

ASIA PACIFIC REGIONAL OUTLOOK

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Featured in this issue...

Systematic sexual and gender based violence in Xinjiang

Myanmar coup elevates risks of violence

DPRK continues to commit widespread and gross violations of human rights

Gender violence and hate speech

REGIONAL ATROCITY RISK ASSESSMENT



Very High

China
Myanmar
Democratic People's Republic of Korea (DPRK)

High

The Philippines

Moderate
(high to low)

Indonesia (West Papua)
Papua New Guinea

Low

Cambodia, 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 Risk: Very High/Ongoing

The risk of atrocities in Myanmar remains very high and is made more acute worse by the coup staged by the Tatmadaw against the democratically elected civilian government on 1 February. Given the military's past record of atrocities against civilians during civilian-led protests, it is likely that violence in major cities could escalate further as the Tatmadaw begin to crackdown on growing civil disobedience movement against the junta.

Army Commander-in-Chief Min Aung Hlaing declared a one-year state of emergency and detained top NLD leaders including State Counsellor Aung San Suu Kyi. The Tatmadaw leader justified his putsch on the pretext of claiming 'widespread election fraud' in the November 2020 elections, which was overwhelmingly won by the NLD. Criminal charges were filed against Suu Kyi for allegedly smuggling communications equipment following a military raid in her house and the NLD headquarters in Yangon.¹ Access to mobile and internet services have been intermittently cut even as the military attempts to deny the international community live news feeds of what is going in throughout the country.

Some 350 activists and protesters, including media reporters, have been arrested following more than two weeks of nation-wide peaceful protests against the coup and civilians remain defiant despite the junta's imposition of curfew and ban on group gatherings in the country. A number of government staff, health and transportation workers, and even some policemen reportedly joined the protests in support of civil disobedience campaign.² A 20 year-old student was shot by police in Nay Pyi Daw where families of government staff joined in unprecedented protest rallies against the coup in Myanmar's capital and seat of the national government. Five journalists in Myitkyina were arrested after monitoring and reporting on wounded civilians following firing of tear gas by troops on protesters who attempted to stop security forces from shutting down an electricity grid.³ An immediate casualty of the civil disobedience campaign is the abrupt drop in testing for COVID-19 infections in the country as health workers participate in protests.

As nation-wide protests continued, the Tatmadaw has resorted to night-time warrantless arrests of suspected activists and protesters, forcing civilians to organise neighbourhood watch to prevent security forces from undertaking arbitrary arrests. Following the junta's decision to release some 23,000 persons in jail, unconfirmed reports claim that some of the released prisoners were undertaking mob attacks against protesters by setting houses on fire even as it is alleged that they will be used by the military to infiltrate protesters to instigate violence.⁴

The international community led by the UN Security Council and ASEAN expressed deep concern over the situation in Myanmar following the coup but failed to outrightly condemn the military takeover of the government. The Security Council and the ASEAN Chairman's Statement both expressed the importance of adhering to democratic principles, including the protection of human rights, respect for fundamental freedoms, and the rule of law.⁵ Four representatives of the ASEAN Inter-Governmental Commission on Human Rights (AICHR) from Indonesia, Malaysia, Singapore, and Thailand also issued a joint statement expressing their individual positions on the situation in Myanmar, which echoed the ASEAN Chairman's Statement and underscored the importance of upholding the principles of the ASEAN Charter and the protection of human rights, fundamental freedoms, and rule of law. ASEAN foreign ministers are scheduled to have a special meeting to assess the bloc's response to the coup in Myanmar.

On the other hand, various civil society groups across the region condemned the overthrow of the civilian government, called on the junta to restore the democratically elected civilian government, denounced the use of force by security troops against demonstrators who were peacefully protesting against the coup.⁶ As this developed, the US announced that it will impose additional sanctions against the military in Myanmar even as New Zealand decided to suspend high level military and political engagement with Myanmar and stated that it does not recognise the junta as a legitimate government.⁷ The European Union foreign ministers is scheduled to meet on 22 February to review the bloc's relations with Myanmar and examine avenues to exert pressure on the junta, including suspension of preferential trade treatment for products coming from the country.⁸ Meanwhile, some investors from Japan, Thailand, and Singapore have temporarily suspended business dealings with Myanmar in light of anticipated Western sanctions that may be imposed against the junta.⁹

Overall, the situation in Myanmar remains volatile and violence could escalate further as the Tatmadaw defies international calls for restoration of the democratically elected civilian government and intensifies its crackdown against civilians participating in civil disobedience activities.

Recommendations

The Tatmadaw must:

- Heed the call of Myanmar people and the international community to restore the democratically elected civilian government and respect the fundamental freedoms and human rights of those engaging in peaceful protests against the coup;
- Immediately end its' crackdown and warrantless arrest against civilians. It should also refrain from using recently released prisoners to instigate violent attacks against protesters.

Concerned states should:

- Work through the UN, ASEAN, and other means to exert pressure on the junta to restore the civilian government in Myanmar and release all political detainees including top ranking NLD leaders who were arrested following the coup;
- Adopt targeted bilateral and multilateral sanctions against specific members of the Tatmadaw and their business holdings in Myanmar;
- Consider avenues, such as a resolution of the UN Security Council, for preventively extending the possibility of additional criminal charges against the leaders of the military junta in the International Criminal Court (ICC) and International Court of Justice (ICJ) should further atrocity crimes be committed.



Democratic Peoples' Republic of Korea Risk: Very High/Ongoing

The DPRK continues to commit widespread and gross violations of human rights in the Democratic People's Republic of Korea, which the UN's High Commissioner for Human Rights has reported as recently as February 2021 could constitute crimes against humanity.¹⁰ In October 2020, the UN's special rapporteur on human rights in North Korea reported that the human rights situation remained "very severe" and that there were no signs of progress in any respect. Human rights violations are compounded by regime-induced malnutrition which the UN reports now affects 40% of the population or more than 12 million people. There is pervasive discrimination in the distribution of food as a result of which many citizens, including even farmers, do not receive adequate food. There has also been little to no progress on reducing political prison camps where torture and killing are commonplace. The UN estimates that there are 200,000 people held in political prisons. There has been no discernible reduction for some time. Large numbers of people are also routinely forced to perform unpaid labour. The UN found that this can amount to enslavement, a crime against humanity.¹¹

None of this is new. In 2019, the UN General Assembly expressed "very serious concern" over continuing reports of, inter alia: torture and other cruel, inhuman or degrading treatment; political prison camps; enforced and involuntary disappearances; the forcible transfer of populations and severe limitations on the freedom of movement; the situation of refugees and asylum seekers; "all-pervasive and severe restrictions" on civil and political rights; violations of economic, social and cultural rights; and gross violations of the human rights and fundamental freedoms of women and girls.¹²

However, international pressure on the DPRK to address its pervasive culture of impunity has waned in the past few years. The UN's OHCHR reported that other political priorities, principally nuclear issues, had led to 'decreased emphasis' on human rights. Although the UN General Assembly resolution condemning DPRK's systematic abuse and repression passed by consensus without a vote, for the first time since 2008, the Republic of Korea (ROK) declined to co-sponsor the resolution. For the second consecutive year, in early December the US government refused to endorse a formal UN Security Council debate on the human rights situation in DPRK, which effectively blocked the discussion. China and Russia also steadfastly oppose using the UN Security Council as a forum to discuss human rights concerns in the DPRK, arguing that it only serves to harden Pyongyang's position.

Pyongyang's extreme sensitivity to international condemnation of its human rights record and routine threats to cut diplomatic ties if human rights concerns are raised creates dilemmas with regard to the best approach to addressing ongoing crimes against humanity in the DPRK. Pyongyang has proven adept at using human rights as a bargaining tool in its relations with the US, Japan and ROK. Even actors who have previously led efforts to shed light on the regime's crimes and pursue accountability are divided on how to move forward on improving the human rights situation. Yet, caving to Pyongyang's demands that human rights remain off the diplomatic agenda if nuclear talks are to resume has thus far yielded little progress on either front. Furthermore, DPRK's persistent refusal to cede any ground on engaging with the UN Special Rapporteur or grant access to special mandate holders undercuts the rationale that adopting a more conciliatory approach in the UN can open channels for deeper engagement with UN human rights bodies. In this vein, Quintana continues to call on the ROK and US (as well as Russia and China) to stop sidelining human rights concerns from denuclearization, sanctions relief and peace talks, and to start clearly sending the message that improving the human rights situation is integral to headway on these issues.¹³

A longstanding recommendation in this regard is for any proposal for sanctions relief to be tied to: (1) Pyongyang allowing the UN country team free and unimpeded access to all parts of the country in order to assist in meeting the needs of vulnerable persons, and (2) DPRK authorities engaging with the UN Office of the High Commissioner for Human Rights and accepting the UN Special Rapporteur's request for a country visit. The latter could help open a parallel track for dialogue on human rights alongside denuclearization and peace talks, or, in the very least, stress to Pyongyang that its severe human rights abuses are not a negotiating tool that can be leveraged in nuclear talks in the absence of meaningful concessions or reforms aimed at safeguarding its population from atrocity crimes.

It is imperative that renewed emphasis is given to human rights. Regional security and the improvement of human rights in the DPRK are indivisible. Under the Trump administration, US policy on human rights in the DPRK fell into disarray. With the US failing to lead multilateral efforts through the UN Security Council, Human Rights Council, Japan and South Korea also stood back, failing to co-sponsor resolutions in either the Council or the UN General Assembly. As a result, multilateral efforts have floundered in the past few years. There are hopes that the Biden administration might assume leadership on this by re-appointing a special envoy on human rights in North Korea and spearheading efforts through the UN.¹⁴

Recommendations

It is imperative that all actors give renewed attention to the protection of human rights in the DPRK.

The government of the DPRK should:

- Immediately cease the commission of crimes against humanity, and 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.

The US should:

- Appoint a Special Envoy on Human Rights in North Korea.

The UN Security Council should:

- Revive its informal dialogue on human rights in North Korea;
- Ensure that human rights concerns are integrated into any proposal for sanctions relief, including conditioning sanctions relief on DPRK authorities.

The UN Human Rights Council:

- Review what meaningful steps might be taken to achieve compliance with its previous recommendations

China and the Republic of Korea should:

- Recognise DPRK citizens as refugees sur place and respect the principle of non-refoulement. China should 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 OHCHR should:

- Monitor patterns of abuse that may amount to crimes against humanity in the DPRK, investigate unresolved human rights issues, raise awareness and visibility of the human rights situation, and work with civil society and other governments to continue to press for accountability and an end to impunity.



China Xinjiang Risk: Very High/Ongoing

Since early 2017, reports have emerged of large-scale arbitrary detention and mass surveillance, forced political indoctrination, severe restrictions on movement and religious practice, torture and inhumane treatment, forced sterilisation, forced separation of children from parents, forced labour and killings of persons in detention in the Xinjiang Uighur Autonomous Region ('XUAR' or 'Xinjiang') of China. The alleged victims are predominantly Uighur and other Turkic Muslim minorities. After detailed study of the evidence and relevant facts, in October 2020 the Asia Pacific Centre for the Responsibility to Protect issued a report which concluded that:

1. The Chinese government is committing crimes against humanity, including: persecution, imprisonment, torture, forced sterilisation, and enslavement. The evidence may also substantiate further crimes against humanity of enforced disappearance, murder, and rape.
2. There is evidence that genocidal acts may have occurred in Xinjiang, in particular acts of imposing measures to prevent births and forcible transfers. There is also evidence that raises concerns of acts including killing, serious bodily and mental harm, and inflicting conditions that are calculated to bring about physical destruction have occurred in Xinjiang.¹⁵

Since 2016, the Chinese government has subjected an estimated 13 million Uighurs and other Turkic Muslims in XUAR to an intrusive system of mass surveillance, large-scale arbitrary detention, forced political indoctrination, and severe restrictions on movement and religious practice.¹⁶ Upwards of a million Uighurs and other Turkic Muslims have been remanded in state custody in what Chinese authorities refer to as 're-education' or 'de-extremification' facilities.¹⁷ Former Uighur detainees have described conditions in re-education camps as variously involving crowded cells, indoctrination that drove some to suicide, waterboarding,¹⁸ food deprivation as punishment, beatings, being shackled to chairs for extended periods of time, sleep deprivation, forcibly being drugged, electrical shock treatment, rape and sexual humiliation, and other forms of extreme physical and mental abuse.¹⁹ Family members both within China and overseas continue to report that they have limited or no access to information about persons held in state detention,²⁰ and children of detained parents are being treated as de-facto orphans and placed in state-run institutions "without parental consent or access".²¹

There are credible allegations of widespread and systematic sexual and gender based violence perpetrated by Chinese guards in so-called "re-education" camps.²² which collated survivor and eyewitness testimonies. Survivors have spoken out about experiences of repeated gang rapes, sexual torture involving electric shocks, forced nudity, and of being forced to participate in a "system of organised rape" by undressing others in preparation for abuse. The widespread or systematic use of sexual and gender based violence is a crime against humanity. When used with intent to destroy a group, SGBV falls within the definition of genocide under the Genocide Convention, by causing serious bodily or mental harm, inflicting conditions to bring about the group's destruction; and imposing measures to prevent births within the group.

Enslavement and forced labour, practices evident in North Korea too, appear common. In March 2020, ASPI released a report "conservatively" estimating that, between 2017 and 2019, more than 80,000 Uighurs were transferred out of Xinjiang to work in factories across China.²³ In many cases, the transfer has been reported as being directly from a re-education camp.²⁴ Forced labour or otherwise reducing a person to a servile status can amount to the crime of "enslavement" under international law,²⁵ which occurs when "any or all powers attaching to the right of ownership are exercised" over a person.²⁶ International jurisprudence regards as salient indications of enslavement: "elements of control and ownership; the restriction or control of an individual's autonomy, freedom of choice or freedom of movement; and, often, the accruing of some gain to the perpetrator".²⁷ The victim's consent or free will is absent.²⁸

The government is also allegedly separating Uighur children from their parents and enrolling them in state boarding schools, which resembles a government-led "parallel campaign to systematically remove children from their roots" alongside the broader effort to "transform the identity of Xinjiang's adults" through 're-education' and religious repression.²⁹ Numerous acts of persecution have occurred against Turkic Muslim minorities, particularly Uighurs, in Xinjiang. Indeed, the alleged facts amenable to characterisation as "persecution" are too vast to cover comprehensively in this Report. Those focused on are: widespread destruction of Uighur cultural and religious heritage (including property, language, and customs); and the organised mass detention and "re-education" of Uighurs and other Turkic Muslims (including associated crimes of imprisonment, forcible transfer, torture, forced sterilisation, and enslavement considered later in the Report).³⁰

There have been numerous and credible reports of Uighur historical and holy places being destroyed and desecrated in Xinjiang. Using satellite imagery, the Australian Strategic Policy Institute (ASPI) recently found that of a sample of 533 mosques across Xinjiang, 31.9% had been destroyed, 32.8% were damaged, and 35.3% were undamaged.³¹ Extrapolating this data to mosques across Xinjiang, approximately 16,000 mosques may have been damaged or destroyed and 8,450 completely demolished since 2017.³² Besides mosques, ASPI's data and analysis suggested that 30% of other sacred sites (included shrines (mazar), cemeteries, and pilgrimage sites) have been demolished, mostly since 2017, and an additional 27.8% have been damaged in some way.³³ This evidence is consistent with individual reports published by NGOs and media of deliberate destruction of mosques and other culturally significant sites.³⁴ Reports also document destruction of historic Uighur neighbourhoods and old cities,³⁵ and re-ordering of Uighur households.³⁶ Reports further indicate that Muslims are prevented, including by

official regulation, from: performing traditional rituals and ceremonies, using Arabic, giving their children traditional names, growing beards, wearing Islamic clothing and face coverings, and selling and buying halal food.³⁷ Each amounts to restriction of Uighur and Muslim customs.

Reports of the situation in Xinjiang have documented instances in which Uighur or other Turkic Muslims have been taken away by authorities to “re-education” camps without identifying to friends and family where they have been taken to or for how long. Such instances suggest the crime of “enforced disappearance”, which is defined in the ICC Statute as the “arrest, detention or abduction of persons by, or with the authorisation, support or acquiescence of, a State or political organisation, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of law for a prolonged period of time”.³⁸ The “essence” of the crime has been articulated as “that the friends and families of the direct victims do not know whether the persons concerned are alive or dead”.³⁹

Enforced disappearances are also common,⁴⁰ especially of Uighur intellectuals and prominent cultural figures.⁴¹ Relevant evidence is also contained in the “Xinjiang Papers” leaked to the New York Times.⁴² One paper is a directive advising local officials of how to engage with students returning to the Xinjiang “and whose family members are being punished during the ‘Strike Hard’ campaign”.⁴³ The document advises officials as to how to handle questions about the location and fate of their relatives without any specificity. Officials are to give only a vague reference to where relatives are—“in a training school set up by the government” because “they have come under a degree of harmful influence in religious extremism and violent terrorist thoughts”—and for an indeterminate period of time—“an extended period”.⁴⁴

In relation to the question of genocide, there is significant evidence available to establish forced sterilisation as having occurred in Xinjiang. As a matter of law, the crime of “forced sterilisation” occurs when: (1) the perpetrator deprives one or more persons of biological reproductive capacity; and (2) the conduct was neither justified by the medical treatment of the person nor carried out with their genuine consent.⁴⁵ Individual reports by NGOs and news agencies documenting interviews with Uighur women,⁴⁶ as well as doctors that have treated Uighur women both in Xinjiang and abroad,⁴⁷ are strong evidence that numerous women have been sterilised by Chinese authorities and without their genuine consent. The occurrence of these sterilisations is consistent with official government statistics, which document a significant decline in birth rates in Xinjiang and a disproportionate rise in sterilisations in Xinjiang as compared to the rest of mainland China.⁴⁸ Individual reports which document sterilisations as variably having occurred against patients’ wills, without genuine consent, or without informing the patient of the procedure,⁴⁹ prove that some, if not most, of these sterilisations have occurred forcibly.

The international response to atrocity crimes in China has been lacklustre at best, creating a climate of impunity. Besides the US, in recent months a number of countries have publicly identified China’s human rights violations as atrocity crimes and have called on China to respect the rights of its Turkic Muslim. A Canadian parliamentary committee labelled Chinese policy “genocide” whilst the British parliament has begun to consider following the US in imposing sanctions.⁵⁰ The issue was also raised by a joint statement on Xinjiang issued on behalf of 23 countries at a UN General Assembly Third Committee session on the Committee for the Elimination of Racial Discrimination in late October.⁵¹ China has reacted with predictable hostility.⁵² Condemnation of China’s policy by the UN and Western governments and media continues to rankle Beijing. In December, China responded by ramping up its political propaganda, including through editorials in state-run media and documentary videos posted on Twitter and YouTube.⁵³ China also secured support for a rebuttal statement issued by Belarus on behalf of 54 countries, including Pakistan, Russia, Egypt, the Democratic Republic of Congo and Serbia. This statement defended China’s policies in XUAR, noting China’s “remarkable achievements in the field of human rights” through successfully returning “safety and security” to Xinjiang where “the human rights of people of all ethnic groups there are safeguarded”.⁵⁴ This mirrored the strategy China adopted in the UN Human Rights Council in July. In response to a letter of concern issued by 22 (mostly Western) states, UN ambassadors from 37 countries including Russia, Saudi Arabia, North Korea, Myanmar, Algeria, the Philippines and Zimbabwe issued a letter commending China’s counter-terrorism policy.⁵⁵ Arab and Muslim-majority states also continue to refuse to speak out against China’s treatment of Turkic Muslims, with some even voicing support for China’s policies in Xinjiang.⁵⁶

Recommendations

The government of China must:

- Immediately halt violations in XUAR that may amount to crimes against humanity and genocide, and take active measures to prevent the recurrence or escalation of such violations;
- Direct the government in XUAR to repeal the 2017 Regulation on De-extremification, and respond favourably to the requests of UN special procedures mandate holders to undertake an official visit to China with unhindered access to detention facilities in Xinjiang;
- Grant the OHCHR unfettered access to all locations in XUAR.

All concerned states should:

- Condemn crimes against humanity by Chinese authorities in XUAR;
- Examine what bilateral measures they could take to encourage China to immediately halt violations in XUAR and take tangible steps to apply pressure and uphold accountability;
- Cooperate to utilize all multilateral avenues, including the UN Security Council, General Assembly, Human Rights Council, and other bodies as appropriate, to express disapproval of Chinese policies encourage the authorities to change course.

In particular, the UN Human Rights Council should:

- Urgently establish an investigation to gather information to assess whether patterns of abuses in Xinjiang constitute crimes against humanity that are universally prohibited under international law.

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, and continue to urge China to uphold the human rights and fundamental freedoms of Turkic Muslims and to accept independent UN observers in Xinjiang.



The Philippines Risk: High

The Philippines remains at very high risk for atrocities as the Duterte government's drug war campaign continued unabated as the country battles rising COVID-19 cases. Human rights violations also increased as the government used the Anti-Terrorism Act (ATA) to crackdown on suspected communist or leftist sympathisers, human rights defenders, indigenous people, media reporters, and other critics of the Duterte administration. Notwithstanding over 30 petitions against the ATA, which is currently being heard in the Supreme Court, the law remains in effect as there is no temporary restraining order issued by the court.

In November 2020, the Philippine National Police (PNP) reported that close to 8,000 suspects have been killed during anti-drug operations since 2016. Between September and October 2020, the PNP reported 2,423 drug suspects killed or an average of 13 killings a day.⁵⁷ However, the civilian-led Philippine Drug Enforcement Agency (PDEA) reported that only 6,011 persons have died in anti-drug operations between 1 July 2016 to 31 December 2020.⁵⁸

For its part, Human Rights Watch reported that drug war killings in the Philippines increased by more than 50 percent during the pandemic, citing the PNP figures.⁵⁹ It also said that a total of 160 political activists have been killed thus far since 2016 based on reports by human rights monitors. A number of those killed were "red-tagged" as communist sympathisers or supporters by the Philippine military, the police, and local anti-communist groups in the country.⁶⁰ On 30 December, nine local indigenous leaders were killed and 17 others were arrested by police and military forces in the island of Panay in an anti-communist insurgency operation. The military claimed that the targets resisted arrest and fired at positions of law enforcers but was refuted by the local village chief who claimed that the victims were unarmed and were asleep when the government troops came.⁶¹ Indigenous rights advocates claimed that the victims were targeted for their resistance to militarization and opposition to government-backed infrastructure projects in the island.⁶²

In light of these developments, the Philippine Commission on Human Rights (CHR) asked the PNP to address human rights concerns that stemmed from arrests and killings of activists in the country. Specifically, six trade unionists and a journalist were arrested based on illegal possession of firearms and explosive charges. A number of irregularities were noted in the implementation of the search warrant and the arrest even as those arrested claimed that the seized firearms, ammunition, and grenades were planted by the police.⁶³

Meanwhile, the Office of the Prosecutor of the International Criminal Court (ICC) in December found "reasonable basis to believe that alleged crimes against humanity were committed" under the Duterte government's drug war campaign. Fatou Bensouda said that her office expects to make a decision in the first half of 2021 on whether to seek authorisation to open an investigation into the situation in the Philippines.⁶⁴ As expected, government officials denounced the ICC prosecutor's report and asserted that the international court does not have any jurisdiction in the Philippines as it already withdrew as state party to the Rome Treaty in March 2019. In a recent interview, Duterte's spokesperson even erroneously expressed hope that the incoming ICC prosecutor from the UK would consider the decision of Bensouda in December not to call for an open investigation into allegations of mistreatment of Iraqi detainees in UK custody after the invasion of Iraq in 2003 as something that will also be applied in the case of the Philippines.⁶⁵ As a matter of fact, Bensouda's decision not to pursue a full investigation of alleged war crimes by UK troops was based on her findings that there was no proof that UK authorities had blocked investigations or were unwilling to pursue them.⁶⁶

As human rights advocates and victims of the government's drug war welcomed the ICC prosecutor's report, more evidence against President Duterte were submitted by local human rights defenders to the prosecutor's office in January 2021. Specifically, they included the report on the situation in the Philippines by the UN High Commissioner for Human Rights in June 2020, which found that more than 8,600 people have been killed in the government's drug war. They also claimed that Duterte's threats against the ICC officials was in violation of Article 70 of the Rome Statute.⁶⁷

Recommendations:

The government of the Philippines should

- Uphold its primary responsibility to protect by complying with international norms on human rights protection and humanitarian law. Specifically, it should hold accountable law enforcers and other members of the security sector for violations of human rights in relation to the war on illegal drugs and campaign against terrorism.
- Ensure that fundamental human rights are protected in the implementation of the new anti-terrorism law. It should not use the new law to silence legitimate dissent and critics of the government.
- Cooperate with the ICC Prosecutor's Office if it decides to conduct a formal investigation into the drug war killings under the Duterte administration since 2016. It should refrain from making threats against ICC officials and allow for a full and impartial investigation of alleged crimes against humanity committed by law enforcement agents.

Indonesia General: Low West Papua: Moderate

While COVID-19 brought risk of violence to minority groups in Indonesia, including Indonesia's Chinese population and recent migrants to the country, such as Rohingya refugees, the risk did not escalate into outbursts of violence.

What has escalated in the country as a result of COVID-19, as reported in the previous Regional Outlook, is a dramatic rise in domestic violence; in some instances, the reporting of the crime doubled from 2019.⁶⁸ According to the World Bank East Asia and Pacific Gender Innovation Lab, forty-three per cent of women in rural areas of Indonesia felt unsafe at home, and forty-six per cent felt unsafe in their community due to perceived risks attributed to COVID-19, up dramatically from previous years.⁶⁹ A 2020 survey by the National Commission on the Elimination of Violence against Women noted not only a rise in physical violence, but also a rise in emotional anxiety due to unemployment and the reshaping of traditional collectivist society centred on religion and community. The pandemic has been seen to isolate families, leaving women more vulnerable to abuse by frustrated partners who are having to spend more time at home due to unemployment and social restriction⁷⁰.

Aside from small outbursts of violence in West Papua, other small outbursts of violence have occurred in the country recently, including the Timor region of East Nusa Tenggara province, where it was reported that women from an indigenous group were beaten by Indonesian police and soldiers in October 2020. According to the report, Indigenous peoples' land was taken, in partnership, by the provincial government and the Australian government for cattle farming in 1984. The Indigenous minority, who claims the land as theirs, has since made a series of protests, resulting in their homes demolished in August 2020.⁷¹ More recent protests led to bashings by Indonesian officials.

Indonesian social media remains a harbinger of hate speech and disinformation on a range of topics, from COVID anti-vaccination campaigners to hard-right Islamist rhetoric. Microsoft's recently published Digital Civility Index Report suggests that the country's civility, safety and interaction online has declined, and most of this content is driven by adults using social media. The report cites the highest risks to digital civility as being hate speech, hoaxes, and discrimination, with 59 per cent of those interviewed suggesting it is social media's responsibility, not the government's, to curb all three of these problems.⁷²

Recommendations

The Indonesian Government should:

- Appoint a senior official as National R2P Focal Point to coordinate national and international efforts to implement R2P.
- Ensure restricting the spread of COVID-19 remains a priority.
- Ensure legislative decisions do not compromise Indonesia's democracy and will not lead to human rights abuse across all regions.
- Work to implement legislation to stop hate speech and discrimination.

The Australian government should:

- Encourage Indonesia to take active steps to fulfil its responsibility to protect.
- Continue to 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.
- Continue to provide COVID-19 assistance when requested to help the government and civil society tackle challenges that stem from the pandemic.
- Explore the risk of violent unrest due to ethnic displacement because of the partnership between Indonesian and Australian governments.

West Papua Risk: Moderate.

The Indonesian military reported that an Indonesian soldier had been killed in West Papua by separatist rebels in February 2021. Insurgents opened fire at an army outpost in Intan Jaya district.⁷³ Internet shutdowns have been used as a tool by the Indonesian Government to stymie unrest and protest in West Papua, such as during the 2019 uprising. In 2020, a group of civil society organisations sued the government for the internet shut downs, and the Jakarta State Administrative Court found that these shut downs were illegal.⁷⁴

The racism directed at West Papuans by Indonesian authorities, that triggered the 2019 violence, reared its head again in January 2021, with comments from officials associated with the government. A former head of the Indonesian intelligence agency and special forces said that West Papuans should be resettled in order to "racially separate them from Papuans in PNG", while a prominent supporter of President Joko Widodo alluded to the longstanding "monkey" slur against Indigenous Papuans.⁷⁵

On 1 December 2020, long-time West Papuan independence activist Benny Wenda was declared President-In-Exile of the Provisional Government of West Papua, by the United Liberation Movement for West Papua (ULMWP). However, various West Papuan groups have rejected his presidency, and the independence movement appears to be fragmented and without a broadly accepted leadership.⁷⁶

While underlying tensions about independence, ongoing racism and resource exploitation remain, there is potential for conflict. As long as armed rebels continue to carry out acts of violence against civilians, and while as the Indonesian Government continues to neglect the social and economic needs and aspirations of the West Papuan people, the risk of violence and atrocity crimes remains high.

Recommendations

The Indonesian Government should:

- Address entrenched racial discrimination, hate speech and incitement against West Papuans, and provide clear advice to security forces to abide by international law and refrain from the use of violence and torture.
- As a member of the UN Human Rights Council, ensure human rights are protected in all Indonesian territories, including freedom to protest and gather and freedom of speech.
- Refrain from using racist and inciteful language.
- Respect and abide by the Court's decision that the media blackout is unlawful, and in turn make the province accessible to foreign and Indonesian media reporting.
- Consider the aspirations of West Papuans and the underlying issues fuelling the protests, and endeavour to take into account these aspirations in future dealings with the province.



Papua New Guinea Risk: Moderate

The Covid-19 pandemic continues to exacerbate challenges to health care in PNG, where health infrastructure is generally weak, and access to government services, especially in the many remote parts of the country, is limited. Social, economic and political pressures, mental health impacts of lockdowns, low rates of Covid testing, job insecurity and systemic fragilities are all present and can elevate the potential for social unrest. The PNG government is finalising the country's vaccine roll out with plans to begin in March 2021, with frontline workers and high risk citizens to receive the vaccine first.⁷⁷ It is unclear where the vaccine is being obtained, with recent claims by China to be assisting PNG being refuted by PNG's Acting Foreign Minister.⁷⁸ Concerns have also been raised about how to target the vaccine to the most affected regions, and around other health service needs such as improved facilities and attention to other rampant diseases.⁷⁹

Issues of corruption and a lack of transparency, and an overall mistrust of the country's governance, have manifested again recently with a company promising a sustainable forestry project in PNG was found to have paid bribes to PNG officials in order to purchase a timber company at a massive discount.⁸⁰ Meanwhile, there are concerns about Chinese plans for a fishing plant and city on the island of Daru, just north of Australia's border in the Torres Strait. In addition to existing land title claims by six groups on the island,⁸¹ locals are worried about the adverse impact to their livelihood should the fishing farm plans proceed, and are seeking to be consulted about the proposal.⁸² This project joins a number of others agreed upon between China and PNG under the One Belt, One Road agenda.

PNG has a history of foreign-owned extractive industries which are often exploitative, unsustainable, and return few benefits to the local population. Underlying tensions, along with policies that do not take into account the needs of local communities, can create simmering resentments and a lack of trust in authorities. In turn, this can lead to conflict within groups, and between communities, the private sector and governments.

Structural risk factors for atrocity crime present in PNG mean there is potential for a trigger such as a natural disaster, an episode of tribal violence, or a political event, to lead to violent conflict, and potential atrocity crimes. While there had been Covid-related delays to negotiations between PNG and Bougainville following the independence referendum in 2019, a recent meeting between PNG's Prime Minister James Marape and Bougainville's President Ishmael Toroama produced several outcomes, including agreement on financial payments and a framework for consultations.⁸³

Recommendations

The government of Papua New Guinea should:

- Develop strategies to ensure the Covid-19 vaccine roll out is fair and equitable, delivered to high risk individuals and frontline workers first, and reaches vulnerable and remote communities;
- Improve transparency and governance and ensure local communities are consulted on economic decisions that may have an impact on their land and livelihood;
- Continue to work towards improved access to services for those in remote areas;
- Continue to engage constructively with the new government of Bougainville on the independence referendum outcome.

SEXUAL AND GENDER BASED VIOLENCE

Sexual and gender-based violence

New accounts have emerged of systematic sexual violence against the Uighur community in China. Survivors and witnesses have recounted physical and sexual abuse include beatings, sexual torture involving electric shocks, and repeated gang rape.⁸⁴ In addition, there are reports of forced nudity, and of women being forced to participate in a “system of organised rape” by undressing others in preparation for abuse.

The cases are occurring in the internment, or so-called “re-education” camps, in the Xinjiang province, where Uighur Muslims are being detained and subjected to a range of crimes against humanity including forced labour, indoctrination and forced assimilation, as well as previously documented cases of forced sterilisation and measures to prevent births within the group.⁸⁵ These new reports consolidate that evidence, with accounts of forced medical examinations, medication and injection regimes to reduce fertility or prevent reproduction.

Abuses being perpetrated against the Uighur community are crimes against humanity and may amount to genocide.⁸⁶ SGBV can cause long-term physical harm to survivors, as well as psychological trauma and ongoing stigma. In a context of genocide, it can serve as a strategy to destroy the group in whole or in part.

The US government has called for “serious consequences” and both the US and Australian governments have urged China to allow independent investigations to occur in Xinjiang including by the UN High Commissioner for Human Rights.⁸⁷

Increasing risk of gender-based violence in Myanmar

Violence and human rights abuses are escalating in the wake of the February 2021 military coup in Myanmar. In addition to authoritarian measures, such as internet shut downs, violence against protesters, night-time arrests and arbitrary detention, the Myanmar military (Tatmadaw) has demonstrated an “institutionalized culture of abuse”⁸⁸ which includes the use of gendered violence to brutalise populations.

There is a strong history of sexual violence in conflict zones (Shan, Kachin, Karen and Rakhine states) and against persecuted communities, particularly systematic against Rohingya Muslims during the “clearance operations” of 2017.⁸⁹ Given the lack of accountability for past gender based atrocity crimes by the Tatmadaw, the risk of gendered violence, as protests against the coup continue, is high.

Covid-19 gendered impacts

Pandemic conditions throughout the Asia-Pacific region continue to impact on the rates of domestic violence, with a combination of restricted movement, lockdown conditions, economic and job insecurity, and health concerns. To date, 70% of women, peace and security practitioners in the Indo-Pacific region have identified an increase in the severity of gender based violence during the COVID-19 pandemic and 52% have noted a decline in the accessibility of women’s safe houses.⁹⁰ For example, in Indonesia, the requirement of proof of health status to enter safe houses has denied shelter to women without access to COVID testing, forcing women to remain confined in spaces with perpetrators of violence. There is also evidence emerging of increased rates of female suicide during the pandemic, for instance in Japan.⁹¹

The widespread school closures resulting from the pandemic have widened gender inequalities and had a disproportionate effect on girls throughout the Asia-Pacific region. Of a survey conducted in South Asia, 65% of participants believe the harms of school closures offset possible benefits for girls, particularly in cases where girls are experiencing pressure to drop out or stay out of education permanently.⁹² In South and West Asia, it is estimated that 2.8 million girls across primary and tertiary levels may not return to their education.⁹³

Access to health services including maternal, sexual and reproductive services has also decreased in the Asia Pacific region. In the Solomon Islands, for example, recent cases of newborn deceased babies and foetuses found in rubbish dumps have led WPS practitioners to link a rise in infanticide with contexts of gender inequality and child abuse exacerbated by the Covid-19 pandemic.⁹⁴

Increased rates of child marriage, female genital mutilation, and unintended pregnancy due to the pandemic have been projected by the UNFPA,⁹⁵ and the issue of child marriage has arisen in refugee camps in Bangladesh, with unmarried girls perceived as more vulnerable to harassment and marriage viewed as a means of protection.⁹⁶

LGBTIQ+ Rights

Persecution of the LGBTIQ+ community continues to be a problem in the Aceh province of Indonesia, with two men publicly lashed 77 times in January 2021 after a civilian raid on their apartment.⁹⁷ The lashings are symptomatic of extensive and targeted discrimination that also includes arbitrary arrests and detention.⁹⁸ The LGBTIQ+ community faces increased vulnerability during COVID-19, due to a lack of appropriate social and psychological support and health care.

SEXUAL AND GENDER BASED VIOLENCE

Recommendations

The Government of China should:

- Immediately cease committing atrocity crimes against the Uighur minority group and release all persons detained in internment camps;
- Permit access to Xinjiang by the UN High Commissioner for Human Rights and other independent observers to ascertain the true extent of SGBV and other human rights violations;
- Hold accountable those responsible for sexual and gender based violence against the Uighur community; and
- Respect and protect the human rights of all of China's populations.

The Government of Indonesia should:

- Cease the practice of arbitrary arrests of LGBTIQ+ people and remove barriers to health care and psychological support;
- Review legislation that permits corporal punishment and institutionalised discrimination against the LGBTIQ+ community.

The Myanmar military should:

- Prevent sexual and gender based violence against civilians and vulnerable communities;
- Hold perpetrators of SGBV accountable;
- Develop a policy for the military and train security forces in relevant women, peace and security considerations.

ASEAN, the UN Security Council and other international bodies should:

- Exert pressure on the Myanmar military to refrain from violence and human rights violations, and implement protection strategies to prevent the commission of atrocity crimes including SGBV;
- Urge the Chinese government to allow independent observers into Xinjiang to investigate reports of SGBV among the Uighur community;
- Hold accountable perpetrators of atrocity crimes including gender based violence;
- Develop global policies and best practice responses to Covid-19 that take into account the gendered dimensions of the pandemic such as domestic violence and girls' education;
- Continue to advance the WPS agenda to ensure women's participation in peacebuilding, atrocity prevention and decision making processes.

HATE SPEECH AND INCITEMENT IN THE SOUTHEAST ASIA

Hate speech in the Asia Pacific has increased due to the COVID-19 pandemic, and social media has played a large role in this increase. As outlined in APR2P's last Regional Outlook, the targets of this hate speech are mostly minority groups such as refugee Rohingya, in countries that include Malaysia. Fortunately, this is a problem being successfully addressed by CSOs, governments and social media companies collectively. Due in part to a plethora of educational programmes, reports to government and social media apps, hate speech associated with COVID-19 appears to be lessening, and hateful and blaming rhetoric is less virulent.

More recently, hate speech, disinformation and incitement to violence has been a significant factor in the current Myanmar crisis, with the military junta using a variety of media forms to spread disinformation, nationalism and suspicion. Included are the country's state television stations, and state radio. Yet, most prolifically, disinformation has been spread via social media, with the junta using internet sites to either promote its own agenda, or ensuring that sites are shut down to prevent alternate forms of political rhetoric that undermine its authority. The military have blocked Facebook on a number of occasions, as the site is seen as a "key platform for opposition."⁹⁹ Twitter has remained available throughout the turmoil, and the top trending hashtags have been #CivilDisobedienceMovement and #JusticeforMyanmar.¹⁰⁰ Facebook is currently removing misinformation and disinformation spread by the junta, including their widespread claims of election fraud, and the company has blocked two military general's accounts. The company is also "suspending the ability for Myanmar government agencies to send content removal requests" for content it deems anti-junta.¹⁰¹

Myanmar's junta has also "proposed" a cybersecurity law that, in junta terms, aims to "protect the public and prevent crime", through blocking social media that "cause[s] hatred, destroy[s] unity and tranquillity" and spreads "untruthful news or rumours."¹⁰² The Asia Internet Coalition have since responded, saying the proposed bill "would give unprecedented censorship powers and violate privacy, contravening democratic norms and fundamental rights."¹⁰³ Under the proposed bill, the junta would have access to "a broad range of user data, including the person's name, IP address, phone number, ID card number, and physical address, for up to three years . . ."¹⁰⁴ According to Human Rights Watch, the proposed bill "would have a devastating impact on freedom of expression and access to information at a time when those rights are more important than ever."¹⁰⁵ As stated by Article 19, "Many provisions in the draft law are vague and overbroad, in contravention of the principle of legality. If enacted, the draft law would greatly extend the powers of military authorities to restrict and punish online expression."¹⁰⁶ The proposed law could send a person to jail for up to three years for creating "misinformation" and "disinformation".

Recommendations

All governments should:

- Recognize the importance of direct hate speech and danger speech legislation, and implement this legislation in its civil and penal codes;
- Work with the private sector, including social media sites and internet companies more broadly, to implement a range of policy measures across the region, rather than on a state-by-state basis;
- Continue to ensure public education about COVID-19 to counter hate narratives that use the virus as a reason for refugee deportation;
- Work with governments and CSOs to oppose the Myanmar junta's proposed cybersecurity law;
- Work with governments and CSOs to oppose amendments to Myanmar's penal and criminal procedure codes.

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