

ASIA PACIFIC REGIONAL OUTLOOK

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Featured in this issue...

Covid creates unrest in Fiji

Little progress in China,
more evidence emerges

Myanmar on the brink of
civil war and atrocities

Special sections on hate
speech and incitement
and sexual and gender
based violence

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

Fiji, Cambodia, Indonesia (except West Papua) Laos, Thailand, Timor-Leste and Vietnam

Very low

Australia, Brunei, 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

Atrocities are continuing in Myanmar as the military escalated its violent crackdown on anti-coup protesters and the People's Defence Forces (PDF) and ethnic armed groups responded accordingly with increased attacks on both security and police forces as well as suspected civilian sympathisers of the junta. As of 4 October, there were 1158 people who have been killed by Tatmadaw, with a total of 8,743 people arrested and 7,079 still detained. Warrants have been issued for 1,989 by the State Administration Council (SAC).¹ For the month of September alone, close to 100 civilians were killed by Myanmar security forces.² Human rights advocates reported that the junta forcibly disappeared some 5,000 people without telling family members of their whereabouts.³ More than 100 civilians including children were arrested and are being held hostage by the junta after it failed to arrest anti-coup activists who remain at large.⁴

Meanwhile, the National Unity Government (NUG) on 14 September reported that a total of 1,710 junta soldiers were killed and over 630 wounded during 1,171 encounters and assassinations conducted by ethnic armed groups and PDF against the security forces over the past three months.⁵ More than 431 civilians were killed and 184 were wounded by junta soldiers during these incidents.⁶ Increasingly intense violence between the Tatmadaw and PDF were reported across Myanmar following the NUG's declaration on 7 September for a "people's defensive war" against the junta. Since then, the Tatmadaw has not only increased its inspections and arrests but also intensified raids and violent assaults by burning down and bombarding villages across Myanmar, particularly in Kayah state and Magwe and Sagaing regions.⁷ On 3 October, about 100 Tatmadaw forces were killed in one day across the country after 37 attacks against junta targets were carried out by the PDF.⁸ The NUG also reported that the PDF destroyed 80 telecom towers across the country, which were owned in a joint venture between the Myanmar military and Vietnam's defence ministry.⁹ On 26 September, the NUG's Ministry of Human Rights issued a plea to armed groups resisting the junta to avoid harming civilians including children and for them to exercise due caution not to violate international human rights laws.¹⁰

As of end of August, some 2,000 junta police and soldiers have joined the civil disobedience movement (CDM) across the country and more defections are being reported since the "people's defensive war" against the junta was declared by the NUG. Since the coup, about 410,000 government staff have gone on strike against the Tatmadaw.¹¹

As of 20 September, there are over 202,000 estimated internally displaced persons in Myanmar due to armed clashes between the Myanmar military and the PDF and various ethnic armed groups since the coup of February. Some 15,000 are estimated to have been displaced to neighbouring countries, particularly in Mizoram and Manipur, India.¹² Of the internally displaced in Myanmar, 76,000 are children who have been forced to flee their homes since the February coup and could go hungry as they are sheltering in forests and without food.¹³ The UN Resident Coordinator and Humanitarian Coordinator in Myanmar reported that there are now 3 million people in need of humanitarian assistance, which has tripled over the last eight months since the February coup. They are not only in conflict-affected border areas but also in urban and peri-urban areas of Yangon and Mandalay, which has not been the case in the past. Some 20 million are also currently living below poverty line, which is nearly half the population of Myanmar—a rate that has not been seen in the country for at least 20 years.¹⁴

In Geneva, the UN High Commissioner for Human Rights reported on 24 September that the Tatmadaw has increasingly used indiscriminate air strikes and artillery barrages in Kachin, Karen, and Shan states against ethnic armed groups, resulting in more civilian deaths and internal displacements.¹⁵

The Tatmadaw remains defiant of calls by ASEAN and the UN for a halt to violence against civilians. Specifically, the junta has refused to cooperate with ASEAN following an announcement made by its special envoy in early September for a four-month ceasefire in the country to enable humanitarian assistance to be delivered to affected communities. A spokesman for the SAC denied that the junta had agreed to ASEAN's proposal for a ceasefire until the end of the year even as it assured the special envoy that it will not block delivery of humanitarian assistance or ban his visit to Myanmar.¹⁶ To date, the ASEAN special envoy has not visited Myanmar even his request to be given access to detained NLD leader Aung San Suu Kyi has been rebuffed. Instead, the junta will only allow him to meet with former Vice President Henry Van Thio and former Lower House speaker T Khun Myat.¹⁷ It is unlikely that the SAC will agree to give access to the detained NLD leader given the recent declaration by the NUG of a "people's defensive war" against the junta and Suu Kyi's denials over false reports that she opposed resistance to the military regime.¹⁸ For its part, the NUG criticised the ASEAN special envoy's proposal for a four-month ceasefire by arguing that he should have secured first an agreement for the release of detained civilians and access to Suu Kyi.¹⁹ Meanwhile, Malaysian Foreign Minister warned that Myanmar may be excluded from

the ASEAN Summit in late October if the junta it remains uncooperative there is lack of progress in implementing the 5-point consensus in ending the political crisis.²⁰

The Tatmadaw continue to deny permission to the UN Special Envoy to Myanmar Christine Shraner Burgener to visit the country even as she asserted that junta chief Min Aung Hlaing is determined to consolidate his grip on power in the country after declaring himself as de facto prime minister of the caretaker government.²¹ A new UN Special Envoy—Noeleen Heyzer—has been reportedly appointed as the new UN Special Envoy to Myanmar, which was welcomed by some elected lawmakers as an opportunity to break the current impasse. However, it remains to be seen whether the junta will cooperate with her given the continuing Tatmadaw's continuing defiance over calls for a halt to atrocities against civilians.

The NUG and the SAC are battling for international recognition as the legitimate representative of Myanmar. However, ASEAN and the UN have for now put this issue on the backburner until the credentials committee in the United Nations tackles the issue in November. Apparently, China, the US, and Russia have agreed to allow the current anti-junta Myanmar representative to continue occupying the seat in the UN but he will not be allowed to participate in high level meetings in the UN.²² The implications of recognising the legitimacy of the NUG for atrocities prevention in Myanmar is significant in that it has supported international efforts to hold the Tatmadaw accountable for atrocity crimes against the Rohingya and other ethnic minorities, including ongoing crimes against humanity since the February coup. It also made a commitment to recognise the Rohingya as citizens of Myanmar under its provision federal constitution. However, recognising the NUG may force the junta to further harden its position against a negotiated political solution to the political crisis in Myanmar, thereby undermining regional and international efforts to stop the escalating violence and ensure the delivery of humanitarian assistance to affected communities throughout the country, including access to COVID-19 vaccines. For now, it is critical for all protagonists in Myanmar to agree to a ceasefire to enable the delivery of much needed humanitarian assistance and prevent further economic freefall in Myanmar.

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:

- Vigorously support 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.
- 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.
- Utilize the UN credentials committee to recognise the legitimacy of the National Unity Government of Myanmar and allow a vote in the UN General Assembly to recognise it as the legitimate representative of the people of Myanmar.

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.²³ 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.²⁴

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.²⁵ 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.²⁶

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.²⁷ 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.

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.²⁸

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.²⁹ 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.³⁰ Former Uighur detainees have described conditions in re-education camps as variously involving crowded cells, indoctrination that drove some to suicide, waterboarding,³¹ 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.³² 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,³³ and children of detained parents are being treated as de-facto orphans and placed in state-run institutions "without parental consent or access".³⁴

There are credible allegations of widespread and systematic sexual and gender based violence perpetrated by Chinese guards in so-called "re-education" camps.³⁵ 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.³⁶ In many cases, the transfer has been reported as being directly from a re-education camp.³⁷ Forced labour or otherwise reducing a person to a servile status can amount to the crime of "enslavement" under international law,³⁸ which occurs when "any or all powers attaching to the right of ownership are exercised" over a person.³⁹ 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".⁴⁰ 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.⁴¹

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.⁴² Extrapolating this data to mosques across Xinjiang, approximately 16,000 mosques may have been damaged or destroyed and 8,450 completely demolished since 2017.⁴³ 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.⁴⁴

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”.⁴⁵ 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”.⁴⁶

Enforced disappearances are common, especially of Uighur intellectuals and prominent cultural figures.⁴⁷ Relevant evidence is also contained in the “Xinjiang Papers” leaked to the *New York Times*.⁴⁸ 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”.⁴⁹ 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,⁵⁰ 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.⁵¹ 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.⁵²

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.⁵³ UK members of parliament voted in April to declare China’s treatment of Uighurs genocide,⁵⁴ while the US government has also said that China has committed genocide against the Uighur population,⁵⁵ a position confirmed in the US State Department’s 2020 Human Rights Report.⁵⁶ 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.⁵⁷ The European Union, the UK, US and Canada jointly imposed sanctions on Chinese officials⁵⁸ 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.⁵⁹ 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.⁶⁰ China has reacted with predictable hostility.⁶¹ 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.⁶² 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.⁶³

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 risk of atrocities remains very high in the Philippines as the Duterte administration continues with its lethal war on drugs and refuses to submit to the jurisdiction of the International Criminal Court (ICC) after the Pre-Trial Chamber approved the request of the prosecutor to formally investigate the killings related to the campaign against drugs. In July, the Philippine Supreme Court released its unanimous decision made in March of this year that contradicted

Duterte's assertion and underscored that the ICC has jurisdiction over the Philippines for the period it was a party to the Rome treaty until its withdrawal in March 2019.⁶⁴ The high court also said that the Philippines is obliged to cooperate with the ICC's criminal proceedings despite its withdrawal from the treaty.

A total of 6,181 drug suspects have been killed from 1 July 2016 to end of July 2021.⁶⁵ Between 1 January to 30 September 2021, a total of 485 people died in drug-related killings under Duterte, which were mostly committed by state agents.⁶⁶ According to a monitoring team from the University of the Philippines, 2021 is turning out as one of the bloodiest years in the government's anti-drug war campaign, which has killed an average of more than 2 per day.⁶⁷ Accordingly, after a steady decline in drug-related killings in the past three months, September saw a 35% increase in killings compared to the previous month. For the third quarter of 2021, 93 were reportedly killed in the drug war, which is 54% less compared to the previous quarter and at a rate of about 1 person killed per day.⁶⁸

In his speech at the opening of the UN General Assembly's 76th session, President Duterte promised accountability for the drug war killings in the Philippines as he instructed the Philippine National Police (PNP) and the Department of Justice (DOJ) to review the conduct of the campaign. At the same time, however, he was dismissive of outside intervention in pursuit of accountability for the drug war killings even as he asserted that "meaningful change, to be enduring, must come from within" and that "the imposition of one's will over another—no matter how noble the intent—has never worked in the past...and never will in the future."⁶⁹

Earlier, the chief of the PNP assured the public of transparency in the drug war and that it had opened its files to the DOJ for scrutiny.⁷⁰ The assurance came immediately after the ICC Pre-trial Chamber authorised the formal investigation of the drug-war related killings in the country. Following Duterte's speech at the UN, the PNP chief also asserted that the police organisation is taking an active role in the review of drug war documents.⁷¹

Notwithstanding these developments, some relatives of the drug war victims have expressed concerns over Duterte's plans to run as Vice President in the elections in 2022, which may lead to the continuation of the lethal drug war for another six years if he wins.⁷² Human rights defenders have also claimed that there are more drug war victims who have sent representations to the ICC and support for their safety has become paramount.⁷³

Elsewhere in the country, extra-judicial killings of human rights defenders and environmental activists continue under the Duterte administration. The UK-based Global Witness in its report released on 13 September claimed that there were 227 land and environmental activists killed in 2020, of which 29 were from the Philippines. The country came in third after Colombia and Mexico, with 65 and 30 activists killed, respectively.⁷⁴ Meanwhile, the Integrated Bar of the Philippines (IBP) condemned the "disturbing and increasing frequency of lawyer killings" in the country following death of Juan Macababdad, a human rights defender from South Cotabato on 15 September.⁷⁵ He was the vice chairman of the Union of People's Lawyers in Mindanao (UPLM) and represented indigenous peoples and small farmers opposed to aerial crop spraying, large plantations, and coal mining in South Cotabato.⁷⁶ Thus far, there have been 58 lawyers killed, 34 judges slain with only two cases resulting in convictions, and several prosecutors waylaid.⁷⁷

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

Covid-19 cases are still relatively high in Indonesia. In the past three months, however, the daily case numbers have declined significantly. Where the country was averaging 30,000 cases a day in June and July 2021, the daily infection rate currently sits at about 1,500, and falling. This has meant that aggression towards scape-goated minority groups has also lessened over these few months, as evidenced by a reduction in hate speech

aimed at these minority groups on social media such as TikTok and Facebook.

What has remained due to Covid-19, however, is widespread domestic violence aimed at women from all levels of society. As found during previous lockdowns and surges of the virus, female Indonesians are the target of this violence, often perpetrated by husbands, and sometimes brothers and fathers. One reason for this has been escalating food prices, which mean women, who traditionally shop and cook, are victimised if the food amount lessens, or the quality of food changes.⁷⁸ Similar other economic burdens, exacerbated by the virus, have added to this widespread phenomenon, including unemployment and lack of access to government recovery packages.

Violence and social unrest is still evident across the archipelago, stemming from other fractious incidents. On Sumatra in July 2021, indigenous groups clashed with workers of a wood pulping plantation, resulting in injury on both sides.⁷⁹ Clashes between indigenous groups and the private sector continues across many islands and often results in bloodshed, including significant fighting in West Papua between commercial Indonesian (and global) interests and indigenous groups. As a result of such clashes, there have been reports to the UN of State and non-State actors harassing Indonesians reporting human rights abuses to the OHCHR. These reports of abuses mostly relate to conflict that has arisen between indigenous communities and others over land-related disputes, and these incidents are reported across multiple parts of Indonesia.⁸⁰

West Papua – high risk

Clashes and bloodshed continue in West Papua between independent movements and the Indonesian military (or what is believed to be Indonesian military), and between indigenous groups and private enterprise. Numerous human rights violations have been recorded by a variety of monitors, with *KontraS* reporting at least 12 serious rights violations in recent months that include torture and murder. Other human rights violations include limiting internet access, the commission of a cyber police unit, and the unnecessary use of violence by police and military forces. Similarly, rhetoric from Indonesian government officials in the region are calling separatists “terrorists” and are calling for Indonesian forces to “wipe out” and “crush” anti-government groups.⁸¹

Civil unrest in the region grows, spreading to multiple cities and towns that include Jayapura, Wamena, Manokwari and Timika. Rallies by the Papuan population in these regions and towns are organised around two issues: pro-independence, and the release of independence advocates such as Victor Yeimo who was arrested by Indonesian forces earlier this year and charged with treason and incitement to violence.⁸² Currently, Victor Yeimo faces the possibility of life imprisonment. While pro-separatist protests have been for the most peaceful, police have used force to disperse those protesting, resulting in injuries, including gunshot wounds. At the same time, protestors have been arbitrarily arrested by Indonesian police.⁸³ Amnesty International have found that Indonesian security forces have employed excessive force, and have racially profiled—and targeted—those protesting.⁸⁴ In September 2021, Amnesty International called on the Indonesian government to address past wrongs committed in West Papua by Indonesian forces over the past decades, to help bring a peaceful resolution to the area.⁸⁵

Recommendations

The Indonesian Government should:

1. Appoint a senior official as National R2P Focal Point to coordinate national and international efforts to implement R2P.
2. Ensure restricting the spread of COVID-19 remains a priority.
3. Censor the spread of racist, radical, and fake news on social media that causes civil unrest and incites violence against minorities.
4. Work to implement legislation to stop the spread of domestic violence.

UN Member States should:

1. Encourage Indonesia to take active steps to fulfil its responsibility to protect.
2. Continue to support dialogue between the Indonesian government and pro-separatist groups in West Papua.
3. Call on the Indonesian government to respect human rights and to ensure human rights are not violated.
4. Continue to provide COVID-19 assistance when requested to help the government and civil society tackle challenges that stem from the pandemic.

PAPUA NEW GINEA - MODERATE



Papua New Guinea Risk: Moderate

Papua New Guinea continues to experience endemic levels of gendered violence, combined with extremely low rates of accountability. Despite over 15,000 cases of domestic violence reported in 2020, only 250 people were prosecuted, with less than half of those convicted.⁸⁶ Gender-based violence including sorcery-related violence and killings, has increased further with the Covid-19 pandemic. Despite the

high rates of SGBV being raised by NGOs, human rights and women's groups over many years, a lack of funding for services and police persists. Across PNG and in Bougainville specifically, safe houses are overrun by high demand for services.

Following a three-day Parliamentary Inquiry on GBV, a report was issued in August containing recommendations for immediate action. These include making the committee permanent and resourcing a GBV secretariat, funding an action plan on sorcery accusation related violence, improving counselling and family planning services, and equal gender representation in Parliament. Access to justice was raised as an area for immediate action including police investigation, effective prosecutions, and survivor centred court processes, including the development of a proposal for a Family Court stream.⁸⁷ Given the strong links between gendered violence and atrocity crime, it is critical that PNG's epidemic of violence against women be addressed.

Health services and vaccination remain broader issues that could have an impact on the risk of conflict and atrocities. Covid-19 cases surged earlier this year and PNG is currently experiencing a third wave, with Delta spreading around hotspots like Western Province. Despite supply of vaccines, a lack of appropriate infrastructure, such as low temperature storage facilities, meant that PNG could not distribute them effectively,⁸⁸ and misinformation, as well as some traditional beliefs and a mistrust of science, have led to vaccine hesitancy in many rural areas.⁸⁹ This contributes not only to the spread of the virus, but also to the likelihood of sorcery accusations and subsequent violence against women. Social unrest and violence are also possible in response to mandatory vaccination policies for employees, if these are implemented without effective education campaigns.⁹⁰

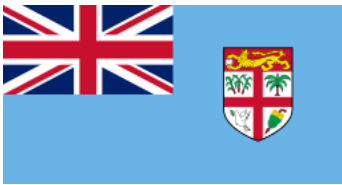
Incidents of tribal violence which have involved the use of deadly weapons, have the potential to lead to larger scale violence in areas such as Eastern Highlands province. This includes the burning of homes and property, attacks against civilians including children, and is fuelled by issues around land ownership.⁹¹ The lack of police presence and availability of weapons continues to pose a risk of severe violence and potential atrocity crimes.

Consultations are being held between the PNG Government and Bougainville on the question of independence, which Bougainville President says must happen before 2027 with transfer of some powers by 2023. The PNG Government says constitutional amendments cannot occur before a final settlement decision by the Parliament. This longstanding issue has a risk of escalating once again should discussions not progress in a timely manner, or should historical resentments flare up.

Recommendations

The government of Papua New Guinea should:

1. Respond to and implement, as a priority, the 71 recommendations in the report by the Parliamentary Inquiry into Gender-Based Violence.
2. Urgently roll out education campaigns around Covid-19 and vaccination, including in rural and remote communities, and ensure adequate funding for health services and infrastructure.
3. 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.
4. Address sorcery related violence via education campaigns and by holding perpetrators accountable.
5. Improve protection for women in remote areas including via better control over the trade of illegal deadly weapons.



Fiji – Low/Moderate Risk

The Covid-19 pandemic is having a massive impact on the protection and promotion of human rights in Fiji and increasing the risk of social unrest and violence.⁹²

In response to the second wave of Covid-19 since April 2021, the Fiji Government imposed measures including lockdowns and containment zones.⁹³ These were sometimes called without consultation and without sufficient time for the population to prepare.⁹⁴ While the intent of lockdowns is in the interest of public health, the lack of government transparency and a history of mistrust in the government due to underlying instability has led to frustration among the population. Increasingly restrictive policies and legislation were subsequently imposed as the government shifted its strategy from containment to mitigation. This involved rushing laws, such as empowering security services to charge people for breach of Covid-19 protocols.⁹⁵ Restrictions on freedom of speech have also been imposed, with police arresting individual citizens, including a medical doctor and former lecturer, for on-line dissent against various Covid-19 measures.⁹⁶ There is anxiety that this compliance and punishment approach along with silencing of opposition voices could be used as a pathway towards more authoritarian rule, should severe restrictions on freedom of movement and other measures continue past what is necessary to protect public health.

These sentiments are compounded by the limitations of the existing health system. The main public hospitals were closed to the public due to Covid-19 outbreaks⁹⁷ and temporary facilities including gyms were converted to house the increasing daily Covid-19 cases.⁹⁸ Government sought the assistance of private medical facilities to provide general medical care to the public. Reports of increasing numbers of deaths at home of people who had not been able to access health services also contributed to the lack of confidence in the health system. Moreover, Covid-19 restrictions and rising numbers of cases have exacerbated poverty levels in Fiji with unemployment increasing and more people reliant on government welfare assistance.⁹⁹ Delayed distribution of food and essentials in lockdown areas in some cases led to protests.¹⁰⁰ It is likely that some of those who lost jobs during the pandemic will remain unemployed into the future. These social and economic issues could create simmering tensions and anger, which in turn could lead to social unrest and violence, particularly as Fiji heads into an election period in 2022.

In September 2021, the Fijian parliament passed a new law that requires Fijians to vote in the 2022 election using their birth certificate name, following a case of an Opposition member who had been elected with a name he is known by but not on his birth certificate.¹⁰¹ The new law was passed quickly and without public consultation despite strong opposition including from women's groups, who argue the amendment is discriminatory against married women and will interfere with their democratic right to vote.¹⁰² The draft land bill was another rushed legislative change that has caused significant concern among the population. Opposition MPs who raised these concerns were arrested, consolidating fears that civil and political freedoms in Fiji are being curtailed.¹⁰³ In March 2021, a draft Police Bill was put forward which would have given police sweeping powers to conduct searches without warrants, place listening devices in homes and mobiles to obtain evidence, and arrest and search suspects including subjecting them to medical tests without consent. Concern about Fiji becoming a police state was high,¹⁰⁴ and following significant protest to the bill, it was withdrawn.¹⁰⁵ Nonetheless, such attempts by the government for control over the population, and its simultaneous crackdown on human and civil rights, is causing a "climate of fear"¹⁰⁶ and represents a significant risk factor for conflict and atrocity crimes in Fiji.

Finally, a recent conflict occurred in the government about the collection of data along ethnic and religious lines. The government's current position is not to publish statistics that highlight ethnic or religious distinctions, while some argue that this detail is necessary to assess the impact of government policies on particular groups.¹⁰⁷ Given Fiji's underlying historical ethnic tensions, this is an issue likely to resurface and potentially cause unease.

Recommendations

The Government of Fiji should:

1. Ensure effective protection and promotion of human rights given Fiji's global commitment and leadership, in particular in its role as current Chair of the United Nations Human Rights Council.
2. Protect freedom of belief and expression and ensure government transparency, accountability and an environment conducive to robust discussion and debate.
3. Take into account social, economic and civil rights considerations as part of the development and implementation of Covid-19 restrictions, and refrain from overstepping or continuing such measures past the pandemic.
4. Engage in public consultations on policy and legislation, and articulate expectations clearly on the security sector to respect human rights.
5. Consider the impact of poverty and socio-economic disadvantage on vulnerable communities and ensure plans for economic recovery leaves "no one behind" and "builds back better"¹⁰⁸ on the pillars of human rights, democratic participation, and the rule of law.

SEXUAL AND GENDER BASED VIOLENCE

In September 2021, a UNGA 76 side-event was held on “Preventing & Addressing CRSV as a Tool of War”. Special Representative to the Secretary General on Sexual Violence in Conflict, Pramila Patten, said her office had reported more than 2,500 UN-verified cases of conflict-related sexual violence across 18 countries in 2020 alone, yet 70% of parties named have taken no action towards accountability.¹⁰⁹

Noting a number of hotspots, Patten said that in Myanmar, SGBV had contributed to forced displacement and continues to be a barrier to the safe return of Rohingya refugees. Further, cases of SGBV by the Myanmar military since the February coup persist, with the UN Secretary General expressing concern about the Tatmadaw’s “brutal repression” of civilians especially those protesting the coup.¹¹⁰ Women have been at the forefront of the protest movement, but women human rights defenders and elected politicians have been directly targeted by the military. Arrests of peace activists and reports of sexual violence in detention have been recorded,¹¹¹ while gender based violence against ethnic minorities and against regions with high levels of resistance, continues. SGBV is well-known to be a systematic tactic used by the Tatmadaw, and fear of sexual violence by soldiers means many women, for example in Western Myanmar provinces, avoid leaving their homes.¹¹²

Displacement itself has gendered consequences, such as various forms of slavery and sexual trafficking. The UN Special Rapporteur on contemporary forms of slavery has issued a report on this connection, which highlights forced/early marriage and domestic servitude, as well as the risk of sexual violence and sexual slavery among displaced populations.¹¹³

Ongoing impunity for gender-based atrocity crimes has led to calls for a Convention on the Prevention and Punishment of Crimes Against Humanity that would reflect contemporary understandings of gender based violence and be more effective at holding perpetrators of gender based crimes against humanity to account. This proposal is due to be considered at the UN General Assembly in October 2021, and could effectively capture “a range of gender-related harms that are excluded from the existing frameworks on mass atrocity crimes.”¹¹⁴

SGBV and the associated risk of atrocity crimes is a serious issue in Papua New Guinea, where a Parliamentary Inquiry on Gender-Based Violence led to a report released in August 2021. It contains 71 recommendations to address the rampant SGBV across the country, which sees more than 1.5 million people experience gender-based violence each year.¹¹⁵ Ten of those are presented for immediate action, including making the committee permanent and resourcing a GBV secretariat, funding an action plan on sorcery accusation related violence, improving counselling and family planning services, equal gender representation in Parliament, and a range of measures to improve access to justice.¹¹⁶

The ongoing situation relating to Covid-19 in the Philippines has had distinctly gendered dimensions. Many women are in unregulated casual or informal work, which has made them vulnerable to losing their income during the pandemic. In addition, women experiencing domestic violence have been at greater risk during the Philippines’ lengthy lockdowns and unable to access services readily, due to restrictions on mobility. Harassment of women by soldiers enforcing lockdown rules at checkpoints has also been reported.¹¹⁷

Domestic violence has also increased in Indonesia, according to the National Commission on Violence Against Women (Komnas Perempuan), while the ability to report violence has decreased.¹¹⁸ In addition, the latest draft of the sexual violence bill, which has been in development since 2012, has been criticised for diminishing the protection of victims by removing several provisions and narrowing the types of sexual violence that can be prosecuted.¹¹⁹

Recommendations

The Myanmar military should:

1. Prevent and punish sexual and gender based violence against civilians and vulnerable communities;
2. Cease the targeting of women and people from ethnic and religious minorities;
3. 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:

1. Respond to and implement, as a priority, the 71 recommendations in the report by the Parliamentary Inquiry into Gender-Based Violence;
2. Urgently roll out education campaigns around Covid-19 and vaccination, including in rural and remote communities, and increase funding for law enforcement and domestic violence services;

SEXUAL AND GENDER BASED VIOLENCE

3. Address sorcery related violence via education campaigns and by holding perpetrators accountable, and improve protection for women in remote areas including via better control over the trade of illegal deadly weapons.

The Governments of the Philippines and Indonesia should:

1. Develop effective policies and pass appropriate legislation to prevent sexual and gender based violence, and ensure perpetrators are held to account under the law;
2. Adequately resource domestic violence services and ensure accessibility for victims;
3. Work towards a culture of gender equality in public institutions and the security sector.

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

1. Consider new approaches to the prevention and punishment of gender based atrocity crimes, including the possibility of a Convention on Crimes against Humanity that would incorporate gendered violence;
2. Exert pressure on the Myanmar military to refrain from using sexual and gender based violence against civilian populations, and implement protection strategies to prevent the commission of atrocity crimes including SGBV;
3. Support states with high rates of gendered violence to develop effective policies and education campaigns, and ensure state perpetrators of SGBV are held to account under international law.

HATE SPEECH AND INCITEMENT IN THE SOUTHEAST ASIA

Hate speech and incitement

Hate speech remains prevalent in Southeast Asia and the Pacific, and across all media forms, including the traditional and non-traditional. For example, according to data collated by Indonesian CSO, CSIS, via their national hate speech dashboard, hate speech on Twitter in July and August 2021 grew exponentially from previous months.¹²⁰ Similarly, television and social media has been used recently by leaders across the region to “perpetuate and reinforce stereotypes and prejudice against minorities, through open use of hateful rhetoric”.¹²¹

However, even while hate speech and disinformation remains constant, there has been much incentive in the region to counter this problem, including initiatives from the private sector and governments alike. CSOs and NGOs such as the Asia Centre, and larger institutions, such as UNESCO, have held numerous workshops and high-level forums that discuss/workshop ways to counter hate speech, and these have been aimed at both hate speech generally, and specific regional experiences. Many CSOs have also been funded to help counter this crime, and ideas stemming from this funding have been multifaceted and include the development of reporting software, educational workshops aimed at youth, dashboards that gather quantitative data, and reports that examine the effectiveness of regional laws.

As with hate speech more generally across the globe, in the Southeast Asia and Pacific region, targets of this violence remain mostly minority groups. This includes recent refugees to various countries, LGBTQI+ communities, ethnic minorities, religious groups, and women’s groups. The targeting of these peoples is not contained to one specific region but has been noted across all Southeast Asia and the Pacific. For example, Rohingya migrants in Malaysia, the LGBTQI+ communities in The Philippines, and the ethnic Chinese minority in Indonesia.

As outlined by the Centre for Strategic and International Studies, the region has been recently criticised for introducing laws that seemingly hinder this crime yet have been manipulated by governments for their own agendas. This has meant that social media companies like Facebook and TikTok find themselves in precarious situations where there is no intention to violate laws, yet compliance with the law might be seen as subscribing to dubious political agendas rather than hoping to halt or hinder hate-fuelled criminal activity.¹²²

Recommendations

Asia Pacific governments should:

- Realise the importance of direct hate speech legislation and implement this legislation.
- 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.
- Ensure public education about minorities to counter hate narratives.
- Work with CSOs and NGOs at large-scale educational programmes for all ages and all users.
- Learn from and work with the European Union and UNESCO and its partners to implement measures to curb hate speech and danger speech in Southeast Asia.

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