and Thailand's international legal obligations, especially human rights obligations. Those responsible for violations of human rights should be held accountable.
4. The government should explore options for negotiations with the Patani insurgents.
5. Non-state armed groups must refrain from targeting civilians and should be prepared to enter negotiations in good faith.
6. All those responsible for violent crimes against civilians must be held accountable.