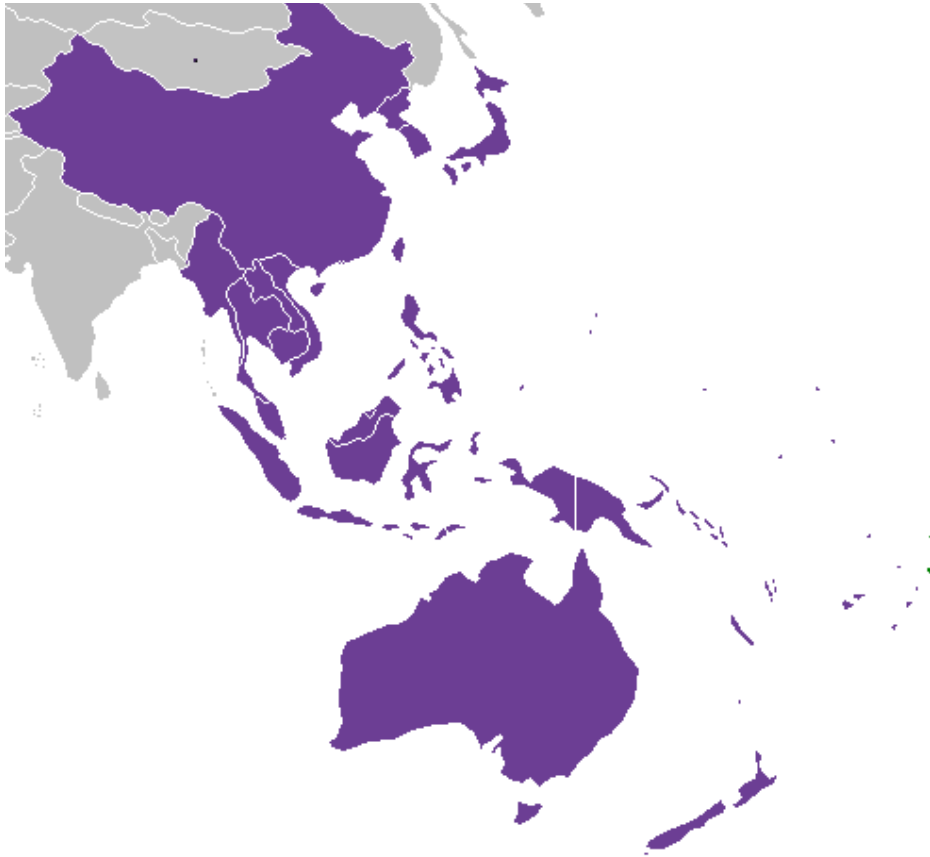


ASIA PACIFIC REGIONAL OUTLOOK

EARLY WARNING ATROCITY CRIMES



DECEMBER 2022 Featured in this issue...

Atrocity crimes and displacement unabated in Myanmar

Tensions ease in Solomon Islands

Xinjiang situation unchanged amidst wider crackdown on rights in China

Coming up: Fiji election assessment

REGIONAL ATROCITY RISK ASSESSMENT



Very High

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

High

The Philippines

Moderate
(high to low)

Papua New Guinea, (high) West Papua (Indonesia)

Low

Fiji, Cambodia, Indonesia (except West Papua) Laos, Solomon Islands, 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 in Myanmar continues to commit atrocities unabated against civilians even as the ruling junta remains defiant of international calls to halt the violence amidst growing civilian armed resistance to the coup. As of 30 November 2022, there are over 2,500 documented civilians killed by the junta since the February 2021 coup, with more than 16,400 arrested, and close to 13,000 people detained.¹ There are 86 post-coup death row prisoners, with additional 42 people sentenced to death in absentia. Over 3,400 people have been released by the junta and another 42 released on bail.²

Despite the release of over 6,000 prisoners³ on 17 November 2022, which included Australian national Sean Turnell who served as economic adviser to ousted NLD leader Aung San Suu Kyi and former British ambassador Vicky Bowman, the junta continued to conduct lethal air strikes in central and northern regions of Myanmar against suspected strongholds of People's Defence Forces (PDF) and ethnic armed organisations (EAOs) supporting the armed resistance to the coup. The military continues to commit war crimes as it sustained its indiscriminate air strikes that also hit IDP camps in Kachin, Kayin, and Sagaing regions.⁴ This has resulted in increasing number of internally displaced persons from these regions. As of 31 October 2022, the UN Office for Coordination of Humanitarian Affairs (OCHA) reported that there are now over 3.1 million displaced people in Myanmar, of which 1.1 million were displaced since the February 2021 coup.⁵ It also reported that more than 30,000 civilian properties have been burnt or destroyed since the coup.⁶

The Institute for Strategy and Policy however reported that as of 2 November 2022, close to 1.7 million people have been displaced for the last 21 months since the February 2021 power grab by the military. Specifically, in Chin State, more than 110,000 civilians became refugees, of which 50,000 fled to India's Mizoram state to escape the violence in Myanmar, while in Kayin State, over 186,000 people fled their homes since August this year.⁷ In Rakhine State, more than 130,000 Rohingyas who have fled the violence in 2012 and 2017 remain in over 10 camps for the displaced in Sittwe. However, the military arrested over 300 Rohingyas who tried to flee the camps between 17 October and 11 November this year even as fresh violence in Rakhine erupted between the Arakan Army and the Myanmar military. Between December 2021 and October 2022, a total of 992 Rohingyas have been arrested by Myanmar junta for fleeing their homes in Rakhine.⁸

Civilian armed resistance against the coup has also stepped up in various parts of the country, with the joint PDF and allied EAO forces attacking military camps, soldiers, and junta-appointed local administrators. In September, the National Unity Government (NUG) Acting President Duwa Lashi La claimed that it now effectively controls over half of Myanmar's territory through the combined forces of the PDF and allied Ethnic Revolutionary Organisations (EROs) more than a year since the 2021 coup.⁹ He also asserted that following the launch of the PDF a year ago, over 20,000 junta soldiers have been killed and 7,000 wounded, while some 1,500 resistance fighters have died in clashes with the military across the country.¹⁰

While the NUG's claims cannot be independently verified, it is significant to note that junta chief Min Aung Hlaing reportedly acknowledged in a meeting with military officials in June this year that the regime's armed forces are struggling to cope with heavy losses from clashes with resistance forces across the country.¹¹ Apparently, as the military forces are losing the ground battle, it has increased its daily aerial bombing campaigns across Myanmar in the last three months, targeting resistance strongholds in Sagaing and Magwe regions as well as in Kayah, Karen, and Chin states. Using helicopters, jet fighters, and surveillance drones, junta forces have deliberately and indiscriminately attacked civilian targets in these areas that resulted in heavy casualties and deaths among residents including children.¹² According to the NUG, the military conducted a total 268 air strikes across Myanmar between October 2021 and September 2022 targeting civilians including those in ethnic minority areas.¹³

Meanwhile, ASEAN's Five-Point Consensus (FPC) remains unimplemented to date after two years of revolving chairmanship between Brunei Darussalam and Cambodia. Attempts by Cambodian Prime Minister Hun Sen and his ASEAN Special Envoy to meet with detained NLD leader Suu Kyi and other opposition parties against the coup were blocked by the junta chief who remains defiant in complying with the April 2021 agreement.

At the ASEAN Summit in Phnom Penh in November 2022, the leaders of the regional organisation decided, among others, that the FPC will remain for now as the cornerstone of the bloc's diplomacy towards Myanmar despite the junta's non-compliance with the agreement for close to two years. However, there was consensus to focus on the implementation of the FPC with concrete, time-bound, and measurable indicators. Specifically, the ASEAN leaders underscored that: 1) the FPC "shall remain as [a] valid reference and should be implemented in its entirety"; 2) an implementation plan with "concrete, practical and measurable indicators with specific timeline" to support the FPC "shall be developed" and tasked the foreign ministers to develop the implementation plan; 3) "to seek all concerned parties to adhere to and implement" the FPC and for ASEAN "to engage all stakeholders soon" in "a flexible and informal manner...with the sole objective of restoring peace and stability in the country" in accordance with the FPC; 4) while maintaining the "non-politi-

cal representation” of Myanmar in the ASEAN Summit and Foreign Ministers’ Meeting, the ASEAN Coordinating Council was tasked to “further review Myanmar’s representation in the meetings, if the situation so requires”; and 5) urged all parties concerned to “de-escalate tensions and exercise utmost restraints” and for “all parties concerned that bear arms should be fairly held accountable and condemned for violence, noting that the Myanmar Armed Force (sic) is the single largest military forces in Myanmar.”¹⁴ The last point indicates that ASEAN leaders acknowledged that the military in Myanmar is primarily responsible for the continuing violence in the country.

With mounting international and regional calls for ASEAN to engage with the NUG as part of increasing pressure on the junta, the regional organisation remains divided on how to deal with crisis in Myanmar beyond the FPC. Under the chairmanship of Indonesia in 2023, it is expected that ASEAN will consider adopting additional hard measures against the defiant military government in Myanmar. This includes openly engaging with the NUG, de facto suspension of Myanmar’s membership in the regional bloc, expanding the ban on the junta’s participation beyond the Summit, and non-recognition of the results of elections that may be conducted by the junta in 2023 without the release of political detainees and participation of the National League for Democracy and other parties opposed to the coup.

Meanwhile, calls for sanctions against the junta in Myanmar continue even from the recently released prisoners from Australia and Japan. Specifically, Sean Turnell called on Australia to impose sanctions against the military government and its bankers.¹⁵ For his part, Japanese filmmaker Toru Kubota called on the Japanese government and the public to be more proactive in condemning human rights abuses by the military government in Myanmar. He asserted that the huge presence of Japanese investments in Myanmar has had an economic impact on the people’s lives and expressed hope that there will be greater scrutiny of where the money is going and if it is being used to harm the Myanmar people.¹⁶ In early November, the European Union imposed additional sanctions against 19 individuals and one entity in Myanmar, which is on top of 84 individuals and 11 entities already in the restrictive list who are subject to asset freeze, travel ban, and prohibition of funds transfers from European individuals and entities to those on in the sanctions list.¹⁷ For its part, the US government in early October imposed sanctions against Myanmar businessmen and their companies accused of supplying Russian-made weapons from Belarus to the junta.¹⁸

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.
- Fully comply and implement the FPC agreement with ASEAN leaders without preconditions
- Allow the unrestricted delivery of and access to international humanitarian assistance to IDPs and other affected communities in conflict affected areas in Myanmar

ASEAN and its members should:

- Impose more stringent measures on the military regime for its non-compliance with the FPC. These should include suspending 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 by expanding the mandate of the ASEAN Humanitarian Assistance (AHA) Centre and coordinating humanitarian response with independent humanitarian organisations within Myanmar.

All UN Member States should:

- Increase contributions for the delivery of humanitarian assistance, in coordination with ASEAN and other independent humanitarian organisations working within Myanmar, given the projected collapse of Myanmar’s economy that could bring close to half of the population below poverty line.
- Expand and 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.¹⁹ 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.²⁰

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.²¹ 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.²²

The Biden administration has refocused attention on human rights in DPRK which is welcome but unlikely to yield concrete concessions from Pyongyang though it may build some momentum for positive international action to address the DPRK's violations through the UN system in 2023. Any proposals for sanctions relief should 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-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, 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.²³

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.²⁴ 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.²⁵ 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".²⁶

Former Uighur detainees have described conditions in the prison camps as variously involving crowded cells, indoctrination that drove some to suicide, waterboarding,²⁷ 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.²⁸ Ahead of a visit to China by UN High Commissioner for Human Rights, Michelle Bachelet, 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.²⁹

Following Bachelet's visit, in September 2022 the Office of the UN High Commissioner for Human Rights published a report on the human rights situation in XUAR. It concluded that:

Serious human rights violations have been committed in XUAR in the context of the Government's application of counter-terrorism and counter-"extremism" strategies. The implementation of these strategies, and associated policies in XUAR has led to interlocking patterns of severe and undue restrictions on a wide range of human rights. These patterns of restrictions are characterized by a discriminatory component, as the underlying acts often directly or indirectly affect Uyghur and other predominantly Muslim communities.³⁰

The UN found that "allegations of patterns of torture or ill-treatment, including forced medical treatment and adverse conditions of detention" were "credible".³¹

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,³² 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.³³ 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.³⁴ 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.³⁵ 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".³⁶ Forced labour or otherwise reducing a person to a servile status can amount to the crime against humanity of "enslavement" under international law,³⁷ which occurs when "any or all powers attaching to the right of ownership are exercised" over a person.³⁸ 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".³⁹

There have been numerous and credible reports of Uighur historical and holy places being destroyed and desecrated in Xinjiang. Using satellite imagery, the Australian Strategic Policy Institute found that of a sample of 533 mosques across Xinjiang, 31.9% had been destroyed, 32.8% were damaged, and 35.3% were undamaged.⁴⁰ Extrapolating this data to mosques across Xinjiang, approximately 16,000 mosques may have been damaged or destroyed and 8,450 completely demolished since 2017.⁴¹ Besides mosques, ASPI's data and analysis suggested that 30% of other sacred sites (included shrines (*mazar*), cemeteries, and pilgrimage sites) have been demolished, mostly since 2017, and an additional 27.8% have been damaged in some way.⁴² 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.⁴³ 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.⁴⁴ The European Union, the UK, US and Canada jointly imposed sanctions on Chinese officials⁴⁵ 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.⁴⁶ Countries, mostly from the West, have issued joint statements of concern at the UN General Assembly.⁴⁷ 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.⁴⁸ 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.⁴⁹ 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".⁵⁰

Recommendations

The government of China should:

- Takes prompt steps to release all individuals arbitrarily deprived of their liberty in XUAR.
- Immediately halt other violations of human rights 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.
- Provide adequate remedy and reparation to victims of human rights violations;

- Cease immediately all intimidation and reprisals against Uyghur and other predominantly Muslim minorities abroad in connection with their advocacy, and their family members in XUAR; and ensure that all citizens including of Uyghur and other predominantly Muslim minorities can hold a valid passport and travel to and from China without fear of reprisals.
- Ratify the International Covenant on Civil and Political Rights; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Optional Protocols to the Convention against Torture, to the Convention on the Elimination of All Forms of Racial Discrimination and to the Convention on the Elimination of All Forms of Discrimination against Women;

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.

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 Philippines remains at very high risk for atrocities as drug war-related killings continue under the administration of President Ferdinand R. Marcos Jr despite the government's announcement that it is refocusing its strategy in combatting the problem illegal drug trafficking in the country. For the month of September 2022, a total of 17 people were killed (linked more to high-value targets than pushers), which was a 53% decrease from the previous month. Davao City was the top hot spot in September.⁵¹ However, in the month of October, 29 people were killed, which is 70% higher than in the previous month and with Cebu taking the top spot with 6 deaths for the month.⁵² In this first three weeks of November, 19 people have been killed, with most of the deaths occurring during police operations and encounters in the National Capital Region (NCR), Cebu, and Davao City.⁵³ Thus far, 288 reported drug related killings have occurred in the country between 1 January and 22 November this year.⁵⁴

On 26 November, the Department of Interior and Local Government (DILG) chief Benhur Abalos announced that the Marcos administration's new anti-drug strategy will focus on "demand reduction and drug user rehabilitation instead of killing drug users." He also asserted that the government will "work within the framework of the law and with respect for human rights."⁵⁵ However, he subsequently stressed that drug war operations by law enforcers will continue "with the same fervour" even as he claimed that over 24,000 drug personalities have been arrested from 1 July to 24 November this year.⁵⁶ He failed to mention that 46 drug suspects were thus far killed under the Marcos Jr administration as reported by the Philippine National Police (PNP) in early November.⁵⁷ Human rights advocates have criticized the PNP for underreporting drug-related deaths, which was of course denied by the police agency.⁵⁸

Meanwhile, the Philippine Commission on Human Rights on 26 November welcomed the verdict by a local court convicting police officer Jeffrey Perez of torture, planting of evidence and firearm, and moral damages in the killing of two teenagers Carl Arnaiz and Reynaldo de Guzman during the drug war campaign of the Duterte administration. The court found Perez "guilty beyond reasonable doubt of all crimes charged against him" and ordered him to pay each of the victim's families Pesos 2 million (US\$35,000) for moral and exemplary damages.⁵⁹ A co-defendant police officer was charged of the same crimes but died during the trial. Both denied the charges.⁶⁰ Thus far, this is among the rare court convictions of a police officer by a local court in relation to Duterte's drug war during the previous administration's six-year term. Human rights groups in the country welcomed the court's decision and called for justice for thousands of other victims of the drug war killings.⁶¹

The Department of Justice (DOJ) has so far filed criminal charges against some 25 other police officers in relation to the drug war, but the judicial process has been rather slow in filing charges against other officers. Part of the reason has to do with an existing law (Republic Act 6981 passed in 1991) on witness protection program that excludes law enforcers. DOJ Chief Crispin Remulla has urged other PNP officers to turn state witness against extra-judicial killings in relation to the drug war even as he called for amendments to existing law on Witness Protection Program (WPP) to cover law enforcers.⁶² For his part, Solicitor General Manardo Guevarra asserted that the Philippine government does not need the help of the International Criminal Court's (ICC) Office of the Prosecutor to investigate the drug war killings in the country as the latter rejected in September Guevarra's submission to the Pre-Trial Chamber rejecting the ICC's jurisdiction over the Philippines. Specifically, Guevarra asserted that despite the ICC Prosecutor's scepticism over the Marcos government's capability to conduct proper investigation into the drug war deaths, the DOJ will continue its ongoing investigations as it gathers more witnesses.⁶³

Overall, while the Marcos administration's recalibration of Philippines' drug war policy is moving in the right direction, which may have resulted in fewer drug related killings compared to the Duterte administration, it should nonetheless vigorously pursue accountability for deaths committed by law enforcers under the current and previous government. Notwithstanding the continuing popularity of former President Duterte and his anti-crime "legacy", as well as increasing pressure from extremely loyal Duterte supporters within and outside of the government, the current administration should continue the process of prosecuting those involved extra-judicial killings by encouraging police and other law enforcement agents to turn witnesses and provide them adequate protection.

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.

- Amend Republic Act 6891 on Witness Protection Program (WPP) to cover law enforcers as part of encouraging them to turn state witness in the drug war related killings and other EJKs
- 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: Moderate

According to the Indonesia's Centre for Strategic and International Studies (CSIS) and their National Hate Speech Dashboard, which tracks hate speech on Twitter, hate speech against minority groups has escalated, though hate speech that might lead to incitement remains relatively low. The dashboard suggests that the main form of hate speech derives from ultra-nationalistic rhetoric, aiming hate at those deemed "un-Indonesian" such as ethnic minorities including Chinese Indonesians.⁶⁴ Yet compared to other months in 2022, rates of hate speech are lower. This trend sits alongside Indonesia's recent Sexual-Violence Bill that became law in April of 2022, suggesting relative harmony and progressiveness across the country, except for West Papua.

One exception to this trend, and something that has only recently been under examination in the media, are the violent crowds that attend Indonesian soccer matches. These recent investigations come in the wake of the riot in East Java where 174 people were killed at a soccer match as they tried to escape teargas following police intervention.⁶⁵ Yet this killing was not a lone incident, as reported by *The Guardian*, that writes that there have been 74 deaths of fans between 1994 and 2019, including lynchings.⁶⁶ Citing "fanaticism" and describing soccer fans as "hooligans," the violence also shows regional tensions as soccer teams are representative of geographies from across the Indonesian archipelago. According to a report by *The Times of India*, most of the violence occurs outside of football stadiums.⁶⁷ This tension has also spilled across borders and in 2019, after losing an international match to Vietnam, Indonesian soccer fans insulted, harassed, and sent death threats to Vietnamese soccer players and their families.⁶⁸

Since the deaths in late 2022, President Joko Widodo has stopped matches and called for an enquiry into both the deaths that day, and into football violence more generally. The country's human rights commission is also investigating as the game. Many think this violence representative of social inequality and disenfranchisement within Indonesia. According to football commentator Dex Glenniza, in an interview with *Time* magazine, "Football fans in Indonesia are dominated by uneducated and poor people so their presence in the stands seems to be an escape from their difficult or ordinary life . . . For Indonesians, football is everything. Unfortunately, it happens excessively and disproportionately."⁶⁹

While the government will help reform the policing of soccer fans, and possibly help strengthen soccer infrastructure, one key element to preventing further football violence is to educate those fanatic fans, and to help better their situation socially and economically. Football might be seen by most as simply a game, yet in Indonesia it speaks to larger human rights inequalities.

Recommendations**The Indonesian Government should:**

- Appoint a senior official as National R2P Focal Point to coordinate national and international efforts to implement R2P.
- Provide financial and political support to Indonesia's human rights commission.
- Ensure legislative decisions do not compromise Indonesia's democracy and will not lead to human rights abuse across all regions.
- Work to implement legislation to stop inequality and discrimination across the nation.

Other governments should:

- Encourage Indonesia to take active steps to fulfil its responsibility to protect.
- Continue to explore avenues for cooperation with the Indonesian government and society in the areas of combatting violent extremism and terrorism, preventing sectarian conflict, and reducing incitement and hate speech.
- Continue to provide humanitarian assistance when requested to help the government and civil society tackle challenges that stem from poverty and oppression.
- Explore the risk of minority and regional violence carried out under the guise of sporting tensions.

West Papua – moderate

Tensions remain high in the province of West Papua and human rights abuse continues unabated. Submitted to the United Nations Human Rights Council's Universal Period Review in November, 2022, the West Papua Interest Association rejected the Indonesia's 2001 decisions to have the region fall under special autonomy, and, like many other freedom organisations, called for total independence. The organisation requested the UNHCR recognise the right of West Papuans to self-determination and argued that Indonesia has violated, over many years, a number of international conventions, including the UN Declaration on the Rights of Indigenous Peoples, Article 19.⁷⁰

Tensions have further escalated since the Indonesian government suggested dividing West Papua in to four districts, believing "the plans will lead to further militarization of the region, with critics describing it as a ploy to 'divide and conquer' the Indigenous Papuans."⁷¹ A recently published report by the United States Holocaust Memorial Museum's Simon-Skjoldt Centre for the Prevention of Genocide⁷², believes that mass killings in the region are possible over the next year to eighteen months, and factors that contribute to the risk are Indonesia's past history of committing mass atrocity, current grievances over resource exploitation, and the exclusion of indigenous Papuans from political decision making.⁷³ The report also suggests two other structural risk factors: a lack of accountability for Indonesian forces in the region, and conflict between Indonesia migrants and the indigenous populations. The report then acknowledges an escalation in riots, division between Papuans who are pro-independence and those who are not, and armed conflict between security forces and independence forces, as precipitating conditions that signal an escalation in the risk of atrocity crime.

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.
- Make the province accessible to foreign and Indonesian media reporting.
- Consider the aspirations of West Papuans and the underlying issues fuelling the protests, and endeavour to take into account these aspirations in future dealings with the province.
- Include indigenous Papuans in political decision-making, including decisions over resources.

Other governments should:

- Work with the Indonesian government to allow UN human rights representatives better access to the region.
- Encourage indigenous Papuan representation in government decision-making.
- Raise Australian company awareness to better understand the political situation in the region and to lessen exacerbating tensions.

Papua New Guinea Risk: Moderate-High

Violence during the election held in July 2022 was rife and severe, spreading from the Highlands to Port Moresby. Attacks against civilians increased in the lead up to the election and continued throughout and into the vote counting period. The Armed Conflict Location & Event Data Project (ACLED) has mapped the violence, including the killing of 18 civilians by clan militia in Enga province in July.⁷⁴ Public buildings including schools were burnt down, and there are reports of rape, kidnapping and sorcery accusation-related violence.⁷⁵

The violence has led to mass displacement. Since May, 90,000 people have been displaced, many of whom are women, children, the elderly and people with disabilities. The population of Porgera have been affected by not only election violence, but also tribal clashes and the closure of the local mine. Health centres have also been closed, restricting access to health care and trauma support for survivors of violence.⁷⁶ Displaced people are particularly vulnerable to further violence, including SGBV.

The election result saw PM James Marape returned to government, and 64% of contesting MPs winning back their seat.⁷⁷ A Papua New Guinea Parliamentary Election Committee was established to examine the election problems, with East Sepik Governor Allan Bird appointed Chair. A separate independent report was issued by Transparency International PNG (TIPNG), identifying a number of issues, including: frequent instances of roll inaccuracy; lack of action against people committing election offences, non-compliance with constitutional requirements, disturbances in ballot counting, confusion on the declaration of seats; widespread election-related violence, and a lack of reliable and consistent communications to the public.⁷⁸ Inadequate police numbers have also been noted as a factor,⁷⁹ as have vote-buying and online electoral conspiracies.⁸⁰

Government spending on items such as a paid trip to Brisbane for 72 MPs to attend a rugby match, and an increase in perceived “slush funds” continue to provoke perceptions of corruption and lack of government transparency.⁸¹ Media freedom too continues to be restricted in PNG, with journalists reportedly facing intimidation, threats, censorship, lawsuits and bribery attempts, and the Prime Minister criticising journalists for creating a “bad perception of this government”.⁸² Reporters Without Borders’ press freedom index ranked PNG 62nd out of 180 countries, decreasing from 45th last year.

Two women were elected to PNG’s Parliament, Rufina Peter and Kessy Sawang, the first in five years. Gender-based violence has been identified by MP Peter as a priority, along with women’s health care.⁸³ The lack of representation of women in leadership remains a strong factor for overall gender inequality in the country, as well as high rates of SGBV. A recent UN Women report found that PNG’s homicide rates are among the highest in the region, but also that data gaps make accurate figures difficult to determine.⁸⁴ The Covid pandemic exacerbated the already high rates of GBV, particularly domestic and family violence.⁸⁵ Sorcery accusation related violence (SARV) remains a serious concern, with victims often subjected to brutality and torture, sexual violence and murder, and with incidents spreading to areas previously unaffected.⁸⁶ A lack of accountability for perpetrators is a risk factor for further such crimes.

Recommendations**The government of Papua New Guinea should:**

- Provide humanitarian support to those displaced by election violence and take action to facilitate their safe return.
- Ensure that students affected by the destruction of schools have other options to continue their education.
- Take action to hold perpetrators of election violence accountable.
- Consider the issues raised by independent observers and the appointed Committee on the election, and develop strategies to reduce these issues for future elections.
- Prioritise action on gender-based violence and work towards gender equality across society and in the political sphere.
- Increase police presence in violence hotspots and work towards institutional change within the police force to better respond to victims of SGBV.

Other governments should:

- Provide urgent humanitarian support for those displaced by election violence, including support services for victims of SGBV.
- Encourage PNG to adopt anti-corruption practices and improve transparency.
- Provide capacity building training to the security sector.

SEXUAL AND GENDER BASED VIOLENCE

Sexual and Gender-based Violence

In November 2022, the first ASEAN Regional Plan of Action on Women, Peace and Security was released. Developed following consultation with stakeholders, it “aims to mobilise the whole of ASEAN to advance implementation of the WPS agenda” and notes the importance of a gender lens for community resilience and security challenges, including emerging threats like climate change, disasters, pandemics and violent extremism.⁸⁷ The RPA WPS builds on existing global and regional frameworks, notes country level National Action Plans (eg, Philippines and Indonesia), outlines progress, challenges and opportunities in the region, and provides priority actions and intended outcomes. It will be a core document for policy and action on gender equality and discrimination, gender-based violence, the experiences of women in the context of armed conflict, and indeed the prevention of gender-based atrocity crimes.

A Data Snapshot on Women’s leadership in ASEAN released by UN Women in October has found that across the region, women hold 22 per cent of parliament seats, but are “often relegated to leading committees on gender equality and women’s affairs”, that they led only 6% of environment related ministries, and that despite making up the majority of health care workers, only constitute 11% of chief executive officers in the largest hospitals.⁸⁸ The lack of women in leadership is an underlying risk factor for gendered violence and atrocities.

November saw the beginning of 16 Days of Activism against Gender-based Violence, dedicated to raising awareness of femicide,⁸⁹ and the International Day for the Elimination of Violence Against Women. A new study issued on the day found that 45,000 women and girls were killed by relatives or intimate partners in 2021, and that the Asia-Pacific region accounted for the largest number of these.⁹⁰ In Fiji, the Fiji Women’s Crisis Centre reported that seven women died due to domestic violence in the first 10 months of 2022.⁹¹

Women’s Peace Network, a civil society organisation working for women’s rights in Myanmar, issued a statement about the continually worsening situation in the country, and the particular risks for women.⁹² The statement referred to ongoing use of sexual and gender-based violence by the Myanmar military, and noted that since the February 2021 coup, more than 300 women have been murdered, and thousands more arbitrarily arrested, detained and tortured. Women from ethnic and religious minorities continue to be targeted, while those in refugee camps in Bangladesh remain at heightened risk of SGBV. WPN has called on the UN Security Council to “uphold its mandate as well as its Responsibility to Protect and Women, Peace and Security agendas” in relation to Myanmar, including through economic sanctions against the military leaders and associated businesses. Domestic and sexual violence also affect Burmese migrant workers living in Thailand, and although they are not officially excluded from protection, they face obstacles in accessing support and justice, including difficulty communicating in local language, or fear of being reported as undocumented.⁹³

Despite progress in Indonesia on the WPS agenda, it has recently passed a new Criminal Code which criminalises private, personal acts.⁹⁴ Under the new Code, sex outside of marriage is outlawed, as is cohabitation, which will likely have the most adverse effects on women and the LGBTQ+ community. Charges can be based on police reports lodged by family members or the accused, and can result in a year’s imprisonment. The Code also prohibits the promotion of contraception, and maintains abortion as a crime. Restrictions on the freedom of the Indonesian population and erosion of democracy have also been highlighted, including the potential further silencing of critics of the government, journalists and human rights defenders, and extreme repression in West Papua.⁹⁵

It has been reported that violence against women political leaders and activists is increasing in Southeast Asia, including gender-based hate speech as well as surveillance and intimidation.⁹⁶ A forthcoming report, *Women’s Political Leadership in ASEAN*, has found that “young, activist, social media-active, and Muslim female leaders are the most vulnerable”. Activists in Thailand, for instance, have faced charges over their political activism and have reported being sexually abused in detention. Threats and misogynistic hate speech against women can have the effect of discouraging women’s participation in political processes and public life, thereby limiting progress on gender equality.

Further information about China’s repression of the Uighur minority has come to light, with evidence of Uighur women being coerced to marry Han Chinese men, in order to forcibly assimilate them. The report, *Forced Marriage of Uyghur Women: State Policies for Interethnic Marriage in East Turkistan*, is based on women’s accounts as well as official Chinese state media and policy documents.⁹⁷ This adds to existing evidence of other forms of sexual and gender-based violence against Uighur women, forming a pattern of abuse that may constitute atrocity crimes.

SEXUAL AND GENDER BASED VIOLENCE

Recommendations

The Myanmar military should:

- Immediately cease the practice of using sexual and gender based violence as a form of torture against detainees, and as a tactic of persecution against women activists, and those from ethnic and religious minorities.

The Indonesian Government should:

- Consider feedback on the Criminal Code during the period prior to its taking effect, in order to prevent unintended consequences including the targeting of particular groups such as women and the LGBTQ+ community.

The Chinese Government should:

- Immediately cease its persecution of the Uighur minority including the use of gender-based violence.

The UN and regional bodies particularly ASEAN should:

- In line with human rights conventions, the Responsibility to Protect, and the recently released ASEAN Regional Plan of Action on Women, Peace and Security, take urgent and serious action on the situation in Myanmar to protect women from the high risk of sexual and gender based violence, and hold perpetrators accountable.
- Investigate reports of SGBV against Uighur women, including forced marriage, and call on the Chinese Government to uphold human rights and cease the persecution of religious minorities.
- Support research on gender-based hate speech as a form of gendered violence and its impact on women's participation in public life and activism.

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.”⁹⁸ 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.”⁹⁹ 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.¹⁰⁰ 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,”¹⁰¹ 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 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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