

Selected developments in human rights and democratisation during 2018: Could it have been worse? Mixed messages around democracy and human rights in the Asia Pacific

Ravi Prakash Vyas,* Mike Hayes,** Nanang Indra Kurniawan*** and Longgina Novadona Bayo****

Abstract: During 2018 the downward slide in human rights and democracy across the Asia Pacific region was slowed down, but not reversed. Many of the concerns gripping the region, such as the treatment of the Rohingya by the Myanmar state, the violence of the Duterte regime in the Philippines, and China's cavalier attitude towards rights, remained shocking but did not worsen. In a few areas human rights or democracy improved. One shining light is the Malaysian election where the heavily corrupt governing party, which had been in power since Malaysia's independence, was voted out. Even though the party controlled the media, manipulated the electoral system, and used a campaign of misinformation during the election, Malaysians bravely voted for a more democratic future. Across the region concerns have been raised about China's increasing economic, political and military influence, but at the same time others have praised the development it has enabled. Global trends, such as the #metoo movement, the global conference on climate change, and the Global Migration Compact have had an impact on the region, but not enough to declare the region to be positively embracing these developments. All these factors show that there is a mixed response to human rights and democracy: The existence of serious violations and disturbing trends means that the region remains in an epoch where authoritarianism holds sway. The actions of these governments are open to condemnation by civil society and the possibility of a change in opinion about these actions. However, there is little evidence that this will happen in the near future.

Key words: human rights; democratisation; Asia Pacific; Rohingya; Duterte regime; human rights in China; authoritarianism

* BA LLB (Hons) (GGSIU, India) MHRD (The University of Sydney, Australia); Assistant Professor of International Law and Human Rights, Kathmandu School of Law, Nepal; Project Coordinator of the APMA Programme under the Global Campus of Human Rights; rpyyas@ksl.edu.np

** PhD (Wollongong University); Programme Director of the APMA programme; Lecturer, Institute of Human Rights and Peace Studies, Mahidol University.

*** PhD (Melbourne University); Lecturer, Department of Politics and Government Sciences, Universitas Gadjah Mada.

**** MA (Universitas Gadjah Mada); Lecturer, Department of Politics and Government Sciences, Universitas Gadjah Mada, novabayo@ugm.ac.id

1 Key issues

1.1 The Rohingya crisis

For the past four years the Rohingya crisis has continued to constitute one of the most significant systematic human rights violations in the region. Historically, there has been tension between the Myanmar state and the Rohingya minority living in Rakhine state in Western Myanmar, which is one of hundreds of ethnic, minority and indigenous groups in Myanmar. The Rohingyas have always lived in this area, although they share ethnic and religious similarities with neighbouring Bangladesh, and there has been a history of migration between Bangladesh and Rakhine state. Rohingyas face discrimination and threats of expulsion primarily from Buddhist Nationalists because of being Muslim. The military also has targeted this minority as a way of empowering the programme of 'Burmanisation', a policy to ensure that Myanmar's Buddhist, Bamar¹ majority maintains dominance (Burlie 2008).

Since the campaign of ethnic cleansing started in 2017, more than 730 000 Rohingya have been forced across the border to Bangladesh, escaping persecutions, killings, enforced disappearances, sexual violence and starvation. According to Human Rights Watch (2018a), the government did not allow independent investigators to access the conflict area and also punished local journalists for reporting on military abuses. Amnesty International (2018a) also stated that evidence demonstrates that the violence in Myanmar forms part of a well-planned, systematic attack by state forces. For most people fleeing ethnic cleansing Bangladesh is the destination, with over one million refugees currently in the country, although some move on, with populations of Rohingya in Malaysia, Saudi Arabia and Indonesia. While the exodus of Rohingya has slowed down from its peak in 2017, Rohingya in the Rakhine state continue to flee. Many find the conditions of their internment camps in Myanmar unliveable. The camps, apparently constructed to ensure the safety of the Rohingyas, do not provide basic living conditions.

The United Nations (UN) initiated a three-person² fact-finding mission on Myanmar in March 2017. Their report, released in September 2018, called for the prosecution of five leading military figures, calling their actions 'ethnic cleansing' occurring with 'genocide intent'.³ The report detailed war crimes, crimes against humanity and systematic rape. With support from the UN Secretary-General, Antonio Guterres,⁴ the UN Human Rights Council formed the UN Independent International Fact-Finding Mission on Myanmar to investigate violations and collect evidence resulting from the findings of the first mission. Throughout this process the Myanmar government has denied all accusations, claiming that the

1 Bamar (sometimes spelt Burman) are the largest ethnicity in Myanmar, making up approximately 68% of the population, and living along the Ayeyarwadi river and in cities such as Yangon and Mandalay.

2 The members were: Marzuki Dariusman from Indonesia (who previous sat on bodies investigating Benazir Bhutto's assassination and war crimes in Sri Lanka), Ms. Radhika Coomaraswamy from Sri Lanka (who previously was the special rapporteur for violence against women), and Chris Sidoti from Australia (who was once on the Chair of the Australian Human Rights Commission).

3 See the fact finding report Para 84-87 (Human Rights Council 2018).

4 See in particular Secretary General (2018)

report did not reflect the reality on the ground. Aung San Suu Kyi, once seen as the hero of the democratic movement and a leading figure in the human rights movement, faced criticism from the international community, first for her failure to act, and later for her complicity in the denial of the atrocities. Her name has been removed from various awards and is no longer praised in civil society (Goldberg 2018). Facebook was widely criticised as the platform used to spread hate speech among the Buddhist Nationalists and supporters of the ethnic cleansing. As it is one of the few social media platforms to have Burmese script, it is extremely popular in Myanmar, and for many was their introduction to the internet. However, this group of early internet users had little experience in social media, and may not have had the skills to identify the many false claims made on this platform (Mozur 2018; BBC trending 2008). By the end of 2018 little had been achieved to address the situation. Myanmar claimed that it was willing to take back refugees, and around 2 000 people were reported to have returned, but this number is low given the one million refugees in neighbouring countries. UN investigations continue, but it is unlikely that the Myanmar military generals will face trial, as Security Council members such as China indicated that they do not support an International Criminal Court (ICC) investigation. These questions of accountability of the generals will be addressed in 2019.

1.2 China's influence in the region

China's influence regarding human rights in the region is threefold. China influences the human rights standards in countries it supports either politically or economically; it influences human rights processes at UN bodies by promoting its own views on human rights, and it influences how human rights violations are reported in its own country. These will be discussed in turn. First, China's economic and social development has for some enabled development, expanded economies, and increased opportunities for trade. China has replaced the often-disliked interventionist economic policies of the World Bank and the International Monetary Fund (IMF) with less restrictive access to loans. Furthermore, the large-scale infrastructure plan of the Belt and Road Initiative (BRI) is expected to boost the economy of lesser-developed countries, such as Pakistan, Sri Lanka and Laos PDR. On the other hand, critics are concerned that China's economic influence been accompanied by territorial expansion, particularly its claim over large parts of the South China Sea (which has been rejected by the Tribunal for the Convention of the Law of the Sea). The economic expansion may also influence politics in the region, for example by propping up undemocratic states or creating a 'new form of colonialism' as stated by Malaysian leader Mahathir Mohamed (ABC 2018). For South Asia, it is asked whether Chinese diplomacy on human rights affects the adoption of the internationally-accepted rights in the South Asian countries.

Second, at the UN China has in the past few years been developing its own theory of human rights. This was elaborated at the recent Universal Periodic Review (UPR) review of China in November 2018, where China explained its new 'concept and theoretical system of human rights with Chinese characteristics' which is the title of a section in the State Under Review report to the UPR process (Worden 2018; Sinopsis 2018). This occurs alongside rising concerns about China's practice of interfering in UN human rights activities, to the extent that a Human Rights Watch

report notes that the 'Chinese delegation's actions have been described as marred by bullying, harassment, and interference' (HRW 2018: 43). The Chinese 'characteristics' of human rights are the emphasis given to the right to development over civil and political rights, alongside the emphasis put on 'national characteristics', meaning that the state's interpretation of rights has priority over the universal interpretation. This 'theory' of human rights harks back to the Asian Values debate prominent in the 1990s, where leaders such as Singapore's Lee Quan Yew and Malaysia's Mahathir Mohammed espoused the view that Asian countries should comply with a different set of human rights, where duties to the community outweigh individual freedoms, and rights only come with obedience to authority. These views were widely rejected, particularly after the 1997 economic crisis which showed that the basis of development over rights relied purely on people's willingness to remain quiet while the economy grew; once there was an economic downturn people demanded participation in politics and held their leaders to account – what should have been very un-Asian values. The key elements of Asian Values have returned in China's version of human rights.

Third, China has to defend its human rights record at home with revelations about the Uyghur re-education camps, first by Human Rights Watch in September 2017 (HRW 2017), but later noted in numerous news and diplomatic reports during 2018. The Xinjiang Uighur Autonomous Region (XUAR) has had unrest and seen separatist movements from the Uyghur ethnic minority. As a response the Chinese government has accused Uyghurs of terrorism and being an 'evil cult'. This has resulted in police harassment, torture, arbitrary detention and imprisonment (HRW 2019a). A 'De-Extremification Regulation' has been enacted in the Autonomous Region, prohibiting a wide range of behaviours labelled 'extremist', such as spreading 'extremist thought', denigrating or refusing to watch public radio and television programmes, wearing burkas, having an 'abnormal' beard, resisting national policies, and reading publications containing 'extremist content' (Amnesty International 2018b). While it is difficult to determine the exact size and function of the camps, they are estimated to have between 100 000 and three million detainees, although the BBC reports around one million detainees (BBC 2018; Stewart 2019), and they are for the function of 're-education', especially by using the thoughts of Chinese leaders such as Xi Jinping, swearing allegiance to China, and undergo self-criticism (Jiang 2018). However, people are mostly detained arbitrarily, with males targeted and families separated. China has denied any violations and claims that the camps are used for education to change potential terrorists' views and prepare them for re-entry into the community.

Another area of concern is China's control and use of technology. China continues to block social media sites such as Facebook (and its applications of Instagram and WhatsApp), but promotes the use of its own social media platforms, although there are questions about the privacy on these platforms. China has been widely criticised for its implementation of cybersecurity law which became effective in June 2018, making it obligatory for internet companies operating in China to censor users' content, and collecting a wide range of personal information through the WeChat which is by far the dominant messaging service (Amnesty International 2018b). China's use of data for surveillance over its population, and its export of this technology to other countries raise

concern. Chinese authorities also continue to harass and detain journalists who cover issues of human rights.

1.3 Ethnic and religious extremism

There are a number of hotspots of ethnic and religious extremism across the region. One of the largest is the government response to the Uyghurs in Xingjiang province in China, as noted above. In India, according to the US Commission for International Religious Freedom report, 'in 2018 religious freedom conditions in India continued a downward trend' (USCIRF 2019). The trend may be linked to the rise in Hindu nationalism, or what the report calls 'the growth of exclusionary extremist narratives' (USCIRF 2019). The government has engaged in attacks against religious minorities by directly or indirectly conducting abuses, killings and abductions, often for supposed 'forced conversions'. There have been cow protection mobs attacking Muslim dairy, leather and beef businesses. In neighbouring Bangladesh, armed groups have targeted Shi'a Muslims. Blasphemy laws that carry the death penalty are used against minority groups in Pakistan. In several countries of Southeast Asia the protection of freedom of religion is also characterised by direct and indirect contributions to the violence by the state. Myanmar has the on-going conflict and abuse by security forces of the Rohingya Muslims, and religious minorities in Vietnam face widespread discrimination. Under such conditions, members of religious minorities were vulnerable and subjected to continuous attacks.

Indonesia specifically has witnessed infringements of freedom of religion through three interrelated activities: the tolerance of hate-speech; claims of blasphemy; and the destruction of places of worship. At least 22 people experienced prosecution under the blasphemy law since Widodo took power in 2014 (Pearson 2018). Aside from the case of Ahok – an ethnic Chinese, Christian former governor of Indonesia's capital who is a well-known victim of this law – numerous other cases have emerged. In August 2018 an ethnic Chinese, Buddhist woman, Meliana, was found guilty of blasphemy and was sentenced to 18 months' imprisonment by a North Sumatran court when she complained of the speaker volume of *adhan* (or the Islamic call to prayer) from a nearby mosque being too loud. The case sparked tension between Buddhists and Muslims in the region, triggering a riot that resulted in the burning down of Meliana's house, several *Vihara* (Buddhist monasteries) and Chinese temples. Some national leaders opposed her prosecution, but others who were well-represented by Zainut Tauhid Sa'adi (Deputy Chairperson of the Council of Indonesian *Ulama* in Jakarta) argued that Meliana used sarcastic words with a ridiculous tone which can be regarded as blasphemy towards Islam.

The case of Meliana demonstrates how minor or personal disputes can rapidly escalate due to the politicisation of religion, resulting in a dangerous fault line between minority and majority social groups. The confrontation was energised by (and resulted in) hoax and provocative messages spreading on social media. According to Suryadinata (2018), ethnic-religious friction between Muslims and non-Muslims, also between Chinese and non-Chinese, persists through the long-lasting social and economic gap between the two. While Muslims blamed the non-Muslims for growing wealthier at their expense, the Chinese and other non-Muslims remain unaware of the Muslim's deep-rooted antipathy towards

them. As the tensions persist, there are no initiatives for reliable channels for communication or negotiation between the groups. In December 2018 local communities in Purbayan Village Yogyakarta, where the majority of residents are Muslims, cut off and destroyed the cross-shaped headstone on a Christian grave in a public cemetery, arguing that the religious symbol was not allowed in the village. Claiming community consensus, local people stated that the dead can be buried without any Christian symbol and that that should be done at the edge of the cemetery, insisting that the centre would in the future be for Muslims only. While religious pluralism is acknowledged, it is not substantially embraced by local communities.

According to Human Rights Watch the Widodo government has failed to realise support for human rights into substantive and meaningful policy initiatives to address religious intolerance (HRW 2019b). An earlier Wahid Foundation report from a 2016 survey noted that numerous cases of violations against religious freedoms were also actively carried out by non-state actors (Wahid Foundation 2017). Religious minorities continued to experience intimidation from government-affiliated institutions and also faced various types of threats of violence from Muslim extremist groups, specifically the Islamic Defenders Front (FPI). The Asia-Pacific Centre for the Responsibility to Protect stated that the most compelling risk in Indonesia was the potential of communal violence between religious minorities and the majority Muslim population (APCR2P 2018). However, the government tends to rely on short-term solutions rather than confronting a deeper, on-going low-level sectarian violence that divides Indonesia.

1.4 #metoo in the region

For many countries in the world the #metoo movement led to the fall of celebrities and the increased concern about women's safety from harassment and sexual violence. The response in the Asia Pacific was more muted. China's #metoo movement gained momentum as prominent academics, journalists and activists were accused on social media of sexual misconduct (Repnikova & Zhou 2018). The movement, as most social movements in China, had to proceed with caution; feminist leaders of a similar movement only three years before were detained before being released on bail, all for claiming an end to sexual harassment (Zheng 2017). China is now considering introducing measures to tackle sexual harassment in the workplace through a draft civil code, which is set to be completed by the end of 2020 (Nathani 2018). However, in neighbouring Japan there were far fewer success stories. This is not because women are better protected, as the scandal over entrance to the top medical college shows that sexism is institutionally ingrained in even the most prominent social institutions. The Tokyo Medical University admitted that for over a decade it had manipulated women's scores to prevent them from gaining entrance, which was soon followed by admissions to two other universities. Experts had suspected that this was the case as only about 30 per cent of enrolments were for women, a number that had curiously not changed even though more women were taking the examinations. The excuses given reflect the deeply-ingrained patriarchal attitude of the education officials: Women were more likely to leave to have families, or because women matured earlier it was making the examination unfair for the less biologically-developed males (Haynes 2018). A similar issue is

found in Myanmar, where the entrance score for medical college depends on gender: Women applicants must score higher marks (Soe 2014).

The #metoo movement did have knock-on effects throughout the region with women in South Korea, Thailand, the Philippines and India initiating social movements, although with limited impact. Each of these countries faces a deeply-entrenched male culture of control. This is obvious in the Philippines where the leader, President Rodrigo Duterte, is known for his sexist comments including rape jokes, cat-calling, and supporting violence against women. In Thailand the military junta oversees a government with the lowest participation of female politicians in the Southeast Asian region, and whose leader is known for sexist comments, including his statement that gender equality will lead to social deterioration and that a women's main purpose is giving birth (Coconuts 2016). India has done little to reduce the widespread violence against women, with a Thomson Reuters Foundation 2018 survey ranking it the most dangerous place in the world for women. Apart from women there has been few developments in rights on sexuality and gender identity. By the end of 2018 only Australia and New Zealand recognised same-sex marriage (although Taiwan was to recognise this right in early 2019). The Chinese government continues to disregard lesbian, gay, bisexual, transgender and intersex (LGBTI) rights, as was made evident by its appeal against the decision in April of the court of first instance ruling that the government's refusal to extend work benefits to the same-sex husband of a civil servant was discrimination based on sexual orientation. A later decision by the Court of Appeal, which ruled that the Immigration Department's refusal to grant a dependant visa to a same-sex civil partner of a foreign professional on a work visa was discriminatory, was also upheld (Amnesty International 2018).

1.5 Indigenous rights

Indigenous people in most parts of the world have been facing systemic discrimination and exclusion from economic and political power. This can be seen from complex threats to their survival such as land dispossession, oppression, as well appropriation of collective resources and knowledge (Bengwayan 2003). Even though there are various global efforts to overcome these discriminatory practices, oppression and marginalisation still occur. There is a lack of participation in decision making, and recognition of indigenous rights throughout the region. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and other international laws make available standards for indigenous people in Asia Pacific to demand national governments to recognise their rights to land and respect for their cultures and ways of life. The instruments provide a basis for legal protection for indigenous people and their land from global capitalism (Radcliffe 2019). However, as shown by cases in Asia Pacific, indigenous people struggle to enforce these rights on governments. It has been noted that the instruments often 'fit quite comfortably with – and was perhaps even facilitated by – neoliberal development models' (Engle 2011). In the Asia Pacific this situation is worsening with the expansion of state developmental projects and investments which demand large areas of land. In Indonesia the state has partially recognised indigenous rights to land, but only in a commercial sense with the establishment of tenured security to induce higher investments by connecting and integrating various extra-legal (or

informal) property systems with a formal legal property system. Between 2016 and 2018 Indonesia's central government handed over customary forests to 18 indigenous communities, and then launched the Complete Systematic Land Registration Programme, to formally register all land in Indonesia by 2025. Yet, the concern is that instead of protecting indigenous land, the formal registration opens this land up to be bought and sold, which may lead to indigenous lands being disposed from its indigenous owners.

In other parts of Asia indigenous people are threatened by the state seeking to expand direct control over land. In September 2018 an amendment to the Vacant, Fallow and Virgin (VFV) Lands Management Law was passed in Myanmar. According to this amendment, all people on VFV land have to apply for a permit by March 2019. Approximately one-thirds of land in Myanmar is regarded by the state as being vacant, fallow or virgin land, with most of this land being located in ethnic states. Civil society organisations in Myanmar see this law as problematic as it ignores the fact that many indigenous people have been using these 'vacant' lands under their traditional laws.

A 2018 report by UN Special Rapporteur on the Rights of Indigenous Peoples shows the increased use of physical violence and criminalisation against indigenous peoples (OHCHR 2018), practices that also take place in India and the Philippines. According to the report, there is criminalisation of indigenous leaders and community members who voice opposition to projects related to extractive industries, agri-business, infrastructure, hydro-electric dams and logging. This process often leads to 'the prohibition of indigenous traditional livelihoods and the arrest, detention, forced eviction and violations of other human rights of indigenous peoples' (OHCHR 2018: 2). In the Philippines, for instance, one of the most prominent figures in the global movement for indigenous rights, Victoria Tauli-Corpuz, is included on a list of suspected terrorists by the government (Jacobson 2018). Recently, conservation projects have contributed to the worsening of indigenous human rights and many indigenous communities in Asia who rely on forests for their livelihood opposed conservation projects because the projects may convert their ancestral forests into protected areas. This can be seen, for instance, from the resistance of the Karen group in Tanintharyi Region, Myanmar, against the government's plan to establish a national park in their area in early 2018. The local communities say that the conservation plan would make it illegal for them to use forests within the designated area of the national park for their livelihood (Mon 2018). As the UN report states, 'indigenous people's ways of life and subsistence are deemed illegal or incompatible with conservation policies' (OHCHR 2018: 2).

2 Democratisation

2.1 National elections: Malaysia

The victory of the opposition Pakatan Harapan (PH) coalition party in the Malaysia national election held in May was a brief moment of hope for democracy and human rights in the region. The incumbent Barisan Nasional (BN) coalition had held power in various forms since Malaysia's independence in 1955. More recently its leader, Prime Minister Najib

Razak, has been questioned for corruption mainly involving the state sovereign wealth fund, 1MBD. The details of the corruption emerged in the previous years, with between \$4 to 5 billion taken from the 1MBD fund, and Razak himself having been found with \$600 million in his personal bank account. Investigations into this fund were started in several countries, including the United States, Singapore and Switzerland. Regardless of these irregularities there was no investigation in Malaysia, and members of parliament, including the Attorney-General, who raised concerns were dismissed or replaced. Efforts were made to keep this news from the Malaysian public, with a compliant national media not reporting on this story, and critical news media was closed, censored or banned. In the run-up to the elections attempts were made to gerrymander the results with the BN having smaller seats, and the opposition PH party voters corralled into seats sometimes twice as large as the average BN seat (Leong & Rodzi 2018). Further complaints were lodged about the overseas votes not being counted, ballot stuffing, vote buying, and the delay of the election results. Nevertheless, the opposition party won its first election.

While this presents much hope for democracy in the region, there are caveats. The opposition party won in part because it has Mohammed Mahathir as its leader, giving a safe choice for conservative Muslim voters not to vote for BN for the first time. Mahathir is an architect of the one-party dominant system during his over 20 years as leader of the BN. Further, he cannot be claimed as a defender of rights and democracy because of his well-known socially-conservative values and opposition to human rights. This is seen in subsequent actions regarding human rights in Malaysia since the election. Soon after the election there were moves to ratify human rights treaties, with the government initially saying it would ratify the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the Rome Statute. However, both these moves have been halted, primarily because of a campaign of misinformation by the ousted political parties. Malaysia currently has policies that give preference to ethnic Malays in some areas of education, land ownership, and business that were threatened to be taken away if ICERD was ratified. Most of the claims about ICERD were untrue, but the effective social media campaign, street protests, and support from pro-Malay and Islamic groups were too effective and the ruling party pulled out of signing ICERD by late 2018, and had withdrawn from agreeing to join the ICC by early 2019.

2.2 Other elections across the region: Bangladesh, Maldives, Cambodia and Timor Leste

A disturbing trend in the region is the manipulation of the election process by authoritarian regimes as they attempt to maintain power through unfair elections. The cases of the Bangladesh and Maldives national elections demonstrate this. Bangladesh completed its eleventh general election in December 2018, where Sheikh Hasina from Awami League was elected Prime Minister, but under questionable circumstances. Her chief rival, Khaleda Zia, leader of Bangladesh National Party (BNP), was barred from contesting the elections because of a corruption conviction and the opposition alliance, the Jatiya Oikya Front (National Unity Front) was successful in securing only eight of the 300 seats up for election. The chief of Bangladesh Election Commission denied any irregularities during the election, although reports tell another story. The election soon turned

hostile with security forces arresting and intimidating opposition figures and dissenting voices. Members and supporters of opposition parties were arrested, killed or disappeared with reports indicating the involvement of the ruling party in some of these incidents. The motorcade of opposition politician Dr Kamal Hossain was attacked, and between 9 and 12 December, 47 incidents of violence were reported in which eight people were killed and 560 were injured (OHCHR 2018). Although the right to vote and a free press are essential to democracy, these were not evident during the Bangladesh election. The replacement of the Information Communication Technology Act by the Digital Security Act (DSA) in October created restrictions on freedom of expression and prohibited investigative journalism that could have prevented rigging during the election. The Rapid Action Battalion (RAB)⁵ was tasked with monitoring social media for 'anti-state propaganda, rumours, fake news, and provocations' (HRW 2018c). The presence of election observers is important to ensure transparency. While they may not be able to stop the rigging of elections, they can point out existing irregularities. The Bangladesh government did not issue accreditations or visas within the timeframe necessary to conduct a credible international monitoring mission. Only seven of the 22 election non-governmental organisation (NGO) groups were approved to conduct domestic election observation (US Department of State 2018). The largest Asian independent election observing body ANFREL (Asian Network for Free Elections) terminated its decision to participate as observer because of significant delays in the accreditation approval by the Bangladesh Election Commission and visa approvals by the Ministry of Foreign Affairs (ANFREL 2018a). The 2018 elections marked the second lowest number of observers in two decades.

The 2018 Maldivian election took place among uncertainty and an unstable political landscape in the country, although there was 89,22 per cent voter turnout. Elections should give people a choice among candidates from various backgrounds, but this failed to materialise in the 2018 Maldivian election. In the run-up to the election, all opposition leaders were incarcerated through trials characterised as irregular and were barred from contesting in the election. This created obstacles to conduct fair and impartial elections since opposition candidates and parties did not have equal space and opportunity to access public facilities to organise their campaigns and political activities (Transparency Maldives 2019). ANFREL concluded that although the pre-election environment was systematically set up to favour the outgoing President, the issues observed on election day itself were not serious enough to impact the outcome of the election and called for an orderly transfer of power (ANFREL 2018b). The joint opposition candidate, Ibrahim Mohamed Solih, defeated then President Abdulla Yameen Abdul Gayoom by a wide margin in September 2018, but the outgoing President then attempted to sabotage the transfer of power. The outgoing President announced a state of emergency, suspending constitutional protections, banning public assemblies, and granting security forces sweeping powers to arrest and detain (HRW 2018d). These two examples of failed elections demonstrate the fragility of democracy in the region as entrenched interests attempt to maintain their power through manipulated election results.

5 The RAB is a paramilitary force implicated in serious human rights violations including extra-judicial killings and enforced disappearances.

National elections in several countries in Asia Pacific during 2018 show the strengthening of two phenomena: political violence and identity politics. In Cambodia political violence was intense during the election. The Cambodian government under Prime Minister Hun Sen arrested the leader of the main opposition party (Cambodia National Rescue Party/CNRP) and dissolved it. Several political activists and the journalists who criticised Hun Sen were targeted for arrest and kidnapping. The government was also accused of involvement in four extra-judicial killings of activist and opposition members who challenged Hun Sen's leadership. This situation created fear and pressure among the Cambodian voters during the election. Without a genuine opposition, Cambodians were forced to vote for the ruling Cambodian People's Party (CPP). A HRW report details the extensive and systemic support of the military and police officers to mobilise votes for CPP in the election (HRW 2018b). As a result, CPP won all 125 National Assembly seats.

Another election in the Asia Pacific region took place in Timor Leste in 2018. Timor Leste conducted two elections within a year because the minority government of the 2017 election collapsed as the opposition thwarted the government's new budget proposal. In 2017 the Fretilin Party led by Prime Minister Alkatiri narrowly won a 0.2 per cent victory against the CNRT (National Congress for Timor Reconstruction), a party led by Xanana Gusmao. Timor Leste President Francisco 'Lu Olo' Guterres dissolved parliament in early 2018 and demanded another election. Xanana Gusmao's opposition coalition won the election. Even though the election was peaceful, there were cases of violence. Supporters of the Fretilin were in conflict with supporters of the AMP coalition party with 18 people injured and several vehicles burnt in violence in Baucau.

3 Update on regional bodies

3.1 Association of Southeast Asian Nations

Responses from ASEAN towards numerous crises and human rights violations in the region represent a weak and unreliable conflict resolution mechanism, known as 'constructive engagement'. While the responsible body in ASEAN, the ASEAN Intergovernmental Commission on Human Rights (AICHR) was established in 2009, and is known to have strong human rights advocates sitting as commissioners, it has yet to adopt significant and meaningful measures to solve the human rights crises throughout the region. There was a slight change in 2018 when ASEAN undertook its first activities: a visit to Myanmar and Bangladesh by an ASEAN delegation, and its humanitarian body, ASEAN humanitarian Assistance (AHA) was called upon to assist in repatriation. However, these measures were weak in comparison to the stronger response of individual members, most notably Malaysia and Indonesia (Tani 2018). This also reflected actions of AICHR, namely, strong responses from the Indonesian and Malaysia representatives, but no statements from the body itself. As in previous years, the norms of 'ASEAN way' have hampered the possibilities of member states to respond to human rights issues as the non-interference principle, which is rooted in the traditional concept of sovereignty, is not suitable to the current international and regional context, where AICHR has been active in working on the rights of persons with disabilities, and its thematic studies on legal aid, women affected by

natural disasters and juvenile justice. Studies and high-level meetings covered issues such as business and human rights, rights to water, and freedom of expression in the information age (AICHR 2018). AICHR also works alongside the Women and Children's Commission (ACWC) and the ASEAN Committee on Migrant Workers. While the ACWC remains an active body, the Committee on Migrant Workers, with only annual meetings, and quite divided support, has achieved little in its work over the past decade.

3.2 South Asian Association for Regional Cooperation

The South Asian Association for Regional Cooperation (SAARC), the regional body for India and its neighbours, has not established a regional human rights mechanism. The principle of non-interference and the exclusion of contentious issues found in article 2 of the SAARC Charter is one reason why this has not been done. The lack of unanimity on the part of the SAARC nations to hold an already-deferred SAARC summit exhibits the lack of urgency by this body to address critical issues surrounding South Asia. SAARC last met in 2014, and is next scheduled to meet in 2020, after the 2016 meeting was boycotted by India and four other nations. While there have been meetings of SAARC administrative bodies, there have been no activities around human rights. However, SAARC is slightly more active in the field of terrorism, which has long been of crucial importance in the region given that South Asia has been the hub of Islamist extremism. Terrorism in South Asia by radical Muslims has replaced insurgencies as the primary security concern, and this occurs in the context of two nuclear powers, India and Pakistan. For more than 20 years SAARC has been known to work on peace keeping, border security and law enforcement issues since it adopted a Regional Convention on the Suppression of Terrorism that called for cooperation among its member states on extradition, evidence sharing, and other information exchanges. A SAARC Terrorists Offences Monitoring Desk (STOMD) was also established for monitoring the Convention. However, sensitivities challenge the co-operation. Although experts in the region agree that trans-border terrorism and organised crime cannot be controlled without regional co-operation, it is difficult to get agreement within SAARC on such a sensitive matter. For example, Maoist insurgents now operating across the region share many features with the Indian Maoist insurgents, the Naxalites. However, Maoists in Nepal sit in government while those still active in Central Indian tribal hills are called terrorists by the Indian Prime Minister and are 'the biggest threat to national security'.

3.3 Pacific Island Forum

The Pacific Island Forum is dominated by issues of climate change and development, and there is no body dedicated to human rights. However, on its agenda are activities on domestic violence and gender equality. The Pacific Islands nations are some of the last to ratify CEDAW, mainly because of misbeliefs around abortion and same-sex marriage, but also because of strong opposition from Christian religious groups who are politically strong in the region (WUNRN 2016). Many Pacific Island political and legal systems favour males, with Tonga, for instance, allocating a plot of land to all males over the age of 16, without any similar benefit for women (WUNRN 2016). Human rights are part of the PIF foreign policy, with its interest in human rights in West Papua a concern

noted in the Communiqué resulting from the forty-ninth forum of the PIF in Nauru in September 2018. This is the only time human rights were mentioned in the 2018 Forum.

4 United Nations update

A number of core human rights conventions were ratified across the Asia Pacific. Fiji ratified both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Cultural, Economic and Social Rights (ICESCR), and the Marshall Islands ratified ICESCR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). While this demonstrates advancements towards the universal acceptance of human rights, two sub-regions of the Asia Pacific lag behind the rest of the world as far as treaty ratification is concerned: Southeast Asia and the Pacific Islands. For Southeast Asia, the response is mixed with some countries with a near total ratification record, but Malaysia, Singapore and Brunei DS have ratified only two or three core treaties. Across the 14 Pacific Island countries, only one, the Marshall Islands, has ratified more than 10 conventions including optional protocols, and four have ratified fewer than four conventions. A notable event was the protests in Malaysia on the ratification of the ICERD treaty, detailed above in part 3.1. In South Asia many human rights treaties relevant to the region remain non-ratified. Although Nepal sends many migrant workers abroad, it is yet to ratify the Migrant Workers Convention. Bangladesh with systematic problems with enforced disappearances and 'fake encounters' is yet to ratify the Convention for Protection of All Persons from Enforced Disappearances, while Bhutan, which is praised in the world community for its environment-friendly policy (and being the only carbon-negative country) still has not ratified ICCPR or ICESCR.

During 2018 there were periodic reviews for China, Bangladesh and Malaysia. The Chinese review was noted for its politicisation, with pro-China countries taking up much of the review time (Worden 2018), and the Chinese delegation rejecting criticisms as 'politically driven' (Kuo 2018). China supported 207 out of 284 recommendations (although it must be remembered that many recommending states were politically allied to China). The Bangladesh government accepted 167 of the 251 recommendations, although it refused to accept recommendations on the death penalty, LGBT rights and the ratification of treaties (*Dhaka Tribune* 2018; FIDH 2018). For the Asia Pacific the other significant events at the UN for the Asia Pacific were the findings of the fact-finding mission in Myanmar (described in part 1.1).

A number of important actions at the UN level occurred in 2018 in relation to migration and climate change. The Global Compact for Safe, Orderly and Regular Migration (GCM) was accepted on 10 December (Human Rights Day), and plans to implement the Paris Agreement on climate change (COP 24) were made in Poland on 15 December. The GCM did not receive universal support with five states voting against, and 12 abstaining (mainly from Europe), although the resolution passed with 164 states agreeing to the document. The trend is for governments to oppose migration, with some European states taking strong anti-immigration stances. It should be noted that from the Asia Pacific only

North Korea and Afghanistan did not vote. All countries supported the COP 24 document, but many important and difficult issues were left out of the agreement because of a lack of agreement between the participants (Carbon Brief 2018). Similarly, many states are not strongly committed to counter climate change and unwilling to make financial and policy commitments to reducing carbon emissions. In the Asia Pacific region there is strong support for countering climate change, with the Pacific Islands leading the advocacy. As the Pacific Small Island Developing States declared in their Statement before COP 24 (COP 23 Fiji 2018):

We firmly believe that the COP24 ... is a pivotal moment in human history. The world must take heed of the Intergovernmental Panel on Climate Change (IPCC) Special Report on the impacts of global warming ... and take dramatic and urgent steps to decarbonise the global economy and assist those at the frontline of climate change impacts. Our future is at stake.

Even China was noted to have changed its position from recalcitrance to support of combating climate change (Hartzell 2019). It is somewhat reassuring that in these two important areas there is a support across the Asia Pacific. However, similar widespread support for human rights and democratisation is yet to be found. The region is willing to invest in problems that it sees as immediate and relevant, but not yet to put in place a longer-term infrastructure of human rights and the rule of law. The systemic problems of reduced political freedoms and discrimination are yet to be solved. While the year 2018 did not see the plummeting of rights that occurred in 2016 and 2017, there were no major reversals of human rights standards. Matters have not worsened, but they have also not improved.

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