

# South-East Asia

James Chin

In much of South-East Asia, the global 'War on Terrorism' has led to a degradation of minority rights. Many governments with poor human and minority rights records have cited this as an excuse to crack down on activists, with many minority rights activists deemed 'terrorists' simply because they challenge the state on minority rights issues.

Other states used the 11 September 2001 attack on New York as an excuse to detain political opponents, citing the need to pre-empt 'terror' actions, especially against Islamic fundamentalist groups. The US silence on these abuses merely encouraged these governments.

Most overt cases of minority discrimination in the region relate to the minority groups' struggle for either autonomy or independence from the state. Thus the discrimination suffered is largely due to a political problem and will be ongoing for some years to come.

Many countries in the region refuse to recognize minority rights, fearing that it will lead to 'separatism' or separatist tendencies. Many countries also see minority rights as a problem associated with the nation-building process, arguing that a single national identity is more important than a parochial minority identity. For countries such as Indonesia, spread across thousands of islands and three time zones, and with hundreds of ethnic groups in its midst, the fear of separatism linked to a particular ethnic group is real. This was reinforced when East Timor successfully broke away from Indonesia in 2002. There are at least two groups, Acehnese and Papuans, who have a history of seeking to separate from Indonesia. A peace deal just concluded in August 2005 between Indonesia and Aceh rebels may forestall moves for independence. Further to the north, there are two big groups in Burma – Shan and Karen – who are also seeking independence, while a section of the Moro people in the southern Philippines is also fighting for an independent state.

## **Burma**

Since 1988, a junta composed of senior military officers has ruled by decree, without a constitution or legislature. These decrees and administrative practices result in what can only be described as one of the world's worst records of discrimination against minorities in the period of 2004–5. The prominent and almost exclusive use of the Burmese

language in primary schools and by state authorities, even in areas with very large concentrations of linguistic minorities such as the Shan and Arakan, is a discriminatory practice that continues to disadvantage these minorities in educational, economic and social terms. Religious minorities, including Muslims (Rohingya) mainly concentrated in Arakan State, have in 2004–5 continued to be subjected to discriminatory treatment.

Authorization to construct new Christian churches, and especially new mosques, has continued to be denied. Non-Buddhist minorities in 2004–5 continued to experience employment discrimination at upper levels of the public sector: 'the most senior non-Buddhist serving in the government was the deputy attorney general (a Baptist). There were no non-Buddhists who held flag rank in the armed forces. The government discouraged Muslims from entering military service, and Christian or Muslim military officers who aspired to promotion beyond middle ranks were encouraged by their superiors to convert to Buddhism.'

Some of the worst discriminatory practices appear to affect the Muslim Rohingya minority. Because their ancestors are not considered by the government to have been in Burma at the time of British colonial rule, most members of this minority are not deemed to be citizens under the 1982 Citizenship Law. As a result, the Rohingyas cannot be admitted to state-run secondary schools, are excluded from employment in most civil service positions and also have severe restrictions imposed on them in relation to leaving their villages, which inhibits their ability to trade and seek employment.

Reports from Amnesty International and the Fédération internationale des droits de l'homme in 2004 confirm the continued discriminatory confiscation of land belonging to minorities in border areas and the western part of the country, and the displacement of these minorities and handing over of their land to ethnic Burmans in 'model villages', or for development projects mainly controlled or for the benefit of members of the country's ethnic majority.

The Burmese state has repressed many of the minorities and indigenous peoples in the north of the country and there is a long history of minorities and indigenous peoples fighting against the government in Rangoon/Yangon. However, in the past decade, the military junta has managed to



**Above:** A scene of destruction in Aceh following the tsunami which struck South Asia on 26 December 2004. Tim A. Hetherington/Panos Pictures

convince many of these minorities and indigenous peoples to stop fighting the central government in return for some autonomy and the cessation of military operations against them. The government is actively repressing, usually by military force, those few minorities and indigenous peoples – including the Shan and Karen – who have managed to build up militia groups and who refuse to come to some sort of a deal with Rangoon.

The Shan are the largest of Burma's eight main minorities, which together make up a third of the country's 43 million population. Like other groups, they are fighting for independence from the rule of the military junta. In the past year, the Burmese military has stepped up operations against the Shan and Karen, forcing many to flee across the border to Thailand. The Thai authorities do not want them and have pushed them back across the border. A few thousand have died already in the fighting. There are also consistent reports that the army is forcing girls and boys from minorities and indigenous peoples to become soldiers or work as forced labour.

The military junta has supported the United Wa State Army (UWSA) against the pro-independence Shan State Army (SSA) causing more civilian casualties. The war against the minorities and indigenous peoples is largely due to the fact that they have refused to accept Rangoon's political authority. The Burmese army is also targeting civilians by burning down entire Shan villages and forcibly relocating whole villages. There are reports that Shan women were raped. During the period March–May 2005, there were reports that 200–500 Shan villagers were fleeing to Thailand on a daily basis to escape the fighting.

## Cambodia

In Cambodia, there remain strong undercurrents against the small Vietnamese minority, who still face petty harassment from officials. While there were no organized moves to oust them, the Cambodian community would prefer them to be repatriated to Vietnam. Indigenous peoples face loss of their traditional lands through the granting of land concessions to private companies. Drafting of a sub-decree of the Land Law to allow for collective titling of indigenous land is underway. However, the process is very slow and there is mounting concern that there will be little indigenous land left to title by the time the decree has been drafted and the

titling process begins. The Special Representative of the UN Secretary-General for Human Rights in Cambodia has requested that the government stop granting land concessions until the regulations on collective titling are established. Cambodia continued to fail to provide effective protection to Montagnard asylum seekers and some were reportedly returned to Vietnam where they faced ill-treatment.

## Indonesia

In Indonesia, the minorities and indigenous peoples of the provinces of Aceh and Papua faced significant discrimination. The Acehnese are fighting the Indonesian state for an independent Islamic homeland. The Indonesian government has responded with military force, which has turned the entire region into a civil war zone for the past decade.

Aceh was the hardest-hit region in Indonesia during the tsunami disaster (see the previous section for more information on the impact of the tsunami). The scale of the disaster was such that it gave the Indonesian state and the rebel movement, GAM (Gerakin Aceh Merdeka – Free Aceh Movement), the impetus to look for peace. After several rounds of negotiations in Norway, the Indonesian state offered the Acehnese autonomy and, on 15 August 2005, GAM and the Indonesian government signed a peace deal in Helsinki, Finland. The Indonesian parliament will have to ratify the autonomy deal but the Indonesian President Susilo Bambang Yudhoyono has already promised to honour it. The deal will give the Acehnese autonomy in almost all areas apart from foreign policy and defence, and Aceh will be allowed to keep 70 per cent of its oil and gas wealth. Local elections will be held in April 2006 and around 300 monitors from the European Union and South-East Asia will observe the implementation of the deal. The deal also calls for an amnesty for GAM members and a gradual withdrawal of Indonesian troops. Most observers are of the opinion that this peace deal is the most promising to emerge for the past decade.

Like the Acehnese, the Papuans on Indonesia's eastern front, are also fighting for an independent homeland. The Indonesia army has responded with force, and is widely believed to have murdered Theys Eluay, the leader of the Papua independence movement, a loosely knit movement called the Free

Papua Movement (OPM). Although the Indonesian government has declared Papua an autonomous province (including changing its name from Irian Jaya to Papua), Papuans have complained that this is a ploy to divide the independence movement. They have also complained that they are still being actively discriminated against by the state. There is long-standing animosity between local Papuans and migrants from other islands, who were encouraged to settle in Papua by the Indonesian government, under its *transmigrasi* programme. In the provincial capital Jayapura, the migrant population, consisting mainly of Javanese and Maldivians, easily outnumbers the local population. The migrants also control the local economy. The autonomy given to the Papuans is not as extensive as that given to the Acehnese. In the past year, there are credible reports of clashes between the Indonesian army and Papuan rebels, including clashes in major Papuan towns such as Wamena, Wasior and Timika. Reports suggest that more than 100 people were killed in clashes with the military.

The Papuans are also unhappy with US mining giant Freeport-McMoRan. Its concessions in Papua amount to 3.6 million hectares, and it owns easily the largest gold mine in the region. Human rights activists accuse the company of paying protection money to the Indonesian military, who in turn use military force to stop Papuans from protesting against the operations of the mine. The company denies involvement in human rights abuses. Several OPM attacks on the operations of the mine have led to Indonesian army retaliation against local residents, including a controversial shooting of three American teachers travelling near the mine in 2002. Many Papuans complain that they do not benefit from the mine.

There was some positive news, however. Several laws that discriminated against the ethnic Indonesian Chinese have been scrapped, including the infamous Indonesian Citizenship Certificate (SBKRI) decree. Under this decree, ethnic Chinese Indonesians were given a special code in their ID which identified them as Chinese and gave the bureaucracy the opportunity to discriminate against them. Former President Megawati cancelled the decree in April 2005.

In the 2004 elections, there were several parties that openly claimed to be representing ethnic Chinese, something that was unheard of during the

rule of former president Suharto. Although none of these parties made any headway, they did raise the profile of the Chinese community. Many senior Indonesian officials openly proclaimed their Chinese ancestry.

## Laos

The Hmong face ongoing severe discrimination in Laos. Like the Hmong in Vietnam, they are a target because they supported the US during the Vietnam War and because some are Christians. Hmong continued crossing into Thailand through 2004 and early 2005, joining thousands already there hoping for resettlement in the US. UNHCR facilitated the resettlement of 14,000 Hmong to the US during 2005. Those not accepted for resettlement face an uncertain future; camps have closed, families have been evicted from villages and left destitute, facing possible deportation back to Laos. The government's anti-drug campaign implemented with support from the UN Office for Drugs and Crime (UNODC), the US and European Union resulted in a large reduction in cultivation of the opium poppy; however, this has been at the expense of those hill tribes who relied on its cultivation. Opium eradication has been used to justify resettlement of indigenous peoples from the remote highlands to lowlands areas. Poppy cultivation has been eliminated before alternative economic activities were established, resulting in worsening economic and social conditions. Relocation has disrupted the indigenous hill tribes' way of life and has left them with insufficient land to earn a living and few of the promised health and education services.

## Malaysia

In Malaysia, the state-sanctioned affirmative *bumiputera* (indigenous) policy, which is often seen as discriminatory towards the minority Chinese and Indian population, was being debated openly more and more by the mainstream media. Previously such issues were considered 'sensitive'. Although the debates are often ethnically charged, the very fact that such issues are allowed to be debated is a positive step. The debates brought into question the whole affirmative policy, with even the government admitting that one of the main goals of the affirmative policy – giving the *bumiputera* ownership of at least 30 per cent of the country's corporate wealth – was not achieved. Many

*bumiputera* businessmen who were given exclusive contracts and licences by the government simply sold them to the Chinese or, in many cases, subcontract the work to Chinese contractors.

The new leadership in Malaysia, under Prime Minister Abdullah Badawi, who took over from Mahathir Mohammad in November 2003, has shown itself to be more transparent.

There are, however, problems relating to minority non-Islamic faiths. Non-Muslims make up about 40 per cent of Malaysia's population. Islam is the official state religion and, while freedom of religion is respected by the state, some restrictions are placed on non-Islamic faiths, mostly in the area of proselytizing. Muslims come under the purview of Syariah courts while non-Muslims come under civil law. Problems arise when there are mixed marriages. In 2004, Shamala Sathiyaseelan, a Hindu woman, went to the civil courts to challenge the conversion to Islam of her two young children (both aged under 5). Without her knowledge, her estranged husband, an ethnic Indian, converted to Islam together with the children. Under civil law, children under the age of 18 cannot change their religion without the parents' consent. Despite this, the Syariah court had awarded the custody of the children to her husband because he was a Muslim looking after Muslim children. As a non-Muslim, Shamala cannot appear before the Syariah court. When she went to the civil court, it refused to intervene, arguing that it does not have jurisdiction. It ruled, however, that the children should stay temporarily with her, but she cannot expose them to any non-Islamic religion or practice. Because there is no legal remedy to the issue, as the civil and Syariah courts are equal, Shamala fled Malaysia with the children. Unless the state clearly draws the line separating Muslims and non-Muslims in legal matters, cases like this will become more frequent.

## Philippines

In the Philippines, progress was made on the Moro minority. Under a peace deal signed in 1996, the central government in Manila has given them autonomy in the south, where the majority of them live. Local elections in August 2005 were uncharacteristically peaceful, and a new Muslim governor was elected, suggesting that prospects for peace are good in the short term.

However, sections of the Moro community have

refused to go along with the peace plan, preferring to fight for an independent Islamic Moro state. The largest group that has rejected the peace plan is the Moro Islamic Liberation Front (MILF). Nevertheless, the MILF is holding talks with Manila hosted by the Malaysian government. The truce between the MILF and Manila appears to be holding, with Malaysian officials acting as cease-fire monitors.

There are ongoing military operations against Muslim groups in the south, and some of these encounters have caused civilian casualties. In February 2005, more than 50 civilians were killed on the island of Jolo, when the army clashed with a faction of the Moro National Liberation Front (MNLF). More than 12,000 people were displaced.

The Moro problem is a long-term one which requires a long-term solution to grievances that have accumulated over generations. The Moros are Muslims in Catholic-majority Philippines, making this problem hard to resolve. Manila has granted autonomy and will not go further, fearing that this may lead to a breakaway state. Manila must address the economic disadvantage of the region if it wants to strengthen the peace process.

Recent years have also seen advances with regard to the land rights of indigenous peoples in the Philippines. The Indigenous Peoples Rights Act 1997 recognised indigenous peoples' native title to land, and rights of self-determination and free exercise of culture. It offered an option of applying for a Certificate of Ancestral Domain Title. The National Commission on Indigenous People announced that, as of July 2003, 11 such certificates had been awarded covering 367,000 hectares. About 76,000 people are direct beneficiaries of the certificates, constituting less than one per cent of the indigenous population of the Philippines. The implementation of the Act has been slow and difficult, partly on account of persistent discrimination on the part of the authorities.

## Thailand

Lack of citizenship is a particular problem for many ethnic minorities in the north. The government has undertaken registration schemes but statelessness continues to restrict access for a significant number to education, employment and health care and renders them vulnerable to exploitation. Women and girls from minorities are especially vulnerable

to trafficking. More than 2 million Burmese have crossed the border into Thailand where they seek a living as undocumented migrants. They are vulnerable to exploitation by employers and deportation to Burma by the authorities. Many migrant workers, particularly from Burma, were not provided with humanitarian assistance following the tsunami of 2004 because of their lack of legal status in Thailand.

The majority of people living in the south are Muslims who want to break away from the Buddhist-majority Thai state and create an Islamic state. This has been the case for more than 50 years, but in 2004 separatists started a bombing campaign and this, in turn, has led to a state of emergency being declared. Troops have poured into the region and the government has vowed to crush the separatists by military means if necessary. In the period April–August 2005, there were almost daily reports of killings of Buddhists and government officials. The Thaksin government does not appear to be willing to negotiate with the rebels and the military has repeatedly said that a military solution is possible.

The use of strong-arm tactics by the Thai state has reinforced the separatists' claim that the entire Muslim community is being repressed, and has helped them recruit more militants. The government blames Islamic schools for teaching radical Islam, and also blames Islamic radicals in Malaysia for helping the separatists. Unless Bangkok addresses the political grievances of the Muslims in the south, the problem will persist. A military solution is not possible.

## Vietnam

Religion is regulated in Vietnam. Unauthorised religions (including unauthorised Buddhist churches) face repression by the state. Christians in Vietnam make up no more than 10 per cent of the population. Unauthorised Christian churches have faced strong persecution by the Vietnamese state for the past several years. The state sees the church, especially evangelical Protestant churches as influenced by the US and undermining the authority of the Communist Party. Clergy are often harassed and beaten, and churches placed under police surveillance. Key worshippers are often taken to police stations for interrogation. Discrimination is especially acute among minorities and indigenous peoples who are Christians.

The Hmong people, who constitute less than 1 per cent of the population, are singled out for persecution because, in addition to being Christians, they fought against the Communists during the Vietnam War. In 2002 and 2003 two Hmong Christians were beaten to death by the authorities, who were pressuring them to renounce their faith.

Two senior members of the Vietnamese Mennonite Church are currently in jail and other members were subject to torture while under detention. There are reports of members being sent to mental hospitals. One Mennonite church was burned down in Ho Chi Minh City by officials.

The Montagnards (a collective term for a variety of ethnic groups living in the central highlands) also face severe state sanctions. They face persecution both as ethnic minorities and also as Christian Protestants. At Easter 2004, Montagnards held peaceful demonstrations over long-standing land rights and freedom of religion issues. They also called for an end to the migration of large numbers of majority Kinh people to the central highlands, migration that has dramatically changed the demographic composition of the region. There followed a severe crackdown by the authorities resulting in at least 8 deaths and hundreds of injuries. The central highlands have been effectively closed to the outside world since. Diplomats and journalists have been allowed to visit only under strict supervision. Hundreds have fled to seek refuge in neighbouring Cambodia. Those that are caught leaving or are returned to Vietnam from Cambodia face ill-treatment. Since 2001, more than 180 Montagnard Christians have been arrested and sentenced to long prison terms on charges that they are violent separatists using their religion to 'sow divisions among the people' and 'undermine state and party unity'. ■