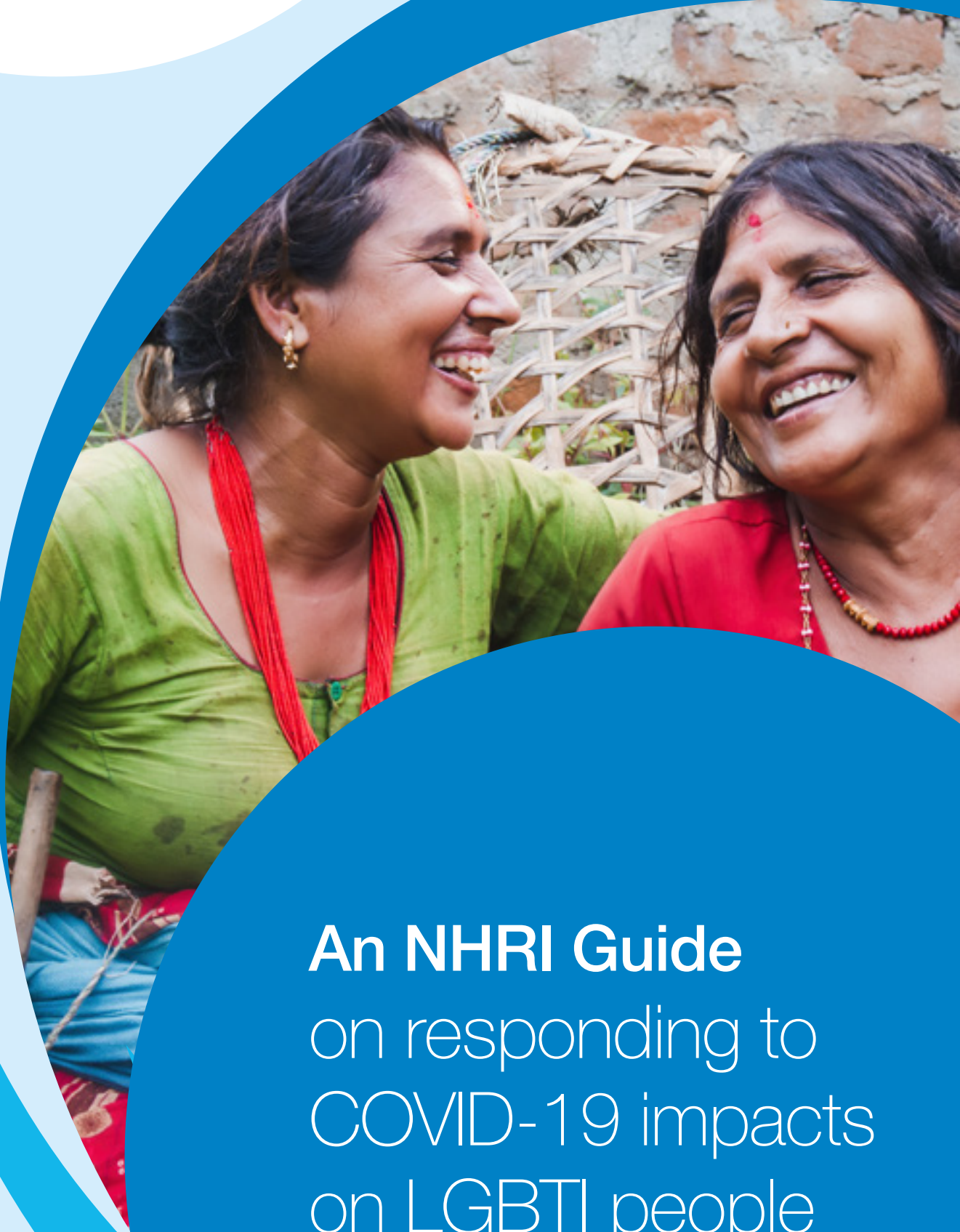




ASIA PACIFIC FORUM
ADVANCING HUMAN RIGHTS IN OUR REGION



An NHRI Guide on responding to COVID-19 impacts on LGBTI people

Contents

Section one: The impact of the COVID-19 pandemic on LGBTI people in the Asia Pacific region	6
1. Health risks	6
2. Loss of income, food & housing	7
3. Lack of access to state support, services, or benefits	8
4. Stigmatisation, discrimination, scapegoating, hate speech, and violence	9
5. Domestic violence and abuse	10
6. Difficult access to health services	11
7. De-prioritisation of required health services	12
8. Social isolation and increased anxiety	13
9. Abuse of state power	13
10. Organisational survival, community support, and unity	14

Section two: Guidance on how NHRIs can address the impact of the COVID-19 pandemic on LGBTI communities	15
1. Recognising LGBTI people as a vulnerable group in the context of the pandemic	15
2. Advising authorities on how to promote and protect the rights of LGBTI people in the context of COVID-19	17
3. Education and awareness raising	18
4. Monitoring the pandemic's impact on LGBTI people	19
5. Complaints handling	20
6. Court interventions and monitoring	21
7. Advocating for laws, policies, and practices that alleviate the impact of the pandemic on LGBTI people	22
8. Cooperation and engagement	23
9. National inquiries	24

Resources	25
------------------	-----------



Acknowledgements

The United Nations Development Programme – Bangkok Regional Hub (UNDP – BRH) and the Asia Pacific Forum of National Human Rights Institutions (APF) have worked together to promote human rights in relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics (SOGIESC) since 2015.

This Guide was developed as a result of an APF – UNDP BRH partnership agreement project that was implemented between June 2021 – March 2022.

The APF is most grateful to Dodo Karsay, the primary author of this resource, Jack Byrne, and Maria Aïcha Boumeddiene for their expert contributions to the development of this resource and overall capacity development project.

The APF also acknowledges the critical contributions of NHRI participants of the 2021 APF online course on promoting and protecting human rights in relation to SOGIESC, and in particular the NHRIs of Fiji, New Zealand, Mongolia, Philippines, Thailand and Timor-Leste.

Introduction

Background

In March 2020, the World Health Organisation declared COVID-19 as a global pandemic and all regions of the world have since been struggling with the serious health, social, psychological, and economic impact of the crisis. COVID-19 has taken a serious toll on the Asia Pacific region as well. Over 760.000 deaths have been recorded in South-East Asia, 190.000 in the Western Pacific, and 337.000 in the Eastern Mediterranean.¹ As of March 2022, India alone has accounted for 515.000 deaths of the estimated 6 million lives that have been lost globally.²

The COVID-19 pandemic has not only taken the lives of millions but has also exacerbated and made visible structural inequalities against historically marginalised communities, including lesbian, gay, bisexual, trans, and intersex (LGBTI)³ people. In July 2020, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (SOGI) dedicated a thematic report to the impact of the COVID-19 pandemic on the human rights of LGBT persons⁴. In the report, the Independent Expert emphasised that “persons, communities and populations that are victims of violence and discrimination on the basis of sexual orientation and gender identity are among those that face this challenge bearing a legacy that condemns a significant proportion of them to exclusion and poverty, and are therefore not facing [the pandemic] on a level playing field”.⁵ UN human rights mechanisms have also highlighted that the pandemic has had a particularly serious impact on LGBTI people who face multiple, compounded, or intersectional -discrimination⁶ on the basis of their sexual orientation, gender identity and expression, and sex characteristics (SOGIESC). This marginalisation is compounded when LGBTI people also face multiple and intersectional discrimination based on their “disability, age, ethnicity/race, sex, indigenous or minority status, socioeconomic status and/or caste, language, religion or belief, political opinion, national origin, migration or situation of displacement, marital and/or maternal status, urban/rural location, health status, and property ownership”.⁷

- 1 See the breakdown as per WHO regions: “WHO Coronavirus (COVID-19) Dashboard”, WHO (COVID-19) Homepage, <https://covid19.who.int/>, accessed 11 March 2022. See a county-by-country breakdown for the Asia Pacific region: “Number of novel coronavirus (COVID-19) deaths in the Asia-Pacific region as of January 19, 2022, by country”, Statista Research Department, January 19, 2022, <https://www.statista.com/statistics/1104268/apac-covid-19-deaths-by-country/>, accessed 11 March 2022.
- 2 See “WHO Coronavirus (COVID-19) Dashboard”, WHO (COVID-19) Homepage. Research has suggested that the number of ‘excess deaths’, which marks the total number of deaths caused directly and indirectly by COVID-19, may be triple of this figure, amounting to 18 million. See *COVID-19 Excess Mortality Collaborators. Estimating excess mortality due to the COVID-19 pandemic: a systematic analysis of COVID-19-related mortality, 2020–21*, The Lancet, March 10, 2022, [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(21\)02796-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(21)02796-3/fulltext).
- 3 This resource generally uses the term ‘LGBTI’, except where regional examples refer to different populations, such as LGBT, LGBTIQ, LGB women, etc. APF retained those acronyms in their original form.
- 4 The mandate of the UN Independent Expert only covers sexual orientation and gender identity, but the mandate has included some references to the specific human rights issues that intersex people face.
- 5 UN General Assembly, *Protection against violence and discrimination based on sexual orientation and gender identity: Note by the Secretary-General*, July 28, 2020, A/75/258, para. 3, <https://undocs.org/Home/Mobile?FinalSymbol=A%2F75%2F258&Language=E&DeviceType=Desktop&LangRequested=False>.
- 6 Outright Action International, *Vulnerability Amplified: The Impact of COVID-19 Pandemic on LGBTIQ People*, May 6, 2020, p. 10, https://outrightinternational.org/sites/default/files/COVIDsReportDesign_FINAL_LR_0.pdf.
- 7 OHCHR, *COVID-19: The suffering and resilience of LGBT persons must be visible and inform the actions of States*, May 14, 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25884&LangID=E> and A/75/258, para. 9.

The impact of the pandemic on LGBTI communities, including in the Asia Pacific region⁸, has manifested in a multiplicity of ways, including a sudden loss of income and housing, a rise in domestic or family violence, hate crimes, and hate speech, and arbitrary arrests, detention, torture and ill-treatment. Additionally, pandemic responses at national and local levels, including through state agencies or service providers, have often left LGBTI people behind or have added to the discrimination and violence they experience.⁹

The full impact of the pandemic on LGBTI people may never be known. On the one hand, UN human rights experts have noted that due to criminalisation, which affects LGBTI people in approximately two dozen countries in the Asia Pacific region today¹⁰, the exact toll of the pandemic on LGBTI communities is difficult to estimate.¹¹ When LGBTI lives are directly or indirectly criminalised or stigmatised, it is unsafe for people to speak up and seek support. Secondly, comprehensive and disaggregated official data at the national level is also lacking. Nevertheless, the data that is available, and often collected by civil society organisations, reveals the detrimental impact of the pandemic on LGBTI people across the region.

On a hopeful note, some Asia Pacific countries have managed to keep the death toll to a minimum¹² and five countries and territories have recorded zero cases to date.¹³ In terms of COVID-19 responses, a number of civil society organisations in the Asia Pacific region reported that previous outbreaks and crises, such as the SARS epidemic or the 2010 tsunami, enabled them to respond swiftly to the COVID-19 crisis.¹⁴ NHRIs in several countries have responded firmly, through advocacy, complaints handling, monitoring, and other avenues, often in consultation with local LGBTI civil society organisations.

This report is to support NHRIs in promoting and protecting the rights of LGBTI people in the context of the COVID-19 pandemic. Section one details the impact of the pandemic on LGBTI people in the Asia Pacific region, highlighting country examples where available. Section two provides guidance to NHRIs on how they can address the impact of the COVID-19 pandemic on LGBTI communities, highlighting existing good practices from the region. Resources are provided in the last section.

Rationale

In late 2021, APF held an online course for its members to strengthen the capacity of NHRI staff to engage in the work of promoting and protecting human rights in relation to sexual orientation, gender identity and expression, and sex characteristics. The course was based on APF's manual for NHRIs on *Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity and Sex Characteristics* (2016) and its guidelines *Part of our Everyday Work: NHRI Guidelines for Mainstreaming SOGISC Work* (2017).

8 ASEAN SOGIE Caucus, *The Impact of COVID-19 on LGBTIQ+ Organizations in Southeast Asia*, 2021, p. 13, <https://aseansogiecaucus.org/images/resources/publications/20211130%20The%20Impact%20of%20COVID-19%20on%20LGBTIQ%20Organizations%20in%20Southeast%20Asia%20-%20ASEAN%20SOGIE%20Caucus.pdf>.

9 A/75/258, para. 7.

10 ILGA World: Lucas Ramon Mendos, Kellyn Botha, Rafael Carrano Lelis, Enrique López de la Peña, Iliá Savelev and Daron Tan, *State-Sponsored Homophobia 2020: Global Legislation Overview Update*, December, 2020, p. 113, https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2020.pdf.

11 OHCHR, COVID-19: The suffering and resilience of LGBT persons must be visible and inform the actions of States.

12 Ibid.

13 These are Tuvalu, Tokelau, Pitcairn Islands, Nauru and Federated States of Micronesia. See Foon Eleisha, *Niue prepared for arrival of unwanted guest - covid*, RNZ, March 11, 2022, <https://www.rnz.co.nz/international/pacific-news/463099/niue-prepared-for-arrival-of-unwanted-guest-covid>.

14 See for instance in the case of China and regarding the Pacific: Outright Action International, *Vulnerability Amplified: The Impact of COVID-19 Pandemic on LGBTIQ People*, pp. 26, 65.

APF's course consisted of eight online modules and four live sessions. One of the four live sessions focused solely on the COVID-19 pandemic. NHRIs shared how the pandemic has impacted LGBTI communities in their countries and how they have responded to this impact.

This resource reflects some of the discussions during the session, complemented by desk research on the pandemic's impact and responses from a brief survey APF circulated in December 2021 to document good practice examples from its members.

The aim of this publication is to share all of this knowledge more widely, so all of APF's members can utilise it in their work.

Terminology

Words that describe such intrinsic parts of a person's identity or characteristics, such as their SOGIESC status, carry a heavy weight and significance. This is particularly so for groups that have been stigmatised and whose existence has been denied. In such circumstances, terms validate who someone is and may help LGBTI people feel connected to others who share that identity or those characteristics. Terminology evolves over time. What remains constant is the importance of treating each person with dignity, in a way that protects the person from discrimination and violence. For more information about terminology and regional-specific examples, please refer to Chapter 1 of [APF's SOGIESC manual for NHRIs](#).

- **Sexual orientation** refers to each person's capacity for profound emotional, affectional, and sexual attraction to, and intimate and sexual relations with, another person.
- **Gender identity** is a person's internal sense of being a man or a woman or a third or other alternative gender, or a combination of genders.
- **Gender expression** refers to a person's ways of communicating masculinity or femininity (or both or neither) externally through physical appearance (including clothing, hairstyles, and the use of cosmetics) and mannerisms, ways of speaking, and behavioural patterns when interacting with others.
- **Sex characteristics** refers to the chromosomal, gonadal, and anatomical features of a person. Some are primary characteristics (for example, reproductive organs, genitalia, chromosomes, and hormones). Some are secondary characteristics (such as muscle mass, hair distribution, or breast development).

Section one:

The impact of the COVID-19 pandemic on LGBTI people in the Asia Pacific region

Data on the impact of the COVID-19 pandemic that is disaggregated on the basis of SOGIESC, is scarcely available at global, regional, or national levels. Nonetheless, UN human rights mechanisms, NHRIs, and civil society organisations have been documenting the pandemic's impact on LGBTI communities since its onset, clearly establishing its detrimental and disproportionate impact on LGBTI communities.¹⁵ The following section presents this evidence, with a focus on examples from the Asia Pacific region.¹⁶

1. Health risks

Prior to the COVID-19 pandemic, stigma, discrimination, and violence has resulted in LGBTI people faring worse in terms of their physical and mental health state than the rest of the population.¹⁷ LGBTI people are also disproportionately affected by poverty¹⁸, which increases their risk of developing health problems. Trans individuals and men who have sex with men, as well as sex workers, are key populations in the context of HIV/AIDS and may have compromised immune systems.¹⁹ Additionally, many LGBTI people have had pre-existing conditions prior to the pandemic, which increased their vulnerability to health risks related to COVID-19.²⁰ LGBTI people are also disproportionately affected by housing insecurity. Many undocumented LGBTI migrants, sex workers, or LGBTI asylum seekers have lived in overcrowded apartments, centres, or housing facilities.^{21 22} This means that many LGBTI people have lived in conditions where preventive measures, such as distancing, access to masks, water and sanitation facilities, or sanitisers, may not have been available.

15 See for instance, A/75/258; Philippines Commission on Human Rights, *Statement of CHR Spokesperson, Atty Jacqueline Ann de Guia, calling for the inclusion of persons deprived of liberty in the priority list for Covid-19 vaccination*, April 14, 2021, [Statement of CHR Spokesperson, Atty Jacqueline Ann de Guia, calling for the inclusion of persons deprived of liberty in the priority list for Covid-19 vaccination](#); Uluwai Kirisitiana, *COVID-19 amplifies LGBTIQ person's vulnerability*, *FBC News*, May 17, 2021, *COVID-19 amplifies LGBTIQ person's vulnerability*; OHCHR, *COVID-19 and the Human Rights of LGBTI people*, April 17, 2020, <https://www.ohchr.org/sites/default/files/Documents/Issues/LGBTI/LGBTIpeople.pdf>; OutRight Action International, *Vulnerability Amplified: The Impact of the COVID-19 Pandemic on LGBTIQ People*.

16 The headings in this section are based on several resources, including OHCHR's 2020 note on *COVID-19 and the Human Rights of LGBTI people* and OutRight Action's report *Vulnerability Amplified: The Impact of the COVID-19 Pandemic on LGBTIQ People*, and others.

17 A/75/258, para. 28.

18 A/75/258, para. 25.

19 A/75/258, para. 28 (b)

and Equal Rights Coalition, *Report 1: Global Impact of COVID-19 on LGBTI Communities*, April 20, 2020, p. 4, <https://equalrightscoalition.org/documents/global-impact-of-covid-19-on-lgbti-communities/>.

20 A/75/258, para. 28 (b).

and Equal Rights Coalition, *Report 1: Global Impact of COVID-19 on LGBTI Communities*, p. 4.

21 *Ibid.*, p. 5.

22 A/75/258, para. 36-37.

Regional example:

- A survey in **Indonesia** found that 90% of trans women were at high risk of contracting COVID-19 due to living in slums and overcrowded housing facilities.²³ Ill elderly trans women have been particularly at risk and a specific crisis centre was set up to support them.²⁴

2. Loss of income, food & housing

Prior to the pandemic, LGBTI people have historically faced discrimination, harassment, violence, and marginalisation in their families and broader communities. These experiences can have a detrimental impact on LGBTI people's physical and mental well-being, education and employment prospects, and overall socio-economic status.²⁵ This can manifest in disproportionate rates of poverty, unemployment, and housing insecurity.^{26 27} Due to stigma and discrimination in education and employment, many LGBTI people and particularly trans people engage in the hospitality and service industries, or engage in sex work, survival sex, or other informal or criminalised sectors.²⁸ Some must rely on begging to survive,²⁹ and may be treated as criminals for doing so. Working in informal sectors or relying on day-to-day income, many LGBTI people do not have access to employment benefits, such as sick leave or the ability to work from home, and often do not have savings to rely on.³⁰

The COVID-19 pandemic has exposed and amplified the socio-economic vulnerability of LGBTI people. Many lost their source of income and have been unable to afford rent, utilities, food, and basic necessities.³¹ Lack of employment security, savings, or supportive communities has meant many have had to relocate to crowded or temporary housing facilities, social housing and shelters, where these were available.³² Others had to move back to unsafe families where they have been exposed to harassment and violence³³ or have been made homeless.

Regional examples:

- Edge Effect's briefing note on the *Impacts of COVID-19 on LGBTIQ+ people* summarises accounts from local civil society groups in **India, Indonesia, Nepal, Bangladesh,** and **Pakistan** about the sudden loss of livelihood in their communities. In **India**, for instance, an activist working with the West Bengal hijra community shared that roughly one in two people lost their street-based work due to COVID-19 restrictions and lockdowns.³⁴

23 Crisis Response Mechanism (CRM Coalition) submission to the IESOGI, quoted in A/75/258, para. 28(a).

24 Kurniawan Ulung A., *Harrowing times: the challenges facing Yogyakarta's trans women's crisis center*, The Jakarta Post, February 20, 2022, <https://www.thejakartapost.com/culture/2022/02/20/harrowing-times-the-challenges-facing-yogyakartas-trans-womens-crisis-center.html?fbclid=IwAR1PX9MbCvEiJsYHtFQVZTaKwZqtNLAoK78N-maa4a7JjVvS5CZNLbtYDbZo>.

25 Edge Effect, BRIEFING NOTE: Impacts of COVID-19 on LGBTIQ+ people, p. 2, https://www.edgeeffect.org/wp-content/uploads/2020/04/LGBTIQ-COVID19_EdgeEffect_30Apr.pdf.

26 OHCHR, *COVID-19: The suffering and resilience of LGBT persons must be visible and inform the actions of States* and A/75/258, para. 30.

27 A/75/258, para. 33.

28 A/75/258, para. 33-34.

29 Edge Effect, *BRIEFING NOTE: Impacts of COVID-19 on LGBTIQ+ people*, p. 2.

30 OHCHR, *COVID-19 and the Human Rights of LGBTI people*.

31 Edge Effect, *BRIEFING NOTE: Impacts of COVID-19 on LGBTIQ+ people*, p. 3.

32 A/75/258, para. 31 and Edge Effect, *BRIEFING NOTE: Impacts of COVID-19 on LGBTIQ+ people*, pp. 2, 5.

33 A/75/258, para. 32.

34 Edge Effect, *BRIEFING NOTE: Impacts of COVID-19 on LGBTIQ+ people*, p. 3.

- Activists in **Thailand** have shared that due to discrimination in both employment and education, LGBTIQ+ people in the country have no savings to rely on during the pandemic.³⁵ A survey in **Bangladesh** among third gender communities found that 86% of LGBT respondents had no savings, 82% had no income during the weeks before the survey, and 56% did not get financial support from the state or family.³⁶ In **Indonesia**, trans communities predicted they would last a maximum of three months after losing their income.³⁷ 66% respondents of a survey with LGBTIQ people in **Oceania**, francophone Africa and French overseas territories, reported that they struggled financially two weeks into the pandemic.³⁸
- Many LGBTI people lost their source of income in the **Philippines** when non-essential services were shut down in the country. Those working in the service industry or earning their living through pageants lost most or all of their income due to lockdowns and restrictions.³⁹ Similar experiences were reported in **Timor-Leste**⁴⁰, **Singapore**⁴¹, **Malaysia**⁴², and other countries.
- In **Sri Lanka**, many lesbian, bisexual and trans (LBT) people work in the garment industry, and had to work extended hours despite curfews, which exposed them to infection.⁴³ Trans sex workers were also similarly affected.
- LGBTI people in **Pacific Island nations** reported fearing food shortages during the pandemic as their communities rely on shipping imports for basic food supplies.⁴⁴

3. Lack of access to state support, services, or benefits

Some States have provided support and benefits during the pandemic, either to the general population or to those most vulnerable. In countries where people are criminalised on the basis of their SOGIESC, LGBTI people have been unable or too afraid to apply for those benefits.

Many LGBTI people have faced discrimination and harassment when trying to access state support. Trans people have been particularly affected. Very few countries in Asia Pacific enable trans people to amend their name and gender marker.⁴⁵ The lack of legal gender recognition procedures have caused serious barriers during the pandemic. For instance, some were denied food supplies or aid when their ID documents did not match their appearance. Some have faced harassment at vaccination or testing sites. Rainbow families have been unable to benefit from family unification

35 Ibid.

36 Innovision, *Webinar 1: Impact of COVID 19 on the Economy of Bangladesh*, http://innovision-bd.com/covid-19-impact-studies/?fbclid=IwAR06k92BcnTFeJmX412ndelll3mjOzOjOITbgLn9GmTF_W2dlPEl_mjv84#COVID-19-Third-Gender quoted in A/75/258, para. 25.

37 ASEAN SOGIE Caucus, *The Impact of COVID-19 on LGBTIQ+ Organizations in Southeast Asia*, pp. 13-14.

38 ALFO survey: *LGBTI individuals in Oceania struggle with multitude of Covid19 related challenges*, APCOM, <https://www.apcom.org/alfosurvey-lgbti-individuals-in-oceania-struggle-with-multitude-of-covid19-related-challenges/>.

39 Dela Peña Kurt, *Gay pride in a time of gloom: Barely surviving the pandemic*, *Inquirer.net*, August 12, 2021, <https://newsinfo.inquirer.net/1472826/gay-pride-in-a-time-of-gloom-barely-surviving-the-pandemic&ust=164708700000000&usg=AOvVaw1Pxo0vl2uDCrxm9j9S2bo&hl=en>.

40 Shared with APF for the purpose of this report.

41 Outright Action International, *Vulnerability Amplified: The Impact of COVID-19 Pandemic on LGBTIQ People*, p. 26.

42 ASEAN SOGIE Caucus, *The Impact of COVID-19 on LGBTIQ+ Organizations in Southeast Asia*, p. 14.

43 Outright Action International, *Vulnerability Amplified: The Impact of COVID-19 Pandemic on LGBTIQ People*, p. 25.

44 Outright Action International, *Vulnerability Amplified: The Impact of COVID-19 Pandemic on LGBTIQ People*, p. 26.

45 UNDP & APTN, *Legal Gender Recognition: A Multi-Country Legal and Policy Review in Asia*, 2017, <https://weareaptn.org/resource/legal-gender-recognition-a-multi-country-legal-and-policy-review-in-asia/>.

regulations during travel restrictions if their families were not legally recognised. State-sponsored counselling services may also be unprepared to support LGBTI people in need.⁴⁶

When LGBTI people are asylum seekers, refugees, or migrants with temporary or no valid visas, their vulnerability has increased as a result of the COVID-19 pandemic.⁴⁷ In countries where governments provided wage subsidies to people during lockdowns, those provisions may have applied only to those in the formal employment sector or relied on employers applying for such benefits on their employee's behalf. This excluded those in precarious work, people without documented status as employees and those vulnerable to exploitation because their immigration status is tied to one employer.⁴⁸

Regional examples:

- In **Sri Lanka**, where same-sex relations are criminalised, many LGBTI people have chosen not to apply for government food aid, as they would have had to share their place of residence with the police and risk being exposed to violence.⁴⁹ In **Indonesia**⁵⁰ and **India**⁵¹ many trans and gender diverse people do not have ID cards and have not been able to access aid.
- Several reports emerged in the **Philippines** of lesbian couples who were denied stated food supplies issued during the COVID-19 pandemic because the local government failed to recognise them as a family.⁵² As positive practice, three local governments provided cash aid to such families and included them in social improvement programmes.⁵³

4. Stigmatisation, discrimination, scapegoating, hate speech, and violence

Hate speech against LGBTI people has increased during the pandemic, including by political and religious leaders, and the media.⁵⁴ UN human rights mechanisms have highlighted that in a number of countries LGBTI people have been blamed for spreading COVID-19,⁵⁵ “abused, incarcerated and

46 Outright Action International, *Vulnerability Amplified: The Impact of COVID-19 Pandemic on LGBTIQ People*, p. 44.

47 Email correspondence with email correspondence with *Rainbow Path*, a peer advocacy and support organisation for LGBTI asylum seekers and refugees living in Aotearoa New Zealand.

48 See for instance, Wahab Andika, *The outbreak of Covid-19 in Malaysia: Pushing migrant workers at the margin*, 2020, <https://www.sciencedirect.com/science/article/pii/S2590291120300620>.

49 Ibid.

50 Edge Effect, *BRIEFING NOTE: Impacts of COVID-19 on LGBTIQ+ people*, p. 4.

51 Rawat Sonal, *COVID-19 and the transgender community in India*, Tim Zubizarreta, June 5, 2020, <https://www.jurist.org/commentary/2020/06/sonal-rawat-trans-rights-covid19/>; Human Rights Watch, India: identification project threatens rights, January 13, 2018, [https://www.hrw.org/news/2018/01/13/india-identification-project-threatens-rights#:~:text=\(New%20York\)%20%E2%80%93%20The%20Indian,Human%20Rights%20Watch%20said%20today.,](https://www.hrw.org/news/2018/01/13/india-identification-project-threatens-rights#:~:text=(New%20York)%20%E2%80%93%20The%20Indian,Human%20Rights%20Watch%20said%20today.,) quoted in A/75/258, para. 22.

52 Ritholtz Sam, *LGBTQ+ people left out by exclusionary COVID-19 aid practices*, June 24, 2020, *The New Humanitarian*, <https://www.thenewhumanitarian.org/news-feature/2020/06/24/LGBTQ-gender-coronavirus-discrimination-aid>.

53 A/75/258, para. 63.

54 UN News, 'Stand up against hate' towards LGBTI people, UN human rights chief urges, May 14, 2021, <https://news.un.org/en/story/2021/05/1091992>.

55 OHCHR, *UN High Commissioner for Human Rights Michelle Bachelet on the International Day against Homophobia, Transphobia and Biphobia*, May 15, 2020, <https://www.ohchr.org/en/statements/2020/05/un-high-commissioner-human-rights-michelle-bachelet-international-day-against?LangID=E&NewsID=25891>; OHCHR, COVID-19: The suffering and resilience of LGBT persons must be visible and inform the actions of States and A/75/258, para. 19.

stigmatised as vectors of disease⁵⁶. The increase in hostile rhetoric has contributed to a rise in anti-LGBTI hate crimes, often carried out with impunity or with state support.

Regional examples:

- **Fiji's** Human Rights and Anti-Discrimination Commission has noted an increase in hate speech and cyberbullying targeting LGBTIQ people since the onset of the COVID-19 pandemic.⁵⁷ LGBT civil society organisations issued a statement to condemn this trend.⁵⁸
- A political leader in **Iraq** blamed same-sex marriage for the spread of COVID-19 and called on governments to ban marriage equality.⁵⁹ LGBTI people have been blamed for the pandemic in **Indonesia** and **Thailand** as well.⁶⁰ Anti-LGBT rhetoric and hate crimes against trans and gender-diverse people⁶¹ rose in **Malaysia** after a scapegoating social media post spread rapidly⁶², to which LGBTQ people responded with messages of solidarity⁶³.

5. Domestic violence and abuse

Many LGBTI people have lost their source of income and have had to move back to unsafe family homes during the pandemic, where they have been exposed to high rates of harassment and violence.⁶⁴ LGBTI children have been particularly vulnerable, having to depend on their families and having lost their access to school or supportive communities.⁶⁵ In States where LGBTI people are persecuted, victims have been unable to report violence and receive protection and support.⁶⁶ Domestic violence shelters may also be unequipped to support LGBTI people fleeing intimate partner or family violence and may expose them to further violence.⁶⁷

-
- 56 UNAIDS, MPACT, *UNAIDS and MPact are extremely concerned about reports that LGBTI people are being blamed and abused during the COVID-19 outbreak*, press release, April 27, 2020, https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2020/april/20200427_lgbti-covid.
- 57 Krishant Naveel, *LGBTIQ persons must be afforded acceptance, respect and equal treatment, particularly during these critical times- Raj*, May 18, 2021, Fijivillage, <https://www.fijivillage.com/news/LGBTIQ-persons-must-be-afforded-acceptance-respect-and-equal-treatment-particularly-during-these-critical-times--Raj-58fr4x/>.
- 58 Fiji Women's Rights Movement, *JOINT STATEMENT: NGOCHR and Rainbow Pride Foundation: Stop Victim-Blaming COVID-19 Patients*, March 31, 2020, Facebook, https://m.facebook.com/nt/screen/?params=%7B%22note_id%22%3A337600057341414%7D&path=%2Fnotes%2Fnote%2F&_rdr.
- 59 Quoted in OHCHR, *COVID-19 and the Human Rights of LGBTI people*; Fazeli, Yaghoub, *Iraqi Shia cleric Muqtada al-Sadr says gay marriage caused coronavirus*, Alarabiya News, March 28, 2020, <https://english.alarabiya.net/News/middle-east/2020/03/28/Coronavirus-Iraqi-Shia-cleric-blames-gay-marriage-for-coronavirus>.
- 60 Edge Effect, *BRIEFING NOTE: Impacts of COVID-19 on LGBTIQ+ people*, p. 5.
- 61 OPALYN MOK, *Group says violence against trans, gender-diverse people up in Covid-19 pandemic*, Malaymail, November 20, 2020, <https://www.malaymail.com/news/malaysia/2020/11/20/group-says-violence-against-trans-gender-diverse-people-up-in-covid-19-pand/1924589>.
- 62 Qureshi Fatima, *Comment: under MCO, LGBT people face violence at home*, Malaysiakini, April 22 2020, <https://www.malaysiakini.com/news/522037>, quoted in A/75/258, para. 21.
- 63 Queer Lapis, *We Understand the Pain: LGBTQ Malaysians Speak Up for Migrants & Refugees*, <https://www.queerlapis.com/migran-juga-manusia-protests/>.
- 64 OHCHR, *UN High Commissioner for Human Rights Michelle Bachelet on the International Day against Homophobia, Transphobia and Biphobia*.
- 65 OHCHR, *COVID-19 and the Human Rights of LGBTI people*.
- 66 ASEAN SOGIE Caucus, *The Impact of COVID-19 on LGBTIQ+ Organizations in Southeast Asia*, p. 15.
- 67 New Zealand Human Rights Commission, *Human rights and Te Tiriti o Waitangi: COVID-19 and alert level 4 in Aotearoa New Zealand*, April 30, 2020, https://www.hrc.co.nz/files/6615/8819/4763/Human_Rights_and_Te_Tiriti_o_Waitangi_COVID-19_and_Alert_Level_4_FINAL.pdf.

Regional examples:

- **Fiji's** Human Rights and Anti-Discrimination Commission has emphasised that LGBTIQ people face family rejection, physical and psychological domestic violence, and bullying in their own homes, which makes them particularly vulnerable during lockdown periods.⁶⁸ Domestic or family violence cases were reported across the region. In **Sri Lanka** for instance, a gay man was cast out by his family during curfew hours, which exposed him to arrest and detention.⁶⁹ A survey in **Singapore** found that half of the respondents lived in an environment during the pandemic that was hostile to them due to their sexual orientation or gender identity (SOGI).⁷⁰ 50% respondents in a regional survey targeting LGBTQ communities in the Asia Pacific region feared increased discrimination due to their sexual orientation and gender identity, and many reported being forced to leave home because of who they are.⁷¹
- In **Thailand**, civil society has documented LGBTI people moving back to rural areas from cities to find work during the pandemic and suffering sexual and gender-based violence in their new homes.⁷² 14% of the respondents in a survey on the pandemic's impact on LGBT people in Thailand said they had experienced an increase in family, intimate, or gender-based violence.⁷³
- Domestic violence cases in **China** multiplied during the pandemic including among LGBTI people who also faced an increase in psychological violence.⁷⁴

6. Difficult access to health services

Even before the COVID-19 pandemic, LGBTI people faced significant barriers accessing general healthcare services.⁷⁵ LGBTI people face widespread discrimination in healthcare, including harassment from medical professionals, denial of care, mistreatment, or even violence.⁷⁶ In fear of such experiences or of being outed to families and communities, or risking arrest, many LGBTI people avoid going to the doctor when they need help.⁷⁷ Due to poverty and unemployment, many LGBTI people also lack health insurance and cannot access safe quality care.⁷⁸ These issues have made LGBTI people particularly vulnerable during the pandemic.

68 Krishant Naveel, *LGBTIQ persons must be afforded acceptance, respect and equal treatment, particularly during these critical times- Raj*.

69 Outright Action International, *Vulnerability Amplified: The Impact of COVID-19 Pandemic on LGBTIQ People*, p. 25.

70 Submission by the ASEAN SOGIE Caucus, quoted in A/75/258, para. 13.

71 APCOM, *Online Survey on LGBTQ and Human Rights Violations and Abuses during the Covid-19 Pandemic in the Asia Pacific launched on Human Rights Day 2021*, <https://www.apcom.org/online-survey-on-lgbtq-and-human-rights-violations-and-abuses-during-the-covid-19-pandemic-in-the-asia-pacific-launched-on-human-rights-day-2021/>.

72 Edge Effect, *BRIEFING NOTE: Impacts of COVID-19 on LGBTIQ+ people*, p. 5.

73 Submission by the Asia Pacific Transgender Network, quoted in A/75/258, para. 13.

74 Outright Action International, *Vulnerability Amplified: The Impact of COVID-19 Pandemic on LGBTIQ People*, p. 43 and see for instance APTN, *Regional Mapping Report on Trans Health, Rights and Development in Asia*, p. 9, https://weareaptn.org/wp-content/uploads/2020/02/APTN-HealthMappingReport-FINAL_comp.pdf.

75 A/75/258, para. 18.

76 OHCHR, *COVID-19 and the Human Rights of LGBTI people*.

77 A/75/258, para. 18 and 29.

78 A/75/258, para. 26.

Regional examples:

- Following a COVID-19 breakout in an LGBTQ-friendly neighbourhood in Seoul in **South Korea**, LGBTQ people were scared to come forward for testing in fear of being outed to their families and communities.⁷⁹ The breakout sparked widespread anti-LGBTQ rhetoric and many feared that this would threaten the safety and sense of community that many have found in the area before.
- In **New Zealand**, members of LGBTI (rainbow) communities faced barriers and anxiety in accessing vaccination and testing sites. At the start of the pandemic, trans people were concerned that they would have to show identification, revealing that they are trans and potentially exposing them to negative experiences. This was mostly earlier on when people might have to show some form of ID.⁸⁰ The government response, working with local communities, later made sure the vaccine pass did not include a gender marker. A short form was created for people to fill out at vaccination sites to communicate that their correct name and gender may not match their health record.

7. De-prioritisation of required health services

Healthcare provision has been severely impacted by the pandemic, with many services being deprioritised, including trans-specific gender affirming healthcare, HIV treatment and HIV-related services, STI testing, access to PrEP or PEP. Prior to the pandemic, many of these services were already lacking, limited, or not covered by public health schemes.⁸¹ Since the onset of COVID-19, trans people for instance have reported shortages in hormones, or the cancellation of their appointments or surgeries.⁸² Across the globe, many people living with HIV have had to suspend antiretroviral treatment.⁸³ According to a global survey among men who have sex with men (MSM), only 17% were able to continue ART during the pandemic without disruptions.⁸⁴ For intersex people, access to some medication has become constrained by supply chain disruption, and in other cases diverted, for example, in the cases of hydrocortisone and dexamethasone (used by some people with congenital adrenal hyperplasia).⁸⁵

Regional examples:

- In **Singapore**, many people on PrEP access their medication from outside the healthcare system, and some worried how they will do this during lockdowns and travel bans.⁸⁶
- Civil society in **Myanmar** reported disruptions and delays in ARV medication.⁸⁷

79 Borowiec Steven, *How South Korea's Nightclub Outbreak Is Shining an Unwelcome Spotlight on the LGBTQ Community*, TIME, May 14, 2020, <https://time.com/5836699/south-korea-coronavirus-lgbtq-itaewon/>.

80 Shared with APF for the purpose of this report.

81 APTN, *Regional Mapping Report on Trans Health, Rights and Development in Asia*, p. 10.

82 A/75/258, para. 29.

83 Adadi Parise, N. Kanwugu Osman, *Living with HIV in the time of COVID-19: A glimpse of hope*, January, 2021, https://www.wlhiv.org/_files/ugd/836bb6_6dd1315af17c4b0bb088d8e837aef632.pdf.

84 Santos GM, Ackerman B, Rao A, *Economic, Mental Health, HIV Prevention and HIV Treatment Impacts of COVID-19 and the COVID-19 Response on a Global Sample of Cisgender Gay Men and Other Men Who Have Sex with Men*, February, 2021, <https://pubmed.ncbi.nlm.nih.gov/32654021/> and quoted in A/75/258, para. 28(b).

85 Carpenter Morgan, *Intersex people and COVID-19*, April 12, 2020, <https://ihra.org.au/36340/intersex-people-covid19/> and Mahase Elisabeth, *News Covid-19: Hydrocortisone can be used as alternative to dexamethasone, review finds*, 2020, <https://www.bmj.com/content/370/bmj.m3472>.

86 Outright Action International, *Vulnerability Amplified: The Impact of COVID-19 Pandemic on LGBTIQ People*, p. 38.

87 Colors Rainbow, *Advocacy note related to the COVID-19 epidemic in Myanmar* (unpublished manuscript, June 3, 2020) quoted in ASEAN SOGIE Caucus, *The Impact of COVID-19 on LGBTIQ+ Organizations in Southeast Asia*, p. 15.

- LGBTIQ people in **Oceania**, francophone Africa and French overseas territories, reported limited access to HIV medication.⁸⁸

8. Social isolation and increased anxiety

LGBTI people are generally at disproportionately high risk of social isolation, depression, anxiety, suicidal thoughts, and suicide as compared to the general population⁸⁹. These issues have been aggravated by the pandemic. In addition, many have lost access to peer groups, community spaces, psycho-social support services, and non-governmental organisations (NGOs). The demand for mental health support has escalated in LGBTI communities across the globe, with organisations struggling to provide enough support.⁹⁰

Regional examples:

- In **Singapore**, 88% of lesbian, bisexual, trans men, and queer communities reported increased mental health problems, due to violence experienced at home, stress caused by income loss and unemployment, loneliness, and other factors. They reported anxiety, panic attacks, suicidal thoughts, and being unable to access mental health support.⁹¹ Similar trends were reported by LGBTI organisations in **Myanmar** and **Singapore**.⁹²
- Intersex Human Rights Australia noted that many people with intersex variations live with some degree of social isolation, both from other intersex people and distance from family members. Together with experiences of trauma and stigma, this created additional risk for poor mental health during the COVID-19 pandemic.⁹³

9. Abuse of state power

A number of States have used COVID-induced state emergencies to roll back human rights or target civil society, including LGBTI organisations and people in particular.⁹⁴ For instance, blanket police powers have been used to justify raids and attacks against human rights defenders.⁹⁵ Bans on gatherings have been used for prolonged periods to prevent LGBTI organisations and other human rights groups from coming together.⁹⁶ UN human rights mechanisms have documented at least one country that has used COVID-19 regulations to restrict trans people's right to access legal gender recognition.⁹⁷ Arbitrary arrest, detention, and police harassment and abuse have been widely documented during the pandemic⁹⁸ have particularly affected those who live in countries that criminalise LGBTI people.⁹⁹ Trans and gender-diverse people have been heavily policed and

88 ALFO survey: *LGBTI individuals in Oceania struggle with multitude of Covid19 related challenges*, APCOM.

89 Ibid.

90 A/75/258, para. 15.

91 Quoted in ASEAN SOGIE Caucus, *The Impact of COVID-19 on LGBTIQ+ Organizations in Southeast Asia*, p.14.

92 ASEAN SOGIE Caucus, *The Impact of COVID-19 on LGBTIQ+ Organizations in Southeast Asia*, p. 15.

93 Carpenter Morgan, *Intersex people and COVID-19*.

94 UN News, *'Stand up against hate' towards LGBTI people, UN human rights chief urges*.

95 OHCHR, *COVID-19 and the Human Rights of LGBTI people* and A/75/258, para. 24.

96 ASEAN SOGIE Caucus, *The Impact of COVID-19 on LGBTIQ+ Organizations in Southeast Asia*, p. 3.

97 OHCHR, *COVID-19 and the Human Rights of LGBTI people*.

98 A/75/258, para. 1.

99 UN News, *'Stand up against hate' towards LGBTI people, UN human rights chief urges*.

questioned during gendered lockdowns, whereby men and women were allowed to go to the supermarket and run errands on different days.¹⁰⁰ Trans, non-binary, and intersex people, whose documents did not match their identity or appearance, have in some countries been routinely harassed and subject to violence by the authorities. Undocumented LGBTI migrants have been at heightened risk of deportation when leaving the house. Asylum and immigration policies have become stricter, also affecting LGBTI people.¹⁰¹

Regional examples:

- Local police in the **Philippines** subjected several LGBT people to humiliation, forced kissing, dancing, and exercise after accusing them of looking for sex when they violated curfew regulations.¹⁰² Over a dozen LGBTQ activists were also arrested in the capital Manila, when protesting against the controversial anti-terror law.¹⁰³
- Crackdowns against migrants and refugees, including those who are LGBTI, were carried out in **Malaysia**.¹⁰⁴

10. Organisational survival, community support, and unity

Organisations supporting LGBTI people have faced increased difficulties since the onset of the pandemic to meet the critical needs of their communities.¹⁰⁵ The ASEAN SOGIE Caucus has highlighted that there have been no state-run support services available for LGBTI communities, apart from a few ad hoc examples.¹⁰⁶ Where state funding has been unavailable, many organisations have struggled to support themselves and keep programmes and services running.¹⁰⁷ Some organisations have lost project-specific funding.

Regional examples:

- In several countries in the Asia Pacific, civil society has organised and provided safe shelter, food, medical supplies, or rent to those most in need. For example, such support work has been documented in **Tonga, Indonesia, Singapore, Sri Lanka, China, Malaysia, Myanmar, Thailand, the Philippines**, and several other countries.¹⁰⁸

100 OHCHR, *COVID-19 and the Human Rights of LGBTI people*.

101 A/75/258, para. 36 and ASEAN SOGIE Caucus, *The Impact of COVID-19 on LGBTIQ+ Organizations in South-east Asia*, pp. 15-16; also Qureshi Fatima, *Comment: under MCO, LGBT people face violence at home* quoted in A/75/258, para. 21; Queer Lapis, *We Understand the Pain: LGBTQ Malaysians Speak Up for Migrants & Refugees*.

102 Thoreson Ryan, *Philippines Uses Humiliation as COVID Curfew Punishment: LGBT People Ordered to Dance and Kiss on Video*, Human Rights Watch, April 8, 2020, <https://www.hrw.org/news/2020/04/08/philippines-uses-humiliation-covid-curfew-punishment>.

103 Perez-Rubio Bella, *20 arrested at Pride march against anti-terror bill in Manila*, Philstar Global, June 26, 2020, <https://www.philstar.com/headlines/2020/06/26/2023739/20-arrested-pride-march-against-anti-terror-bill-manila>.

104 Qureshi Fatima, *Comment: under MCO, LGBT people face violence at home* quoted in A/75/258, para. 21; Queer Lapis, *We Understand the Pain: LGBTQ Malaysians Speak Up for Migrants & Refugees*.

105 Edge Effect, *BRIEFING NOTE: Impacts of COVID-19 on LGBTIQ+ people*, p. 5.

106 ASEAN SOGIE Caucus, *The Impact of COVID-19 on LGBTIQ+ Organizations in Southeast Asia*, p. 17.

107 *Ibid.*, p. 22.

108 See for instance Outright Action International, *Vulnerability Amplified: The Impact of COVID-19 Pandemic on LGBTIQ People*, pp. 25, 28, 65 and Edge Effect, *BRIEFING NOTE: Impacts of COVID-19 on LGBTIQ+ people*; SEED Foundation Malaysia on Instagram, August 13, 2021, <https://www.instagram.com/p/CSgPxJTJV-e/>; Kurniawan Ulung A., *Harrowing times: the challenges facing Yogyakarta's trans women's crisis center*.

Section two:

Guidance on how NHRIs can address the impact of the COVID-19 pandemic on LGBTI communities

The UN High Commissioner for Human Rights has recommended that NHRIs address discrimination and violence on grounds of SOGIESC in their work¹⁰⁹ and many NHRIs in the Asia Pacific region have been doing this work for many years.¹¹⁰ NHRIs in the region have also responded quickly to the COVID-19 pandemic¹¹¹ and in some cases have directly addressed the situation of LGBTI people during the crisis. The following section describes a number of ways in which NHRIs can protect and promote the human rights of LGBTI people in the context of the pandemic and highlights good practice examples from the region.

Additional APF resources to consult:

- *Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity and Sex Characteristics*
- *Part of our Everyday Work: NHRI Guidelines for Mainstreaming SOGISC Work*

1. Recognising LGBTI people as a vulnerable group in the context of the pandemic

NHRIs often encounter cultural, religious and political pressure from the State, religious or community leaders, and others when recognising that universal human rights apply to everyone, including people who are LGBTI, and working on the universal right to be free from discrimination and violence.¹¹² Nevertheless, it is important that NHRIs draw attention to the vulnerability of LGBTI people during the COVID-19 pandemic, and in similar crises.

NHRIs can also encourage governments to recognise LGBTI people as a vulnerable group, pointing to research reports, testimonies, consultations, or specific patterns in violations that were reported to the NHRI. The UN Office of the High Commissioner on Human Rights (OHCHR) and the Independent Expert on SOGI have affirmed that state responses to the COVID-19 pandemic, such as support services, aid, shelters, vaccination programs, or lockdown measures, should be designed in consultation with LGBTI people and their representative organisations.¹¹³ LGBTI

109 A/HRC/29/23, para. 80.

110 *Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity, and Sex Characteristics*, APF, June 21, 2016, p. 165. https://www.asia-pacific.undp.org/content/rbap/en/home/library/democratic_governance/hiv_aids/promoting-and-protecting-human-rights-in-relation-to-sexual-orientation.html.

111 OHCHR, *NHRI responses to the COVID-19 pandemic*, <https://www.ohchr.org/EN/Countries/NHRI/Pages/NHRIS-and-Covid-19.aspx>.

112 *Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity, and Sex Characteristics*, APF, p. 167.

113 A/75/258, para. 75-76, OHCHR, *COVID-19 and the Human Rights of LGBTI people and OHCHR, COVID-19: The suffering and resilience of LGBT persons must be visible and inform the actions of States*.

people and organisations should also be involved in the execution, monitoring, and evaluation of these responses.

If human rights defenders can safely cooperate with the government, NHRIs can share the contact details of local LGBTI organisations and groups, so they can directly inform the government of what responses would fit the needs of their communities the most. NHRIs should make sure to recommend those with specific expertise, for instance groups working with LGBTI women, trans or intersex people, sex workers, people living with HIV, and others. If it is not safe for human rights defenders to work with state authorities, the NHRI may need to play an intermediary role in creating safe places where LGBTI people can make complaints. The NHRI can then use its mandated functions to monitor and report on these issues.

POSSIBLE ACTIONS

- Recognise LGBTI people in the NHRI's **strategic plan** as a vulnerable group and as a priority group for programs and activities in the NHRI's **COVID-19 response**.
- Continue building the **institutional capacity** of the NHRI, including its members and staff, to promote and protect the human rights of LGBTI people, to ensure that this knowledge can be applied during and in the aftermath of the COVID-19 pandemic and similar crises.
- Continue building **relationships with LGBTI organisations and networks** to inform the work of the NHRI as part of its COVID-19 response and to ensure effective communication outreach to communities of people of diverse sexual orientations, gender identities and sex characteristics.
- Support the **State in recognising LGBTI people as a vulnerable group** in its COVID-19 response by providing evidence and contacts to organisations.

GOOD PRACTICE EXAMPLE

On the occasion of the International Day against Homophobia, Biphobia, Interphobia, and Transphobia in 2021, **Fiji** Human Rights and Anti-Discrimination Commission issued a statement highlighting the specific vulnerability of LGBTIQ people during the COVID-19 pandemic. The statement was picked up by multiple news platforms:

"LGBTIQ persons, both young and the elderly, face family rejection, endure domestic violence which is not only physical but also psychological, and bullying in their own homes which leads to depression, making them more vulnerable during lockdowns and containment." [...]
"Family members of LGBTIQ persons are instrumental in preventing and combating abuse and discrimination by being more accepting and compassionate towards the LGBTIQ members of their family, more so during this pandemic which is blind to the barriers that we humans build to decide who belongs and who does not whether it be our homes, schools, places of worship, or workplace." [Fiji Village](#) on 18 May 2021

The **New Zealand** Human Rights Commission Te Kāhui Tika Tangata facilitates a regular 6-monthly meeting between civil society and the Cross-Parliamentary Rainbow Network of LGBTQIA+ MPs and allies. The meeting in June 2020 went online and devoted an hour to a discussion regarding the impacts of COVID-19 on rainbow communities in the country, including asylum seekers, refugees and migrants. Not only did the Commission learn and hear more, but the MPs attending were able to take this information back to their respective parties and raise issues accordingly.

In its *2021 Human Rights Situation Assessment Report*, the National Human Rights Commission of **Thailand** identified people of diverse SOGIESC as a vulnerable group during the pandemic. The

NHRI highlighted that LGBTI people reported discrimination in employment and access to income. Many reported homelessness, experiences of HIV, and difficulties in accessing healthcare services. The report was presented to the parliament and cabinet.

2. Advising authorities on how to promote and protect the rights of LGBTI people in the context of COVID-19

The UN Office of the High Commissioner on Human Rights (OHCHR) has established that any state measures that are put in place to support vulnerable groups during the COVID-19 pandemic, should recognise the vulnerability and adequately and fully respond to the needs of LGBTI people.¹¹⁴ NHRIs regularly submit advisory notes, opinions, recommendations, proposals, and reports to the government and key authorities or service providers regarding the promotion and protection of human rights, in line with the Paris Principles.¹¹⁵ Many NHRIs in the Asia Pacific region have in the past provided advice to governments on the need to protect and promote the rights of LGBTI people, including during the COVID-19 pandemic.¹¹⁶ It is important that these are developed in consultation with LGBTI people and their representative organisations.¹¹⁷

POSSIBLE ACTIONS

- Issue and disseminate **special calls** to relevant governmental bodies to pay special attention to the needs of vulnerable groups during the pandemic, including LGBTI people.
- Urge the parliament to recognise trans and intersex-specific healthcare services, HIV services and treatment as **essential healthcare services** for the duration of the pandemic.¹¹⁸
- Submit an opinion in response to the parliament's **gendered lockdown** plans, which would allow men and women to go to the supermarket on different days. Remind them that such rules need to take into account the situation of trans, non-binary, and intersex people, whose documents may not match their identity or appearance and use this opportunity to remind the government to introduce **legal gender recognition procedures**.
- Participate in the **consultations** organised by government agencies about addressing intimate partner and family violence and recommend that LGBTI people are identified as a vulnerable group, ensuring that shelters and services are **inclusive of LGBTI people** and that service providers are adequately trained.
- Urge the **State to consult and partner with LGBTI people and organisations** in developing responses to the COVID-19 pandemic and to resource NGOs for their role in this work.

114 OHCHR, *COVID-19 and the Human Rights of LGBTI people*.

115 *Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity, and Sex Characteristics*, APF, p. 168.

116 *Ibid.*, p. 169.

117 *Ibid.*

118 OHCHR, *COVID-19 and the Human Rights of LGBTI people*.

GOOD PRACTICE EXAMPLE

Following the arrest of a dozen LGBTQI activists in the **Philippines** at a demonstration, the Commission on Human Rights of the **Philippines** called on the authorities to ensure that quarantine regulations do not limit the right to freedom of peaceful assembly and activism.¹¹⁹ Previously, the CHR reminded the government that curfews and lockdowns were to protect human rights, and not to violate them.

3. Education and awareness raising

Education and awareness raising is one of the core responsibilities of NHRIs.¹²⁰ NHRIs may have experience conducting training, seminars, and workshops for law enforcement officials, the judiciary, lawmakers, healthcare professionals and other key authorities whose work directly affects the lives of LGBTI people. NHRIs can make sure that their training materials on the COVID-19 pandemic include the specific situation of LGBTI people and equip these professionals to fulfil their duties in a way that respects and protects the rights of LGBTI people.¹²¹

NHRIs also have an important role in tackling the stigma and prejudice that contributes to anti-LGBTI discrimination and violence. NHRIs can directly refute negative stereotypes and prejudicial views and can share informative and positive messages about LGBTI people.

NHRIs can also use their platforms to provide information to LGBTI people that they would otherwise not be able to access, for instance, on how and where to safely access testing or vaccination sites.

POSSIBLE ACTIONS

- Promote **greater understanding** of the vulnerability and human rights of LGBTI people during and after the COVID-19 pandemic, among families and the wider community.
- Build the **capacity** of law enforcement officers and government service providers on the specific vulnerabilities of LGBTI people during the pandemic response.
- Condemn in **statements** any misinformation and political rhetoric that blames LGBTI people for the spread of COVID-19.
- **Support healthcare providers** with information on how to make testing and vaccination sites safe, inclusive, and accessible to LGBTI people.
- Publish **information specifically for LGBTI people** on where and how to safely access state support, masks, testing, or vaccinations including for those who do not have identity documents with their correct name and gender.

119 Perez-Rubio Bella, *20 arrested at Pride march against anti-terror bill in Manila*.

120 *Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity, and Sex Characteristics*, APF, p. 171.

121 OHCHR, *COVID-19 and the Human Rights of LGBTI people*.

GOOD PRACTICE EXAMPLES

In 2021, the **New Zealand** Human Rights Commission collaborated with the Auckland District Health Board and the national Ministry of Health to formulate *key messages* to those working in the health sector on the rollout of the COVID-19 vaccine. In particular, the Commission helped phrase practice advice and recommendations to health workers to ensure that transgender, intersex non-binary, indigenous/ takatāpui and Pacific MVPAFF+¹²² people feel safe and included when checking in to get vaccinated. The Ministry of Health made sure that a person's gender marker was not on the vaccine pass required to enter some venues, and educated staff at testing and vaccination centres about being inclusive of trans and intersex people. This included having a form at the front desk that people could see and fill out, listing the name and pronoun they used, and noting it may be different from the details on their health records. Staff were trained to use and respect the name and pronoun the trans or intersex person had written on that form. When these were first rolled out, some vaccination centres had Rainbow Pride events to encourage people from these communities to get vaccinated.

Following the rise in discrimination, hate speech, and violence against LGBTI people in the **Philippines**, the Commission on Human Rights urged voters to demand better from officials and candidates during the 2022 elections and call for the urgent adoption of legislation that would protect trans women from discrimination and violence at local and national levels.

4. Monitoring the pandemic's impact on LGBTI people

NHRIs continuously carry out monitoring, through research, investigation and reporting.¹²³ It is essential that the NHRI's monitoring work on COVID-19 includes SOGIESC issues in its scope. Consultation with key LGBTI organisations and groups can greatly support the NHRI in this work, as those stakeholders can flag some of the key human rights violations of concern to LGBTI communities.

Most States do not gather systematic data on the impact of the pandemic, and if they do, this data is rarely disaggregated on the basis of SOGIESC.¹²⁴ NHRIs can do targeted research on how the COVID-19 pandemic has affected LGBTI people in distinct ways and can make recommendations to the government and other stakeholders. A lot of this information will be available in local civil society reports, and NHRIs can reach out to civil society contacts for more targeted input. Data might also be available at global or regional levels. NHRIs may have already received complaints from individual LGBTI people and can refer to key trends in a report to protect the privacy of individuals involved.

122 MVPFAFF+ refers to a number of Pasifika gender identities and forms of gender expression and sexual orientation. These include Māhu, Vakasalewalewa, Palopa, Fa'afafine, Akava'ine, Fakaffine, Fakaleiti / Leiti amongst others.

123 *Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity, and Sex Characteristics*, APF, p. 174.

124 A/75/258, para. 77.

POSSIBLE ACTIONS

- Ensure that all **NHRI monitoring activities**, including in the context of COVID-19, discuss the human rights of LGBTI people, including, for example, when looking at the pandemic's impact on access to healthcare or employment.
- Undertake **thematic monitoring projects**, in cooperation with LGBTI organisations, on discrimination and violence experienced by LGBTI people during the COVID-19 pandemic.
- **Submit reports** as part of the country's Universal Periodic Review, or UN Treaty body reviews on the impact of COVID-19 on LGBTI people globally. Participate in consultations held by UN Special Procedures on the impact of the pandemic on vulnerable groups.
- Develop **guidelines on best practices** for ensuring that LGBTI people have access to state support and benefits to compensate for income loss during the pandemic, including those in precarious work or on temporary visas.

GOOD PRACTICE EXAMPLES

The **Timor-Leste** Office of the Provedoria for Human Rights and Justice (PDHJ) has had a designated focal point on LGBTI issues since 2014, who cooperates with a wide range of stakeholders. The PDHJ has however also incorporated SOGIESC perspectives in its general monitoring work, for instance during the implementation of the state of emergency and sanitary fence. As part of this work, the PDHJ also learnt how these impacted LGBTI people. For instance, only essential services could run during these periods and most trans people, who work in salons, as carpenters, decorators, or similar, lost their income.

The **Philippines** Commission on Human Rights documented a rise in brutal anti-LGBTI hate crimes and murders during the COVID-19 pandemic¹²⁵ and investigated several of these. For instance, the CHR issued a statement following the murder of *Ebeng Mayor*, a trans man in Quezon City in 2021, and of *Cindy Jones Torres*, a trans woman in Guiguinto. The Commission denounced all forms of gender-based violence against trans, gender non-conforming, and LGBTI people and vowed to conduct an independent investigation and cooperate with the authorities. The Commission made similar statements against other cases of anti-LGBTI violence.¹²⁶

The **Samoa** NHRI is preparing a report on the impact of COVID-19 on vulnerable groups, including LGBTI people. With the help of the report, the NHRI hopes to formulate guidelines on assisting vulnerable groups.

Mongolia's National Human Rights Commission conducted a study on COVID-19, highlighting the situation of vulnerable groups, and made recommendations to the relevant government agencies.

5. Complaints handling

One of the key roles of NHRIs is to investigate and resolve complaints. To do this, it is essential that members and staff members of NHRIs are trained and aware of SOGIESC issues in general.¹²⁷

¹²⁵ Information shared with APF for the purpose of this report.

¹²⁶ Carreon, Frenchie, *Attacks on LGBTQ+ people disturb officials, advocates in Zamboanga*, Rappler, August 23, 2021, <https://www.rappler.com/nation/attacks-lgbtq-people-disturb-officials-advocates-zamboanga/>.

¹²⁷ *Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity, and Sex Characteristics*, APF, p.168.

This will also allow them to better respond to complaints about human rights violations that emerge in a crisis, such as the COVID-19 pandemic. They will also be able to connect with organisations working on SOGIESC issues who may be able to assist victims.

POSSIBLE ACTIONS

- **Train** NHRI members and staff to be sensitive and responsive to the needs of victims who experience discrimination and violence on the basis of their SOGIESC, for instance when applying for state benefits, or wanting to access testing or vaccinations.
- To **encourage reporting** from LGBTI people, **publish** anonymous case studies of complaints the NHRI has received and resolved, **reach out** to LGBTI organisations, and **speak up** about the human rights issues LGBTI people and organisations are facing, including on important days of action and remembrance for specific groups.
- Provide **information**, in accessible and understandable languages and formats, to LGBTI individuals and organisations to assist victims of human rights violations to lodge complaints with the NHRI.
- Actively **investigate complaints** regarding the infringement of LGBTI people's rights during the COVID-19 pandemic.
- Maintain a **database of complaints** of human rights violations related to the COVID-19 pandemic and ensure that complaints of violations on the basis of SOGIESC are duly recorded and the data can be disaggregated and analysed later.

GOOD PRACTICE EXAMPLE

In response to the increase in the number of complaints received during the COVID-19 pandemic, the Commission on Human Rights of the **Philippines** launched an *online reporting system* for victims of gender-based violence, including for those who are targeted by violence because they are LGBTQIA+ persons. As of March 2022, the platform has documented 27 cases against LGBTQIA+ people.

6. Court interventions and monitoring

NHRIs may submit amicus curiae briefs as part of court proceedings, to advise the court as an impartial expert body on the application of human rights law. NHRIs can use their expertise in cases regarding SOGIESC issues, including in relation to the COVID-19 pandemic. NHRIs may also raise their voice when States roll back human rights through legislative amendments as part of their COVID-19 response.

POSSIBLE ACTIONS

- **Monitor cases** coming before the courts that raise human rights issues concerning SOGIESC and seek to intervene where appropriate and necessary.

7. Advocating for laws, policies, and practices that alleviate the impact of the pandemic on LGBTI people

Monitoring and reporting on human rights violations that LGBTI people face during the pandemic can amplify the NHRI's important voice in calling for legal protections. NHRIs can advocate for changes in laws, attitudes, or practices by the government, the judiciary, the media, among businesses, the general public, and others.¹²⁸

Since the onset of the pandemic, several countries have decided to amend existing legislation or put new laws and regulations in place to respond to the health crisis. For instance, restrictions on gatherings have been upheld for extended periods of time in a number of countries. In some cases, these restrictions were used to ensure community meetings or for instance Pride events could not take place. In such cases, the NHRI can urge the government to withdraw undue restrictions. NHRIs can participate in consultation processes or submit an opinion, to make sure that the situation and needs of LGBTI people are reflected in these legal changes. Importantly, NHRIs can remind the government of its obligations when it plans to roll back existing human rights under the guise of pandemic measures.¹²⁹

NHRIs may have been calling for legislative reform before and are now documenting additional violations as evidence of why that reform is needed. Alternatively, NHRIs may learn about new challenges and needs that require a new legal response.¹³⁰

POSSIBLE ACTIONS

- Use the evidence collected by the NHRI on the impact of the pandemic on LGBTI people and **call for comprehensive and inclusive anti-discrimination legislation**.
- **Engage NGOs** in the advocacy of the NHRI's reports on the pandemic's impact on vulnerable groups, including LGBTI communities.
- Submit an opinion on the need to introduce **legal gender recognition procedures**, point to difficulties that trans, non-binary, and intersex people, whose documents may not match their identity or appearance, have faced during the pandemic, when accessing state benefits, vaccinations, or tests.
- Call for **vaccination and testing to be available** to the public without ID cards, to ensure that trans, intersex, and gender non-conforming people can access them on an equal basis with others.
- Urge the government to **repeal criminalisation** provisions that prevent LGBTI people from seeking healthcare services during the pandemic or from reporting cases of domestic or family violence during lockdowns.

128 *Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity, and Sex Characteristics*, APF, p. 182.

129 OHCHR, *COVID-19 and the Human Rights of LGBTI people*.

130 *Ibid.*

GOOD PRACTICE EXAMPLE

The **Philippines** Commission on Human Rights called on the government to launch immediate and full investigations on anti-LGBTI hate crimes and murders during the pandemic, and bring perpetrators to justice.¹³¹ The Commission *reiterated its stance* and called for the speedy adoption of the SOGIE Equality Bill, which would provide LGBTI people with legal protection from discrimination and violence.¹³²

8. Cooperation and engagement

NHRIs should work in cooperation with state institutions, NGOs, and other key stakeholders.¹³³ This collaboration can be part of the NHRI's advocacy or training work, and could mean that NGOs could deliver internal training for NHRI staff. Many NHRIs in the Asia Pacific regions work closely with NGOs, including, as part of their COVID-19 response work. Regular meetings with LGBTI civil society can support NHRIs in keeping up to date on how the pandemic impacts LGBTI communities, and specific subgroups in it. It is important that NHRIs are in touch with a wide range of groups and organisations that may represent different groups within the broader community. For instance, some organisations might focus on trans migrant sex workers, others may represent LGBTI people with disabilities. There may also be an intersex group in your country or youth groups for LGBTI adolescents. All these groups will be affected by the pandemic and similar crises, in different ways.

POSSIBLE ACTIONS

- **Build and maintain collaborative relationships** with diverse LGBTI organisations and networks to inform the work of the NHRI in the context of the COVID-19 pandemic.
- Ensure **joint strategising** between the NHRI and LGBTI organisations in developing responses to the COVID-19 pandemic, that reflect their distinct roles and mandates.
- Arrange **regular meetings** for exchange of information on how the pandemic affects LGBTI people in your country.

GOOD PRACTICE EXAMPLES

Fiji's Human Rights and Anti-Discrimination Commission *held* its first national consultation with LGBTIQ NGOs and the community in 2018, to listen and learn about their specific situation. This consultation helped the NHRC to establish a network and communication channels with the relevant NGOs. The NHRC was then able to quickly learn from these NGOs about the impact of the COVID-19 pandemic on LGBTIQ people. The National Human Rights Commission of **Thailand** held a civil society seminar in 2021, where they learned that many LGBT people with disabilities

131 Information shared with APF for the purpose of this report.

132 See for instance, Philippines Commission on Human Rights, Statement of CHR Spokesperson, Atty Jacqueline Ann de Guia, on the killing of transgender man Ebeng Mayor, May 22, 2021, <https://chr.gov.ph/statement-of-chr-spokesperson-atty-jacqueline-ann-de-guia-on-the-killing-of-transgender-man-ebeng-mayor/> and Philippines Commission on Human Rights, Statement of CHR Spokesperson, Atty. Jacqueline Ann de Guia, on the killing of transgender woman Cindy Jones Torres, August 6, 2021, <https://chr.gov.ph/statement-of-chr-spokesperson-atty-jacqueline-ann-de-guia-on-the-killing-of-transgender-woman-cindy-jones-torres/>.

133 *Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity, and Sex Characteristics*, APF, p. 184.

lacked access to information about the COVID-19 pandemic. Several other NHRIs, for instance in **Mongolia, New Zealand, and Samoa**, have also learned about the impact from local LGBTI civil society organisations.

9. National inquiries

NHRIs can conduct national inquiries to investigate systemic patterns of human rights violation and the identification of findings and recommendations.¹³⁴ NHRIs may decide to conduct an inquiry related to COVID-19, for instance on the rollback of the right to freedom of assembly or about the vulnerabilities of a specific population group. The Human Rights Commission of Malaysia (Suhakam) for instance, referred to an earlier inquiry it undertook on the Land Rights of Indigenous Peoples in its communication on the impact of the pandemic on indigeneous people.¹³⁵ Where an NHRI has previously used its inquiry functions to investigate human rights violations against a group, it may be appropriate to revisit the impacts of the pandemic on those rights.

GOOD PRACTICE EXAMPLES

In March 2022, the **New Zealand** Human Rights Commission's Disability Rights Commissioner launched an Inquiry into the support of disabled people during the Omicron outbreak.¹³⁶ This followed the publication of a report in January 2021 from New Zealand's Independent Monitoring Mechanism for the United Nations Convention on the Rights of Persons with Disabilities on the New Zealand Government's response to the COVID-19 emergency.¹³⁷ The first phase of this Inquiry will gather information from organisations about what they understand to be the current experiences of disabled people, and their families, with a report and recommendations due to be released in April 2022. Indigenous lesbian disability advocate and lawyer, Dr Huhana Hickey, has spoken publicly in support of the Inquiry.¹³⁸ There may be specific issues faced by LGBTI disabled people, including those who have less access to family support and therefore are at greater risk when there are gaps in government provided support due to the pandemic.

POSSIBLE ACTIONS

- **Ensure** that any inquiry related to **COVID-19** includes the specific situation, concerns, and needs of LGBTI people.

134 Ibid., p. 188.

135 Suhakam, LETTER | *Covid-19 and indigenous people's resilience*, August 9, 2020, Malaysiakini, <https://www.malaysiakini.com/letters/538013>.

136 The New Zealand Human Rights Commission, *Commissioner Announces Inquiry into Support of Disabled People During Omicron*, March 9, 2022, <https://www.hrc.co.nz/news/commissioner-announces-inquiry-support-disabled-people-during-omicron/>.

137 The New Zealand Human Rights Commission, *Making Disability Rights Real in a Pandemic: The Independent Monitoring Mechanism's report on the New Zealand Government's response to the COVID-19 emergency*, January, 2021, <https://www.ombudsman.parliament.nz/sites/default/files/2021-01/Making%20Disability%20Rights%20Real%20in%20a%20Pandemic.pdf>.

138 Tang Eda, *Call for urgency as inquiry into support of disabled people during Omicron launched*, Stuff, March 10, 2022, <https://www.stuff.co.nz/pou-tiaki/128016410/call-for-urgency-as-inquiry-into-support-of-disabled-people-during-omicron-launched>.

Resources

APF resources

- *Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity and Sex Characteristics*. Asia Pacific Forum. 2016.
- *Part of our Everyday Work: NHRI Guidelines for Mainstreaming SOGISC Work*. Asia Pacific Forum. 2017.
- *Factsheets on Sexual Orientation, Gender Identity and Expression and Sex Characteristics*. Asia Pacific Forum. 2021.
- Factsheet 1: *Understanding sexual orientation, gender identity, gender expression and sex characteristics*
- Factsheet 2: *Being L, G and B in Asia Pacific*
- Factsheet 3: *Being transgender in Asia Pacific*
- Factsheet 4: *Being intersex in Asia Pacific*
- Factsheet 5: *International and regional developments in human rights law*
- Factsheet 6: *The Yogyakarta Principles*
- Factsheet 7: *The APF's response to the Yogyakarta Principles*
- Factsheet 8: *What more NHRIs can do*
- Factsheet 9: *COVID-19 & LBGTI people*

Civil society reports

- *The Impact of COVID-19 on LGBTIQ+ Organizations in Southeast Asia*. ASEAN SOGIESC Caucus. 2021.
- *We don't do a lot for them specifically: A scoping report on gaps and opportunities for improving diverse SOGIESC inclusion in cash transfer and social protection programs, during the COVID-19 crisis and beyond*. Edge Effect. 2021.
- *Briefing note: Impacts of COVID-19 on LGBTIQ+ people*. Edge Effect. 2021.
- *Intersex people and COVID-19*. Intersex Human Rights Australia. 2020.
- LGBTI+ in the Commonwealth in the COVID-19 Era, *2020* & *2021* reports. Kaleidoscope Trust.
- *Vulnerability Amplified: The Impact of the COVID-19 Pandemic on LGBTIQ People*. OutRight Action International. 2020.
- *Living with HIV in the time of COVID-19: Report from a survey of networks of people living with HIV*. e Global Network of People Living with HIV (GNP+), the International Community of Women Living with HIV (ICW) and the Global Network of Young People Living with HIV (Y+Global). 2020
- *LGBTI individuals in Oceania struggle with a multitude of COVID-19 related challenges*. ALFO, APCOM. 2020.
- *Online Survey on LGBTQ and Human Rights Violations and Abuses during the COVID-19 Pandemic in the Asia Pacific*. APCOM. [To be published].

Other resources

- *Violence and discrimination based on sexual orientation and gender identity during the coronavirus disease (COVID-19) pandemic*. UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity. A/75/258. 2020.
- *COVID-19 and the Human Rights of LGBTI People*. Office of the High Commissioner on Human Rights. 2020.
- *NHRI responses to the COVID-19 pandemic*. Office of the High Commissioner on Human Rights.



ASIA PACIFIC FORUM
ADVANCING HUMAN RIGHTS IN OUR REGION

Follow us on social media



Asia Pacific Forum of National Human Rights Institutions

GPO Box 5218, Sydney NSW 1042 Australia

E apf@asiapacificforum.net **W** www.asiapacificforum.net

Note

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the APF concerning the legal status of any country, territory, city or area, or of its authorities, or concerning the delimitation of its frontiers or boundaries.

An NHRI Guide on responding to COVID-19 impacts on LGBTI people

© Copyright Asia Pacific Forum of National Human Rights Institutions April 2022

No reproduction is permitted without prior written consent from the APF.