

# ASIA PACIFIC REGIONAL OUTLOOK



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## Featured in this issue...

New Philippines president,  
no change to atrocity risk

Despite election, risk  
increases slightly in  
Papua New Guinea

No progress on Xinjiang,  
DPRK

Myanmar crisis  
continues

# 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,(high) Solomon Islands

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, Taiwan, Tonga, Tuvalu, Vanuatu



## Myanmar

### Risk: Very High/Ongoing

The military junta in Myanmar continues to commit atrocity crimes against civilians amidst mounting armed resistance to the State Administrative Council (SAC) and its growing pariah status in ASEAN. As of 10 August, a total of 2,174 documented civilians have been killed by military forces, 11,982 are in detention, and 1,379 are serving sentences. There are now 81 death row prisoners, with 121 people sentenced in absentia (of whom 42 have been sentenced to death).<sup>1</sup> The junta executed four pro-democracy activists on 25 July despite appeals for a stay from ASEAN and human rights advocates in the region.<sup>2</sup> Earlier in June, the junta vowed “no mercy” for activists who were sentenced to hang even as it branded them “terrorists”.<sup>3</sup> More detained anti-coup activists on death row are likely to be executed in the coming months as junta leader Min Aung Hlaing continues to ignore ASEAN’s and the UN’s pleas to adhere to the Five-Point Consensus (FPC).

Meanwhile, the military has increasingly used air power to attack the central states and regions—particularly in Sagaing, Kachin, and Kayah—where strong civilian armed resistance to the coup have persisted. Specifically, hundreds of homes in villages have been burned due to air strikes and arson attacks by military forces as they battle combined ethnic armed groups and civilian resistance forces.<sup>4</sup> The National Unity Government (NUG) and ethnic armed organisations (EAOs) have claimed more military casualties as armed resistance forces mount more attacks on military bases and soldiers across the country. In Karen state, the Karen National Union (KNU) reported that over 2,500 Myanmar soldiers were killed in 2022 by its armed wing.<sup>5</sup> The Kachin Independence Army (KIA) and PDF forces reportedly seized two military bases in Kachin state in a raid of these camps believed to be home to the Shanni Nationalities Army (SNA), an ethnic Lisu militia allied with the junta.<sup>6</sup>

In July, the UN Special Rapporteur on Human Rights in Myanmar reported that the military’s attacks on civilian populations have resulted in more than 250,000 children displaced since the coup of February 2021. This adds to the roughly 130,000 children in protracted displacement in the country and the over 500,000 child refugees from Myanmar into its neighbouring countries. He also reported that the junta has detained over 1,400 children and tortured at least 142 of them since the coup began. It is estimated that over 30,000 could die of preventable deaths this year alone due to lack of routine immunisation even as over 7 million children remain out of school.<sup>7</sup>

Since the coup of February 2021, about 40 percent of Myanmar’s population has plunged into poverty thus far this year, according to the World Bank.<sup>8</sup> This could only exacerbate further the humanitarian crisis in the country and reverse the little progress Myanmar has achieved over the past decade in poverty reduction. Access to and delivery of humanitarian aid in the country continue to be limited as the junta remains defiant of regional and international calls for an end to violence against civilians and for a peaceful settlement of the political crisis in the country.

Army chief Min Aung Hlaing has completely ignored calls from ASEAN to implement the Five-Point Consensus that has been agreed upon with ASEAN leaders in Jakarta in April last year, which includes the release of political leaders from the National League for Democracy (NLD) from detention. He has also refused requests for the ASEAN and UN Special Envoys to meet with detained NLD leader Aung San Suu Kyi. In the recent ASEAN ministerial meeting in Phnom Penh, Prime Minister Hun Sen and some foreign ministers have expressed frustration over the failure of the junta chief to comply with the FPC. This could then lead to a serious reconsideration by ASEAN leaders of the FPC agreement and force the bloc to adopt hard measures against the junta, which may include suspension of Myanmar’s membership and more open engagement with the NUG.

## Recommendations

### The Tatmadaw should:

- Immediately cease all violations of international humanitarian law.
- Ensure that those responsible for violations are held accountable.
- Take tangible steps to return authority to the democratic government.

### ASEAN and its members should:

- Impose more stringent measures on the regime for its non-compliance with the FPC. These should include suspending

## MYANMAR - VERY HIGH RISK- ONGOING

Myanmar's membership of ASEAN and considering the recognition of the NUG as Myanmar's legitimate government.

- Engage directly with the NUG and other democratic forces in Myanmar.
- Cooperate with the UN special envoy to coordinate more fully in exploring options to break the current stalemate in Myanmar, giving priority to delivery of humanitarian assistance to affected communities in the country, including food, medical and health services, and assistance to the growing number of internally displaced peoples before and after the coup in 2021.
- Expand the delivery of humanitarian assistance given the projected collapse of Myanmar's economy that could bring close to half of the population below poverty line.

### **All UN Member States should:**

- Increase delivery of humanitarian assistance, given the projected collapse of Myanmar's economy that could bring close to half of the population below poverty line.
- Implement targeted sanctions against the Tatmadaw and its business holdings in Myanmar.



## 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.<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup> 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.<sup>12</sup>

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.<sup>13</sup> 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 committing crimes against humanity.

- 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-refoulment. 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, Chinese authorities have perpetrated widespread patterns of abuses targeting Uighurs and other Turkic Muslim minorities of the Xinjiang Uighur Autonomous Region ('XUAR' or 'Xinjiang'). After detailed study of the evidence and relevant facts, in October 2020 the Asia Pacific Centre for the Responsibility to Protect concluded that Chinese policy toward ethnic minorities in Xinjiang:

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 that acts including killing, serious bodily and mental harm, and inflicting conditions that are calculated to bring about physical destruction have occurred in Xinjiang.<sup>14</sup>

The Chinese government has subjected 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.<sup>15</sup> While the current population of political detainees is uncertain, in 2018 it was estimated that upwards of a million Uighurs and other Turkic Muslims were remanded in state custody in what Chinese authorities refer to as 're-education' or 'de-extremification' facilities, without identifying to friends and family where they had been taken to or for how long, or if they were alive or dead.<sup>16</sup> This is consistent with the crime against humanity 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".<sup>17</sup>

Former Uighur detainees have described conditions in the prison camps as variously involving crowded cells, indoctrination that drove some to suicide, waterboarding,<sup>18</sup> 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.<sup>19</sup> On 24 May 2022 a group of 14 news organisations published the Xinjiang Police Files, which contained thousands of new leaked documents and images from internal police networks in Xinjiang that affirm the militarized nature of the camps and refute the Chinese government's claims that they are benign education facilities.<sup>20</sup>

In relation to the question of genocide, there is significant evidence available to establish forced sterilisation as having occurred in Xinjiang. With the intent to destroy a group, forced sterilisation and other forms of SGBV fall 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. 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,<sup>21</sup> are 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.<sup>22</sup> This evidence points to a deliberate government strategy to change the demographic balance in Xinjiang in favour of Han Chinese by depressing the Muslim population and increasing the Han.<sup>23</sup> As well as a potential act of genocide, this practice is consistent with the UN's definition of ethnic cleansing, which, although it is not a stand-alone crime under the Rome Statute, is among the atrocity crimes governments committed to prevent and respond to under the Responsibility to Protect framework.

There is also credible evidence that Turkic Muslims of Xinjiang have been subjected to widescale enslavement and forced labour under a government-mandated labour transfer program. Recent estimates project that upward of 2.2 million Turkic Muslims in Xinjiang could be subjected to coercive labour, which includes several hundred thousand former re-education camp detainees.<sup>24</sup> Forced labour is an institutionalised policy in Xinjiang—Xinjiang's current Five-Year Plan (2021-2025) set in place unemployment and poverty alleviation targets and a system of surveillance that formally consolidated



coercive labour practices, such that “individuals who were coercively mobilized into work placements are now effectively prevented from leaving them”.<sup>25</sup> Forced labour or otherwise reducing a person to a servile status can amount to the crime against humanity of “enslavement” under international law,<sup>26</sup> which occurs when “any or all powers attaching to the right of ownership are exercised” over a person.<sup>27</sup> 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”.<sup>28</sup>

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 found that of a sample of 533 mosques across Xinjiang, 31.9% had been destroyed, 32.8% were damaged, and 35.3% were undamaged.<sup>29</sup> Extrapolating this data to mosques across Xinjiang, approximately 16,000 mosques may have been damaged or destroyed and 8,450 completely demolished since 2017.<sup>30</sup> 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.<sup>31</sup> Additionally, 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.<sup>32</sup> Such practices could constitute crimes against humanity related to religious persecution, as well as acts of genocide in relation to serious mental harm and inflicting conditions to bring about a group’s destruction.

The international response to atrocity crimes in China has been uneven and inadequate, mostly led by a select few Western states. The US government and elected officials from Canada and the UK have publicly identified China’s human rights violations as genocide and have called on China to respect the rights of its Turkic Muslim.<sup>33</sup> The European Union, the UK, US and Canada jointly imposed sanctions on Chinese officials<sup>34</sup> 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.<sup>35</sup> Countries, mostly from the West, have issued joint statements of concern at the UN General Assembly.<sup>36</sup> China has reacted with predictable hostility, and worked to silence criticism and even secure statements of support for its policy in Xinjiang, primarily from developing countries.<sup>37</sup> The most disappointing response is from Arab and Muslim-majority states who tacitly condone or openly endorse China’s policy. Egypt, Morocco, Qatar, Saudi Arabia, Syria and UAE have colluded with China to detain or extradite Uighurs.<sup>38</sup> In early August 2022, China hosted a delegation of 32 senior diplomats from 30 Muslim-majority countries for a highly stage-managed visit to Xinjiang. A statement by the Chinese Foreign Ministry communicated that the delegation endorsed China’s “people-centred approach” and recognised the “great achievements in promoting the governance and development of Xinjiang”.<sup>39</sup>

UN High Commissioner for Human Rights (OCHCR) Michelle Bachelet faced intense criticism following her May 2022 visit to China for failing to gain genuine access to assess the situation or to strongly condemn abuses in Xinjiang. Before she departs office at the end of August 2022, Bachelet is scheduled to release a long overdue OHCHR report on the human rights situation in Xinjiang, that she has promised since September 2021. China has orchestrated an intense pressure campaign to suppress the report, including through lobbying diplomatic missions in Geneva to sign on to a letter to halt its release.<sup>40</sup>

## 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.
- Repeal policies that institutionalise abuses in XUAR, such as the 2017 Regulation on De-extremification, and respond favourably to outstanding requests for UN special procedures mandate holders to undertake an official visit to China with unhindered access to detention facilities in Xinjiang.
- Cease its campaign to suppress the forthcoming OHCHR report on the human rights abuses in Xinjiang and engage in a process to meaningfully implement the recommendations of the report.

### UN Member States should:

- Condemn atrocity crimes 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.
- Actively counter China's campaign to suppress the OHCHR report on Xinjiang, including through building a broad coalition of states in support of the UN's mandate to investigate and report on atrocity crimes in Xinjiang.

**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 or other atrocity crimes that are universally prohibited under international law.

**The OHCHR and special procedures mandate holders should:**

- Release the overdue report on alleged violations in Xinjiang, and undertake efforts to carry through the report's recommendations to cease and address abuses in Xinjiang.
- 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 in the Philippines remains high despite the new government of President Ferdinand Marcos Jr being sworn in on 30 June 2022. Drug-related killings continue since the new administration took over after Duterte stepped down. For the month of July, there were 41 reported drug related killings and 7 killings in the first week of August. Since 1 January to 7 August this year, there are a total of 197 reported killings related to the drug war.<sup>41</sup> During his first State of the Nation Address to the Philippine Congress in July, Marcos Jr failed to state his government's policy on human rights protection, war against illegal drugs, and peace and order. Some supporters of former President Rodrigo Duterte criticised the new president for failing to state strong support for his predecessor's drug war crusade and campaign to end the local communist insurgency.

For his part, the new chief of the Philippine National Police (PNP) on 8 August said that killing is not the solution to end the war on drugs even as he asserted that his organisation would continue the war on drugs "but will do it by addressing the root of the problem."<sup>42</sup> He also promised to review the PNP's drug war operations and said that he will seek the help of religious leaders in reforming the police force.<sup>43</sup>

The new administration is unlikely to allow the International Criminal Court (ICC) to conduct its own investigation even as it prepares to respond to the request in June by the ICC Prosecutor to the pre-trial chamber for a resumption of the drug war related investigation in the Philippines.<sup>44</sup> The ICC prosecutor has determined that there has been no genuine investigation by Philippine authorities on the drug war under the Duterte administration. On 1 August, Marcos Jr. stated that his government has no intention returning the country as a state party to the ICC even as he asserted that there are also ongoing investigations in the Philippines on the drug-related killings. He also instructed his cabinet officials to carefully study the necessary procedures "to prevent being misinterpreted by the ICC."<sup>45</sup> However, he failed to address the issue of policemen being involved in drug war killings and accountability for these acts.<sup>46</sup>

Meanwhile, the International Coalition for the ICC in the Philippines expressed its disappointment over Marcos Jr's statement about the country not rejoining the international court and asserted that the Office of the Prosecutor should "vigorously pursue the full investigation of the Duterte administration" for alleged crimes against humanity.<sup>47</sup> For his part, the former spokesman of President Duterte disclosed that the former leader will not cooperate with the ICC probe and would petition the Supreme Court of the Philippines for a restraining order if ever he was served an arrest warrant by the international court.<sup>48</sup> Accordingly, Duterte will argue that Philippine courts are "able and willing" to prosecute him and that there was no need for the ICC "to interfere in the country's judicial system."<sup>49</sup>

### Recommendations:

#### The Philippines should:

- Uphold the state's primary responsibility to protect by complying with international norms on human rights protection. Specifically, it should hold accountable law enforcers and other members of the security sector for violations of human rights in relation to the war on illegal drugs during the Duterte administration and after.
- Reconsider its position on membership of the International Criminal Court (ICC)
- Permit the Office of the Prosecutor of the ICC to resume its investigation of drug war related killings during the term of President Duterte and cooperate fully with the probe.
- Encourage PNP and Department of Justice to pursue vigorous investigation of killings involving policemen and other law enforcement agents in relation to the drug war and file appropriate criminal charges against them.

## Indonesia

### General: Low / West Papua: High

Indonesia is generally at low risk of atrocity crimes but there are specific risks in West Papua. Indonesia's COVID-19 numbers have decreased, with cases that were close to 50,000 new infections in February 2022, reducing to approximately 6,000 in the first week of April. This has meant that restrictions on international travel have been lifted, though reports are that tourism has been slow to recover and this economic sector also slow to recover as a result.<sup>50</sup> Yet atrocity and human right violation risks that were prominent in the early stages of the pandemic have also greatly reduced.

There has also been long awaited legislative reform around gender and sexual violence, with a bill to tackle the country's sexual violence about to become an Act. This means that prosecuting sexual violence will be easier, as in the past there was no dedicated legislation. As an example, and as reported in Reuters, 6,000 cases reporting SGBV had been filed in courts since 2018, and only 300 of these have been settled in court. The new legislation aims to lessen Indonesia's ever-increasing numbers of sexual violence.<sup>51</sup> According to multiple news sources, the reporting of sexual violence against women rose by over 50 per cent over the past twelve months, and the proposed legislation is, in part, a response to this increase.<sup>52</sup>

In recent weeks there was a move towards cultural and historical healing as the Dutch government issued an apology to the Indonesian people for having committed egregious human rights abuses during the 1945-1949 war of independence. In February 2022, Dutch Prime Minister, Mark Rutte, made the apology for the Dutch having used "extreme violence" against the Indonesians, including torture, executions, and arson.<sup>53</sup> While there have been apologies made in the past by Dutch representatives, including the Dutch King in 2020, this is the first apology that acknowledges widespread criminality, stating that these crimes were "condoned at every level: political, military and legal."<sup>54</sup> This apology has been seen as a restorative act hoping to mend past grievance between the colonised and the coloniser.

While much progress has therefore been made to alleviate the risks of abuses and violations that could lead to atrocity, there were still instances of decision making at government and private sector levels that risk the escalation of violence, including the proposal to open a large gold mine in the Papua province. Human Rights Watch believes this mine is a risk that could fuel further violence in the region as it violates land rights, forcing Papuans from their land and villages.<sup>55</sup>

## Recommendations

### The Indonesian Government should:

- Appoint a senior official as National R2P Focal Point to coordinate national and international efforts to implement R2P.
- Ensure legislative decisions do not compromise Indonesia's democracy and will not lead to human rights abuse across all regions.
- Implement legislation to stop hate speech and discrimination, and to effectively eliminate sexual and gender-based violence via the implementing of the proposed anti-sexual violence bill.

### The Australian government should:

- Encourage Indonesia to take active steps to fulfil its responsibility to protect.
- Continue to explore avenues for cooperation with the Indonesian government and society in the areas of combatting sexual violence and encourage the signing of the anti-sexual violence bill.

**West Papua – High Risk**

The region of West Papua is at high risk of atrocity crimes.

Tensions between the Indonesia government and West Papuans remains very high with reports of extrajudicial killings and armed conflict in the region. These human rights abuses have been made prominent in a recent United Nations report released in February 2022 in which the authors mention reports of “extrajudicial killings, including of young children, enforced disappearances, torture, and the enforced displacement of at least 5,000 Papuans.”<sup>56</sup> Killings in the region are an ongoing source of tension between Indigenous Papuans and Indonesian military forces, with two West Papuans shot dead in late March 2022 by security services.<sup>57</sup>

Killings are not restricted to West Papuans. On 3 March there were reports that a West Papuan independence group had killed 8 telecommunications technicians who had been working on a cell phone tower in a remote sector of West Papua. One technician escaped, and it is believed the killers were members of the West Papua National Liberation Army, though this identification is speculative.<sup>58</sup> As reported in *The Diplomat*, “the attack is the latest incident in a spiral of reaction and counter-reaction between the OPM and the Indonesian state”, something that has been playing out in the region since the 1960s when the struggle for independence began.<sup>59</sup>

There have also been concerns raised over the lack of access to humanitarian aid by those who have fled the conflict. As outlined in a speech during a World Council of Churches, WCC Director of International Affairs, Peter Prove, revealed witnessing a group of minors who had fled conflict and taken shelter in a church compound, yet had no access to agencies such as the Red Cross or Amnesty International as these were not approved by the Indonesian forces. This is one example of restrictions placed on the tens of thousands of refugees who have fled villages due to violence by Indonesian forces.<sup>60</sup> The UN report also noted that only “ad hoc” deliveries of aid were making it to those who had been displaced, the report stating that “We are particularly disturbed by reports that humanitarian aid to displaced Papuans is being obstructed by the authorities”, this depravation leading to malnutrition in children, and a general lack of access to food and health services for those displaced.<sup>61</sup>

**Recommendations****The Indonesian Government should:**

- Address entrenched racial discrimination, hate speech and incitement against West Papuans, and provide clear advice to security forces to abide by international law and refrain from the use of violence and torture.
- As a member of the UN Human Rights Council, ensure human rights are protected in all Indonesian territories, including freedom to protest and gather and freedom of speech.
- Refrain from using racist and inciteful language.
- Consider the aspirations of West Papuans and the underlying issues fuelling the protests, and endeavour to take into account these aspirations in future dealings with the province.
- Allow humanitarian aid to IDPs, including access to the Red Cross and Amnesty International.



## Papua New Guinea

### Risk: Moderate-High

Papua New Guinea's election began on 4 July 2022, with three weeks of polling by five million people.<sup>62</sup> The last election was in 2017. While vote counting continues in some electorates, and others have been affected by interrupted counting, destroyed ballots and ballot boxes,<sup>63</sup> and even arson, incumbent PM James Marape has been returned to lead a coalition government.<sup>64</sup> Parliament has had its first sitting despite an attempt by the opposition to delay it until counting finished.

Observers have called for a review of the electoral process and experts have noted the extreme levels of "violence, intimidation, corruption as well as administrative ineptitude" during this election process.<sup>65</sup> Issues with the electoral roll meant that one million people were unable to vote, a problem the newly returned PM has promised to address through the 2023 census and modernising voter ID. A Commonwealth team of observers found that as many as half of eligible voters were not on the voter register.<sup>66</sup> Other inconsistencies and rapid changes such as the creation of seven new districts weeks before the election period, may also have had ramifications on the fairness of the democratic process. Overall, predictions of voting irregularities and election fraud<sup>67</sup> have transpired, and this election has cemented the sense that free and fair elections are a distant prospect for PNG.

Corruption is endemic in PNG. According to Transparency International, PNG ranks 124<sup>th</sup> out of 180 countries on the Corruption Perceptions Index. 96% of people in PNG believe government corruption is a big problem. 57% say they were offered a bribe in exchange for their vote in the last 5 years.<sup>68</sup> Weak governance and a widespread lack of trust in the government<sup>69</sup> are significant issues that affect PNG's ability to carry out core democratic functions, and rather than improving over time, it appears these issues have worsened.

Moreover, the election has been marred by violence and atrocities. The first death, the shooting of an election officer, occurred in May in Western Highlands, after official lists of election officers were delayed and false lists spread.<sup>70</sup> By late July dozens of people had been killed during the voting process, including 18 people massacred in tribal violence near the disputed Porgera mine site in the Highlands.<sup>71</sup> As in the case of previous massacres in these remote parts of PNG, police presence in the area has been insufficient, and the availability of illegal firearms facilitates deadly violence. There also reports of sexual violence against women and girls over past weeks (sexual and gender based violence is rife in PNG), and thousands of people have been displaced and cut off from food and medicine.<sup>72</sup> A young woman holding her 1 year old son was shot by police while voting in Port Moresby, as unrest flared due to delayed delivery of ballot boxes.<sup>73</sup>

Despite advance warning of increased numbers of voters and electorates, and indeed of election-related violence, slightly fewer security personnel were deployed to maintain order during this election than the last. In addition, underfunding, inadequate preparation along with insufficient staff and equipment across the security sector were highlighted prior to the election process.<sup>74</sup>

Local issues like access to health care, education and water, and the impact of the Covid-19 pandemic,<sup>75</sup> have been important factors during this election. More broadly, geopolitical questions relating to PNG's diplomatic allegiances have attracted attention, with a visit by Chinese Foreign Minister Wang Yi during the campaign.<sup>76</sup>

After 50 years in which only seven women have been voted into PNG's parliament, and the last decade which saw a parliament consisting of only male MPs, PNG has voted in economist Rufina Peter. She was one of 167 women candidates out of a total of more than 3000.<sup>77</sup> Structural obstacles including gendered stereotypes of women, as well as direct threats to female candidates' safety, have prevented women from achieving political equality in PNG.<sup>78</sup> Gender inequality is stark in PNG, which has some of the highest rates of gendered violence in the world and patriarchal societal attitudes. Previous attempts to reserve seats for women in parliament have been consistently resisted.

The lack of women's representation in parliament and other democratic forums has a direct impact on government policy. It is also argued that greater gender equality can strengthen democratic institutions.<sup>79</sup>

The Pacific Islands Forum Women Leaders Meeting was held in June 2022, with a view to pursuing gender equality across the Pacific. There is a broader policy shift in the region towards empowering Pacific women to lead and achieve economic opportunities, alongside longstanding international programs to assist survivors of violence.<sup>80</sup>

Meanwhile, underlying social and economic issues continue to increase the risk of violence and atrocities. Covid-19 and PNG's low vaccination rate have exacerbated existing issues like poverty, unemployment and poor health.<sup>81</sup>

Though the PNG government is working towards economic development via industry and international investment, there are concerns about adverse impacts on local communities. A lack of environmental risk assessment and management in the mining industry, for instance, could have long term negative consequences for the environment and for communities living near extraction projects.<sup>82</sup>

### **Recommendations**

#### **The Papua New Guinea government should:**

- Urgently address the endemic levels of gender based violence and work towards gender equality across society and in the political sphere.
- Ensure perpetrators of recent violence during the election are held accountable.
- Permit independent review of the election process regarding governance, transparency and voting irregularities.
- Take tangible steps to reduce government corruption
- Ensure mining projects do not cause harm to the environment or local communities or elevate risks of violence.

#### **Neighbouring states should:**

- Support humanitarian action and policies aimed to address socio-economic inequality in PNG.
- Offer training and other support to the security sector.
- Encourage PNG to adopt anti-corruption practices and improve transparency
- Call on PNG to urgently address rampant SGBV and gender inequality and continue to support programs such as Pacific Women Lead.





### Solomon Islands – Moderate Risk

The Solomon Islands has been at the forefront of geopolitics in the Asia Pacific region over recent months, due to its increasingly close relationship with China. The strengthening of the relationship follows the nation's diplomatic allegiance switching from Taiwan to China in 2019, and a serious outbreak of violence in November 2021.<sup>83</sup>

The Solomon Islands government has signed a security agreement with China which includes provision for Chinese police to train Solomon Islands security officers.<sup>84</sup> Concerns have been raised about the possibility of Chinese police being employed within the Solomons' police force, alongside broader concerns about the potential for a Chinese military base being established on the islands.<sup>85</sup>

The ABC recently investigated Chinese investment and influence in the Solomon Islands. In addition to a lack of government transparency, increasing Chinese activity was found to be causing unrest and division between local communities, along with environmental damage in areas where Chinese companies are involved in mining and forestry industries.<sup>86</sup> The effects on employment of local workers, and wider concerns about security with access to deep-water ports and airstrips, have also been raised.

In June, Chinese Foreign Minister Wang Yi met with leaders from ten Pacific Island countries, as China continued its push for diplomatic and strategic allies which, according to a research fellow at ANU, would help China with voting at the UN on issues such as Xinjiang, Taiwan and Hong Kong, and with economic development and security.<sup>87</sup> Also in June, Australia's Foreign Minister Penny Wong visited the Solomon Islands to meet with Prime Minister Sogovare, where she announced further vaccines donations and an expansion of the labour scheme.<sup>88</sup> This was followed by a warm greeting between the newly elected Australian Prime Minister and Mr Sogovare at the Pacific Islands Forum Leaders Meetings in July.<sup>89</sup> There was also notable resistance from Pacific nations to China's attempts to intervene and more broadly to its desire for control in the region. Nonetheless China's relationship with the Solomon Islands continues to grow, causing tensions within the country and anxiety across the region.<sup>90</sup>

China has also funded several venues for use at the Pacific Games in November 2023, which the Solomon Islands is hosting. The government has submitted a bill proposing to delay its elections until after the Games are held. The opposition say the community does not approve of any plan to delay the election.<sup>91</sup> It is possible that moves such as these will worsen the existing public mistrust in the government.

Similarly, recent measures to restrict freedom of the media are concerning. The Solomon Islands Broadcasting Corporation (SIBC) says the government has ordered it to censor its news and not to report content critical of the government.<sup>92</sup> Previously a state-owned enterprise, SIBC is now fully government funded, raising concerns about its independence and ability to accurately report.

Some journalists have cited the relationship with China as one impetus for moves to restrict media freedom. 35 year journalism veteran Dorothy Wickham wrote in May that journalists have been chased away by police, and that secrecy by the government is at an all-time high. In relation to the security pact with China, she wrote that "The government has refused to release the text of the deal. They have also refused to give interviews, while texts to longstanding contacts in the government go unanswered and calls unreturned."<sup>93</sup> This lack of transparency on government dealings, combined with crackdowns on the media, are indicators of a government with little respect for strong and open governance, and the fundamental rights of its population. Such indicators can point towards a growing risk of violence and atrocities.

### Recommendations

#### The Solomon Islands Government should:

- Respect freedom of the media and withdraw the order to not publish anything critical about the government.
- Consult openly with communities about policies and decisions that may affect them including consideration of locally owned industry and employment of workers.
- Ensure new projects in the Solomon Islands are subject to environmental risk assessment and any impact managed effectively.
- Ensure the security sector complies with international standards on human rights.

# SEXUAL AND GENDER BASED VIOLENCE

## Sexual and Gender-based Violence

The UN Secretary-General's report on conflict-related sexual violence (CRSV) was released in April 2022.<sup>94</sup> Covering the period from January to December 2021, the report found that in general, civilians were being exposed to heightened risk of sexual violence due to militarisation, armed conflict, displacement, political instability and terrorism related activity. The report highlighted the targeting of women human rights defenders and shrinking civil space, as well as gendered hate speech online, and that the Covid-19 pandemic continued to divert resources from support services for survivors of gender-based violence.

Importantly, the SG's report discussed root causes of SGBV such as structural inequality and continuing obstacles to women's participation in political, social and economic processes, along with a broader lack of accountability for perpetrators. One of the cases included in the report is the Myanmar situation, where incidents of CRSV are rampant and systematic. These include: the targeting of women involved in political activism or civil disobedience, sexual violence against people held in detention, and atrocities such as gang rape and rape in front of family members. In addition, Rohingya refugees in Cox's Bazar remain vulnerable to exploitation, trafficking and sexual violence.

Gendered violence in Myanmar has also been investigated by Amnesty International which has released a report on torture in detention based on 15 interviews with former detainees, lawyers of prisoners and experts.<sup>95</sup> The report found some women and LGBTI detainees "were subjected to sexual violence, harassment and humiliation including invasive body searches..." with incidents occurring in detention (sometimes while blindfolded), in order to extract confessions, while showering and dressing, and also during transfers of prisoners to court or prison. These findings are consistent with previous investigations such as the February 2022 report by Women's Peace Network.<sup>96</sup>

In April, Indonesia finally passed the Sexual Violence Crimes Law that expands the definition of rape, facilitates the prosecution of sexual offences, and offers services to survivors.<sup>97</sup> The bill had been delayed for years amid Indonesia's conservative society, despite increasing gender-based violence in the country (Indonesia's National Commission on Violence Against Women recorded a 50% increase in cases from 2020 to 2021).<sup>98</sup>

In addition, the practice of virginity testing by the Indonesian military has officially ceased.<sup>99</sup> This form of gender-based violence was exposed several years ago and had been part of the recruitment process for women. However, gender discrimination continues to affect women across various provinces in Indonesia, including via restrictive mandatory dress codes. More than 60 local decrees are in force around the country, and women who do not comply have suffered abuse.<sup>100</sup>

The Philippines election was held in May 2022, with Ferdinand Marcos Jr winning the Presidency and ending the Duterte era. In a country where the former President had normalised a hyper masculine and male dominated political scene, the election saw only one female candidate out of 10.<sup>101</sup> Whether the new government will see a shift in attitudes on gender is unclear, however the new President's State of the Nation speech on 25 July included only a cursory mention of women's issues.<sup>102</sup> Ongoing issues in the Philippines include violence against women, access to abortion, abuse of women and LGBTQ people during militarised Covid lockdowns, and despite some legislative progress, an overall patriarchal culture.<sup>103</sup>

The Special Rapporteur on violence against women, its causes and consequences presented a report on violence against indigenous women and girls at the Human Rights Council's 50<sup>th</sup> session. Noting the "complex and intersectional forms of violence" that indigenous women face, the report looks at causes and manifestations across the world. In the Asia Pacific region, the report mentions the impact on Indigenous women in West Papua due to armed conflict between Indonesian security forces and pro-Papua armed independence groups, and high rates of violence against Ryukyuan/Okinawan women and girls in Japan.

A review looking at the aftermath of natural disasters has found a correlation between more extreme weather events due to climate change, and violence against women and LGBTQ people.<sup>104</sup> Domestic violence, sexual violence and gender-based violence such as forced marriage of young girls (eg, in Bangladesh), have been found to occur in the wake of natural disasters. It is likely that nations prone to more intense climate events, which already have high rates of gendered violence, such as Fiji and Papua New Guinea, may be particularly affected as climate change continues to occur. Further, UN Environment has also found that climate change can exacerbate violence against women and girls. This is partly because 80% of people displaced by climate change are women, and displacement increases the risk of SGBV.<sup>105</sup> Other climate effects on women include changes to agriculture, employment and accessibility of food and water, disruption to education, and vulnerability to trafficking. Women environmental human rights defenders may face threats and violence.

## SEXUAL AND GENDER BASED VIOLENCE

Various meetings during the July Pacific Islands Forum looked at the pressing issue of gender-based violence in the Pacific. Countries across the region, from Fiji to Papua New Guinea, have extremely high rates of gendered violence against women and LGBTQ people. In addition to SGBV, civil society groups highlighted reproductive rights and women's leadership and empowerment.<sup>106</sup> The month prior to the PIF, Fiji hosted the inaugural meeting of the Pacific Islands Forum Women Leaders Meeting, which was recognised in the PIF Communique as a milestone for the region.<sup>107</sup>

### **Recommendations**

#### **The Tatmadaw should:**

- Immediately cease the practice of using sexual and gender based violence as a form of torture against detainees.
- Hold perpetrators of SGBV accountable.

#### **The UN and regional bodies particularly ASEAN should:**

- Take urgent and serious action on the situation in Myanmar to ensure it complies with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and with international human rights and humanitarian law.

#### **The Philippines Government should:**

- Take positive steps to build a culture where misogyny is gender discrimination are not tolerated, and continue to provide training for the security sector on gender-sensitive responses.

#### **The Indonesian Government should:**

- Prevent sexual and gender based violence in the context of armed conflict in West Papua and hold perpetrators accountable.
- Hold discussions with local governments on decrees that restrict women's rights relating to women's dress code.

## Disinformation, Hate speech and Incitement

Hate speech across the region is still apparent, with anti-LGBTQI hate speech, as an example, an “everyday reality for LGBTI individuals in Southeast Asia while navigating online spaces. This disturbing state of affairs is especially entrenched in legally repressive landscapes that discriminate against LGBTI individuals.”<sup>108</sup> Yet there have been positive responses to these human rights infringements by civil society, corporation, and government alike.

Hate speech is being countered using legislation, public advocacy, and creative measures developed by software companies such as Facebook. For example, in India, Google has developed Factshala, a “news and information literacy programme launched by the international media development non-profit Internews in collaboration with the India-based digital media and information initiative DataLEADS and with support from Google.org, Google’s charitable arm, and Google News Initiative.”<sup>109</sup> It hopes to counter bigotry and racism using these new initiatives.

There are a growing number of education programmes available across region, language, and demographics, including the UN’s ongoing commitment to tackling hate speech via education, alongside many other smaller organisations that are working to counter this problem. While digital literacy is becoming a key policy driver in some Southeast Asian countries, research has found smaller scale courses are gaining traction and having some effect on hate speech and disinformation.<sup>110</sup> These are aimed at the region’s less educated and are connecting via small clips and memes, or via workshops offered at community level.

Dubbed by some as “‘information disorder’, a term including misinformation, disinformation, mal-information and hate speech,”<sup>111</sup> the region continues to grapple with all forms of this problem, yet positive steps, as signalled above, are slowly countering the problem, showing the influence of both sustained advocacy and education programmes.

## Recommendations

### Governments in the region should:

- Realise the importance of direct fake news, hate speech and danger speech legislation, and implement this legislation in its civil and penal codes.
- Work with the private sector, including social media sites and internet companies more broadly, to implement a range of generic policy measures across the region, rather than on a state-by-state basis.
- 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 its partners to implement measures to curb hate speech and danger speech.

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