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Featured in this issue...

Myanmar edging towards civil war and more atrocities

Crimes against humanity and possible genocide in Xinjiang

Elevated risk in West Papua rights

Gender violence and hate speech

REGIONAL ATROCITY RISK ASSESSMENT



Very High

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

High

The Philippines, West Papua (Indonesia)

Moderate
(high to low)

Papua New Guinea

Low

Cambodia, Indonesia(except West Papua) 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 is extremely very high five months after the Tatmadaw ousted the civilian government on 1 February. Despite the 5-point consensus that Army Chief Min Aung Hlaing agreed to during the ASEAN Leaders Meeting in Jakarta in April, which include stopping the violence against unarmed civilians, the killings continue along with arbitrary arrests and illegal detention of anti-coup protesters, NLD politicians, human rights advocates, and journalists.

Military assault against civilians in territories controlled by ethnic armed groups are also continuing, resulting in hundreds of thousands of internally displaced persons and refugees fleeing into neighbouring Thailand and India. Violent attacks against police and military forces by underground urban guerrilla forces, along with suspected supporters of the military by anti-coup militias in urban areas, are also increasing.

As of 17 June, the Assistance Association for Political Prisoners Burma (AAPP) reported that there are 865 people killed by the junta, along with 6,134 arrested and 4,962 still detained. The State Administrative Council (SAC) has issued 1,937 arrest warrants against anti-coup supporters.¹ A number of dissidents who were killed while in detention were given crude autopsies before they were handed over to their families, prompting many human rights advocates to call for a full investigation into the circumstances into their deaths.² A number of detainees have also disappeared after their arrest with no information as to their whereabouts, well-being, or charges against them provided by security officials.³ The Tatmadaw was also reportedly charging families to retrieve bodies of relatives killed by security forces following raids against anti-coup protesters.⁴

Meanwhile, the UN Special Rapporteur on Myanmar warned that mass deaths from starvation, disease, and exposure in Kayah State following bombing by junta forces of villages and cutting them off from food, water, and medicine, which forced some 100,000 villagers to flee into the forest. Similar displacement and suffering took place following attacks by junta forces in Mutraw in Karen State and Mindat in Chin State, as well as in Bago City.⁵ More people will be displaced in the country as the Tatmadaw continue to conduct counter-insurgency operations against ethnic armed groups in Karen, Kachin, and Chin states, which could then lead to increased outflow of refugees to Thailand, Bangladesh, and India. In fact, Thai authorities are bracing for a surge of refugees following the coup and has set aside areas to shelter over 43,000 people in Mae Sot district.⁶ The humanitarian crisis situation in Myanmar is further complicated by the ongoing pandemic. COVID-19 testing in Myanmar has declined significantly since the coup and mass vaccination is nowhere in sight.⁷

Notwithstanding the junta's violent crackdown, anti-coup protests continue even as some young people are forced to join underground guerrilla units and conduct urban attacks against police and military forces, as well as suspected informers of the state. In May, the National Unity Government (NUG) announced the creation of a People's Defence Force (PDF), which created ad hoc self-defence groups in urban and rural areas. There are reportedly at least 10 urban guerrilla outfits operating in Myanmar's main cities. Since the coup, over 300 bombings attacks conducted at night have taken place throughout the country targeting ward and township government offices, schools, universities, and gas stations.⁸ Some military and police defectors have reportedly joined the civilian armed squads that have attacked soldiers and military installations in the country.⁹ A spokesperson of the pro-military Union Solidarity Development Party (USDP) claimed that over 70 party members have been killed on suspicion of being state informers, forcing many party MPs and their families to keep a low profile.¹⁰ Some 30 local administrators in Yangon were killed between March and early June according to media reports even as the junta acknowledged that they cannot properly protect its officials.¹¹

Meanwhile, ASEAN and the UN are failing in their diplomatic efforts to end the atrocities being committed by the junta in Myanmar. Following the meeting of ASEAN leaders in Jakarta in April, the 5-point consensus reached with the junta leader has not been implemented. In fact, after Min Aung Hlaing's return to Myanmar, the SAC insisted that political stability must first be restored before the 5-point "recommendations" from ASEAN could be seriously considered. As Chair of ASEAN, Brunei has also not named the special envoy to Myanmar and instead sent its second foreign minister and the ASEAN Secretary General (also from Brunei) to Nay Pyi Daw to meet with Min Aung Hlaing in early June. Indonesia, Malaysia, and Singapore have reportedly expressed disappointment over the slow pace of implementing the 5-point consensus,¹² with Jakarta urging Brunei to appoint the special envoy immediately.¹³ For its part, the junta said that no ASEAN envoy will be allowed to visit Myanmar until stability is restored in the country.¹⁴ Anti-junta democratic forces in Myanmar have also expressed frustration over ASEAN's diplomacy, with NUG expressing that it no longer has faith in ASEAN as the regional organisation has only engaged with the junta.¹⁵

On 1 April, the UN Security Council issued press statement that reiterated its condemnation of the use of violence against protesters and the increasing deaths of civilians, even as it again called on the Tatmadaw to exercise restraint. The statement, however, failed to condemn the coup and dropped the threat of possible future action (including sanctions)—which were in the original draft by the United Kingdom—as China insisted on removing these in the statement. Russia, for its part, insisted on including a call "on all sides to refrain from violence"¹⁶ The press statement was issued following closed Security Council meeting in which the UN Special Envoy on Myanmar warned of the possibility of a civil war "in unprecedented scale" in the country and urged the body to consider "significant action" to reverse the coup and restore the democratic order.¹⁷

For his part, China's UN ambassador warned against "one-sided pressure" and calls for sanctions and other coercive measures, as these would only aggravate tension and confrontation among protagonist in Myanmar. He urged all parties to engage in dialogue that could de-escalate the situation and advance the democratic transition in Myanmar.¹⁸ En route to the ASEAN leaders

meeting in Jakarta, the UN Special Envoy made a stop in Bangkok in an attempt to visit Myanmar but was unsuccessful. However, she was able to meet with the junta leader in Jakarta following the ASEAN leaders' meeting where the latter defended the February coup and reiterated his claim of widespread election fraud in the November elections. She was also told by the Tatmadaw chief that he is not ready to receive her for a visit in Myanmar anytime soon.¹⁹

On 18 June, the UN General Assembly passed a resolution on the situation in Myanmar, with 119 member states in favour (including five ASEAN members—Indonesia, Malaysia, Singapore, The Philippines, and Vietnam) and 36 countries abstaining (including Brunei, Cambodia, Laos, and Thailand), and one against (Belarus). Myanmar's UN representative, who supports the ousted civilian government, also voted in favour of the resolution. The remaining 37 member states did not vote. Among other things, the resolution called for stop to the flow of arms to Myanmar, for the Tatmadaw to respect to results of the November 2020 elections, and the release of all political detainees including Aung San Suu Kyi. It was reported that nine members of ASEAN was not in favour of the language used in the earlier draft of the resolution, which called for an arms embargo against Myanmar.²⁰

Recommendations:

The military junta should:

- Restore the democratically elected civilian government.
- Respect the fundamental freedoms and human rights of those engaging in peaceful protests against the coup.
- Cooperate with ASEAN in immediately implementing the 5-point consensus agreed to by the Tatmadaw chief and the leaders of ASEAN during the meeting in Jakarta in April.

ASEAN and its member states should:

- Immediately appoint a special envoy on Myanmar and engage with all parties in the conflict including the National Unity Government.
- Support implementation of the General Assembly resolution adopted on 18 June, which, among others, called for prevention of the flow of arms to the junta.
- 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.
- Impose international sanctions against the Tatmadaw and its business holdings in Myanmar including foreign investors from ASEAN, Japan, Korea, and China.

UN Member states should:

- 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.
- Impose international sanctions against the Tatmadaw and its business holdings in Myanmar.
- Consider additional criminal charges against the leaders of the military junta in the International Criminal Court (ICC) and International Court of Justice (ICJ) if they commit more atrocity crimes against.

NUG and ethnic armed groups should:

- Ensure that their supporters who are part of the People's Defence Forces and other underground armed groups comply with international humanitarian law.



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.²¹ 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, including children, are also routinely forced to perform unpaid labour. The UN found that this can amount to enslavement, a crime against humanity.²²

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.²³ The COVID pandemic has introduced new threats as the government has reportedly adopted a policy of using lethal force against people trying to cross its border with China.²⁴

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. There are signs, however, that this may be changing as the new Biden administration in the US has announced its intention to appoint an envoy for human rights in the DPRK.²⁵ Secretary of State, Antony Blinken has been strident in his criticism of human rights in the DPRK. These are welcome developments that the US administration should follow through on and others should follow in order to build some momentum for positive international action to address the DPRK's violations.

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 for concerned states and international organizations. 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. 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.

It is imperative that in the world's engagement with the DPRK renewed emphasis is given to human rights. Regional security and the improvement of human rights in the DPRK are indivisible. With the Biden administration indicating new resolve on the issue, it is important that allies such as Japan, South Korea, and Australia also take a lead in pressing for renewed action through the UN Security Council, Human Rights Council, and General Assembly as well as other available multilateral and bilateral channels.

Recommendations

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.

Concerned UN member states should:

- Appoint a Special Envoy on Human Rights in North Korea.
- Collaborate to utilize the UN Security Council, Human Rights Council, and General Assembly to promote and protect human rights in the DPRK.
- Explore the use of multilateral, informal, and bilateral channels to encourage the DPRK to fulfil its responsibility to protect.

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 should:

- Review what meaningful steps might be taken to achieve compliance with its previous recommendations.
- Ask the OHCHR to 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 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.



China Xinjiang Risk: Very High/Ongoing

Since at least 2016, China has engaged in 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 concluded that this policy:

1. Constituted 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. May constitute genocide since 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.²⁶

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.²⁷ 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.²⁸ Former Uighur detainees have described conditions in re-education camps as variously involving crowded cells, indoctrination that drove some to suicide, waterboarding,²⁹ 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.³⁰ 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,³¹ and children of detained parents are being treated as de-facto orphans and placed in state-run institutions "without parental consent or access".³²

There are credible allegations of widespread and systematic sexual and gender based violence perpetrated by Chinese guards in so-called "re-education" camps.³³ 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.³⁴ In many cases, the transfer has been reported as being directly from a re-education camp.³⁵ Forced labour or otherwise reducing a person to a servile status can amount to the crime of "enslavement" under international law,³⁶ which occurs when "any or all powers attaching to the right of ownership are exercised" over a person.³⁷ 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".³⁸ The government has allegedly separated 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.³⁹

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.⁴⁰ Extrapolating this data to mosques across Xinjiang, approximately 16,000 mosques may have been damaged or destroyed and 8,450 completely demolished since 2017.⁴¹ 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.⁴²

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".⁴³ 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".⁴⁴

Enforced disappearances are common, especially of Uighur intellectuals and prominent cultural figures.⁴⁵ Relevant evidence is also contained in the "Xinjiang Papers" leaked to the New York Times.⁴⁶ 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".⁴⁷ 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".

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. Individual reports by NGOs and news agencies documenting interviews with Uighur women, as well as doctors that have treated Uighur women both in Xinjiang and abroad,⁴⁸ 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.⁴⁹ Evidence is mounting that the government is pursuing a deliberate strategy to change the demographic balance in Xinjiang in favour of Han Chinese by depressing the Muslim population and increasing the Han.⁵⁰

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.⁵¹ UK members of parliament voted in April to declare China's treatment of Uighurs genocide,⁵² while the US government has also said that China has committed genocide against the Uighur population,⁵³ a position confirmed in the US State Department's 2020 Human Rights Report.⁵⁴ Meanwhile the UN's Working Group on Business and Human Rights has raised concerns about detention and forced labour, and called for access to Xinjiang to conduct fact-finding missions.⁵⁵ The European Union, the UK, US and Canada jointly imposed sanctions on Chinese officials⁵⁶ and several major brands identified as having links with forced labour in Xinjiang have ceased their presence in the region, including H&M and Nike.⁵⁷ 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.⁵⁸ China has reacted with predictable hostility.⁵⁹ Condemnation of China's policy by the UN and Western governments and media continues to rankle Beijing which has countered with a propaganda storm and aggressive 'wolf diplomacy', an approach which has succeeded in winning for China the support of at least 54 states.⁶⁰ Most Arab and Muslim-majority states continue to refuse to speak out against China's treatment of Turkic Muslims, with some even voicing support for China's policies in Xinjiang.⁶¹

Recommendations

The government of China should:

- 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.

UN member 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.

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 continues to be at very high risk for atrocities as the Duterte administration remains defiant in the face of the outgoing ICC Chief Prosecutor's recommendation to proceed with the formal investigation of reported crimes against humanity in relation to the government's war on drugs since 2016. Between 1 July 2016 to end of April 2021, security forces have killed 6,117 suspects in anti-drug war operations according to government data.⁶² Human rights advocates however claim that the drug war-related deaths could be over 20,000.

Atrocities against unarmed civilians by both government agents and communist rebels are likely to continue as peace talks have been stalled since 2017 and the Duterte administration enforces the anti-terrorism law passed last year.

On 14 June, outgoing ICC Chief Prosecutor Fatou Bensouda requested the court's pre-trial chamber to authorise a full criminal investigation into the drug war killings in the Philippines as crimes against humanity could have been committed. The Duterte administration dismissed the decision as 'legally erroneous and politically motivated,' even as it also falsely asserted that the ICC lacks jurisdiction over the Philippines after it withdrew from the Rome Treaty in 2019. In this regard, the Philippine government will not cooperate with the ICC in the criminal investigation of the drug-related killings. For his part, Duterte called on human rights organisations to take a closer look into his war on drugs and insisted that daily killings were the result of suspects fighting back against police operatives. He even warned drug dealers not to destroy the country and threatened that he will kill them.⁶³

The Philippine Commission on Human Rights (CHR) however asserted that despite the Philippines' withdrawal from the Rome Treaty, the ICC retains jurisdiction over the country's territory during the period that it was a member of the court. It also stated that it "continues to advise" the current government to cooperate with the court in the criminal investigation as part of the "process of seeking truth and justice for the human rights violations in the country." The Commission also expressed the view that the recent decision of the Philippine National Police (PNP) to open the cases of killings related to the drug war for investigation by the Department of Justice (DOJ) as "a step in the right direction."⁶⁴ In May, the DOJ announced that the PNP will allow the justice department access to 61 cases that involved hundreds of police personnel across the country and were found by the PNP Internal Affairs to have administrative or criminal liability. Each case could involve several cops and each operation could have resulted in several killings.⁶⁵ Human rights advocates however criticised this development, considered as a significant milestone by the DOJ, as "tokenism" given the slow pace of justice and lack of willingness on the part of the PNP to fully cooperate in the investigation of drug related killings.⁶⁶

Meanwhile, the government's counter-insurgency operations under the Anti-Terrorism Act resulted in nine left-leaning activists being killed and four others arrested in early March by joint police-military operations conducted in southern Tagalog region. The killing of labour and environmental activists came on the heels of Duterte's order to the police and military to kill the communist rebels during the launch of community projects led by the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC).⁶⁷ Human rights advocates have called on the Commission on Human Rights to investigate the raids and ensure accountability for the anti-communist operations by the government. They also compared the joint police-military operations to last year's arrests of activists in Negros Oriental where 14 farmers were also killed.⁶⁸ For its part, the human rights commission called on the government to urgently investigate the string of killings and arrests due to the brutal nature of the deaths and alleged irregularities in the joint operations.⁶⁹

The continuing counter-insurgency operations of the government against the Communist Party of the Philippines/New People's Army (CPP/NPA) is likely to lead to more civilian casualties even as the Duterte administration has refused to revive peace talks with the armed rebels and enforces the Anti-Terrorist Act passed last year but which has not been declared unconstitutional by the Supreme Court. On 6 June, a student and his cousin were killed by improvised explosive devices (IED) or landmine planted by the communist rebels in Masbate. While the NPA owned up to planting the IEDs, it refused to confirm whether these were landmines. The CHR and other international human rights advocates condemned the use of IEDs by the communist insurgents. A senior Human Rights Watch researcher called the use of landmines a war crime subject to domestic and international criminal prosecution. A spokesperson from the CHR said that it is investigating the blast that killed the two civilians.⁷⁰

Extra-judicial killings (EJKs) in the Philippines also targeted human rights defenders and lawyers. Human Rights Watch reported in March this year that 61 lawyers have been killed under the Duterte administration out of 110 murdered since 1972. Most of those killed were representing victims on the war on drugs or other forms of human rights violations. A number of these lawyers were affiliated with the National Union of People's Lawyers (NUPL), which represents leftist activists.⁷¹

Recommendations

The Philippine government should

Uphold its primary responsibility to protect by complying with international norms on human rights protection and humanitarian law.

- 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.
- Cooperate with the ICC Prosecutor's Office following its decision to request the pre-trial chambers to formally conduct a criminal investigation of probable crimes against humanity that were committed by law enforcers in relation to the government's drug war.

- Refrain from making false statements regarding the jurisdiction of the ICC over the Philippines and against the prosecutor's report based on its preliminary examination.
- The Department of Justice should exert more efforts in conducting a full and transparent investigation of drug-war related killings by the police and other law enforcement agents, as well as deaths by activists, human rights defenders, and media persons. Revive peace talks with the CPP/NPA to avert further atrocities against unarmed civilians who are caught in the crossfire between soldiers and rebels.

Indonesia General: Low West Papua: High

While the outbreak of COVID-19 slowed in May 2021, numbers have since escalated, with fears that the current tally of 53,000 deaths will increase significantly over the coming months.⁷² Cases have risen on the islands of Java and Sumatra, and the Delta variant has been confirmed across many regions, with Jakarta’s governor, Anies Baswedan, warning that another emergency lockdown might be expected if cases grow.⁷³ While inoculation numbers are on the increase, and most hospitals still able to help those in need, the health system is being stretched, with some hospitals recording 90 per cent capacity. This is putting stressors on the health sector and it might affect those who need medical attention should the Delta strain further spread. While civil unrest due to COVID-19 has been minimal of late, hate speech targeting health workers remains prevalent, as does fake news and hoax news on the topic. People circulating either this false information, or information that has been deemed hate speech by the government, have been arrested under the government’s recently amended Information and Electronic Transactions Act (UU ITE).⁷⁴

Given the proliferation of social media use in Indonesia, and the rise in hate speech, hoax speech and disinformation, the Indonesian government recently made adjustments to its Information and Electronic Transactions Act. These changes were seen as restricting freedom of opinion, including political opinion. Due to public outcry, however, more recently these amendments were further changed to remove some of the vague descriptions accompanying the articles used to prohibit posts on the internet and social media.⁷⁵ Alongside this legislation, in November 2020, the government introduced Ministerial Regulation 5 (MR5) that “requires all private digital companies and platforms to register with the Ministry of Communication and Information Technology and agree to provide access to their systems and data as specified in the regulation.”⁷⁶ This regulation required tech companies such as Google to report on, or allow access to, any information the government views as “prohibited content”, though definitions of what exactly constitutes “content” is vague. In doing so, this regulation has been seen to restrict both the user and the company, and limits freedom of speech. Described as a “human rights disaster that will devastate freedom of expression,” organisations such as Human Rights Watch are calling for a redraft of the regulation.⁷⁷

Freedom of the media has also come under scrutiny in 2021, especially since the outbreak of COVID-19. Due to a decline in print sales, Indonesian media companies have been taking handouts from the government, some questioning the independence of these companies as a result.⁷⁸ Since the beginning of 2021, there have been a number of small outbursts of violence against journalists in various parts of the country. One recent survey also revealed that 25 per cent of independent journalists have been reprimanded or given unofficial warnings by the government, again questioning their freedom of expression.⁷⁹

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.
- Censor the spread of racist, radical, and fake news on social media that causes civil unrest and incites violence against minorities.
- Work to implement legislation to stop the spread of hate and danger speech across various mediums and outlets, yet that does not impede freedom of speech.

UN member states 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.
- Provide COVID-19 assistance when requested to help the government and civil society tackle challenges that stem from the pandemic.

West Papua Risk: High

Tensions continue in West Papua, with a number of West Papua groups, such as The People of East Sepik, recently declaring war on Indonesia. As the Lowry Institute outlines, however, even though social media has spread details about various independent movements and shown human rights abuses, governments in the region, and populist onlookers that side with those fighting for independence, remain interested only briefly; what the Lowry Institute refer to as a “fleeting blink” that is often surpassed by the next social media post.⁸⁰ This suggests that the crisis and rebel groups involved need more radical measures to maintain attention, hence those declarations of war.

Yet fighting continues in the province, and deaths continue to rise. In April 2021, civilians and Indonesian forces died in clashes with rebel groups, including the death of an Indonesian brigadier general.⁸¹ The result has been the employment of Indonesian elite soldiers to the region. Alongside these forces, there has also been a crackdown on internet usage, with a number of cities in the region denied internet access for lengthy periods. There have also been reports of torture by the Indonesian army, and the displacement of villages due to clashes.⁸²

As a result of the killing of the Indonesian army official, the Indonesian government has labelled rebel groups “terrorist organisations”, with locals worried that this description gives the Indonesian army “carte blanche to shoot anyone”. While the title of

terrorist is aimed at a particular group of 170 rebels called the KKB, there is worry that the term will be applied more broadly.⁸³ The Indonesian government have made a number of justifications for branding the group as terrorists—one of the central reasons being to limit diplomatic credence the rebel group has among Melanesian and Pacific countries.⁸⁴ West Papuans have also been protesting against the encroachment of Indonesian palm oil farmers who have taken land and deforested. In a win for local environmentalists and activists, the Indonesian government recently revoked a number of farming licences, citing “widespread administrative and legal violations.” West Papua indigenous communities have expressed concern that these farms will not be returned to local populations, but be taken by Indonesian farmers who will destroy the provinces remaining rainforest, raising expectations of further clashes.⁸⁵

Recommendations

The Indonesian Government should:

- Fulfil its responsibility to protect its populations from atrocity crimes.
- Take positive steps to ensure the security forces comply with international humanitarian law at all times.
- Take positive steps to prevent and counter hate speech and incitement against West Papuans.
- Consider the aspirations of West Papuans and the underlying issues fuelling the protests, including ongoing environmental degradation.

West Papuan leaders should:

- Discourage the use of violence by protesters and call for peaceful protests.
- Seek opportunities to engage in political dialogue with the government.



Papua New Guinea Risk: Moderate

Papua New Guinea has experienced a surge in Covid-19 cases over the past four months, with a total of almost 17,000 cases to date.⁸⁶ Limited testing and a fragile health care system have exacerbated the situation, although the vaccine program is now being rolled out. The World Health Organization has been working with PNG's government on public health education campaigns.⁸⁷

Nonetheless, Covid deaths are a factor in recent cases of sorcery accusations, a key cause of violence and atrocity crime in PNG. Five women have been attacked since March 2021, with one woman killed. In one case, two women were tortured by a group of 20 men in Port Moresby, while in Hela province a woman was burned alive following the death of a young boy in her village.⁸⁸ Human Rights Watch has said that some sorcery accusations may have arisen in response to an unexpected death or illness, such as from Covid-19.⁸⁹ Perpetrators are rarely held accountable. Gender-based violence remains a crisis in PNG with 1.4 million cases every year according to East Sepik Governor, Allan Bird, who spoke at a public hearing on GBV in May.⁹⁰ Also raised at the hearing were issues of a lack of child protection officers, and inadequate legal resources and government funding.⁹¹

Lack of resources, such as printing ink and vehicles, are reportedly affecting the police force's capacity to respond to GBV, while the sheer numbers of cases and intensity of violence also have an emotional impact on officers.⁹² Despite some prosecutions by police, a culture of impunity means many offenders are given only good behaviour bonds or similarly lenient sentences. Resistance to women's protests against gender-based violence is also a concern. For example, a group of men disrupted a #MeToo march at the University of PNG in June, attacking journalists.⁹³ A plan by PNG's special parliamentary committee on GBV for five reserved seats for women in parliament has been criticised as conflating the issues of women's leadership and GBV, and in any case, as inadequate for women's parliamentary representation.⁹⁴ Broader governance issues such as high rates of corruption and a lack of transparency continue to be an underlying risk factor for social unrest and conflict. Within this context, recent plans to build PNG's first casino in Port Moresby could, for example, lead to significant political and social problems.⁹⁵ A lack of regulation and a culture of corruption could result in an increase in crime such as money laundering, while the adverse impact on local communities of gambling and addiction, paired with inadequate welfare and social programs, could be significant.

Recommendations

The government of Papua New Guinea should:

- Accelerate Covid-19 vaccine delivery and roll out intensive education campaigns including in remote communities about the virus and strategies to reduce the spread.
- Improve transparency and governance, and work towards fair and equitable gender representation in parliament.
- Increase funding and resources to police, courts, child protection and women's services to better meet the high demand for services around domestic and gendered violence.
- Address sorcery related violence via education campaigns and by holding perpetrators accountable and improve protection for women in remote areas.

UN member states should:

- Look for ways to support the government of Papua New Guinea and civil society to address the aforementioned issues.

SEXUAL AND GENDER BASED VIOLENCE

Sexual and gender-based violence

19 June marked the International Day for the Elimination of Sexual Violence in Conflict, which coincides with the date that the UN Security Council recognised the use of sexual violence as a weapon on war (UNSC Resolution 1820, 2008).⁹⁶ Despite subsequent resolutions, progress remains slow, and gender-based atrocity crimes continue to be committed in current conflicts with virtual impunity.

Since the February 2021 coup in Myanmar, violence against women, and especially against women of ethnic and religious minorities, has been rampant. According to Women's Peace Network, as of mid-May 2021, the military has killed at least 47 women and girls, arbitrarily detained at least 769 women and LGBTQ+ people, and issued at least 452 arrest warrants for women and LGBTQ+ people, the majority of whom are healthcare professionals.⁹⁷ For women in detention, the risk of SGBV is high and several reports of sexual torture and other gendered violence have emerged. Progressive Voice for Myanmar has highlighted the case of Ma Khin Nyein Thu, who was sexually abused and tortured so brutally that she was unrecognisable in a photo after the event. Reports of sexual harassment of women protestors are common, including women being forced to dance in the street for the soldiers' entertainment.⁹⁸ Members of the LGBTQ community are also being disproportionately targeted. Despite this, women have been particularly active in Myanmar's protest movement both online and on the streets.⁹⁹ In March 2021, 182 women's rights organisations called on the UNSC to hold the Tatmadaw accountable for violence against women.¹⁰⁰ They highlighted the historical culture of gendered violence among Myanmar's military, and referred to the International Fact-Finding Mission's report evidencing widespread use of sexual violence against ethnic and religious minorities, particularly against the Rohingya community. Calling on ASEAN to withdraw its invitation to the junta leadership to attend the Myanmar Summit in April, the organisations highlighted the military's contravention of human rights and women's rights principles. However, resolutions by the UNSC have been repeatedly blocked and ASEAN's response to the military coup and subsequent human rights abuses has been muted.

Reports of crimes against humanity against Uighurs in China, including widespread and systematic sexual violence, forced sterilisation and sexual torture in Xinjiang's 're-education camps', continue to arise. New testimonies of forced contraception were reported in May 2021,¹⁰¹ and there appears to be a concerted and systematic effort by China to reduce births among the Muslim Uighur community. Given the Genocide Convention specifically includes attempts to prevent births within the targeted group, the crimes being committed in Xinjiang may amount to genocide. In April, the UK parliament voted to declare that China is committing genocide against the Uighur population.¹⁰² Amnesty International has collected new evidence of human rights violations by China. The report, "Like We Were Enemies In A War", includes 55 accounts from Uighur, Kazakh and other Muslim minority groups.¹⁰³ In addition to physical torture and forced cultural assimilation, Amnesty cites multiple accounts of rape and forced abortions.

Gender-based violence continues to be rife in Papua New Guinea. At a recent public hearing on GBV, it was stated that there are 1.4 million cases of GBV each year in the country.¹⁰⁴ Some of these are related to sorcery accusations, which may have flared due to the recent surge in Covid-19 cases and deaths, as women are often blamed for unexpected deaths in the community. Five women have been attacked since March 2021, with one woman killed. In one case, two women were tortured by a group of 20 men in Port Moresby, while in Hela province a woman was burned alive following the death of a young boy in her village.¹⁰⁵ Impunity for perpetrators is common, and police and social services are severely under-resourced.

A report from the George Institute for Global Health and the Australian Human Rights Institute released in March explores the implementation of CEDAW recommendations across the Asia Pacific.¹⁰⁶ It found that low-income countries and those in humanitarian crisis outperformed high income countries that were not in crisis. According to the study, The Philippines had fully implemented more than 60% of CEDAW recommendations, Indonesia and Malaysia had implemented 38%, Cambodia 71% and Thailand 44%. In contrast, Australia had only fully implemented 25% and partially implemented 50%. In May 2021, a report was published by the International Foundation for Electoral Systems titled 'Gender-Sensitive Indicators for Early Warning of Violence and Conflict: A Global Framework'. It aims to build gender awareness into early warning approaches to "strengthen the predictive capacity of forecasting models for violence and conflict."¹⁰⁷ The report has found two limitations to the current integration of a gender lens in early warning systems: the lack of available subnational gender data; and an over-reliance by early warning systems on long-term structural gender indicators rather than those that might detect proximate variations in tensions, risk and escalations. More work on integrating and implementing a gender lens within early warning frameworks will be vital in the prevention of gender based atrocity crimes.

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.

SEXUAL AND GENDER BASED VIOLENCE

The Tatmadaw in Myanmar should:

- Fulfil its obligations under international humanitarian law by taking positive steps to prevent sexual and gender-based violence against civilians and vulnerable communities and hold perpetrators accountable.
- Immediately cease the targeting of women and people from ethnic and religious minorities.
- Heed warnings from the international community to cease all violence and human rights abuses against the population of Myanmar.

The Government of Papua New Guinea should:

- Increase funding and resources to police, courts, child protection and women's services to better meet the high demand for services around domestic and gendered violence.
- Address sorcery related violence via education campaigns and by holding perpetrators accountable and improve protection for women in remote areas.

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 and continue to raise awareness of gender-based violence such as through the International Day for the Elimination of Sexual Violence in Conflict.
- Incorporate a gender lens into early warning systems and atrocity prevention mechanisms, including through the development of gender-sensitive indicators.

HATE SPEECH AND INCITEMENT IN THE SOUTHEAST ASIA

Hate speech and incitement

COVID-19 has highlighted multiple ways hate speech exacerbates inequalities across the region. As an example, a UN Women's 2021 publication on hate speech and women's political participation, noted the way the pandemic escalated misogyny on social media, further inhibiting the role women play in regional politics. As the report notes, while women are already disproportionately impacted by the pandemic, the recent rise in online misogynist hate speech restricts their right to online safety, and it has heightened a woman's sense of insecurity.¹¹⁴ Similarly, the pandemic has revealed systemic racism in countries such as Australia where Chinese-Australians and Asian-Australians have been the targets of online racism, with a Lowry Institute study finding that one in five Chinese-Australians have been threatened in the past year.¹¹⁵ This hate speech has, over the past few months, led to violent outbursts across the region, with the hate targeting religious groups, ethnic minorities, and along political divides. In turn, recommendations have been made to various agencies, including the UN, to find solutions to curbing the problem. According to a recent report by the Walsh School of Foreign Service, the main means employed currently to mitigate this growing concern are: 1) digital literacy workshops; 2) the rise of fact-checking groups; 3) the power of journalism and the press to hold governments and companies accountable; 4) the importance of CSOs in advising and informing many sectors.¹¹⁶ Yet, what is also apparent is how easily these ventures are being undermined by either legitimate or illegitimate governments in the region, depending on their needs and wants in relation to social media and other forms of media.

The recent conflict in Myanmar has proven both the influence of social media in mitigating hate speech and incitement, while simultaneously revealing the ease at which hate speech can spur people into conflict situations. The military junta have been using social media to promote their ideology by spreading hateful claims aimed at political dissidents, while these anti-government organisations employ the same platforms to try to curb and counter hateful rhetoric. This conflict has yet again shown the complications at play when discussing social media, revealing that "black and white" approaches to companies such as Facebook are reductionist reactions.¹¹⁷ The Myanmar junta have, since coming to power, shut down access to social media and the internet, including many news sites,¹¹⁸ yet social media has been a rally cry for freedom fighters in Myanmar, who rely on platforms to keep informed and to create anti-junta communities.

Recommendations

Governments in the Asia Pacific region should:

- Realise the importance of danger speech and incitement in 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 and delegitimise the Myanmar junta's governance.
- Work with governments, companies and CSOs to find ways of restoring peace and security to Myanmar by curbing problematic uses of the internet.

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