

## Selected regional developments in human rights and democratisation in the Asia Pacific during 2019: Prospects turned into plights

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**Abstract:** *The international community marking the anniversaries of international organisations and treaty bodies, along with the realisation of human rights bolstered by technology, opened windows for upholding human rights and democratisation in the Asia Pacific. However, despite these prospects, the use of technology as a pretext of national security and impeding freedom of expression, assembly and association, as well as increasing mob violence and lynching, suggest that the development of human rights and democratisation in the Asia Pacific continued its downward trend in the year 2019. With elections in some parts of the Asia Pacific, concerns about upholding human rights in the present and future were raised. States that have ratified human rights treaties, and are part of regional mechanisms that advocate upholding human rights, remain reluctant to fulfil their duties. Although the steps taken by regional mechanisms along the UN are positive in upholding and advocating human rights, the consequences of those steps remain unsatisfactory.*

**Key words:** *human rights; democratisation, Asia Pacific; technology; freedom of expression; freedom of assembly; workers' rights; elections; regional bodies*

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## **1 Introduction**

In 2019 the international community marked the anniversaries of treaty bodies and international organisations, such as the International Labour Organisation (ILO), providing some grounds for optimism about the progress of human rights and democratisation in the Asia Pacific. During the year the status of workers' rights was re-evaluated. The year was also marked by the realisation of human rights bolstered by the advancement of digital technology. The realisation was especially evident during the protests in Hong Kong, which resonated with many. Similar protests took place in countries such as India and Malaysia. However, a number of countries were quick to impede the exercise of the right to freedom of expression by turning to digital control, internet shutdowns, and invoking restrictions on national laws based on national security. The rights of women and the lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) community remain undervalued. International human rights standards call for societies without discrimination. Mob violence and lynching are still prevalent in parts of the Asia Pacific where people are beaten, sometimes to death, for having different religious or political views. The elections throughout the region saw the undermining of human rights and democracy. However, the actions of regional bodies and the holding of elections did bring about some positive shift in upholding human rights.

The diversity amid the shared history of existence gives the Asia Pacific region a unique prospect for upholding human rights. Realising the growth of the countries in the Asia Pacific is possible if the region together combats existing human rights issues. However, the increasing distrust towards various states, digital control over freedom of expression, obstruction of peaceful assembly and the amplification of nationalism and extremism have led to a deterioration in the plight of human rights and democratisation in the Asia Pacific. Against this backdrop, this overview summarises some of the most pertinent developments in the Asia Pacific region during 2019. The overview covers the key issues impeding the realisation of human rights in the Asia Pacific, along with new developments in the region, and also examines developments in the sub-regional organisations in the Asia Pacific.

## **2 Key issues related to human rights**

### **2.1 Hundred-year anniversary of the International Labour Organisation and workers' rights in 2019**

With the 100-year anniversary of the International Labour Organisation (ILO), it is timely to assess the status of workers' rights in the Asia Pacific region. Since the foundation of the ILO, there have been considerable

changes in respect of labour in the region. In the early 1900s slavery still prevailed in many parts of the region, alongside its variants of bonded labour in South Asia and indentured labour across South and Southeast Asia as well as the Pacific. Conditions for labourers were poor, and in many countries violent labour strikes were common. Child labour was widespread. Wage discrimination was pervasive, with women earning only a portion of the salaries paid to men. While the ILO may have been relatively quick to respond to these workplace violations with the conventions on minimum wages in the 1920s (Conventions 5, 7, 10 and 25), the Minimum Wage Convention of 1928 (Convention 26) and Forced Labour Convention in the 1930s (Convention 29), these treaties would not see many ratifications in the region until after World War II. Only Japan, Australia and China ratified some of these treaties before the war. Indeed, the Asia Pacific region has the lowest ratifications of the core ILO treaties, with the Convention on Worst Forms of Child Labour (Convention 182) being the only one ratified by all countries, and the conventions on freedom of association having the lowest numbers. Notably, 13 of the 20 countries around the world that have not ratified this Convention are from the Asia Pacific. Unfortunately, the low ratification record is reflected in poor labour protection across the region. This is exemplified in violations of freedom of assembly and the continued practice of trafficking and slavery. Each of these is briefly examined in this part.

The Asia Pacific region has one of the lowest rates of collectivised labour in the world, Southeast Asia perhaps being the worst region. Six of the ten ASEAN countries have unionisation rates of lower than 10 per cent and thus have the lowest rates in the world (ILOSTAT 2020). The country with the highest rate of union membership in the region is China, which is not surprising given that it is a Communist country. However, because trade unions in Communist countries are government bodies, they may not be genuinely independent. As a result, unions in Vietnam, Laos and China may not provide the best conditions for workers. In late 2019 Vietnam's Labour Code was revised to possibly allow independent trade unions, but the 48-hour week and low minimum wage remain intact (Hutt 2019). There is reluctance across the region to recognise independent trade unions and ratify the ILO conventions on collectivised labour. A major reason for this reluctance is the fact that Southeast Asia was a battleground during the Cold War. Anti-Communist regimes, which in Southeast Asia primarily were military dictatorships, were harsh on members of trade unions. Later, when the region developed economically, it used cheap labour to attract foreign direct investments, with the result that there was little incentive to allow unionisation. As a result, laws on the rights to a trade union remain weak. In South Asia, the link between unions and political parties results in multiple, competing unions (Kamala 2007: 8). In Southeast Asia, the laws on establishing trade unions often are restrictive. Both Myanmar and Thailand link unions to a workplace, resulting in many smaller unions

that are difficult to organise into collective strikes, especially in Myanmar (Zajak 2017: 4; Park 2014: 5). In Thailand a significant problem is the difficulty for migrant workers to join a trade union, even though there are around 4 to 5 million migrant workers (Chalamwong 2020).

Across the region, a second continuing problem is slavery and trafficking for labour. The Global Slavery Index considers that the major trafficking in the world occurs in the Asia Pacific, with 66 per cent of forced labour in the world present in the Asia Pacific.<sup>1</sup> The poor performance of the region is also found in the assessment of countries' efforts to address human trafficking, found in the annual *Trafficking in Persons Report* (US State Dept 2019). These rankings place most Asia Pacific countries in the lower tiers (tier 2 and 3) with only five countries (four from East Asia and the Philippines) found in the top tier. Five of the 22 countries from the bottom tier are from the Asia Pacific. Why has trafficking and slavery remained such a problem in the region during 2019? As mentioned above, there is a long legacy of slavery, indentured labour and bonded labour. In some areas in South Asia, this practice has not been totally eliminated, with an estimated 0,4 per cent of the working population in forced labour (ILO 2017: 6).

In response to this poor record of counter-trafficking in 2019, there have been some developments across the region. Historically, trafficking has focused on women trafficked into sexual slavery. While this may be the most exploitative form of trafficking, current data shows that it is not the dominant form of trafficking: Labour trafficking stands at 64 per cent, and sex trafficking at 19 per cent (ILO 2017). As a result, more organisations are developing counter-trafficking programmes related to forced labour. This is evident in the quite drastic change in focus of the *Trafficking in Persons Report*. Initially this report almost exclusively focused on sex trafficking. In the first *Trafficking in Persons Report* of 2001 it is stated that '[according] to reliable estimates, as the Congress has noted, at least 700 000 persons, especially women and children, are trafficked each year across international borders'. Trafficking is defined almost entirely as women and children being taken across the border for commercial sex. Compare this with the 2019 *Trafficking in Persons Report*, where the following conclusion appears: 'The past five years have witnessed an exponential growth in initiatives focused on eradicating exploitative labour recruitment practices, developing models for fair recruitment, and changing industry standards in hiring practices' (US Dept of State 2019: 26). The *Trafficking in Persons Report*, which for most of its history has been recognised as a more conservative account of trafficking focusing closely on sex trafficking, is now advocating better monitoring of the

1 There is much debate about the methodology of the Global Slavery Index in its measurements. See Gallagher (2014)

workplace and workers' rights. This change in direction is also seen in the growing role of trade unions in counter-trafficking, and the international concern about male trafficking victims, particularly in the fish processing sector. Finally, the international legal framework is strong; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children enjoys near-universal ratification across the region; regional treaties exist in South and Southeast Asia; and most countries have harmonised their national laws to the international standards.

## **2.2 Digital control and freedom of expression**

Freedom of expression has been protected and internationally recognised as one of the fundamental principles of human rights. It is also enshrined in the national laws as fundamental rights in many countries across the globe. The Universal Declaration of Human Rights (Universal Declaration) proclaims that all people have the right to exercise their freedom of expression, and 'hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers' (Universal Declaration art 19). In the context of globalisation, the dawn of digital media has brought out substantial achievements and opportunities. The advancement in digital technologies has helped in the realisation of human rights. However, with its benefits, the world of digitisation at the same time has brought forth some challenges. It has helped in reshaping the relationship between the authorities and the public sphere, allowing people's thoughts to be available to a diverse audience. Some people regard freedom of expression through digital media in today's context as being one of the strengths of democracy.

Rights are not always absolute. Therefore, they need to be understood in their relative terms. Freedom of expression entails duties and responsibilities. These are subject to conditions as prescribed by law, which nevertheless must be carried out with necessity and proportionality in a democratic society in order to maintain its function and social order (Europe, 1950). Increasingly intolerant content in digital platforms, claiming to reinforce freedom of expression, poses a threat to the social order. It cannot be overlooked that governments, through digital control, try to control and limit people's right to expression. Governments in the Asia Pacific region have enacted and maintained numerous laws and policies that restrict the general public's right to freedom of information (Pacific 2019). Moreover, the arbitrary arrest, detention and prosecution of journalists and activists have become a prominent tool to silence them. Following the revocation of article 370 in India, Jammu and Kashmir saw a massive increase in government control of internet freedom (Sankalp & Fayaz, 2020). The Editors Guild of India claimed that government limited press freedom by exerting political pressure (Bureau of Democracy 2019). Media freedom came under attack in Australia when the Australian Federal Police raided

a journalist's home and a media organisation's headquarters. Anti-protest laws were enacted in Queensland, criminalising peaceful protest tactics and infringing Queenslanders' rights to freedom of expression, association and peaceful assembly (Centre 2019). Patterns of abuse with censorship in the name of national security have been used, without legal basis, by countries such as Myanmar, Philippines, Vietnam and Indonesia – resulting in a full or partial shutdown of the internet (Sivaprakasam 2019). In Nepal, Bills concerning the media council, mass communication and information technology are still under scrutiny and subject to considerable criticism with the restriction of freedom of expression (Subedi 2020).

In this sense the application of coercive laws to restrict people's freedom of expression is contrary to the norms of human rights. In recent days trends have emerged of governments curbing freedom of expression through laws imposing digital control to mitigate criticism.

### **2.3 Freedom of peaceful assembly**

The right to freedom of peaceful association (also freedom of peaceful assembly) accompanies the right to freedom of expression. The Universal Declaration proclaims the right to freedom of peaceful assembly and association. States have a responsibility to protect individuals' right to peaceful assembly. Facilitating associations or assemblies for carrying out peaceful demonstrations to express their views freely are the core obligations of the authorities. However, governments often violate the freedom of peaceful assembly as a method of suppressing any dissent towards itself or its policies. Usually, human right defenders and journalists use online platforms to exercise freedom of expression, assembly, association along with other rights (Sivaprakasam 2019). Along with a full or partial ban on the internet, digital control of freedom of expression in Asian countries has also led to the violation of freedom of peaceful assembly. The Gulf Centre for Human Rights reported that peaceful protestors in Iraq were increasingly being kidnapped and tortured because of their participation in anti-government protests (GCHR 2019). Peaceful protests in Hong Kong with regard to the Extradition Bill to mainland China were one of the focal issues of human rights scholars and defenders. As time progressed, both the police and peaceful protests became more violent (International 2020). In Bangladesh police blocked the opposition party from holding rallies (International 2020). Countries such as India and Malaysia also put a hold on freedom of peaceful assembly and association.

Similar to the limitation on freedom of expression, governments use national security to suppress any dissent in the form of demonstration or assembly. While national security may be a legitimate concern of states, arbitrarily detaining protestors or using force against them is a violation of human rights. Principle 12 of the Basic Principles on Use of

Force allows individuals to participate in lawful assemblies. Even while policing unlawful assemblies, police must avoid using force (UNODC 1990). Governments in the Asia Pacific region have generally neglected to provide any legal basis for their crackdown on exercising freedom of peaceful assembly. This negligence demonstrates that human rights may be continuing in a dangerous pattern of continuous violation.

## **2.4 Rights of women and the LGBTIQ community**

Women and the LGBTIQ community are marginalised and have for a long time been fighting for their rights. Many countries in the Asia Pacific have established laws and policies that protect women and the LGBTIQ community from discrimination and promote gender equality. Nevertheless, these laws and policies are not implemented properly. Eight countries in the Asia Pacific still criminalise homosexual conduct, including Myanmar, Malaysia, Singapore, Pakistan, Sri-Lanka and Bhutan. While considerable efforts are being made in Bhutan to overturn the existing rule, the law still penalises same-sex relations. Taiwan adopted legislation to recognise the rights of same-sex couples on 17 May 2019, making it the first jurisdiction in Asia to do so. It set a precedent to the other countries in the Asia Pacific in terms of protecting the minority from persecution and protecting their rights (Knight 2019).

The World Health Organisation (WHO) has removed LGBTIQ as gender identity disorder from its diagnostic manual. This step indeed is positive and liberating for transgender people worldwide (Human Rights Watch 2019a). Nepal does not require diagnoses and has improved the legal recognition. In contrast, Japan still requires a mental health diagnosis to change one's name or legal gender marker by law. This contrast in recognition of a person also shows how the interest of the citizens is not always prioritised, hindering the right of people to freely express their identity. Most countries in the Asia Pacific have ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). UN Women advocated women's land and property rights to enhance women's economic security and rights. The rights of women seem to be developing and improving, but at a languid pace. Although the law gives women equal opportunities, they are yet to be implemented. There are gaps and loopholes in national laws in terms of addressing violence against women and people of the LGBTIQ community.

## **2.5 Counter-terrorism and security**

Terrorism has an impact on human rights with devastating consequences for the enjoyment of the right to life, liberty and integrity (OHCHR 2008). Security and the protection of every individual is a fundamental obligation of any government. Thus, they should protect their citizens

from any threat and take decisive measures to prevent against any attack of terrorism. Thus, counter-terrorism measures can affect the enjoyment of human rights. In April 2019 Sri Lanka was the victim of suicide bomb blasts in churches and hotels in three cities killing 267 people. Human Rights Watch reported that the government gave compensation to the victims and arrested persons responsible for the attack (Human Rights Watch 2019b).

On 28 March 2019 the United Nations (UN) Security Council approved Resolution 2462, which prevents and combats the financing of terrorism, and requires all UN members to criminalise financial assistance to terrorist individuals or groups. The financial assistance was to be criminalised even if the aid was indirect and provided in the absence of a link to a specific terrorist act (Terrorism et al 2017). Several attacks in the Asia Pacific have led to questions about the security and the safety of individuals. Counter-terrorism measures are being adopted with detailed scrutiny over the national laws surrounding the security of its people. The steps taken to strengthen security measures point towards a positive direction in the preservation of human rights. However, the trend of governments to use national security as pretext to suppress its opposition is disturbing. Instances such as labelling protesters as terrorist organisations, as occurred in Kazakhstan, enforce countries in the Asia Pacific to strike a balance between taking counter-terrorism measures and effectually implementing them.

## **2.6 Mob violence and lynching**

The law provides for security in order to maintain harmony in society. However, in many cases people go beyond the law and disrupt the norms of peaceful coexistence. They do so by assembling in a violent and turbulent manner to harm, injure or even kill people without a fair trial. During 2019, mob violence affected Hong Kong, India, Sri-Lanka and Indonesia. In Hong Kong more than 400 men dressed in white T-shirts and suspected of being part of a triad society (or organised crime) attacked passengers in the Yuen Long station. These included pro-democracy protestors (BBC 2019a). In India there were a total of 107 mob lynching incidents. They were results of clashes between of extremist and religious ideologies. The criminal justice system of India has been criticised for its failure to institute a proper investigation into people involved in mob lynching. A Nepalese parliamentarian was sentenced to life imprisonment by the district court of Kathmandu for involvement in the incident where eight police personnel and a toddler were lynched in 2015 (India 2019). There was an eruption of violent mob attacks against members of Sri Lanka's Muslim minority and migrants after the 2019 bomb blast (Human Rights Watch 2019b).

Mob violence and lynching in the Asia Pacific saw the violation of people's enjoyment of their right to life and dignity along with other human rights. Violence and lynching against a minority or a party bearing contrasting views are prevalent. These instances of violence question the countries' efforts to combat systematic violence and protect individual's rights.

### 3 Democratisation

#### 3.1 Overview of democratic trends

As far as democratisation is concerned, it has been a mixture of regression and progression, as a global trend, including in Asian countries (The Economist 2020c). The regression has taken the form of increased populism in leadership marked by the exclusion of minority groups, prioritising pragmatic economic policy over political rights, and an increase in undermining freedom of expression. This part explores the main trends in democracy in Asia, which covers democratic trends and elections. Democracy is seen from five main indicators, namely, electoral process and pluralism; the functioning of government; political participation; democratic political culture; and civil liberties. These criteria are often used in democracy assessment (The Economist 2020c).

Freedom of expression is a foundation of democracy. Yet, during 2019 many Asia's states shut down internet connections in conflicting areas to limit the spread of firsthand news to the public (Human Right Watch 2020a). They often did this under the pretext of public security and to minimise disinformation commonly spread during the crisis. Shutting down connections is a new form of censorship, and this is an obstacle to maintaining a democratic culture. Some social unrest occurred in Indonesia, for example in May 2019, shortly before the official announcement of the election result. The violent unrest led to the death of six people. During the conflict in Papua (Eastern Indonesia) the internet connection was throttled and shut down. This shut-down affected the entire country, as WhatsApp was difficult to access (*The Jakarta Post* 2019). Under the pretext of curbing disinformation the Indonesian government did this. In the Papuan case, an Indonesia journalist from the Independent Alliance protested and argued that shutting down the internet in Papua had worsened disinformation (Idris 2019).

Myanmar did the same during the conflict in Rakhine and Chin State for months (Thu Thu and Sam 2020). The UN Human Rights Council condemned this by stating that it is a violation of international human rights law to intentionally prevent or disrupt access to or dissemination of information through online platforms. The Bangladeshi government issued

the Digital Security Act (DSA) in 2019. This Act controls and monitors not only media but also bloggers, writers and commentators on social media. This has created a 'climate of fear in the industry' as mentioned in the Reuter's report (Choudhury 2019). After the bombing in Srilanka in Easter 2019, the government shut down Facebook, WhatsApp, Instagram, YouTube and Snapchat to stop the spread of misinformation. The Act also allows arrest without warrant. The Chinese government demanded that the creators of a messaging and browser application company include government filtering (Human Right Watch 2020a). In a nutshell, in many countries in Asia freedom of expression is under threat. The trend of shutting down internet connections seems to have become a pattern to solve ongoing conflicts in many countries in Asia based on national security and curbing disinformation. With the rise in importance of online news, shutting down the internet certainly lead to a serious erosion of freedom of expression.

India, the largest democratic country in the world, was exposed to severe criticism that some of its decisions had a bias towards majority groups, neglecting minorities. The decision to end the 70-year special status of Jammu and Kashmir provinces in North East India, on the border with Pakistan, under the pretext of a security issue was subjected to ambivalence and criticism in the international community (*The Economist*, 2019a). The reluctance of the Assam provincial government to acknowledge the citizenship of two million Muslim people in the National Register Citizens (NRC) programme is also matter for condemnation (*The Economist* 2019b). The enactment of the Citizenship Amendment Bill (CAB), according to critics, aims to marginalise Muslims (BBC 2019c).

A lack of protection of ethnic minority groups in Myanmar was perpetuated in 2019. The Myanmar national election takes place in 2020, but many experts speculate that the NLD Party, led by Aung San Suu Kie, will have a similar political orientation towards minority groups. Human Right Watch (2020c) reports that the South Korean government has not done enough to protect sexual minority groups (LGBTs), due to pressure from Conservative Christian anti-LGBT groups. A pride parade was cancelled in Busan due to a lack of permits. Nevertheless, the Constitutional Court has decriminalised abortion, marking significant progress. Duterte of the Philippines continues to terrorise his own citizens through the war on drugs.

### 3.2 Elections and democracy in Asia

At least four countries in Asia held their elections in 2019: Thailand, Indonesia, Philippines and India (*Nikkei Asian Review* 2019). A trend of 'illiberal democracy' is evident in many Asian countries, including in the Philippines, Indonesia and Sri Lanka, which saw the return

of Gotabaya Rajapaksa to politics (Crabtree 2019), as well as in India. These 'illiberal democracies' are marked by at least three features, namely, prioritising economic development over human rights principles (such as the protection of minority groups and ensuring political rights); the centralisation of power in the executive body; and a strong presence of family or oligarchy power that controls politics.

In Thailand, Prime Minister General Prayut Chan-o-cha won the election and started serving his second term. According to Human Right Watch (2020b) he is likely to continue his disregard for human rights principles, as has occurred in his five years of military rule. The military junta restricts freedom of expression. Many activists, academics and public figures have become victims of human rights violations. A new progressive party, and anti-military junta called Phak Anakhot Mai, known in English as the Future Forward Party, was born. Thanathorn Juangroongruangkit, a young politician with a business background, founded the party together with academics from Thammasat University. Three million people, predominantly youths, voted for this party. This new party garnered 65 seats which brought high hopes, although the Constitutional Court disbanded the party in February 2020. The party is accused of violating election regulations, specifically financial rules, to overthrow the kingdom of Thailand. However, the court found no evidence of the latter (Gunia 2020).

Indonesia also held its elections in 2019. Joko Widodo continued his second term after having been re-elected, defeating his contender Prabowo Subianto and Sandiaga Uno, with a margin of 1 per cent. He continued his first term programme focusing on economic development through a giant project of infrastructure development. In the social arena, there has been an increase of social polarisation based on Islamic conservatism in the form of intolerance towards diversity (Savirani 2020).

President Duterte of the Philippines held his mid-term election. He still has a high approval rating of 78 per cent, despite having procrastinated on infrastructure projects, and farmers' dissatisfaction on rice import policies (Bautista 2020: 275). Duterte has focused on building 'state-building fundamentals' including public order, infrastructure and service, over a values-based agenda such as human rights.

An incumbent also won the election in Afghanistan, which took place in September 2019. Afghanistan is a country with 37 million people, of whom only 9,3 million are registered to vote, and the voter turnout was a mere 25 per cent of registered voters. Mr Abdullah won the election by defeating Ashraf Gani. The low voter turn-out is explained by the security issue in the country. The Taliban has threatened to attack polling stations. Citizens also felt a lack of enthusiasm for the candidates (BBC 2019b). The local election in Hong Kong was a subject of great interest with the

ongoing protest for the withdrawal of the Extradition Bill and the standoff between police and students in the days leading up to the election.

Violence, albeit isolated, during elections violates the electoral rights of people. The suppression of journalists and attacks on campaigners, the opposition and peaceful protestors also violate people's right to engage in the political sphere. The curtailment of freedom of expression, movement and assembly of its opposition, critics and human rights defenders by the existing government constitutes the violation of human rights and a threat to democratisation. From the overview above, it is evident that elections, as one indicator of democracy, are held in a relatively peaceful manner. However, these peaceful elections only serve a minimum impact on human rights practice. What has happened seems to be a parallel of stronger institutionalisation of election and an increased trend of human rights abuse by the state.

## **4 Update on regional bodies**

### **4.1 Association of Southeast Asian Nations**

The ten-member Association of Southeast Asian Nations (ASEAN) was established in 1967. Its Intergovernmental Commission on Human Rights (AICHR) gives abundant references to upholding and protecting human rights, but human rights protection is porous in the region (Kliem 2019). As noted above, many countries in the region continue to violate rights, but this is not addressed by the Commission: Cambodia held people in detention on politically-motivated convictions; Indonesia saw an uprising in the West Papua provinces; Myanmar has the Rohingya crisis; and Singapore, Thailand and the Philippines restrict freedom of expression, using existing laws to penalise people (Post 2020). The 34th ASEAN Summit highlighted many human rights violations taking place across the region. However, even with the AICHR in place, the non-interference and respect of the ASEAN countries have failed to address the human rights violations prevalent in the region.

### **4.2 South Asian Association for Regional Cooperation**

The South Asian Association for Regional Cooperation (SAARC) marked its 35th anniversary in 2019. The association was established to strengthen collective self-reliance, promote active collaboration and mutual assistance and promote South Asian welfare. SAARC is one of the oldest, trusted and respected association in Asia, yet its functions concerning the protection of human rights in South Asia remains unsatisfactory. Human rights violations manifested in diverse gruesome forms such as torture, arbitrary detention, extra-judicial killings, forced labour, child marriage,

which are widespread in the region (Junejo 2017). All these human right violations prevail over democratisation. Often criticised for the lack of a human rights mechanism in SAARC, the failure to address the same depicts its inadequate role in addressing these violations. The principle of non-interference and the exclusion of contentious issues enshrined in the SAARC Charter (article 2) possibly is one of the reasons why SAARC still has not adopted a necessary mechanism to address the violation of human rights. A lack of unanimity on the part of the SAARC nations to hold and attend the already deferred SAARC Summit exhibits its idleness regarding critical issues surrounding South Asia.

### **4.3 Pacific Island Forum**

In 2019 there were significant developments in the area of human rights in the Pacific Islands States. Fiji was appointed to the Human Rights Council (HRC), the very first time a Pacific Island national has taken up a position on the HRC (Kumar 2018). It won the election with a firm majority of 187 votes. Although there were no competing countries for its position, Fiji was the only Asia Pacific state that stood for the election which did not release any voluntary pledges. In the 2019 elections for positions to be taken up in 2020, the Marshall Islands joined Fiji as the second country elected, winning in a competitive election that saw Iraq as the Asia Pacific country which did not receive the necessary votes. Upon entrance to the HRC, Fiji has ratified two core treaties, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Convention for the Protection of All Persons from Enforced Disappearance (CED). This reflects positive movements towards ratification of human rights treaties across the Pacific with Kiribati and Samoa ratifying the Convention against Torture (CAT), and the Marshall Islands (probably to ensure its election to the HRC) ratifying CERD, the CEDAW Optional Protocol, and two protocols to the Convention on the Rights of the Child (CRC) on the Sale of Children and Individual Communications. The five core treaties and three optional protocols that were ratified across this region go some way towards reducing the abysmal record of ratification from the Pacific Islands. Across the Pacific, except for the Marshall Islands, states have ratified nine or fewer of the 18 treaties and optional protocols, which is one of the worst records of ratification for a region in the world. Another development in Fiji was the establishment of the Institute of Human Rights Research in cooperation with the Office of the High Commissioner for Human Rights (OHCHR), the University of Fiji, and the Pacific Island Development Forum. The Institute will be a research centre and forum for debate around human rights issues (RNZ 2019). There is some debate about the efficacy of the Institute, given that Fiji has a low tolerance for freedom of expression and criticism of the government. Fiji also faces criticism about police brutality, with 129 cases reported in

2019 (Xinhua 2019). Both these issues were discussed when Fiji had its Universal Periodic Review in November 2019.

The Pacific Island Forum (PIF) celebrated its 50th meeting in Tuvalu in August 2019. The PIF does not prioritise human rights as there is no body directly responsible for rights. However, rights issues are discussed as part of critical issues for the region, including climate change, the situation in West Papua and the impact of nuclear testing in the region (PIF 2019). These are the only instances where human rights were mentioned in the 50th PIF, as human rights are viewed more as a diplomatic tool. Human rights organisations in the region raise other critical issues such as poverty, migrant worker rights, violence against women and police brutality. However, these matters are not part of the discussion and planning by the PIF.

## 5 Update on role of United Nations

Countries in Asia-Pacific are progressing on a path of holistic development. A majority of the countries are members of the UN and are also party to several UN treaties. CEDAW and CRC are essential treaties that protect human rights of the most vulnerable and marginalised group. Many Asia Pacific countries have ratified these treaties, although the human rights situation of women, the LGBTIQ community and children's rights is deplorable. The refugee crisis in this region is yet to be adequately handled. Children in the Asia Pacific region are vulnerable to gross violations of their rights, including violence, sexual exploitation, trafficking and being involved as child labourers. On the 30th anniversary of CRC, ASEAN and its member states have joined with the United Nations Children's Fund (UNICEF) to highlight ways in which to consider how children's rights across the region can be met.

Although there are several human right treaties to which the Asia Pacific countries are party, only a few people across the region benefit from exercising their rights.

## 6 Conclusion

The elections and re-elections of the governments in the Asia Pacific countries coupled with the marking of essential dates in the international and regional community gave a faint glimmer of hope for upholding human rights and the trends of democratisation. The realisation of human rights was evident through the cohort of people involved in human rights activism and the use of peaceful assembly for protests. This realisation bolstered through the advancement of technology. These developments were conceived as prospects that would serve as the windows to upholding human rights and development in the Asia Pacific. However, while

important events and dates were being marked; the reality of the situation looked grim. Despite the continuous demand to improve workers' rights in the Asia Pacific, it maintains the lowest rates of collectivised labour in the world.

Legislation and policies were adopted under the pretext of national security and combating terrorism only to impose digital curbing people's freedom of expression and freedom of peaceful assembly. The rights of women and the LGBTIQ communities require proper implementation mechanisms despite the laws enacted in some countries. However, in some societies the LGBTIQ community is still being disrespected. Women still face stigma despite the collective efforts of the legal and social communities. Minorities' rights are in peril, with mob violence and lynching directed towards them. The regional mechanisms at times show signs of progress. However, the geopolitical nature of relationship tends to backtrack the crucial aspect – human rights and democratisation.

Every time it seems as if the countries in the Asia Pacific would collectively take a step forward in the protection of human rights and towards greater democratisation, they take two steps back by allowing prejudice to flourish, by maintaining a lack of human rights mechanisms, and by curbing accountability in the Asia Pacific. Such was the case in the year 2019. The development of human rights and democratisation in the Asia Pacific saw prospects turning to plights.

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