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Table of contents

Coup d'état: The dissolution of the Move Forward party by Thailand's Constitutional Court.....	5
<i>Chris Fitzgerald</i>	
Red tagging in the Philippines and the likelihood of reform.....	11
<i>Robert Sutton</i>	
An analysis of Malaysia's abusive immigration detention regime.....	16
<i>Esm'eralda Marion</i>	
From campus to capitol: The student uprising that toppled a government in Bangladesh.....	23
<i>Ramsha Ali</i>	
India's elections and the consequences for human rights.....	31
<i>Noor Afrose</i>	
The effects of Israel's war on Gaza in Indonesia.....	37
<i>Muhammad Reza Zaini</i>	
An analysis of attacks on civilians by the Myanmar military.....	45
<i>Airi Tanabe</i>	



The Indo-Pacific

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Foreword

This issue covers a range of pressing human rights and humanitarian issues throughout the Indo-pacific region. This includes the controversial decision by Thailand's constitutional court to outlaw the progressive Move Forward Party and its leaders, the latest attack on democracy in Thailand that fails to respect the will of the people and undermines their fundamental human rights. In the Philippines, a court has laid down a landmark decision that may end the deadly practice of 'red tagging', used by politicians for decades to attack opponents, journalists and human rights defenders under the guise of anti-communism. In nearby Malaysia, the country's policy of detention for asylum seekers has been condemned after reports of poor treatment and abuse, leading to calls for a more humane system to deal with refugees fleeing persecution and conflict. In all three cases, there are realistic solutions consistent with international law, but it requires the will of respective governments to solve these problems.

Bangladesh has witnessed historic political change, with mass protests over the infamous quota system bringing down long-time Prime Minister Hasina. The rise of Nobel Laureate Muhammad Yunus as interim leader has raised hopes that democracy can be revived in the South Asian nation. Neighbouring India recently held its largest ever election, with Narendra Modi securing a history third term in office. However, the campaign was marred with hate speech and violence against minority groups, as well as accusations of voter suppression and attacks on opposition politicians and journalists.

Indonesia has not been immune to tensions from Israel's ongoing military campaign in the occupied Palestinian Territories, with pro-Palestinian and pro-Israel groups clashing violently in North Sulawesi. Jakarta needs to act quickly to calm nerves and prevent inflammatory rhetoric from claiming lives. Finally, civilians continue to be targeted in Myanmar's brutal civil war by Junta forces and this needs to be confronted by the international community.



Coup d'état: The dissolution of the Move Forward party by Thailand's Constitutional Court

Chris Fitzgerald

Key takeaways

- Thailand's fragile democracy has been dealt a hammer blow after the Constitutional Court disbanded the country's largest political party, Move Forward, and banned its leaders after it attempted to reform punitive royal defamation laws.
- The decision is an inevitable blowback from Thailand's political elites and powerful military, who have controlled Thai politics for decades and see Move Forward as a challenge to that dominance. It is also a setback for everyday Thai's, who voted for change in the 2023 elections.
- With the political survivors of Move Forward forming a new party and promising to continue its fight for reform, the coming months and years before the next poll will determine whether the elites of Thailand will allow genuine democracy to survive.
- Thailand's elites should respect the will of the people and allow democratically elected politicians and parties to undertake meaningful reform. This includes protecting fundamental human rights, including freedom of speech and expression and respecting election results.

Introduction

Hopes of a democratic revival in Thailand were dashed in August after the country's Constitutional Court disbanded the Move Forward party and banned party executives from Thai politics for a decade, including leader Pita Limjaroenrat.[1] However, the decision was

expected after the same court found in January that the party's promise to challenge the country's longstanding royal defamation, or lèse-majesty laws was unconstitutional.[2] While Move Forward's reformist platform was popular with voters, seeing it win a historic 286 seats in last year's elections, it caught the ire of Thailand's establishment, including political elites and the military.[3] The dissolution of Move Forward can be seen as an inevitable blowback against a popular movement seeking to reform a system that is not genuinely democratic and that is notorious for restricting fundamental rights, including freedom of speech and expression.[4] With members of the MFP seeking to stay in politics and form a new party, the next few months will tell Thailand's people whether democracy will survive, or if the military has ignored the will of the people yet again.

An attack on Thai democracy

Thailand's political history has seen rule by a series of military governments with short



Former Move Forward Party leader Pita Limjaroenrat (Patipat Janthong/Reuters, 2024)

periods of democracy. More recently, a military coup in 2014 led to five years of dictatorship and a restrictive constitution followed by a transition to a military-dominated but elected civilian government in 2019.[5] The monarchy also holds a position of reverence and power in Thailand, protected by strict defamation laws that punish criticism of the royal family, particularly the monarch, King Maha Vajiralongkorn.[6] Today Thailand still scores poorly on political and civil rights, with freedom of speech and expression restricted and its democratic system rated 'partly free' by Freedom House.[7]

The May 2023 elections were largely free and competitive and appeared to signal a shift towards genuine democracy. The poll saw progressive Move Forward win 286 seats, making it the largest in parliament. However, as Move Forward sought to form government with an eight-party coalition, rival politicians blocked two attempts to form government and stopped leader Limjaroenrat from becoming Prime Minister. Move Forward subsequently admitted defeat, allowing the populist and mainstream Pheu Thai party to form government.[8] At the time, Pheu Thai's leader Chonlanan Srikaew stated it was Move Forward's stance on the monarchy that saw it blocked from government. [9]

In January, the Constitutional Court found the party's attempts to reform lese-majesty laws illegal and ordered it to cease any attempts to do so. In response, Limjaroenrat accused the court of having a hidden agenda and rejected the accusation MFP sought to "cause any deterioration of the monarchy".[10] This led to August, where the same court disbanded Move Forward and banned its leaders, seemingly ending any hope of genuine reform in Thailand. On 14 August, human rights organisation Fortify Rights labelled the decision as "a blow to Thailand's democratic credential and an affront to human rights." [11] The United Nations High Commissioner for Human Rights also voiced his concern, stating on 8 August it was "deeply troubling" and "undermines democratic processes and restricts political pluralism." [12]

In the same week, the court also dismissed Pheu Thai Prime Minister Srettha Thavasin due to "breaching ethical standards", widely seen as a politically motivated decision.[13] Thavasin was replaced by fellow Pheu Thai member Paetongtarn Shinawatra, daughter of former PM Thaksin Shinawatra.[14] While the Shinawatra family is not as close to the military as other political parties, the move is an attempt by the establishment to have a leader more compliant than Thavasin or Move Forward. Thavasin is also the fourth PM to be dismissed by the court in 16 years, further proof these dismissals are politically motivated.[15]



Pita Limjaroenrat, left, and the party's current leader Chaithawat Tulathon at a news conference in January, 2024 (AP Photo/Sakchai Lalit, 2024)

What are the impacts for Thai democracy?

The establishment has won the battle for power in Thailand, but it may not win the war in the long-term. This is because Move Forward has experienced blow back before, when its former iteration Future Forward was forcefully disbanded in 2020, leading to street protests from students and political activists and electoral success in 2023.[16] Like in 2020, Move Forward immediately rebranded to the People's Party but this time their politicians remain in parliament, making up the largest voting bloc and holding considerable influence. The intention for the party is to use this influence to push for reform, but not lese-

majesty, and show voters it is ready to govern responsibly when the next elections are held in 2027.[17] People's Party politician Rangsiman Rome echoed this confidence on X by saying "no matter what our new party is called, 2027, the whole country will be orange", referring to the colour of the party.[18]

The People's Party is also helped by the poor performance of Pheu Thai and the unpopularity of the military-backed political parties. Pheu Thai is unpopular for two reasons. First, it did a deal with the military in 2023 to form government after Move Forward was blocked from power, seen by many Thai's as selling out after many voted for genuine change.[19] Voters are also unhappy with Pheu Thai's record in government. The party's signature campaign promise of a 10,000 Baht digital wallet for Thais with low salaries has been blocked by the central bank, and the economy has declined under its watch. [20] More broadly, Pheu Thai is not who most people voted for and is firmly seen as part of the establishment who will never enact desired reform, like with lese-majesty. This is reflected in the polls, with the King Prajadhipok Institute polling in May showing former PM Thavisin firmly in fourth place, with 8.7% support. In comparison, Move Forward was projected to win 208 seats if an election was held, double that of Pheu Thai. [21]

Internationally, Thailand risks losing face with its regional partners and those further abroad. The



Pita Limjaroenrat with lawmakers from the MFP (AP/Sakchai Lalit, 2024)

United States Department of States released a statement on 7 August, saying the US was "deeply concerned" by the court decision and that it "disenfranchises the more than 14 million Thais" who voted for Move Forward and raises questions about their representation within Thailand's electoral system".[22] Amnesty International slammed the move as an "untenable decision that reveals the authorities' complete disregard for Thailand's international human rights obligations." [23]

Conclusion

August 2024 will join several key dates where the military has exerted its power to try and stifle genuine democracy in Thailand. But the key question is whether the military can withstand another free and fair election, which will almost certainly see the People's Party win the largest number of seats in 2027. Using the constitution and courts to stifle the will of the people may work in the short-term, but it is unsustainable when it leads to mass protests of young and engaged voters, which is what will likely happen if last month's events are repeated next election cycle. The People's Party's strategy of biding its time and working within the system therefore appears prudent and may be successful in the long-term. The military and political establishment should therefore embrace pluralist and free politics to not only improve Thai democracy but also the country's reputation and human rights record, which has suffered a severe blow after the dissolution of Move Forward. Thailand will be far better off when the will of the people is respected.

Policy recommendations

- The military needs to respect the will of the people and cease interfering in Thai democracy. While the damage has already been done this time around, the 2027 polls need to be free, open and the final decision respected.

- Thailand's court system needs to be independent of politics and accurately represent the country's laws and customs. The military-drafted constitution should also be altered to allow for genuine reforms voted for by the majority of Thais.
- Thailand's regional partners, particularly those in ASEAN, need to pressure the military to respect democratic values. States that have close ties to Thailand, like the US, also need to continue pressuring the military to allow for genuine democracy.
- Harassment of politicians and activists needs to stop so Thailand can improve its human rights record and allow for a pluralistic and free society and political landscape that involves all ties, not just a select powerful few.

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Red tagging in the Philippines and the likelihood of reform

Robert Sutton

Key takeaways

- Claims of affiliation, support or sympathy for the CPP-NPA insurgency, or 'red tagging', has been used in the Philippines to vilify individuals or organisations and to justify arrests, surveillance, vigilante actions, or even extrajudicial killings.
- The practice is used by the political and military establishment in the Philippines and is most used against non-communist left-wing political groups and activists, but it has also been used against mainstream journalists, media personalities and legal officials.
- Red tagging is considered to have a chilling and negative effect on public speech and expression. But a recent Supreme Court ruling has opened the way for investigation and consideration of "red tagging" as a serious civil rights issue.

Introduction

The Communist Party of the Philippines (CPP) and its armed wing, the New People's Army (NPA) have waged an ongoing insurgency since 1969, and their explicit opposition to much of mainstream society and political economy has turned them into a target of Filipino establishment politics. For this reason, Filipino politicians and military heads have used accusations of affiliation or sympathy for both as a tactic to target and suppress opposition and freedom of speech and expression more broadly. This tactic is widely known in the Philippines as red tagging.[1]

The deployment of red tagging as policy and practice by state security organs and the use of public expression to isolate and marginalise, has been used by past and present administrations against a variety of political and social activists, including Indigenous Rights and Environmentalists, journalists, media critics and the LGBTQ community.[2] Recently, international and domestic human rights groups have sounded warning over a spike in red tagging against civil society groups, jurists and journalists, suggesting the government is targeting opposition and criticism, not people with communist sympathies. But a recent court decision has given Filipinos hope that legislation enabling red tagging may be abolished sooner rather than later. For these reasons this article will analyse red tagging in the Philippines, including recent instances of its use and the forementioned court decision, to determine how the practice can be combatted by Filipinos and the wider international community.



Protesters against red tagging gather in Quezon City, Philippines, on July 25, 2022. (Larry Monserate/Sipa via AP Photo)

Impact of red tagging on human rights

United Nations Special Rapporteur on Freedom of Opinion and Expression, Irene Khan, commented on how red tagging affects human rights in the Philippines following her visit to the country in January and February, stating “it intimidates and chills freedom of expression, and suppresses legitimate activism, journalism, debate and criticism which are part and parcel of freedom of expression. It isolates and antagonises those who are unfairly attacked, puts them in a vulnerable position, may even drive them to exploitation by others, and undermines public trust in civil society and the media”. [3]

Although red tagging dates back decades, it has become virtually institutionalised through organs like the National Task Force for Ending Local Communist Armed Conflict (NTF-ELCAC), with figures like former NTF-ELCAC spokeswoman Lorraine Badoy being some of the highest profile practitioners. [4] Even current Vice-President Sara Duterte has been known to indulge in the practice against her own opponents and critics. [5] Those accused have also been subject to vigilante harassment, extrajudicial killings and forced disappearances. [6]



A woman places a candle between pictures of victims of alleged enforced disappearances during a gathering of relatives and supporters in observance of All Souls Day in Quezon City, Metro Manila, Philippines, 2023 (2023 ROLEX DELA PENA/EPA-EFE/Shutterstock)

Filipino Human rights group KARAPATAN has noted a wave of extrajudicial killings by military personnel, justified through the assertion that victims were associates or members of the NPA. [7] Further, highlighting the spurious and suppressing nature of many of these accusations is the propensity of authorities to plant much of the evidence used in these cases. [8]

A key resource for examining the practice of red tagging is the Ateneo Human Rights Center’s Anti-Red-Tagging Monitoring Project. Their data indicates that, during the last three months red tagging incidents in this period predominantly targeted organisations (78.7 per cent of reported incidents) in the civil society space (96.9 per cent), while incident against individuals were more varied, with a broader range of targets (youth 30.8 per cent, civil society, journalists and legislators 19.2 per cent each). Reported incidents are principally conducted through online platforms (80.8 per cent of the total). [9]

The National Union of Journalists found that contrary to popular opinion, red tagging did not principally affect alternative (or leftist) media, but was used against mainstream outlets nearly as often (56.6 to 43.4 per cent of cases recorded since 2016) [10]. Additionally, at least 36.6 per cent (58 out of 159) of cases were conducted by “clear state methods”, meaning allegations or threats made directly by state security, legal, or administrative officials, as well as harassment conducted by state organs or through anti-terror legislation. [11] This number rises to 60 per cent (96 of 159) if acts by former Duterte administration officials are included, namely Lorraine Badoy or Dante Ang, Duterte’s Special Envoy for Public Relations and chairman of the Manila Times newspaper respectively. [12]

A turning point?

Until recently, the Philippine legal system has offered little protection to those affected by red tagging. This potentially changed in May, with a

successful appeal by activist Seigfried D. Deduro, to the Supreme Court. Deduro sought a court order rectifying harm to one's constitutional rights or freedoms after being publicly red tagged by military officers in 2020.[13] The Supreme Court used the appeal to overturn a previous ruling.[14] In its judgement, the court acknowledged the threats to "life, liberty and security" posed by red tagging, and considered the practice to be a legally credible threat to victims.[15] This was welcome news to the activists and rights groups who have found themselves on the receiving end of the red tagging practice.

The ruling has given new impetus to calls for abolishing the controversial NTF-ELCAC due to its institutionalisation of re tagging.[16] The Cordilleran People's Alliance, a progressive activist federation representing Indigenous communities in northern Luzon, and which has itself been the repeatedly tagged by state authorities, stated that "while such declaration is long overdue, we are hopeful that this will pave the way for the junking of many trumped-up charges filed against activists as well as the end of persistent red tagging against communities, peoples' organisations, and progressive leaders." [17] The ruling has certainly had the benefit of bringing the issue of red-tagging into a more formal civil society paradigm and in another positive development, the Commission on Human Rights, a non-partisan organ of the Philippine government, has begun its own inquiry into the practice.[18]

Despite the optimism of rights groups and activists, it is by no means clear that reform is on the way. The Supreme Court's judgement was based in part on simple procedural grounds, arguing that the court determining on the original petition had acted improperly by dismissing it without proper investigation. The Supreme Court thus only partially issued the writ of amparo, and ordered the case to be re-examined.[19] This may make it difficult for activists to argue that the substance of the ruling can be extended beyond Deduro's specific case.

Indeed, the NTF-ELCAC's Executive Director, ret. Major General Ernesto Torres responded to the ruling by saying "the Supreme Court's decision shed light on the RTCs procedural lapse in dismissing the case without requiring the respondent to file a return, thereby depriving the state of due process." Torres also openly defended red-tagging, claiming it served a vital role in countering insurgent efforts.[20]

Furthermore, no less an authority than President Ferdinand Marcos himself has rejected calls for either reform or abolition of the NTF-ELCAC. He defended the task force against the red-tagging allegations, placing the blame on members of the public. Marcos stated that "the government does not do that, but other people" and argued "there are still villages which have not been cleared of rebels".[21] These comments indicate that neither the ruling administration nor state security organs are particularly concerned by the Supreme Court's ruling or the subsequent calls for reform. It is also clear that the ruling has had no functional effect on curbing the practice of red-tagging, with National Police and Senate members continuing to 'tag' student groups and even elected representatives as affiliates and recruiters for the CPP-NPA.[22] There is also the case of environmentalist Rowena Dasig, who was Red-Tagged, arrested and charged with firearms and terrorism offences in 2023.[23] Despite her acquittal by the courts, Lucena City Police unlawfully delayed her release until 22 August 2024, after which she has disappeared, so far without trace.[24]



Philippine Indigenous peoples' rights defenders Dexter Capuyan and Gene Roz Jamil 'Bazon' de Jesus disappeared last April in a suspected abduction by state security forces (SBS, 2024)

Conclusion

If the government is unenthusiastic or unwilling or unwilling to pursue reform of the NTF-ELCAC or a formal clampdown on red tagging, it is worth analysing why. If taken at face value, the defence of red tagging and the NTF quoted above imply that they play a vital role in the ongoing counterinsurgency campaign, and cannot be altered or abolished without jeopardising that effort. However, the clear pattern of use against dissenters and activists shows this to be a self-serving justification, especially with the NPA being, in President Marcos' own words, "strategically defeated".^[25] Emerging as a rhetorical aspect of existing divisions within Filipino society, Red-tagging owes its endurance to its utility in silencing and vilifying domestic critics, and as a means of delineating social enemies. This continues to incentivise its use, and suggests that peace with, or even the ultimate defeat of the NPA, would likely just result in some other 'public enemy' being used instead. The implication is that any substantive anti-red tagging policy being introduced at a governmental level is unlikely under the current government.

- While official reform in this area is unlikely, informal red tagging on social media networks also needs to be confronted and stopped through legislation. The use of social media to slander and marginalise lends a false legitimacy to red tagging, which must be curbed as part of any effort to address the issue.

Policy recommendations

- The Philippine Government should ensure that the Commission on Human Rights is afforded all opportunity to conduct its investigation without interference from partisan or vested interests in the administration or security services. This will ensure there is unobstructed oversight from a reputable international agency on this serious human rights issue.
- The Supreme Court's recognition of the dangers posed by red tagging remains at this stage only tacit, and so there is a need to codify this into national law. This will ensure that Filipino citizens are protected and can use the judicial system as a means of protection or justice against the practice.

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An analysis of Malaysia's abusive immigration detention regime

Esm'eralda Marion

Key takeaways

- The movement of refugees to Malaysia has increased significantly in recent times, leading to a subsequent increase in detention by the government in an attempt to control those who arrive and deter those considering the move.
- The Malaysian government's lack of recognition of the United Nations refugee mandate and the absence of a functioning and humane refugee system, makes it difficult to offer adequate protection to detained refugees once in Malaysia.
- Detention facilities, a setting of re-traumatisation of already vulnerable refugees who have fled civil war and persecution, subjects' refugees to poor treatment, including sexual assault, torture, restrictive legal support and malnutrition.
- There is an urgent need for the Malaysian government to improve conditions in the immigration detention and to provide pathways for asylum seekers to either gain residency in Malaysia or to be accepted elsewhere.

Introduction

A perilous issue emerging in protracted detention facilities in Malaysia is that of abuse and negligence. While refugees are a repercussion of human rights violations or conflict from their home country, their confinement in derogatory detention facilities has considerable implications on their human dignity and wellness.

International laws assert the rights and protection of refugees as the issue of ratification and implementation in the case of Malaysia, makes realities far-fetched from the human rights issues in the detention centres. The gap created by an absence of a refugee framework not only propels refugee violations but also undermines the State's commitment to human rights. This therefore highlights Malaysia's inability to fully achieve the emancipatory potential of human rights.

Considering the state's responsibility to uphold refugee rights, Malaysia's flawed immigration policies and modus operandi enables the cycle of aggression against refugees. Refugees receive minimal legal protection and are deemed 'illegal migrants' as per Malaysian law thereby heightening their vulnerabilities. With the State's harsh immigrant detention system tainted by a series of abuse and its failure to protect refugees, the current analysis will scrutinise Malaysia's immigration detention and its human rights violations and abuses.



Undocumented migrants walk in line while being detained during an immigration raid in Kuala Lumpur, Malaysia (2022., Hasnoor Hussain/Reuters)

Malaysia as a destination for migrants and refugees

According to United Nations High Commissioner for Refugees (UNHCR), 190,370 refugees and asylum seekers have been recorded in Malaysia. As of June 2024, 65 per cent of the refugees are men and 35 per cent are women, while there are 53,225 children.[1] 167,360 refugees originate from Myanmar, with the largest groups being the Rohingya (109,650) fleeing persecution, Chins (26,710) and other ethnic groups (31,000) escaping war-torn areas. The remaining, 23,000, who are fleeing war and persecution hail from 50 countries. This includes 2,850 Afghans, 650 Iraqis, 630 Palestinians, 6,130 Pakistanis, 2,850 Somalis, 1,240 Sri Lankans, 2,860 Syrians, 3,310 Yemenis, and others.[2] The reason refugees choose Malaysia is its economic opportunities in agriculture, construction, domestic work, manufacturing, and other industries.[3] Additionally, Kuala Lumpur is an extremely diverse city with several different religious expressions accommodating a diverse refugee population. However, the high Muslim population in Malaysia makes the destination more favourable for refugees originating from the Middle East and North Africa and also Asia as they feel less isolated.

The UNCHR and refugee protection

The 1951 Refugee Convention and the 1967 Protocol Relating to the Status of Refugees define the rights and responsibilities of refugees and the contracting nations in which they were situated in. Under the Refugee Convention and 1967 Protocol, UNHCR was set up as the prescribed agency tasked with protecting and safeguarding the rights of refugees and the one accountable for determining refugee status and resettlement processing.[4] Malaysia's de facto and temporary protection of refugees has been threatened by the spiralling crackdowns, detention and human rights abuses experienced in detention facilities. Malaysia's refugee legal gap and refugee treatment

therefore reveals grave deficiencies in government policy and setback in refugee protection. As of August 2019, UNHCR has been prohibited from accessing Malaysia's immigration detention centres, a move defiant of the State's guarantee that UNHCR would be accorded accessibility based on authorization from the immigration department thereby hindering the provision of international protection and recommending the release of persons in need.[5][6][7]

Malaysia's refugee law

As a non-signatory to the Refugee Convention, Malaysia lacks a domestic and regulatory framework that oversees refugees and their rights. Refugees also lack access to basic rights including education, equal legal protection, legal status, legitimate and secure employment and are susceptible to continuous exposure to arrest, detention and abuse.[8]

While the Refugee Convention and the 1967 Protocol is considerably the most comprehensive refugee law, Malaysia's status as a non-contracting state under international law means it is not legally bound by its provisions. Thus, refugees are subject to the Malaysian Immigration Act 1959/63, section 6 which stipulates that no person except for a citizen shall enter Malaysia without a valid Entry Permit



More than 100 Rohingya refugees escaped from an immigration detention centre in Bidor this month. The UNHCR has not been able to visit the centres since 2019 (2024, Hasnoor Hussain/Reuters)

in which his name is endorsed or possesses a valid Pass lawfully.[9]

Malaysia's Immigration Enforcement Division is mandated with enforcing the Immigration Act 1959/63 (Act 155), Immigration Regulations 1963, Passport Act 1966 (Act 150) and the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (Act 670). It is tasked with taking action and detaining/rescuing, carrying out investigations, prosecution, overseeing compounding (alternative punishment for an offence) and deportation of detainees.[10] The State's duty to protect rights of refugees is therefore undermined by its prescriptive and restrictive nature, and legislative inertia.

Albeit, the government has subsequently offered protection to a substantial number of refugees on humanitarian grounds. Over the years, it has collaborated with Malaysia's UNHCR office, to document refugees requiring international protection by offering them a UNHCR card which grants them access to medical care, education, and basic services from UNHCR and its affiliated organisations and most importantly minimises the risk of arbitrary arrest and detention.[11] However, this has been hampered by the UNHCR prohibition of accessing detention facilities.

Malaysia's detention centres

On 1 February 2024, 131 detainees escaped the Perak Bidor Temporary Immigration Depot which the authorities attributed to as an unrest that led to the demise of two and several reincarcerations thereby highlighting the unsafe conditions that detainees were subjected to.[12] In a joint statement by Asia Pacific Refugee Rights Network, End Detention Network (Malaysia) and International Detention Coalition, "the repeated incidents of deaths and escapes from immigration depots" are "an indicator of injustices that need to be addressed humanely through reform." [13]

The grim conditions have been compounded by significant rise in raids, with the first 20 days of January 2024 witnessing 870 raids, hence the

significant detention number.[14] Civil society and international organisations reports equally portray a dreadful image of life within Malaysia's immigration detention. In the March 2024 report, Human Rights Watch (HRW) alleged around 12,000 migrants and refugees, including 1,400 children were being detained, with detainees spending months or years in congested, unsanitary conditions.[15][16][17] According to HRW, the "conditions put them at serious risk of physical abuse and psychological harm." [18]

However, on 6 March 2024 the home minister, Saifuddin Nasution Ismail, questioned the veracity of the allegation by HRW. He argued, "At present, there are 19 depots with 13,000 occupants. Where is the congestion? There is none." [19] He also contended that those detained are subject to document authentication and those with legitimate documents freed.[20]

Human rights abuses within Malaysia's detention centres

On 25 January 2024, Malaysia's representative to the UN Universal Periodic Review backed the government's response to refugees when compelled go further in ensuring the protection of the vulnerable migrant group.[21] Detention conditions are generally inhumane and fall short



Malaysia has millions of foreign workers who usually travel to the country on government-sponsored schemes to fill low-skilled jobs [Mohd Rasfan/AFP]

of international human rights standards. Refugees are often crammed in structures unsuitable for human occupancy, characterised by insufficient food and sanitation supplies, recurring water scarcities, severe and capricious rules in addition to the constant risk of punishment. The conditions often worsen detainees' pre-existing health issues and might result in the spread of skin infections and respiratory and urinary tract infections. While insufficient food and sanitation supplies trigger widespread malnutrition, special provisions are not extended to pregnant or lactating women. Furthermore, inadequate medical attention not only affects the mental health of detainees but also has led to the demise of hundreds as per government data and eyewitness accounts. The government has however argued that Malaysia is grappling with high national debt thus taking on more refugees meant "weighing on its resources and health infrastructure".[22]

As for arbitrary detention, a significant number of men, women and children continue to be arbitrarily detained in Malaysia's detention facilities without due process or access to legal counsel. The absence of a comprehensive system to scrutinise individual situation by gauging risk levels, if extradited, exposes women and girls to gender-based violence at the detention centres or upon their repatriation.[23] Thus, the Working Group on Arbitrary Detention has proposed the phasing out of immigration detention asserting, "migrants must not be qualified or treated as criminals", additionally, they should be used solely "as an exceptional measure of last resort, for the shortest period and only if justified by a legitimate purpose, such as documenting entry and recording claims or initial verification of identity if in doubt".[24][25]

In addition, there have been reports of torture against refugees in detention centres, where former detainees have described methods of torture used by authorities. Methods of torture described include beatings with batons and bricks, and being forced into uncomfortable

positions, like "hanging from the wall, pushups, squats, walking like ducks, or standing under the hot sun for hours".[26]

Individual accounts also revealed officers standing on detainees' chests for days.[27] The aforementioned abuses hence clash with the international standards on the treatment of detainees. Nonetheless, the Malaysian Immigration Department has aroused concern amongst UNHCR and human rights organizations in view of a scheme aimed at reallocating detainees and potentially arming staff.[28]



Ethnic Rohingya men have been taking risky sea journeys to Southeast Asia (2024, Reza Saifullah)

Abuses outside the detention centres

Refugees who are not confined are susceptible to abuse and exploitation by police and locals and have limited to no options of filing complaints with the appropriate authorities. According to the Immigration Act, refugees are classified as illegal immigrants and lack entitlements to formal employment. While refugees take on "dirty, dangerous, and demeaning jobs"[29] unpopular among the locals, they are at risk of receiving less wages or going without pay upon completing their assignments.[30] Thus, absence of mechanisms for refugees, makes it difficult for them to seek compensation and any form of protection.[31] Furthermore, health-care access is not only

expensive but also a dangerous gamble for healthcare facilities are mandated to disclose undocumented patients to officials as per Malaysia's immigration law.[32] As a result, refugees shun healthcare facilities given well-grounded fears of detention.

Conclusion

Refugees and their wellbeing are components of preservation of human dignity. Fundamental necessities like food, healthcare and security which frame the benchmark for all humanity continues to encounter a myriad of obstacles in Malaysia's detention setting plagued by a web of abuse and the disregard of refugee rights - education, due process, health and liberty. While the security imperative prescribes the immigration detention policies, international bodies must not resign from scrutinising and criticising the government against state violation of refugees. The absence of a legal framework and advocacy in demanding and framing refugee rights in Malaysia fails to deter their abuse thus, better approaches need to be incorporated to increase greater fusion between instruments like the Immigration Act 1959/63 (Act 155) and the complex situations existing in the detention facilities. Consequently, a significant protracted shift by the Malaysian State is vital to ensure greater refugee protection. Moreover, the administration alongside law enforcement officials must be nurtured and well-versed on observing their duties vis-à-vis refugee protection for their rights alone are not enough to stem the tide of vicious violations of their fundamental rights.

Policy recommendations

- UN agencies should be permitted to establish reception facilities at border checkpoints or major migration corridors and operate without any hindrance from state authorities in order to boost migrant registration and screening.
- The regional community ought to frame up-to-date human rights benchmarks so as to track and foster collective collaboration in advocacy and refugee protection as well as champion for best practices like instituting an independent expert and monitoring committees.
- Advocacy and sensitisation are key in alleviating the abuse of refugees as it calls for shaping of apt policies and practices along with encouraging or discouraging certain behaviours by enforcement personnel.
- In reference to the Vienna Convention on Consular Relations, the administration should not only ascertain that the appropriate embassy is up-to-date with the detention of its nationals, but also facilitate communication between the detainee and Consular as per Article 36 of the Convention.

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From campus to capitol: The student uprising that toppled a government in Bangladesh

Ramsha Ali

Key takeaways

- Bangladesh's controversial quota system sparked massive protests that escalated into a nationwide uprising demanding wider reforms and political changes. This led to the end of the 15-year rule of former Prime Minister Sheikh Hasina. The tensions, however, reveal deeper political and economic problems.
- The government's heavy-handed response to the protests resulted in severe human rights violations, including curfews, shoot-on-sight orders, communication blackouts, arbitrary arrests, and detentions, which provoked a more defiant reaction from protesters.
- The interim government led by Professor Muhammad Yunus appears ready to embark upon a democratic journey paved with reforms, but it will take more than mere words to bring about meaningful changes in the socio-political setup of Bangladesh.
- If the new government does not want to repeat mistakes of the past, it must prioritise meritocracy, uphold the rule of law, and promote a strong civil society to mitigate the built-up frustrations of the people.

Introduction

Government jobs are often a golden ticket to prosperity for the middle class of Bangladesh. Besides job security, regular income, and a reliable pension, they hold significant value in social circles. But never before in the history of South Asia has the demand for employment

been so intense that it sparked a movement leading to the downfall of a government. What began as students' protests against controversial job quotas in Bangladesh turned into an unprecedented and nationwide uprising and a brutal crackdown that eventually led to the fall of long-term Prime Minister Hasina. However, the issue of the quota system is only the tip of the iceberg of a huge economic and political turmoil in Bangladesh. This article examines the origins and progression of the protests, evaluates the government's response, and looks at the broader implications for Bangladesh. It also focuses on the human rights violations that occurred during the protests, aiming to provide a clear picture of the crisis and the necessary steps to address the issues and ensure future stability.

What led to the unprecedented protests?

In Bangladesh, almost 56 per cent of government jobs are reserved for specific groups, such as children and grandchildren of



Prime Minister Sheikh Hasina fled after her 15 year-rule ended abruptly (2024, Getty Images)

freedom fighters, women, and people from particular classes of Bangladesh society.[1] However, the overwhelming majority of these seats are allocated to the descendants of soldiers from Bangladesh's war of independence against Pakistan, making up 40 per cent.[2] Over time, this has left little room for young graduates to find employment based on merit, and has led to previous unrest that led to the government partly dismantling the quota system in 2018.[3] More recently however, the High Court of Bangladesh upheld a decision to retain a 30 per cent quota for descendants of freedom fighters on 5 June 2024[4]. This overruled the previous attempt at quota abolishment and ignited nation-wide protests against the government.

Protesters argued that under Hasina's government, the quota system was exploited to place favoured individuals in key positions, leading to widespread corruption and cronyism in the country.[5] But the protests can also be seen as an extension of prolonged economic challenges and political unrest in the country. Once thriving at the rate of 6 per cent per annum, Bangladesh has recently experienced several economic challenges, particularly high youth unemployment and inflation. In 2023, 40 per cent of young Bangladeshis were classified as not in employment, education, or training. Additionally, more than 172 million people in the country face food insecurity, and the price of utilities has increased dramatically.[6] This has caused widespread frustration among the youth of Bangladesh and exploded ultimately into a wave of unprecedented protests against the government that we have seen these past months. Once on the streets, protesters demanded not only the resignation and public apology of the Prime Minister Sheikh Hasina but also the resignation of several high-profile government executives, including the Home Minister, Transport Minister, punishment of a number of police officers, and resignation of vice chancellors of Dhaka, Rajshahi, and Jahangirnagar Universities.[7] Fahim Faruki, a young protester told Al Jazeera that "our protest is not against the quota system. It is instead for the reformation of the system." [8]

Despite a belated attempt to appease protesters by reducing the quota to 5 per cent on 21 July, the protests continued to demand justice and accountability and an improvement of political and economic life in Bangladesh through a new government.[9]

The government's response

The Hasina government's response starkly contradicted the mandate of a democratic government. With tear gas, rubber bullets, batons, police firings, and government-backed politically backed student groups leashing violence on protests.[10] Protestors were declared 'Razakars' by the government, a notorious term in Bangladesh that refers to people who sided with Pakistan during the war for independent in 1971.[11] According to Professor Nazrul Islam of Dhaka University, calling students Razakars was an attempt by the government to incite violence against them and alter public opinion.[12]

The government implemented a complete communication blackout by shutting down internet services, isolating the country and leaving the international community unable to discern what was happening within Bangladesh. [13] During this time, a shoot-at-sight curfew was enforced, and the deployment of the Rapid Action Battalion, a special military unit often referred to as a 'death squad' and sanctioned by the United States, highlighted the government's extreme and unchecked use of force.[14]



Bangladeshi students set fire to the country's state broadcaster on Thursday (2024, Getty Images)

There are several notable examples of protesters being shot and killed by the authorities. This includes Abu Sayed, a student at Begum Rokeya University, who was shot and killed from a distance of 15 metres in broad daylight by the police during a protest.[15] Overall, it is reported that more than 400 people, including protestors, journalists, and bystanders, were killed in Bangladesh as a direct consequence of violent police crackdowns.[16]

Vigilante violence was also widespread, with peaceful protests by Dhaka University students attacked by members of the Bangladesh Chatra League, a government-backed student organisation, armed with rods, sticks, and clubs. [17] There were also reports of severe mental and physical abuse directed at student protest leaders, with many of them were driven out of the hospitals while receiving treatment for their injuries.[18] The situation was further exacerbated by numerous arbitrary arrests and detentions, which human rights advocates. Amnesty International, described the government response as a "witch hunt" and by 30 July, over 10,000 people had been arrested in connection with the protests.[19]

The international response to the crackdown was heavily critical. The United Kingdom publicly called for the protection of peaceful protests and the release of detainees. The Foreign Secretary, David Lammy stated that "the people of Bangladesh are entitled to a comprehensive and independent investigation led by the UN into the events of the past few weeks".[20] Germany stressed the importance of maintaining Bangladesh's democratic path. The United States has also called for restraint and acknowledged the recent violence's toll.

A dictator has fallen

"A dictator has fallen" said Bangladeshi political analyst Mubashar Hassan.[21] Combined with the previous political tensions, economic challenges, the non-cooperation movement, and international condemnations over the

autocratic mode of government, the pressure mounted up on Hasina, leading to her resignation from the post of head of the government on 5 August 2024, and she fled to India the same day.[22] In the words of Geoffrey Macdonald, a Bangladesh expert at the United States Institute of Peace in Washington "in the end, the protest movement grew too large for Hasina's government to survive." [23] The denial of the army chief's use of force against the protestors was also a primary driver of Hasina's fall and the last nail in the coffin.[24] Al Jazeera journalist Tanvir Chowdhury vividly described the reaction to Hasina's resignation, saying "everybody is celebrating, not just students, people from all walks of life. They said this had to happen; there was nothing we could say; democracy was squeezed, and now we are free." [25]

What's next for Bangladesh?

Nobel Prize winner Muhammad Yunus, seen as a long-term rival of Hasina, has been put in charge of the interim government of Bangladesh until the next general elections.[26] Importantly Professor Yunus is immensely popular with the youth of Bangladesh and with the international community more broadly. In response to taking power, Yunus stated that "when the students who sacrificed so much are requesting me to step in at this difficult juncture, how can I refuse?" [27] [28] However, Yunus is not without controversy. In January, a Bangladeshi court found Yunus



Protesters pose with the Bangladesh flag while on a sofa looted from the PM's residence (2024, Reuters)

guilty of breaching labour laws and sentenced him to six months in prison. Yunus was also confronted with charges of money laundering, tax evasion, and corruption in over 198 cases. [29] But these clearly politically motivated allegations by Hasina only affirmed her autocratic mode of government. [30]

Since her ousting, Hasina remains in India, a crucial backer of her former government, but Yunus has publicly suggested she should “stay quiet” and be brought back to Bangladesh for trial. The statement has come in response to Hasina’s provocative attempt to rally her Awami League party members and disrupt the fragile stability in the early days of Yunus’s administration. The planned gathering was stopped by a counter-protest outside her childhood home in the capital, where a mob used sticks and rods to attack those suspected of being Awami League supporters. [31] To prevent further escalation of tensions and to maintain a positive relationship between India and Bangladesh, it is crucial that Hasina be brought to trial at home as soon as possible.

Conclusion

The fall of Hasina’s government marks a pivotal moment for Bangladesh, with the hopes that democracy can be restored. Yet this upheaval is only the beginning. To put the country back on track of progress, comprehensive policies and reforms will be required. The demand to change the quota system underlines the precarious situation of the labour market. Unemployment is skyrocketing, and inflation is record-high. The civil and political system is plagued with a plethora of problems that can have significant implications in the future. While the protests served as catalysts to bring about the much-needed political reforms in the country, the extent of these changes depends on the new government’s responsiveness and prevailing political climate. A 20-year-long autocratic mode of government has left its mark in the form of corruption, civil and departmental inefficiencies, and a distorted international image of

Bangladesh. The government and public need to work together to end corruption and improve conditions for young Bangladeshis. The human rights violations that took place during the protests are serious and need to be investigated. There is also a dire need to give more room to freedom of expression, empower civil societies, and uphold human rights throughout the country. While the protests left a trail of blood and sacrifice, they ultimately succeeded in achieving their goals. A publicly favoured government is in power, and new reforms appear to be on the horizon. The people of Bangladesh have fought a lengthy and tiresome battle and, in doing so, have safeguarded their state from a nefarious government.



Protesters rough up a supporter of the ousted PM Sheikh Hasina’s party, suspecting him of paying respect to her father Sheikh Mujibur Rahman on his death anniversary, outside his residence in Dhaka, Bangladesh (2024, Rajib Dhar/AP)

Policy Recommendations

- The controversial quota system should be scrapped to allow for complete meritocracy. This will not only improve fairness but also lower unemployment and improve the economy.
- The key to any reform is political will. Strong political support for civil society groups and human rights advocates can make sure that the mistakes of the past are not repeated.

- Economic distress is the major driver of public anger in Bangladesh. The protests have further exacerbated the downside risks to economic growth. Effective economic reforms are needed in this regard to alleviate the widespread discontent and break the clutches of inflation and unemployment.
- The interim government should also focus on improving the country's human rights record through social protection programs, improving the rule of law, and upholding human rights. This includes justice for those guilty of human rights abuses during the recent crackdown.
- Successive Bangladeshi governments have committed grave human rights violations and have promoted a culture of impunity. To prevent traditional politics from returning, a fair electoral process with numerable choices is mandatory. The young generation and technocrats should be facilitated to join politics, and the formation of political parties should be made easier.

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India's elections and the consequences for human rights

Noor Afrose

Key takeaways

- Between April and June, India conducted its largest ever national elections. Prime Minister Narendra Modi and his Hindu nationalist Bharatiya Janata Party (BJP) emerged victorious and won the former a historic third term in office. But overall, Modi and his party suffered a minor setback, falling short of their preferred number of seats in parliament.
- The election had a negative effect on human rights in India, leading to increased hostility against minorities, infringement upon their rights, suppression of voting rights, restrictions on freedom of expression, and instances of arbitrary detention, among other issues.
- To ensure there is not a repeat of abuses and violence against at-risk groups, immediate actions are required by the government, such as reforms in the electoral oversight bodies and legislative changes aimed at eliminating discriminatory policies.

Introduction

Earlier this year, India held its general election, the first in five years. This was the largest election in India's history, with over 900 million registered voters taking part in the poll to elect 545 representatives in the Lok Sabha, or lower house.[1][2] The Lok Sabha serves as the legislative body of India's Government, led by the Prime Minister, who wields executive authority and entered the election eyeing of a historic third term in office.[3] The election

results were released on 4 June, with Narendra Modi and his BJP emerging victorious, securing 293 seats with its coalition, granting Modi a third term.[4] The opposition INDIA alliance, spearheaded by the Indian National Congress party, claimed 232 seats in a surprise showing.[5] However, this election raised concerns regarding human rights violations such as the oppression of voting rights, hate speech against minorities, and a crackdown on opposition leaders and journalists. In this context, this article will examine the implications of the Indian elections on citizens' human rights and propose actionable recommendations for the advancement of citizen rights in the future.

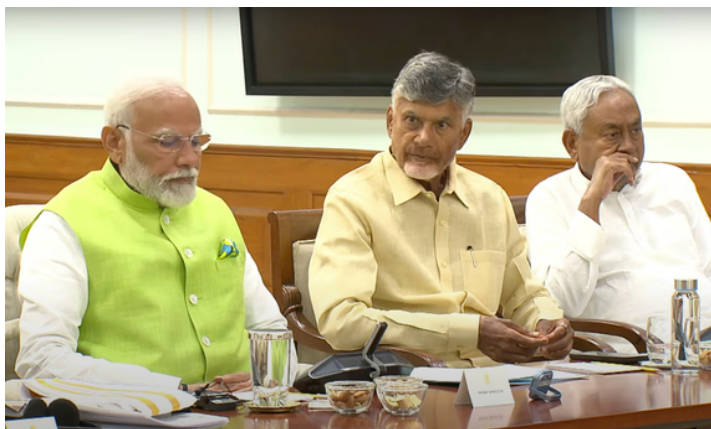


Narendra Modi is garlanded by senior Bharatiya Janata party leaders after the election results in New Delhi (2024, Manish Swarup/AP)

Hate speech and violations of minority rights

India has laws prohibiting hate speech for political or electoral gain, including Section 125 of the Representation of the People Act 1950 and the Election Commission of India's Model Code of Conduct. These laws prohibit political

candidates from instigating religious, racial, caste, community, or linguistic enmity among Indians, and prohibit using communal feelings or places of worship for election campaigning.[6] Nevertheless, during the elections, members of the ruling BJP blatantly disregarded these laws by inciting violence against minorities, particularly Muslims, through public hate speech. [7] The latest research report from the Platform for Peace and Humanity has highlighted instances of hate speech by political and religious figures in India between March and May 2024, with 76 per cent attributed to BJP members.[8] Furthermore, Human Rights Watch's August 2024 report found that at least 110 of Modi's 173 campaign speeches contained Islamophobic comments.[9] Modi's remark about Muslim minorities in India as "infiltrators" not only disrespected the Muslim community's dignity but also violated Article 20 of the International Covenant on Civil and Political Rights, which India is party, which prohibits hate speech.[10] By deploying the concept of 'bulldozer justice' on 20 May 2024, the Assam government allegedly evicted around 400 Bengali-origin Muslim families.[11] The Human Rights Watch report revealed that post-election violence against religious minorities continued, with 28 reported attacks, resulting in the deaths of 12 Muslim men and one Christian woman, violating their constitutional right to life.[12] These events have created a sense of fear and discrimination, emphasising the pressing need



Narendra Modi with N Chandrababu Naidu, the leader of the Telugu Desam party, and Nitish Kumar, leader of the Janata Dal party (2024, AP)

for political discussions that honour and protect the rights and dignity of all individuals, irrespective of their religious or ethnic identity.

Suppression of voting rights

Article 326 of the Indian Constitution citizens aged 18 and over to vote, regardless of their background.[13] Regrettably, this constitutional entitlement has been recently infringed upon.[14] Reports from Al-Jazeera and various national news outlets indicate that numerous voters have been obstructed from exercising their voting rights,[15] including some who have faced physical violence.[16] During the third phase of voting, there were reports of physical coercion in the Sambhal parliamentary constituency in western Uttar Pradesh, including a viral video capturing voters fleeing a school as police charged at them.[17] In another incident, Madhavi Latha, a BJP candidate in Hyderabad, Telangana, was apprehended by police on May 13 after a video surfaced alleging her intimidation of Muslim voters.[18]

Furthermore, the Office of the High Commissioner for Human Rights asserts that the right to vote requires a reliable voter registration process.[19] However, minorities experienced discrimination in this area as well. On 26 April, Muslims in Mathura parliamentary constituency reported missing voter slips and a document provided by the Election Commission of India before the second phase of the Lok Sabha election.[20] Making matters worse, there were allegations of fraudulent voting. The Haryana Police Sangathan alleged thousands of their members' ballots for the elections were stolen, preventing a fair electoral process.[21]

Additionally, voting booths in Beed, Maharashtra were seized, with multiple voters claiming that someone else voted on their behalf despite having their fingers inked.[22] These actions have undermined trust in the electoral system. It is fair to state that it has weakened democracy, leading to instability and a decline in democratic institutions.

Media censorship and aggression toward journalists

The Free Speech Collective, which tracks and reports violations of free speech rights in India, noted in their report that, during the initial four months of 2024, numerous journalists and YouTubers encountered arrests under the Unlawful Activities Prevention Act.[23] The vague definition of 'terrorist' in this law gives the government broad power to label individuals as "terrorists" and detain them for 90 to 180 days without trial, violating fundamental human rights. [24] In March 2024, Indian law enforcement charged NewsClick, an independent news organisation critical of the government, along with its founder Prabir Purkayastha, with accepting foreign funds to spread 'pro-China propaganda'.[25] Additionally, They also seized personal electronic devices belonging to around 90 journalists, infringing on their right to privacy, as protected by national and international human rights laws.[26] Such actions breach the essential freedoms of expression and press freedom protected by Article 19 of ICCPR. Alongside arbitrary detentions, the media has also been subjected to intimidation and threats that endanger their lives. In two separate incidents in May, journalists Ankur Jaiswal and Raghav Trivedi were assaulted by BJP leaders and supporters while reporting on their illegal activities.[27][28] Furthermore, since February 2024, three foreign journalists have reportedly been forced to exit India due to the denial of permits, highlighting a troubling trend for press freedom in the nation[29]. Moreover, according to the Independent Panel for Monitoring Indian Elections, a group of independent scholars and practitioners, in their first Interim Report revealed that leading television networks have remained significantly biased in favour of the BJP and the BJP-led central government.[30] Therefore, it can be stated that suppressing news against the government using violence against journalists during this election reflected part of broader authoritarian measures that have jeopardised the rule of law. Furthermore, these measures

have posed a risk to human rights standards as they curtail the public's right to information and the media's role in holding power accountable.

Persecution of opposition parties and human rights defenders

Indian law enforcement, particularly the Enforcement Directorate and Income Tax Department, has been targeting political opposition, indicating an abuse of power.[31] In March, prominent political figures, including the Delhi chief minister, Aam Admi Party leader, and former Jharkhand chief minister, faced allegations of corruption and money laundering. [32] Moreover, the same department has frozen the bank accounts of the Indian National Congress, the largest opposition party, due to alleged failures dating back to 1994.[33] Legislation called the Prevention of Money Laundering Act has also been implemented, granting the Electoral Commission the power to reverse the presumption of innocence and investigate unrelated offences involving opposition parties.[34] These instances highlight the extent to which the opposition has faced suppression and had their right to association and participation in a fair election violated. Human rights advocates have also been subjected to severe torture by the governing party. In April and June of 2024, two indigenous human rights defenders named Surju Tekam, and Sunita Pottam, were arrested by the police, allegedly for being Maoists.[35][36]



Narendra Modi has won a third term as Prime Minister (2024, PIB/AFP/Getty Images)

No doubt these arrests of opposition and human rights defenders during the electoral process have conveyed a strong message of intimidation, which to some extent silenced critics and diminished political opposition, thus undermining the checks and balances system.

Toothless electoral body and human rights violations

India's independent regulatory agency, the Election Commission of India (ECI), is tasked with overseeing elections, deriving its authority from Article 324 of the Constitution. This includes vote counting, establishing financial regulations, and enlisting police or domestic military support to maintain a smooth electoral process. However, the recent implementation of the Chief Election Commissioner and other Election Commissioners Act 2023 has altered the appointment process for members of the ECI. This act allows the Prime Minister to have potentially two out of three votes in naming candidates for the Chief Election Commissioner and the Election Commissioners. [37] With appointments made by the Prime Minister, there is a likelihood of bias towards the government. In this election cycle, the ECI has misused this authority by neglecting to address complaints involving prominent BJP figures, including Prime Minister Modi, and failing to investigate concerns about propaganda videos or extremist factions instigating animosity against minority groups, thereby exacerbating the already precarious human rights situation. [38]

International response

Global organisations, including the UN, have raised concerns about human rights violations during the Indian elections. On 4 March 2024, during the 55th Human Rights Council session, the UN High Commissioner for Human Rights Volker Turk highlighted worries about "limitations on civic space" and "hate speech and discrimination against minorities" ahead of the parliamentary elections. [39] UN human rights experts also warned of an increase in assaults

on minorities, and civil society, leading up to the national elections, which was indeed the case during the election period. [40] Human Rights Watch, Article 19, and nine partner organisations expressed serious concern about India's actions against journalists, political opposition, and media outlets before and during the general elections. [41] Most notably, on 1 May the Geneva-based global Alliance of National Human Rights Institutions postponed granting accreditation to India's National Human Rights Commission for the second consecutive year, potentially impacting India's voting rights in the Human Rights Council and UN General Assembly. [42] However, it is important to note that even with warnings from the UN before the election and various human rights organisations during the election, the Indian government did not take any positive steps. Instead, they defended their actions by claiming it was an internal issue that did not require outside input. [43] This indicates their reluctance to tackle the serious human rights situation.



People wait to cast their vote in Uttar Pradesh, (2024, Anushree Fadnavis/Reuters)

Conclusion

It can be concluded that the 2024 election, instead of celebrating democracy, turned into a central topic of debate concerning the condition of human rights in India. These violations encompass hate speech directed at minorities, limitations on freedom of expression, and the arbitrary detention of journalists and human rights advocates. Such actions have not only

distorted the true will of the people but also undermined the integrity of democracy, leading to instability and a feeling of exclusion among many citizens. As the same government has been re-elected, future elections may encounter similar challenges, potentially leading to increased public mistrust and instability. Therefore, it is crucial to revise all oppressive laws that inhibit citizens' rights, including the UAPA, PMLA, and the Chief Election Commissioner and other Election Commissioners Act 2023.

- The UN can provide technical assistance during elections by deploying election monitoring teams, offering expertise in electoral law to ensure adherence to international human rights standards. Additionally, the UN can facilitate training for local officials and civil society organisations on monitoring and documenting election-related human rights abuses.

Policy recommendations

- The Election Commission Act 2023 should be amended to ensure the independence of the EC. The power of the Prime Minister to appoint the Chief Election Commissioner and Election Commissioners should be removed, placing this responsibility in the hands of a transparent, multi-party committee to ensure unbiased and fair elections.
- All draconian laws, including the Unlawful Activities (Prevention) Act, and The Prevention of Money Laundering Act should be repealed or amended to align with international human rights standards. Pending their repeal, charges under these laws for merely exercising human rights should be dropped. The Prevention of Money Laundering Act's reversal of the presumption of innocence and its broad, unchecked powers should be curtailed, ensuring that its application is limited to genuine cases of money laundering.
- India should develop and enforce a comprehensive legal framework that includes strict regulations against hate speech and ensures the protection of journalists and minorities. The legislation should clearly define hate speech, establish penalties, and ensure that any actions taken against journalists or political entities are subject to judicial review to prevent abuse of power.

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The effects of Israel's war on Gaza in Indonesia

Muhammad Reza Zaini

Key takeaways

- Israeli offensive on Gaza following the 7 October 2023 attack by Hamas has had a negative impact on the Indonesian racial and religious harmony, leading to violent clashes between pro-Israel and pro-Palestinian groups, attacks on several businesses, and increasing xenophobic sentiment.
- The offensive has inspired a pro-Israeli Christian group to conduct deadly clashes against pro-Palestinian Muslims in Indonesia's North Sulawesi Province. The tensions between the Christian and Muslim organisations still exist as of September 2024.
- The subsequent appeal to boycott Israeli-related products had led former members of disbanded militant Islamist groups to attack restaurant patrons and restaurant workers at American food chains. There were cases of restaurant patrons being shouted at, and even punched. Chains like McDonald's, Kentucky Fried Chicken, and Starbucks reported instances of pro-Palestinian groups harassing their patrons and staffs as of 2024.
- Social media posts by pro-Palestinian advocates have sparked xenophobia in Indonesia, often liking refugees and descendants of colonial-era immigrants as Zionist settler-colonisers. Some xenophobic groups acted to prevent the "non-natives" replacing the native Muslims just like the Zionist settlers took over Palestinian lands. The xenophobia had triggered persecution of refugees.

Introduction

Israeli attack on Gaza in response to Hamas' October 2023, has created a humanitarian crisis of significant proportion. Under the guise of eliminating Hamas and rescuing Israeli hostages, Israel conducted a military offence that has been reported by the United Nations to include indiscriminate attacks to civilians.[1] As of 22 August 2024, Al Jazeera reported that the Palestinian death tolls in Gaza had reached 40,223.[2] The indiscriminate bombing is most likely to continue despite international outcry and the request for arrest warrants for Prime Minister Netanyahu and Minister of Defence Yoav Gallant. The humanitarian crisis and the indiscriminate attack by the Israel Defence Forces in Gaza subsequently triggered conflicts in major cities of the west. Various countries in the western world are experiencing massive protests, both those voicing support for Israel or those voicing support for Palestine and demanding ceasefire. Often, the protests



Indonesian homemakers have been front and centre in protests such as this one, in Medan, North Sumatra, against Israel's war on Gaza, 2023, (Aisyah Llewellyn/Al Jazeera)

have led to violent clashes and social division.[3] While the international media tends to focus on western countries, Indonesia is also experiencing a similar phenomenon as a result of Israel's attack on Gaza, with instances of protest and violence by pro-Israel and pro-Palestinian groups in North Sulawesi and elsewhere.

How has Israel's offensive impacted Indonesia? Indonesia has been a vocal supporter of Palestine and the Palestinians for decades, and as the second-biggest Muslim population in the world, shares the same faith as most Palestinians. Indonesia's Ministry of Foreign Affairs has been steadfast in supporting Palestinian statehood as one of its consistent and key diplomatic stances.[3] For example, Indonesia voted in favour for the Palestinian statehood during the United Nations General Assembly vote on 10 May 2024.[4] Indonesian President Joko Widodo also mentioned the need for an immediate ceasefire to United States President Joe Biden during a White House press conference. But, despite Indonesia being a secular country built on multicultural values, Indonesia is home to groups that are invested in the conflict, including ardent pro-Palestinian and everyday Muslim and pro-Israeli Christian groups. Both groups often voice their causes, which can and has led to violence and unrest.[5] Israel has triggered both violent horizontal conflicts and general instability, including



Homemaker Normala Sari attending a protest in Sumatra (2023, Aisyah Llewellyn/Al Jazeera)

violence as a manifestation of their ideology in supporting Palestine or Israel. This includes using social media to spread hate and incite violence.

Violence by pro-Israeli militias

There is an influential Pro-Israeli militia in Indonesia's North Sulawesi Province, identified as Pasukan Manguni Makasiouw, or the Manguni Brigade. The Manguni Brigade traces its origin as an ethnic Minahasa self-defence group, with the Minahasa being a predominantly-Protestant Christian ethnic group in North Sulawesi. The Brigade emerged after the rise of communal conflicts across Indonesia, following the country's transition from a centralised military dictatorship to democracy in 1998.[6] The Brigade's fundamental mission is to defend Minahasa land from Muslim organisations they accuse of being hostile.[7] Their stance is also a response to the concurrent emergence of militant Muslim organisations after 1998. The Brigade developed in membership to protect the North Sulawesi communities following series of bomb attacks aimed at churches in 2000.[8]

The Brigade has a firm anti-Palestinian and pro-Israeli stance attributed to their evangelist faith. [9] Evangelism, which sees the state of Israel as god's chosen people, has become popular among the Minahasa population following various American missionaries in the 1950s.[10]

As Israel's brutal and arguably illegal response in Gaza led to pro-Palestinian advocacy and protests in Indonesia, the Brigade became increasingly violent. In November 2023, the Brigade attacked a pro-Palestinian march in Bitung City in North Sulawesi.[11] The incident saw one Brigade member militia killed, and two pro-Palestinian protesters sustained serious injuries. [12] Despite the relatively small casualties, the clash instigated animosity between Christians and Muslims in Bitung City and throughout North Sulawesi more broadly. Despite the violent clash in Bitung is the only violent clash involving the pro-Israeli and pro-Palestinian causes as of August 2024, the clash triggered a sense of

distrust between North Sulawesi's Christian and Muslim communities. In January 2024, the research and development division of the Ministry of Religious Affairs office in nearby Makassar City reported the increase of animosity between North Sulawesi's Muslim and Christian groups.[13] The same report suggested that the rejection of a mosque construction in a predominantly Christian neighbourhood of North Sulawesi was motivated by the conflict. The local communities feared that the mosque will incite violence to the Christian majority community.[14] The Mayor of Bitung, Maurits Mantiri, acknowledged that it would take time to significantly eradicate the animosity, given the possibility that provocation can be easily incited from social media. Mantiri stated that "the government's efforts [in ensuring peace between Christians and Muslims] require our participation by not spreading false information that could provoke various parties".[15]

Social media has played a fundamental role in inciting violence. Evangelist groups have posted on social media portraying Israel as the god's chosen people who are under attack by Hamas. On the other hand, posts disseminated by Islamist grassroots media tend to highlight calls for retaliation against the Manguni Brigade.[iv] Some also voice retaliation to North Sulawesi's Jewish community and their Holocaust Museum. [16]

The Chief of Indonesian National Police, Listyo Sigit Prabowo, had instructed the North Sulawesi provincial police to deploy forces to prevent future retaliations to happen in November 2023. The police had apprehended seven suspects in total.[17] The community rejection of a mosque, showcased how the animosity remains significant. Despite their response, the police have been negligent in maintaining community-level religious harmony and have allowed the violence to occur. Police have also been inactive when it comes to tackling militia groups or monitoring social medias.[18]

There has been a global boycott of Israeli products and companies linked to the country, often led by the led by the Boycott, Divestment and Sanctions movement. While the boycott of Israeli products is mostly non-violent, the call for boycott has led to aggressive actions in Indonesia. The boycott movement on social media has incited militant groups in various urban areas in Indonesia to carry out harassment against western companies linked to Israel.

Groups of former Islamic militants, many linked to the now disbanded Islamic Defenders Front, carried out harassments and acts of violence against Western food and beverage chains like McDonald's, Starbucks, and Kentucky Fried Chicken. This includes harassing or attacking patrons and restaurants workers, which has occurred in various urban areas in Indonesia.[19] A protest at a Makassar City Starbucks left several patrons injured in June 2024.[20] Another protest in Bandung City stormed a local Starbucks and verbally harassed the patrons in the same month.[21] In Bogor City, pro-Palestinian groups caused a disruption at a local McDonald's.[22]

Social media platforms have played a significant role in fuelling this harassment and violence. The absence of effective social media monitoring by the authorities has allowed underground militant



Prosters at a rally in Sumatra (2023, Al Jazeera)

groups to coordinate harassment and violence at different western food and beverage chains. Despite the vow to prosecute violent protesters, the police have shown a relatively slow attitude towards addressing these issues.[23]

Increasing xenophobia

The Israeli offensive in Gaza has also led to a rise in xenophobia within Indonesia. There has been a notable surge in pro-Palestinian posts that accuse Israel of settler-colonialism and violating international law, including war crimes, in the wake of Israel's indiscriminate assaults in Gaza.

The main problem is these social media posts have been misinterpreted by some Indonesians. Consequently, a segment of Indonesian society has adopted anti-immigrant and broadly xenophobic attitudes against other groups of people. Groups characterised by violent anti-immigrant and anti-refugee sentiments have been motivated to take concrete actions to prevent Indonesia from being "overrun by settlers," akin to the displacement of Palestinians by Zionist settlers.[24] This form of xenophobic violence was largely absent prior to 7 October 2023. This includes xenophobia against Myanmar's Rohingya, many of whom have come to Indonesia as refugees.[25] There has been approximately 15,000 anti-Rohingya posts on Facebook, Instagram, and Twitter, as well 3,700 anti-Rohingya videos from TikTok, which are all dated after 7 October 2023.[26]

Rohingya refugees have been coming to Indonesia, predominantly in Aceh Province, following Myanmar's intensification of anti-Rohingya persecution in 2016. The alleged disruptive behaviour of certain Rohingya individuals, such as individual cases of stealing local people's plantation harvest in Aceh Province, have fostered resentment among local communities.[27] Furthermore, recent settler-colonial narratives circulating on pro-Palestinian social media have incited violent actions against the Rohingya population, such as the storming of

a Rohingya refugee camp in Aceh.[28] Indonesian social media posts have drawn parallels between Rohingya refugees and Zionist settlers during the Palestinian Mandate, suggesting that they have displaced the indigenous population.[28] This misinformation has been addressed by the Indonesian Ministry of Communications by publishing an online statement mentioning it has a hoax.[29]

Despite the government statement, a group of several hundred Indonesian students in Aceh Province attacked Rohingya refugee camps, reportedly motivated by social media discussions regarding Palestine.[30] As of 2024, hostility towards Rohingya refugees continues to be pronounced, despite the fact that nearly all Rohingya are Muslims fleeing Islamophobic persecution in Myanmar.

Conclusion

The Israeli military action in Gaza, initiated in response to the attack by the militant group Hamas on Israeli civilians and military forces last October, has adversely affected the racial and religious harmony in Indonesia. This deterioration of racial and religious harmony is evident through three phenomenon, namely violent confrontations between pro-Israel and pro-Palestinian factions, assaults on various businesses, and a rise in xenophobic attitudes. Prominent Pro-Israeli militia in North Sulawesi Province has exacerbated religious tensions

between Christians and Muslims following their assault on a pro-Palestinian demonstration. The subsequent call for a boycott has incited aggressive behaviour across Indonesia. This boycott movement, which has gained traction on social media, has prompted militant factions in various urban centres to engage in harassment of western companies associated with Israel. Additionally, the Israeli military actions in Gaza have contributed to an increase in xenophobia within Indonesia. The lack of effective law enforcement is a fundamental issue underlying these three challenges.

Policy recommendations

- The Government of Indonesia needs to take a swift action against provocateurs. The government need to ensure law authorities efficient in preventing provocateurs to politicise the overseas conflict into a domestic disruption. Similarly, the government need to ensure religious and cultural leaders to engage in dialogue to maintain religious harmony within the nation.
- Given that the escalation of conflict is exacerbated by social media, it is imperative for the government to actively monitor and take actions on social media platforms for any posts that may incite provocation. This approach has been successfully implemented by other nations, such as in neighbouring Singapore, to maintain religious harmony.
- In the wake of xenophobia and persecutions against refugees, the government needs to ensure the safety of refugees in their country.

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An analysis of attacks on civilians by the Myanmar military

Airi Tanabe

Key takeaways

- Since the return of Myanmar's Junta in a coup in 2021, the military and resistance forces have been in conflict. Since October 2023, violence against civilians and civilian infrastructure has escalated, with serious allegations the military has violated international humanitarian law.
- This includes the military reportedly using illegal weapons, such as incendiary devices, highly concentrated tear gas, and white phosphorus on civilians throughout the country, which are carried out with impunity.
- But there have been attempts by the international community to hold the Junta to account, including arms embargoes and limitations on humanitarian aid. But more needs to be done to deter the military from targeting civilians and for those accused of war crimes to be held to account.

Introduction

Since the coup against the civilian government, military and resistance forces, composed of the People's Defence Forces and several ethnic armed organisations have become increasingly confrontational in Myanmar.[1][2] The increase in armed conflict has led to attacks on civilians and civilian infrastructure, including the use of violence against civilians to suppress resistance.[3] As of 1 August 2024, the most intense fighting was concentrated in northern Shan State, Rakhine State, and northern Mandalay Region. Additionally, northern areas such as Bago, Chin,

Kayah, Kachin, Kayin, and Mon states, upper Sagaing and Magway regions, and several border areas are affected by military shelling and air strikes.[4] Attacks by the military have not been limited to resistance groups but have also significantly affected civilians. These attacks are arguably a violation of international humanitarian law. Therefore, a rapid response is required to protect civilians' lives. This article will analyse these attacks on civilians by the military in Myanmar from legal, illegal use of weapons, and the international response. It will also provide policy recommendations on how social and political action can be improved to stop human rights abuses and war crimes.

Documented attacks on civilians

Attacks on civilians in Myanmar have been recurring, resulting in numerous deaths and injuries, however the international legal protection of civilians in Myanmar is quite limited. The military has used airstrikes, artillery fire, and arson in its attacks. Regarding



Members of the Myanmar military march at a parade ground to mark Independence Day in Naypyidaw (2024, AFP)

airstrikes, the UN Special Rapporteur in Myanmar reported in June 2024 that military airstrikes targeting civilians in Myanmar increased by fivefold in the first half of this year.[5]

The most recent civilian casualty occurred on 20 July 2024, where a military airstrike in a market district in northern Shan State killed at least eight civilians and injured another eight.[6] At least 38 civilians were killed in the Lashio region in northern Shan State between 3 July and 19 July as the army and armed rebel groups engaged in fighting.[7] The total number of deaths between February 2021 to July 2024 were 5,467, of which 678 were children.[8] On 29 June 2024, a station hospital, a school, and houses were also damaged by artillery shelling by the military in War Bo village and village tract, Sittwe township and district, Rakhine state.[9] Myanmar's health care system was also attacked 143 times between 1 January and 11 June 2024.[10] Because of these incidents, five health workers have been killed and health facilities have been damaged 77 times.[11] Additionally, at least 174 schools and universities in Myanmar have been damaged by airstrikes, arson, shelling, and ground fighting between the military and armed rebel groups.[12] The Center for Information Resilience has recorded approximately 64 deaths and 106 injuries from these attacks. Attacks on medical facilities and schools affect civilians who need access to healthcare, as well as children's education.[13] This demonstrates that the military, seeking to gain a tactical advantage and intimidate the enemy, targets healthcare systems and schools—facilities unrelated to military operations—resulting in numerous civilian casualties and injuries.[14]

Protections under international law

International humanitarian law is designed to protect civilians from indiscriminate attacks by the military, and the Junta has arguably violated said law in its attacks on civilians. This is despite Myanmar having not ratified Additional Protocols I and II of the Geneva Conventions, which prohibit attacks on civilians, nor the Rome Statute, which would tie Myanmar to the International Criminal

Court (ICC) for any war crimes and crimes against humanity committed, nor the International Covenant on Civil and Political Rights, whose Article 6 protects the inherent right of every human being to life. [15][16][17][18]

The Independent Investigative Mechanism for Myanmar (IIMM) was established to investigate war crimes in Myanmar in 2018, but the role of the IIMM is to compile and analyse evidence of genocide, war crimes and crimes against humanity to assist the relevant authorities in leading investigations and prosecutions of suspected criminals for extra-criminal purposes, to deter further crimes. [21] Therefore, they cannot arrest, indict, or bring anyone to trial. The limited number of treaties ratified by the country and the limited reach of the Independent Investigative Mechanism for Myanmar makes it difficult for civilians to obtain legal protection from military attacks.

Allegations of chemical weapons use by the military

Resistance groups and anti-coup forces have alleged that the military regime has been using weapons banned and prohibited under international law that may cause unnecessary suffering to civilians.

In eastern Karen State's Kawkaik Township, thirty fighters claimed to have experienced symptoms from the attack, which they described as a "poison gas bomb". [22] One member of the armed group said his comrades had



Destruction at a school in Namsham, Shan State, after Myanmar military airstrikes on January 9, 2024 (2024, Human Rights Watch)

difficulty breathing and were vomiting.[23] The IIMM is currently investigating the use of chemical weapons in Myanmar.[24] Doctors who treated soldiers holed up near the front lines in Kachin State said a soldier experienced rapid necrosis not normally seen in wounds from explosions.[25] According to doctors, toxic substances could also cause such reactions.[26] It has also been reported that Myanmar's forces may have used incendiary weapons, highly concentrated tear gas, and white phosphorus.[27]

The Chemical Weapons Convention (CWC) prohibits the production, storage, and use of chemical weapons that have the potential to affect large numbers of people, including civilians.[28] These chemical weapons include herbicides and toxins that act on the central nervous system. [29] Myanmar has ratified the treaty, and any demonstrated use of poison gas by the military would be a violation of the treaty. [30] However, even in the event of a breach of the Convention, the CCW does not provide for specific criminal or direct penalties for the violation, and if a signatory violates the CWC under its own law, it will be punished or dealt with in accordance with the domestic law of the member state.[31] Currently, Myanmar's government, which should determine penalties and responses of domestic law, is using the military to attack civilians, so it is unlikely that Myanmar will be able to regulate the use of chemical weapons in the country. Therefore, although Myanmar has ratified the CCW, it has not been able to exert its legal effect and provide protection to the civilians.

The Convention on the Prohibition and Restriction of the Use of Certain Conventional Weapons (CCW) also restricts or prohibits the use of weapons that may cause "unnecessary or undue suffering" to soldiers or "indiscriminately affect the civilian population".[32] Signatories to the Convention may also be subject to punishment by the ICC. However, according to the UN, Myanmar is not among the 126 countries that have ratified or acceded to the Convention as of August 2024.[33] Since violations of the treaty

are not punishable, the military may actively use illegal weapons to advance the civil war. Therefore, there is concern about the impact on civilians in the event of future use of similar highly toxic weapons, incendiary weapons or white phosphorus, which have a greater impact on the human body.

International response

Many countries and organisations have taken a stance against attacks on civilians in Myanmar. On 2 February 2024 Matt Wells, the director of Amnesty International's crisis response programme stated "these attacks must be investigated as war crimes and the UN Security Council should refer the situation in Myanmar to the International Criminal Court. The perpetrators of these crimes under international law must be brought to justice." [34] On 6 June 2024, Stéphane Dujarric, UN Spokesperson to the Secretary-General expressed strong condemnation over the recent attacks by the Myanmar military in Rakhine State and Sagaing Region that reportedly claimed lives of many civilians.[35]

In 2021, the UN Security Council called for an arms embargo on Myanmar by countries to deter further human rights abuses by the military regime. [36] However, the UN General Assembly passed only a non-binding resolution, with 119 member states voting in favor and 36 countries



A protester holds an image of Senior General Min Aung Hlaing during an anti-coup march (2023, Getty Images)

Conclusion

The conflict in Myanmar has led to severe escalation in violence against civilians. Attacks on civilian infrastructure, including hospitals and schools, demonstrates a flagrant disregard for international humanitarian law. Despite the seriousness of the situation, international legal protections, and the will of the international community to hold the Junta to account, are inadequate, hindering efforts to protect civilians from these atrocities. International responses have been mixed, with some countries and organisations calling for investigations and arms embargoes, but the effectiveness of these measures has been undermined by geopolitical interests and incomplete implementation. Continuing arms trade with countries such as China, Russia and India have exacerbated the conflict and has a direct impact on civilians. A more robust international response is needed to address this crisis and improve protection of civilians. This includes strengthening the arms embargo, increasing humanitarian assistance, and more comprehensive legal action against perpetrators. Also crucial is increased international cooperation and pressure on countries that continue to support the Myanmar military. The situation in Myanmar calls for international cooperation to strengthen legal frameworks, provide practical assistance to affected communities, and hold war criminals accountable. It is through such decisive action that the international community can alleviate civilian suffering and make progress towards resolving the conflict.

Policy recommendations

- Although Myanmar is not a member of the ICC, the court still in a position to pursue allegations of war crimes and crimes against humanity in Myanmar. To deter and prevent illegal attacks by the military on civilian populations and civilian objects, the ICC should issue arrest warrants for the accused as soon as possible.

- The IIMM should rapidly investigate the use of chemical weapons in Myanmar. If substantiated, the international community needs to intervene to remove any chemical weapons in Myanmar that can be used against civilians.
- UN member states should facilitate restrictions on arms trade by China, Russia, India, Singapore, Thailand, and Israel to the Myanmar military.

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