

ASIA PACIFIC REGIONAL OUTLOOK

EARLY WARNING ATROCITY CRIMES

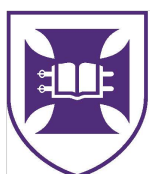


FEBRUARY 2023 Featured in this issue...

Atrocity crimes and displacement unabated in Myanmar

Special report: Fiji after the 2022 elections

Tensions ease in Solomon Islands



**THE UNIVERSITY
OF QUEENSLAND**
AUSTRALIA



Asia-Pacific Centre for the
Responsibility to Protect

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

Over two years since the February 2021 coup, the junta in Myanmar continues to commit atrocities against civilians and remains defiant of international and regional calls to put a stop to the violence against anti-coup protesters. As of 10 February 2023, close to 3,000 people have been confirmed killed as security forces continue with their crackdown in various parts of the country, although the actual number are likely much higher.¹ Over 13,800 people remain in detention, of whom 2,439 are serving their sentences. Post-coup death row prisoners now total 101, bringing to 143 the total number of people sentenced to death in the country.²

The military regime intensified its air strike campaigns against the civilian armed resistance forces in central and northern parts of Myanmar. In 2022, the Myanmar air force conducted at 688 air strikes in Sagaing, Chin, Kayin, Kachin, Mon, and Magwe regions even as fighting between junta forces and the combined resistance of the People Defence Forces (PDF) and Ethnic Armed Organisations (EAOs) continue. The twelve-fold increase in air attacks compared to 54 in 2021 killed 460 people including children across the country.³ For the last two years, a total of 722 air strikes were conducted by the junta in these areas.⁴ Apart from air campaigns, security forces also committed arson attacks against civilians, bringing close to 50,000 houses destroyed in Sagaing, Magwe, and Chin states.⁵

Two years after the coup, more than 1.2 million people have been internally displaced in Myanmar as of 23 January 2023, according to the UN Office for the Coordination of Humanitarian Assistance in Myanmar (UNOCHA Myanmar). This brings the total of internally displaced people across the country to 1.5 million, of which 330,000 have been displaced in Rakhine, Kachin, Chin, and Shan even before the coup.⁶ Almost a third of the the population of Myanmar (or 17.6 million) is estimated to be in humanitarian need in 2023. OCHA Myanmar reported that severe access constraints and drastic underfunding are continuing challenges faced by humanitarian workers in the country but noted that they were able to deliver life-saving assistance to more than 3.9 million people in 2022.⁷ More restrictions are being imposed by the junta such as new registration requirements for humanitarian non-government organisations in the country.⁸

Over the past two years, the military regime faced growing and intensified armed resistance to the coup across the country and extended its emergency rule for another six months beyond the two-year limit provided for by the constitution.⁹ The junta also extended martial law in 37 townships where it is facing strong armed resistance and postponed its planned general elections in August 2023 indefinitely.¹⁰ In his conference room paper for the upcoming 52nd session of the UN Human Rights Council, the Special Rapporteur on the Situation of Human Rights in Myanmar asserted that the junta's State Administrative Council (SAC) controls less than half of the country's territory since the coup, with very limited access in Chin and Rakhine States, as well as receding ability to exercise control over Kayin and Kayah States.¹¹ Accordingly, PDFs have also substantially challenged SAC's control in Sagaing, Magway, and parts of the Mandalay Regions even as the junta expects the civilian armed resistance forces to strengthen its capabilities and operational strength this year.¹² It is significant to note that it is in these territories where the Myanmar air force conducted over 700 air strikes since the coup.

Given its decreasing effective control of the country and inability to suppress the anti-coup resistance, the military regime is likely to commit more atrocities against civilians. It will continue to also defy international and regional calls to stop the violence and disregard the ASEAN's Five-Point Consensus (FPC), which Minh Aung Hlaing agreed to with the ASEAN leaders in April 2021. Despite additional targeted sanctions imposed by the US, UK, and Australia against the junta chief and his military and business associates, the SAC is unlikely to yield to international pressures for the release of Aung San Suu Kyi and other political detainees. As in the past two years, it will continue to deny access to both the UN and ASEAN Special Envoys to meet with Suu Kyi and other NLD leaders. Under Indonesia's chairmanship of ASEAN this year, the junta chief is likely to protest any moves of the regional bloc to engage with the National Unity Government (NUG) and oppose the recognition of NLD-appointed permanent representative to the United Nations. Meanwhile, the junta will rely heavily on the support of Russia, China, and other "allies" of the regime to sustain itself in power, including de facto recognition of the junta and provision for military weapons to suppress the anti-coup resistance.

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.
- Oppose plans by the junta to hold general elections that excludes the participation the NLD and other democratic parties and refuse recognition of any government established by such elections.
- 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 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.
- Further expand and implement targeted sanctions against the Tatmadaw and its business holdings in Myanmar.
- Ensure compliance of UN and ASEAN member states to the resolution adopted by the General Assembly in 2021 calling for arms embargo against 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.¹³ 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.¹⁴

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.¹⁵ 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.¹⁶

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-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

Under policies purported to combat terrorism and ‘extremism’, the Chinese government has subjected Uighurs and other Turkic Muslims in the Xinjiang Uighur Autonomous Region (‘XUAR’ or ‘Xinjiang’) to serious patterns of human rights violations consistent with crimes against humanity and acts of genocide.¹⁷ Patterns of widespread violations include large-scale arbitrary detention, an invasive system of mass surveillance, discrimination and persecution on the basis of religious expression and identity, enforced disappearances and family separations, forced labour, torture, forced abortion and sterilization, and sexual and gender-based violence.

In 2018 it was estimated that upwards of one million Uighurs and other Turkic Muslims were remanded in state custody for ‘re-education’ or ‘de-extremification’ in what Chinese authorities refer to as “Vocational Education and Training Centres” (VETC). Former detainees have described torture and ill-treatment in the prison camps as variously involving crowded cells, indoctrination that drove some to suicide, waterboarding,¹⁸ food deprivation as punishment, beatings, being shackled to chairs for extended periods of time, sleep deprivation, forcibly being drugged, electrical shock treatment, rape and sexual humiliation, and other forms of extreme physical and mental abuse.¹⁹ On 24 May 2022 a group of 14 news organisations published the Xinjiang Police Files, which contained thousands of leaked documents and images from internal police networks in Xinjiang that affirmed the militarized nature of the camps and refuted the Chinese government’s claims that they were benign education facilities.²⁰

In its August 2022 report on the human rights situation in Xinjiang, the Office of the UN High Commissioner for Human Rights (OHCHR) concluded that “the extent of arbitrary and discriminatory detention” in Xinjiang in the period of 2017-2019 and potentially thereafter “may constitute international crimes, in particular crimes against humanity”. It likewise noted that even though China has claimed to have reduced the scope of its VETC program “the laws and policies that underpin it remain in place”, and “there appears to be a parallel trend of an increased number and length of imprisonments through criminal justice processes, suggesting that the focus of deprivation of liberty has shifted towards imprisonment, on purported grounds of counter-terrorism and counter-‘extremism’”.²¹ The OHCHR called for urgent action as “the conditions remain in place for serious violations to continue or recur”.²²

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. Estimates of 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.²³ Forced labour is institutionalised in 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”.²⁴ Forced labour or otherwise reducing a person to a servile status can amount to the crime against humanity of “enslavement” under international law,²⁵ which occurs when “any or all powers attaching to the right of ownership are exercised” over a person.²⁶ International jurisprudence regards as salient indications of enslavement: “elements of control and ownership; the restriction or control of an individual’s autonomy, freedom of choice or freedom of movement; and, often, the accruing of some gain to the perpetrator”.²⁷

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.²⁸ Extrapolating this data to mosques across Xinjiang, approximately 16,000 mosques may have been damaged or destroyed and 8,450 completely demolished since 2017.²⁹ Besides mosques, ASPI’s data and analysis suggested that 30% of other sacred sites (including shrines (mazar), cemeteries, and pilgrimage sites) have been demolished, mostly since 2017, and an additional 27.8% have been damaged in some way.³⁰

Additionally, the government has allegedly separated Uighur children from their parents and enrolled 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.³¹ 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.

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.

The international response to atrocity crimes in China has been uneven and inadequate, mostly led by 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 Turkic Muslims.³⁵ The European Union, the UK, US and Canada jointly imposed sanctions on Chinese officials,³⁶ as well as passed legislation to prevent the import of goods associated with state-sponsored forced labour in Xinjiang.³⁷ Several major brands identified as having links with forced labour in Xinjiang have likewise ceased their presence in the region.³⁸ Countries, mostly from the West, have sought to discuss the situation in the UN Human Rights Council and issued joint statements of concern at the UN General Assembly, most recently the October 2022 joint statement in the UN General Assembly Third Committee that was supported by a record 50 countries.³⁹ China responded with a counter-statement read by Cuba, which was supported by 66 signatories.

China has reacted with predictable hostility, endeavouring silence criticism and secure statements of support, primarily from countries from the Global South. After its failed efforts to suppress the August 2022 OHCHR report on abuses in Xinjiang,⁴⁰ China publicly denied and disparaged the report’s findings and led an intense campaign to successfully prevent the UN Human Rights Council from holding a debate on the situation (in a failed vote of 17 for, 19 against, and 11 abstentions on 6 October 2022).⁴¹ Sixteen member states of the Organisation of Islamic Cooperation (OIC) voted against or abstained on the resolution. This is a departure from the OIC’s position in other cases of atrocities against Muslim minority populations, such as its support for Gambia filing a case before the International Court of Justice in November 2019 alleging that atrocities against Rohingya Muslims in Myanmar violated the Genocide Convention.

China’s success in securing the backing of OIC states reaffirms the need for greater efforts to counter Beijing’s influence and mobilise broader support for action. One step in this direction would be the US urgently appointing a dedicated special envoy to the OIC (a role created under George W. Bush but left vacant for the past six years) in advance of the OIC Ministerial meeting in Nouakchott, Mauritania on 16-17 March 2023, with the aim of building support for addressing the situation at the upcoming session of the UN Human Rights Council (27 February-4 April 2023).

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 and respond favourably to outstanding requests for UN special procedures mandate holders to undertake an official visit to China with unhindered access in Xinjiang.
- Cease its campaign to prevent discussions of the OHCHR report on the situation 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 silence criticism of its policies in Xinjiang, including through building a broader coalition of states in support of the UN's mandate to investigate and report on atrocity crimes in Xinjiang. The US should urgently fill the vacant position of special envoy to the OIC.

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, and to recommend avenues for holding perpetrators accountable.

The OHCHR and special procedures mandate holders should:

- Continue to call for the immediate release of persons involuntarily held in detention without due process, closely monitor the situation in Xinjiang, and continue to urge China to implement the recommendations of the August 2022 OHCHR report on Xinjiang.

The Philippines Risk: High

The Philippines remains at high risk for atrocities as drug-war related killings continue under the administration of President Ferdinand R. Marcos Jr. In 2022, a total of 324 people died in the government's anti-drug campaign, with 175 killed since the Marcos administration took over in July 2022, even surpassing 149 killed in the last six months of the Duterte administration. State agents were the primary assailants and pushers as the top targets in war on drugs. Hotspots in the campaign shifted from the National Capital Region (NCR) and Negros Occidental to Davao City and Cebu.⁴² For the month of January 2023, 20 people died in the government's drug war, with 5 deaths recorded in the NCR, followed by Cebu and Davao del Sur, and state agents topping the attacks against targets.⁴³ In the first week of February 2023, 11 were already killed in total, of which 6 were conducted by unidentified killers and 5 by state agents.⁴⁴

Meanwhile, on 27 January 2023, the International Criminal Court's pre-trial chamber granted the prosecutor's request to resume the investigation into the Philippines drug war killings during the Duterte administration. It found that the Philippine government has not satisfactorily conducted the relevant investigations that would warrant a deferral of the ICC's investigation based on the principle of complementarity. Specifically, it pointed out that the government's efforts to probe the drug war killings did not amount to "tangible, concrete and progressive investigative steps" that sufficiently mirror the Court's investigation.⁴⁵ While human rights advocates welcomed the decision of the pre-trial chamber of the ICC, the Marcos administration's solicitor general said that it will appeal the decision of the chamber and "exhaust legal remedies" by elevating the matter to the Court's appeals chamber. The government formally filed its appeal on 3 February 2023, which specifically disagreed and rejected the reasons cited by the pre-trial chamber.⁴⁶ For his part, Justice Secretary Crispin Remulla said that the ICC investigation will not be welcomed in the country even as he asserted that the country has "a functioning justice system" and that the resumption of the ICC probe on the drug war is "an irritant."⁴⁷

Overall, it is unlikely that the Philippine government's appeal to the ICC will be reversed given the unsatisfactory progress made by the Marcos administration to conduct a thorough investigation on the drug war of the Duterte administration. While efforts are being made to upgrade number of pathology experts in the country by inviting the UN Special Rapporteur on Extra Judicial Killings (EJK) Morris Tidball-Binz who is an expert in forensic science,⁴⁸ as well as calls made by the Secretary of Interior and Local Government (DILG) for all high ranking officials of the Philippine National Police (PNP) to tender their courtesy resignations as part of internal cleansing against alleged corrupt cops involved in drug smuggling,⁴⁹ these actions do not immediately address the issue of accountability for drug-war killings committed by PNP and other government agencies during the previous administration. Meanwhile, Duterte supporters, including some current government officials and legislators in the country, continue to assert the Philippines sovereignty against ICC probe into the drug-related killings. Such assertions go against the unanimous resolution adopted by all justices of the Philippine Supreme Court in 2021 that declared the ICC's jurisdiction to be valid during the time that the country was a party to the Rome Treaty following the cases filed against the Duterte administration before its withdrawal as State Party to the treaty in 2019.

Recommendations**The Philippines government should:**

- Uphold its' 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.
- Vigorously advocate for the amendment of 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.
- Abide by the Supreme Court's 2021 resolution that declared the ICC to have jurisdiction over the country.
- 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

Indonesia as a whole is at low risk of atrocity crimes. In February 2023, Indonesian law makers voted in a new national criminal code, replacing a similar law that had not changed since Dutch occupation. The new law has caused much debate and concern due to its criminalisation of sex outside of marriage, and not allowing cohabitation between unmarried couples, among other concerns. Regional representatives from places such as Bali have been eager to disassociate any link between their tourist market and the risk of breaking this law. Yet this criminal code has found condemnation from across the globe, including concern expressed by U.S. Secretary of State Anthony Blinken suggesting that the Act could also threaten media freedom, and freedom of expression.⁵⁰ Human Rights Watch believes that this law is harmful to women, minorities, and freedom of speech, and called it a “disaster for rights,” seriously violating “international human rights law and standards.”⁵¹

Against this backdrop, in January 2023, President Joko Widodo made a public apology to Indonesians, acknowledging that gross human rights violations had been committed in Indonesia over the past fifty years, including the rarely acknowledged 1965/66 anti-Communist killings.⁵² The President also acknowledged that human rights violations had been committed in the region of Papua, and in the Aceh province, though in the past, bypassing any suggestion of the current friction in West Papua. As part of this apology, the President established an investigative team to “shed light on what happened, but not to bring the perpetrators to justice in a court of law.”⁵³ While some have heralded these actions as progressive and much needed, others have questioned the timing, suggesting that perpetrators will be too old to be trialled once any findings are passed on to the government and, similarly, that there is only token effort to compensate victims.⁵⁴ Included as part of compensation is the repatriation of Indonesians in exile who fled the country to places such as Europe, due to the risk of their association with the Indonesian Communist party.

While the country sits at low risk of an atrocity crime being committed, regions in Indonesia, with particular emphasis on West Papua, are still high-risk zones of large-scale criminality and/or human rights abuse. In Sulawesi, for example, two workers at a Chinese-owned nickel smelter were killed in riots and protests between the company and security in recent weeks. These protests erupted over work conditions following other deaths on the mine.⁵⁵

Recommendations**The Indonesian government should:**

- Ensure the restricting of human rights abuse in places of occupation where tension between locals and security is already noted.
- Ensure legislative decisions do not compromise Indonesia’s democracy and will not lead to human rights abuse across all regions.
- Work to implement legislation to stop hate speech and discrimination, and to effectively eliminate sexual and gender-based violence.

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 combating disinformation and misinformation related to the pandemic.
- Provide assistance, when requested, to help government and civil society tackle challenges that stem from the admission of past violations.
- Explore the risk of violence due to disagreements between locals and the tourist sector if Indonesia’s new criminal law is found to affect the tourism sector.

West Papua is at moderate risk of atrocity crimes.

Tensions between the Indonesian government and West Papuan independence activists remains high, with the latest incident in the region being the kidnapping of a New Zealand pilot by West Papua separatists, The West Papua Liberation Army. According to the group, the pilot was kidnapped in an attempt to halt air or ground assaults by Indonesian military.⁵⁶ The group has threatened to kill the hostage, stating that “he will die here, like the rest of us” should the Indonesian military try and rescue him.⁵⁷ While just one incident, this speaks to the more extreme actions that rebel groups are taking in their quest for West Papuan liberation, in doing so risking their groups being described as terrorist organisations rather than a liberation army. The risk in them being seen as a terrorist group is Indonesian army “justification” for actions committed against the group. Concurrently, Indonesia has been bolstering its security forces in the region, including an increase in security in the lead up to the December 1 anniversary of “the declaration of a sovereign ‘West Papua’” by West Papuans in favour of annexation.⁵⁸ Provocation, such as kidnapping, will only see further increase of these Indonesian security forces.

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.
- 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.

Papua New Guinea Risk: Moderate-High

In the wake of the most violent election in Papua New Guinea's history, which resulted in thousands of people internally displaced, the government has announced an in-house inquiry, led by the special parliamentary committee on the 2022 General Elections.⁵⁹ The process will investigate various aspects of the election, including those related to inaccuracy of the electoral roll, as well as issues with voting and counting of votes, pre-election issues such as campaigning, declarations and disputed returns, and a range of factors relating to the Electoral Commission.⁶⁰ Consultations will be held with the public and relevant departments as part of the process.

In addition to internally acknowledged issues, international analysis has found a suite of problems relating to PNG election processes including fraud, corruption, vote-rigging, under-resourcing, an unstable political culture, widespread mistrust, a tendency to vote for MPs with local promises, violence and intimidation, and a massive gender imbalance.⁶¹ Transparency International, which has observed four PNG elections, has found the quality has deteriorated.⁶² The risk of future elections plagued with these issues to PNG's democracy, and in turn, peace, is significant.

While Australia has provided some funding for elections in PNG (and substantial amounts of aid more broadly), more support from Australia and the international community is required to prevent future elections from worsening further. In January 2023, Australian Prime Minister Anthony Albanese met with PNG Prime Minister James Marape in PNG for the Annual Leaders' Dialogue. Key issues for the countries and their partnership include defence and security, as well as trade, human development, and climate change.⁶³ The leaders agreed to a Bilateral Security Treaty (BST) designed to provide "a legally binding framework for security cooperation across our many areas of mutual interest and contribute to bilateral and regional security, trust, and stability."⁶⁴ This extension of the existing relationship, in the context of geopolitical security in the Asia Pacific, is important for continuing peace and stability. The Australian Government also announced a new 5-year program, PNG Women Lead, to support women's leadership and equality.⁶⁵ Addressing the endemic gender-based violence, and including women's perspectives in leaders' discussions, have been highlighted as requiring more attention.⁶⁶

The link between gender-based violence and women's political rights has been analysed by the International Foundation for Electoral Systems (IFES), which found that "social, cultural and institutional gender inequalities are connected to the prevalence of violence against women in electoral processes."⁶⁷ In PNG, patriarchal social structures and underlying gender inequality can result in women being instructed by male relatives to vote for particular candidates, at the risk of harassment or violence. Women involved in political processes are frequently subjected to verbal, emotional and psychological violence in the pre-election period, including attacks on women's character, their private lives, and their family members.⁶⁸

During the 16 Days of Activism in 2022, UN Women highlighted particular challenges for women living with HIV in PNG. High rates of financial abuse, sexual violence, and social isolation increase the risk for women of being infected with the virus, and for those who are HIV positive, the stigma adds yet another dimension, resulting sometimes in being ostracised from family, struggling financially, and finding it difficult to find work and access healthcare. UNAIDS has found a 45% increase in HIV infections between 2010 and 2021 in PNG, most of whom are women.⁶⁹

Sorcery accusation related violence continues in PNG with an average of 388 cases per year, and has spread to areas where it did not previously occur, such as in the Gulf Province.⁷⁰ Historically perpetrators have enjoyed impunity for their crimes, whereas survivors have to live with injuries, are often ostracised from their communities and face ongoing stigma.⁷¹ However, there has been some progress, with the 2022 criminalisation of the practice of "glassmen and glassmeri", those community members who are seen to have the power to accuse others of witchcraft.⁷²

Incidents of tribal violence and massacres have taken place over recent months in PNG. In January 2023, 11 people were killed over two days in Kompiam area of Enga Province, and several children were kidnapped (and later rescued).⁷³ Also in January, five people were killed during a conflict between the Wika and Waka tribes at Nondugl in the mountainous Jiwaka province. Police were able to intervene and hold subsequent peace talks.⁷⁴

In addition to loss of life and property, the increasing brutality of tribal conflict has been found to disrupt the education of young people. Schools are sometimes destroyed or looted during violence, but also some children stay home in order to avoid unsafe journeys to schools, and in some cases, young boys are pressured to leave school and become fighters or to protect their families.⁷⁵

Recommendations

The government of Papua New Guinea should:

- Facilitate access to humanitarian support to those displaced by election violence and work with international agencies to support 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 issues raised by independent observers and the internal Inquiry when completed, and act on recommendations made;
- 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;
- Develop policy, program and community education in relation to sorcery accusation related violence and work with local communities on implementation.

The Australian Government and other nations in the region should continue to:

- Provide funding and capacity building and other support to PNG to reform and improve the election process;
- Provide capacity building training to the security sector;
- Continue to provide humanitarian support for those displaced by election violence, including support services for victims of SGBV;
- Continue to support strategies for achieving gender equality and a reduction in gender-based violence.

Solomon Islands Risk: Low-Moderate

The local impact of broader geopolitical tensions continues to play out in the Solomon Islands. The premier of Malaita province, an outspoken critic of the Solomon Islands' relationship with China, was subject to a vote of no confidence in February 2023.⁷⁶ The motion made accusations against Premier David Suidani about financial mismanagement and corruption, and passed unanimously after the Premier and his executive boycotted the motion. The premier has previously called for Malaita to declare independence from Solomon Islands, and advocated against the security agreement between the country and China.⁷⁷ Protests by supporters of the premier followed the vote, which police responded to with teargas.

In late 2022, it was reported that the Australian Government had donated supplies to the Royal Solomon Islands Police Force (RSIPF), including vehicles and semi-automatic rifles, with the aim of enhancing the capacity to maintain stability especially in the lead up to the November 2023 Pacific Games and national elections in 2024.⁷⁸ Australia's High Commissioner assured that relevant training would be provided, but given the history of conflict in the Solomons, it is crucial that Australia continues to offer capacity building for the security sector in human rights and peacebuilding. The Solomon Islands has also recently formalised a security pact with Papua New Guinea, which provides for PNG police to contribute to joint operations and assist in both law and order, and humanitarian assistance. This follows requests for international assistance by the Solomon Islands in response to the 2021 riots.⁷⁹

80 court cases relating to the 2021 riots have been completed, with 11 outstanding, according to the Solomon Islands Chief Justice Sir Albert Palmer, who released details of the cases in January 2023.⁸⁰ There were 158 defendants and 10 different charges including breach of restriction movement orders, arson, and sedition. Half of the defendants pleaded guilty, 43% had charges dismissed or withdrawn, and of those that went to trial, 40% were convicted.⁸¹

There is a long history of violent riots in the Solomons, often with a component of ethnic conflict. Accountability for violence is a mitigating factor for future violence and atrocities. But a recent report on riots in Pacific nations found that an important but often missing factor is a human security approach, "looking beyond riot events as matters for police response only, to matters that the development, peace and security sectors should coalesce around for positive change."⁸²

Recommendations

The Solomon Islands government should:

- Ensure that the security sector is provided with ongoing training in line with international standards on human rights;
- Consider preventive approaches to protests and riots, such as continual dialogue and peacebuilding.

Special Report: Fiji after the 2022 Election

Fiji held its national elections on 14 December 2022 for 55 parliamentary seats. The elections had its own controversies⁸³ following a “glitch”⁸⁴ in the counting that resulted in the Supervisor of elections halting the counting and reverting to manual counts of votes.⁸⁵ The leader of the People’s Alliance Party (PAP) called on the military and the President to step in and halt the election.⁸⁶ Following this call, Rabuka was then taken in by the Police for questioning.⁸⁷ However, by 18 December, it was clear that there was no outright winner⁸⁸ though the ruling Fiji First government retained the highest number of seats (Fiji First 26 seats, PAP 21 seats, National Federation Party 5 seats and SODELPA 3 seats) but not enough to government by itself. The tense negotiations⁸⁹ that followed with SODELPA⁹⁰ the former Opposition Party resulted in SODELPA accepting a coalition with PAP and NFP.⁹¹ However, SODELPA General Secretary protested the process⁹² resulting in the Supervisor of Elections stepping in and nullifying the SODELPA management board decision and calling for another vote. By December 24, SODELPA reconstituted management board again voted in favour of a PAP/NFP Coalition. ⁹³ On 24 December, the PAP/NFP/SODELPA government was sworn in by the President of Fiji at government house.⁹⁴ Sitiveni Rabuka was elected Prime Minister and a government of 29 Ministers and Assistant Ministers sworn in by the President.⁹⁵ At a time of heightened political tensions, the Commander reportedly called on the new government to ensure that they work within the Constitution following concerns by the Opposition Party, that the Government was flaunting the provisions of the Constitution.⁹⁶ He was then called by the Minister for Home Affairs for a meeting.⁹⁷

Immediately after assuming government, significant changes started to take place including the resignations and/or terminations of Members of Government Board, or Senior Civil Servants appointed by the Bainimarama government (now Opposition). The Constitutional Officers Commission (COC) tasked with appointments of Constitutional Office holders was reconstituted under the provisions of the Constitution but also written to favour the government. Members include the Prime Minister and Attorney General on one side together with two nominees, while the other is the OL with one other nominee.

1.1.1 Suspension of the Commissioner of Police

- On 30 January 2023, the Commissioner of Police was suspended by the COC pending an allegation of abuse of office lodged against him.⁹⁸

1.1.2 Suspension of the Commissioner of Corrections

- On 30 January 2023 the Commissioner of Corrections was suspended by the COC⁹⁹

1.1.3 Suspension of the Supervisor of Elections

- On 19 January 2023 the Supervisor of Elections was suspended by the COC following complaints of abuse of office made against him. ¹⁰⁰

1.1.4 Suspension of the Chief Justice

- On 30 January 2023 the Chief Justice was suspended by the COC following complaints of judicial misconduct made against him.¹⁰¹

The former Attorney General and General Secretary of the Fiji First was taken in by Police for questioning.¹⁰² Immediately after the new government took office, a police watch was placed at the airport since the former AG had travelled overseas at the time and upon his arrival was met by the police. The next day he presented himself for questioning at the CID HQ. A few days later the LO¹⁰³ and the former AG again were required to attend the CID for questioning¹⁰⁴ on complaints by a Government Minister on allegations of community incitement among other allegations including abuse of office.¹⁰⁵ No charges have been laid yet as legal advice has been sought from the Office of the DPP.¹⁰⁶

On 17 February, Parliament voted to suspend the LO for 3 years¹⁰⁷ following his maiden speech and right of reply to the President’s Speech to open the Parliament for 2023-2024. According to the allegations made by Government Minister, the LO had breached Standing Orders by attacking the President in his reply¹⁰⁸ as well as calling on the rank and order of the Military to fulfil their constitutional role which the Minister argued amounted to seditious comments¹⁰⁹ and incitement of the military to take over the government. The Speaker referred the matter to the Privilege Committee¹¹⁰ who recommended to Parliament for the suspension.¹¹¹ The Government moved a motion to adopt the report and recommendations of the Privilege Committee and the vote took place on Friday 17 February.¹¹² The LOP stands suspended till February 2026. In similar suspensions issued by the previous parliament for terms of up to 2 years, the IPU has argued that the periods of suspensions are excessive.¹¹³

FIJI AFTER THE 2022 ELECTION

Various legislative changes have been made by government including by the President in his speech to open parliament.¹¹⁴ Minister for Communications¹¹⁵ announced the review of draconian¹¹⁶ Media Act¹¹⁷ that has been criticised including by the Human Rights Council for its breaches of various rights related to a free press.¹¹⁸ Other changes in laws include those passed by the previous government affecting traditional rights and lands.

The government has indicated that it will reinstate of the Great Council of Chiefs,¹¹⁹ Fiji's apex chiefly body that was abolished by the former government. The GCC was responsible for issues relating to indigenous rights particularly land and matters of custom but was removed when Bainimarama overthrew the government in 2006.

Key human rights organisations in Fiji have reportedly stated that human rights are now respected and promoted in Fiji following the change of government. Others have argued that people are "finally free after 16 years of Fiji First government" and oppression of rights. The Fiji First led Opposition on the other hand have argued that the current government continues to violate human rights and the provisions of the 2013 Constitution.

SEXUAL AND GENDER BASED VIOLENCE

Sexual and Gender-based Violence

The ASEAN Regional Plan of Action on Women, Peace and Security was launched in December 2022 in Cambodia, following its adoption at the ASEAN summits in November. Framed with the four pillars of the WPS agenda, Regional Director of UN Women Asia called it a “starting point to mainstream WPS into peace and security decision-making in the region, including peacekeeping operations and increasing non-traditional security threats that risk undermining peace and security of this region.”¹²⁰ The regional plan has a related website, Empowering Women for Sustainable Peace, which contains a ‘knowledge hub’, director of civil society organisations, and news updates on local initiatives.¹²¹ Also recently released is the “Youth Guide to End Online Gender-Based Violence” which recognises the gendered aspects of online hate speech and was developed by the 30 for 2030 Network, a youth group in Asia Pacific.

In Fiji, following the election in December 2022, the new Minister for Women has announced work to advance the five-year National Action Plan to Prevent Violence Against Women and Girls which will include programs to promote respectful relationships, gender equality strategies, school programs and media initiatives, and policies for women’s economic empowerment.¹²²

Gendered perspectives continue to become more integrated into policy relating to peacebuilding, atrocity prevention and similar areas. For example, more research is looking into the gendered impacts of climate change, and finding that women are affected disproportionately and in distinct ways. A December 2022 report, Gender Equality and Climate Change, has found “compounding factors lead women and girls in Asia and the Pacific to experience the greatest impacts of climate change, which – in turn - amplifies existing gender inequalities and poses unique threats to their livelihoods, health, and safety.”¹²³ Given that climate change is a ‘threat multiplier’ for atrocity crime risk, and that there are clear connections between gender equality and the risk of atrocities, this is an important aspect of research for atrocity prevention.

In Australia, a new Centre of Excellence for the Elimination of Violence Against Women has been established and will “pioneer new, evidence-based approaches to radically improve policy and practice across Australia and the Indo-Pacific.”¹²⁴ There is a need for more research on the structural drivers of violence against women in the region, particularly given that there are nine countries in the Asia Pacific where more than half of women have experienced intimate partner violence in their lifetimes.¹²⁵ A 2022 regional snapshot from the kNOWVAWdata project has tracked women’s experiences of IPV between 2000 and 2022 found that the highest proportion of women who have experienced physical or sexual violence by an intimate partner was in Fiji and Solomon Islands, with 64%. Papua New Guinea recorded 48% of women who have experienced IPV in the past 12 months.¹²⁶

1 February marked the second anniversary of the Myanmar coup. Women’s Peace Network’s statement referred to the range of human rights violations and atrocities that continue to take place, including arbitrary arrests, killing, torture and sexual violence. It also noted increasing risk for the Rohingya population, stating “over the past two years, the junta has issued and reissued policies and restrictions to arrest and detain at least 2700 Rohingya, including over 800 women.”¹²⁷

In addition to physical violence, thousands of Burmese women who are seen to be “politically active” have been abused and harassed online by supporters of the military. Some have had sex videos released or been doxxed, in order to silence and shame them. This type of online intimidation and attack is a form of gender-based violence: “...when women are doxxed, the attacks frequently feature sexist hate speech, often coupled with explicit sexual imagery and video footage ...”¹²⁸

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;
- Take action to stop widespread attacks against women online.

The UN and regional bodies particularly ASEAN should:

- 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;
- Support research on online gender violence and hate speech;
- Continue to support programs in the Asia Pacific to reduce violence against women and promote gender equality.

Disinformation, Hate speech and Incitement

Hate speech and danger speech remain a potent risk in Southeast Asia, with minority groups still the target of prejudice and who are most at risk of being the victims of incitement. As in the previous few years, much of the hurtful rhetoric found across the region is being spread on social media.

In Indonesia, the spread of hate speech was recently fuelled by actions in Sweden. A recent torching of the Koran by far-right Swedish activist, Rasmus Paludan, sparked widespread anger amongst the Muslim community globally, including in Indonesia. Social media posts in Indonesia following the burning called for a violent response, but of the protests that did erupt in places such as Jakarta, protests remained peaceful.¹²⁹ Yet this incident, posted to social media, reveals how hate speech and hate-filled rhetoric from one side of the world has a powerful impact elsewhere, and can lead to an outburst of violence as a result.

In a recent article from Article 19, technology companies such as Apple and Microsoft have been shifting their operations away from China, due to concerns “about tensions between the US and China and COVID-19-related shutdowns imposed by the Chinese authorities.” While a business option, Article 19 sees this as an opportunity for these companies to “reset” their human rights agenda, helping with the curbing of hate speech. Until now, large companies such as Microsoft have been very much compliant to Chinese government requests, to the detriment of persons’ human rights.¹³⁰ Article 19 are calling on companies to use this shift away from China to better respond to human rights infringements these companies might have been implicated in helping commit. This includes upholding freedom of the media, and freedom of expression.

In New Zealand, with the resignation of Jacinta Ahern, the nation’s proposed hate speech laws have been withdrawn under the new government, Prime Minister Chris Hipkins suggesting a need to “refocus” on the economy. The proposed law was initially intended to incorporate groups not included in the current legislation (which only covers race), such as religion, sexuality, and gender, though the new law was only to include religion. The other minority groups had been controversially removed from the proposed bill, resulting in much backlash and debate in New Zealand.¹³¹

Recommendations

Governments should:

- Realise the importance of 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.
- Ensure public education about hate speech and its risks in inciting violence.
- 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 in Southeast Asia.

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