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Concept Note

Hate Speech in Asia: Challenges and Solutions

Introduction

Like the rest of the world[1], Asia has seen a rise of hate speech, amplified by social media platforms and populist rhetoric by demagogues in a post-fact world. Much of this is rooted in the rise of religious intolerance, despite international norms on freedom of religion or belief (FoRB).[2] Cases in point in Southeast Asia are the decades long discriminatory campaigns targeting the Rohingya community in Myanmar, the more recent 'war on drugs' in the Philippines, religious intolerance against moderate Muslims and atheists in Indonesia, and violent attacks against minority ethnic and religious communities in Malaysia and across Southeast Asia and in Thailand, the tension has been between those with different political ideologies. South Asia has been confronted with increased hate crime, such as attacks against the Muslim minority by 'cow vigilantes' in India, and religious violence between the Muslim and Christian communities in Sri Lanka which spiked following the deadly Easter Bombings. Meanwhile in East Asia, Japan is seeking to deal with anti-Korean extremist movements by limiting access to parks and other public facilities for such activities. In China state propaganda evokes xenophobia against communities such as the Muslim Uyghurs, the Falun Gong, political opponents and stirs nationalist sentiments against the Japanese. Hate speech does not only concern religion, race, ethnicity, nationality or political affiliation, but also gender and sexual orientation, as seen in Brunei Darussalam, Pakistan and South Korea. In Taiwan, while the Constitutional Court of Taiwan ruled in May 2017 that same-sex couples are guaranteed the right to marry and legalized it on May 17, 2019[3], hate speech targeting the sexual orientation of the LBGT groups has been prevalent and anti-LGBT groups remain active.

Legislation

Over the years, countries in Southeast Asia such as Singapore, Malaysia, Myanmar have introduced bills aimed at securing social, racial or religious harmony. Already in 1990, Singapore passed the Maintenance of Religious Harmony Bill aimed at maintaining religious harmony. More recently, in 2017, Myanmar started drafting the Protection Against Hate Speech Bill. In July 2018 in Malaysia three new laws - the Anti-Discrimination Act, National Harmony and Reconciliation Commission Act and the Religious and Racial Hatred Act - were proposed to combat hate speech[4]. Thailand has legislated anti-discrimination laws or anti-hate speech laws to protect LGBT communities from discrimination. In South Asia, many countries, unlike India which criminalises hate speech in its Penal Code, do not have laws specifically addressing hate speech and rely on controversial blasphemy laws such as Pakistan or Bangladesh. However such laws often target religious minorities. Meanwhile in East Asia,

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[1] United Nations (2019) Hate speech 'on notice' as UN chief launches new plan to 'identify, prevent and confront' growing scourge, VOA. 18 June

[2] Mugash and Velshi (2019), Religious violence is on the rise. What can faith-based communities do about it? https://www.weforum.org/agenda/2019/02/how-should-faith-communities-halt-the-rise-in-religious-violence/

[3] Jorton, Chris (2019), After a Long Fight, Taiwan's Same-Sex Couples Celebrate New Marriages, New York Times, 24 May, ttps://www.nytimes.com/2019/05/24/world/asia/taiwan-same-sex-marriage.html

[4] Martin Carvalho, Hemananthani Sivanandam, Rahimy Rahim, and Tarrence Tan, (2019), Waytha: Govt will not table two national harmony Bills but favours a commission, The Star, 1 April, https://www.thestar.com.my/news/nation/2019/04/01/waytha-govt-will-not-table-two-national-harmony-bills-but-favours-a-commission/

South Korea lacks adequate anti-discrimination laws which makes it difficult to addres hate speech cases. Japan passed its Anti-Discriminatory Speech Act in 2016. Because the law doesn't ban hate speech nor penalises the act, many question the effectiveness of the law. Critics believe that hate speech laws will be used selectively by governments and their proxies to further suppress opposition and dissent with impunity.

International Convention on the Elimination of All Forms of Racial Discrimination

When drafting and implementing laws, signatories to international human rights instruments, including among others the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), will need to ensure that national legislation is aligned with international conventions and complies with international treaty obligations. In Southeast Asia, Brunei Darussalam, Malaysia and Myanmar however are among the countries that did not sign ICERD, and therefore are not legally bound by this treaty. In East Asia, North Korea has not signed it. While in South Asia, several countries have expressed reservations to the Convention by stating that they will enact measures against hate speech only when there is a necessity.

Table 1: ICERD Asian Signatories and Non-Signatories

	South Asia	East Asia	Southeast Asia
ICERD State Parties/ Signatories (date of signature or ratification/accession)	Afghanistan (1983) Bangladesh (1979) Bhutan (1973) India (1968) Maldives (1984) Nepal (1971) Pakistan (1966) Sri Lanka (1982)	China (1981) Japan (1995) Mongolia (1969) South Korea (1978)	Cambodia (1983) Indonesia (1999) Laos (1974) Philippines (1967) Singapore (2017) Thailand (2003) Timor Leste (2003) Vietnam (1982)
ICERD Non-State Parties/ Signatories		North Korea	Brunei Darussalam Malaysia Myanmar

Source: United Nations (https://treaties.un.org/)

Non-Legal Measures

Non-legal measures have also been used to promote 'social harmony' as a positive approach to combating hate speech as opposed to using the law to criminalise such acts. Some of these measures include promoting education and literacy and developing inclusive programmes and setting up collaborative. Often these measures are state directed with state funds, involving setting up governmental mechanisms to monitor social tensions, marshalling civil servants and religious leaders into public education efforts and sponsoring interfaith dialogues. Non-state actors' efforts on the other hand, which have largely been donor driven (Western governmental, faith-based aid as well that of private foundations), also support interfaith dialogue, social cohesion meetings and research projects. Journalists and media organisations to combat hate speech through the promotion of high quality journalism, and media and information literacy workshops. Technology companies play a role in the fight against online

hate speech by removing hate speech messages from social media platforms, closing down pages or accounts, as has been done by Facebook in Myanmar where the platform was used to fuel violence against the Rohinghya population. Twitter also recently suspended an account of an army general in Myanmar after spreading hate speech.

Conclusion

However it is unclear how effective the legal and non-legal measures have been to addressing the challenges of hate speech. There is a need for an evidence-based discussion to critically examine the phenomenon of hate speech and its impact on democracy, the rule of law and human rights, as well as to dissect the role of key stakeholders in combating hate speech while upholding the freedom of expression. Asia Centre's International Conference on Hates Speech in Asia: Challenges and Solutions, 8-10 July, Bangkok, Thailand seeks to address this gap.