



# NATIONAL HUMAN RIGHTS INSTITUTIONS' RESPONSES TO COVID-19

(FEBRUARY TO OCTOBER 2020)

BRIEF

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The Asian Forum for Human Rights and Development (FORUM-ASIA) is a Bangkok-based regional network of 82 member organisations across 23 Asian countries, with consultative status with the United Nations Economic and Social Council, and consultative relationship with the ASEAN Intergovernmental Commission on Human Rights. Founded in 1991, FORUM-ASIA works to strengthen movements for human rights and sustainable development through research, advocacy, capacity development and solidarity actions in Asia and beyond. It has sub-regional offices in Geneva, Jakarta, and Kathmandu.

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### **About ANNI:**

The Asian NGO Network on National Human Rights Institutions (ANNI) was established in December 2006. It is a network of Asian non-governmental organisations and human rights defenders working on issues related to National Human Rights Institutions (NHRIs). ANNI has members that are national organisations from all over Asia. ANNI currently has 33 member organisations from 21 countries or territories. The work of ANNI members focuses on strengthening the work and functioning of Asian NHRIs to better promote and protect human rights as well as to advocate for the improved compliance of Asian NHRIs with international standards, including the Paris Principles and General Observations of the Sub-Committee on Accreditation (SCA) of the Global Alliance of NHRIs (GANHRI). FORUM-ASIA has served as the Secretariat of ANNI since its establishment.

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# INTRODUCTION

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There have been more than 46 million cases, including more than 1.2 million deaths across the world[i] (up to 31 October 2020) since the declaration of COVID-19 as a pandemic by the World Health Organization (WHO) in March 2020.

The continued prevalence of this global health emergency worldwide has been an unprecedented occurrence in recent history, and has presented its own set of challenges for human rights across the world. Not only has it affected millions of people in terms of health, but has also brought to the fore the glaring inequalities that exist in societies across the world at the political, social, economic, cultural, and civic levels.

During these challenging times, National Human Rights Institutions (NHRIs) around the world and in Asia have had to address several human rights issues arising as a result of governments' response to, and their handling of, the COVID-19 pandemic at the country-levels. NHRIs across the world have been performing various functions[ii], like monitoring, advocacy, providing recommendations, issuing statements, and initiating legal actions, and have been raising the concerns of marginalised and vulnerable groups, given the higher and harsher impact of the pandemic on their lives.



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# NHRIs: MANDATE AND RESPONSIBILITIES

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NHRIs, which are independent bodies that are established by law or in the constitution in various countries, work on promoting and protecting human rights – encompassing the political, civil, economic, social, and cultural rights of individuals in the country. They do this through multiple ways, and include:

- Monitoring and research on the human rights situation in the country;
- Investigating and reporting on human rights abuses and violations of human rights;
- Advising the State to meet its international and domestic human rights commitments;
- Liaising and engaging with the international human rights community to raise and advocate for human rights issues, and provide recommendations to the State; and
- Carrying out human rights education and programmes for citizens<sup>[iii]</sup>.

These broadly form the functions and mandate of NHRIs.

Barring a few, most NHRIs referenced in this brief have been established in accordance with the Principles relating to the Status of National Institutions (The Paris Principles)<sup>[iv]</sup> – wherein they are vested with the competence to protect and promote human rights in their countries. However, whether the NHRIs have been accredited with an ‘A’ or ‘B’ status (i.e., fully, or partially-compliant with the Paris Principles, respectively) by the Global Alliance of Human Rights Institutions (GANHRI)<sup>[v]</sup>, the degrees to which all NHRIs have been able to successfully operationalise their mandates, especially in situations of emergency during the pandemic, has varied from country to country.

It has been observed that NHRIs in Asia have largely addressed several issues during the global health emergency, especially several dimensions addressed in the OHCHR Aide Memoire on COVID-19, NHRIs and Human Rights<sup>[vi]</sup>, such as:

- Advocating for access to information;
- Monitoring governments’ responses and measures;
- Identifying risks to persons deprived of liberty;
- Raising issues of marginalised groups and vulnerable people like indigenous communities, LGBTQI+ persons, minorities, migrants, persons with disabilities, and the elderly; and
- Safeguarding rights of individuals.

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Some NHRIs have advocated for the release of minor offenders, lesser congestion in prisons, and the right to fair trial and the rights of victims with regard to judicial processes concerning COVID-19, as well as the importance of combating xenophobia, hatred, stigma, discrimination, and misinformation during this difficult period, especially in relation to patients of COVID-19 and persons from minorities and other socially disadvantaged groups.

## OVERVIEW

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For the purposes of this brief, more than 150 sources were analysed<sup>[vii]</sup>. These pertained to the work of NHRIs in 13 Asian countries<sup>[viii]</sup>, from 1 February 2020 to 31 October 2020. While this brief charts the role of NHRIs in responding to the COVID-19 pandemic during this period, the data on their work in the Asian region will continue to be updated in the following months.

Asian NHRIs' responses broadly addressed COVID-19-specific information and healthcare on the one hand (such as testing, guidelines, protection etc.), and ensuing circumstances and consequences as a result of the pandemic on the other (such as limitation in social services, arrests of quarantine protocol violators, privacy of patients, and social media's role in spreading misinformation and xenophobia, among others). A majority of the NHRIs' interventions involved advocacy efforts like issuing press statements, followed by monitoring processes, advisory/recommendation-based interventions and initial assessment reports.

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Some NHRIs have engaged with parliamentary committees and government bodies on draft legislation and policies related to the lockdowns, including new restrictions such as quarantine and isolation.

# OBJECTIVE

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This brief is intended to present a broad overview of the kinds of interventions made by NHRIs in Asia during the COVID-19 pandemic, as well as to highlight the various human rights issues these have addressed. While every human rights concern and intervention may not have been detailed and included in this brief, an attempt has been made to identify broad trends in the NHRIs' responses to the pandemic, and to share some of the best practices they have adopted.

The NHRI responses cover:

- a) Their initial health-related responses to this emergency, within particular political and social contexts, and the role of media and businesses during the pandemic (highlighted in the section, ***"Human Rights Issues and Concerns amid COVID-19"***);
- b) The impact of COVID-19 on specific vulnerable groups, especially those that featured most prominently among NHRI responses during the pandemic (highlighted in the section, ***"Vulnerable Groups during COVID-19: Concerns and Interventions"***), and the NHRIs' responses concerning them; and
- c) Other vulnerable groups that had been highlighted in some of the NHRIs' responses – these groups were identified, as they are present in all countries, and require more attention from NHRIs and governments in their responses during the pandemic (highlighted in the section, ***"Other Vulnerable Groups"***).



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# HUMAN RIGHTS ISSUES AND CONCERNS AMID COVID-19

## Emergency Powers

In Asia, some countries classified the pandemic as a ‘national/public health emergency’ – in countries like South Korea and the Philippines, governments exercised Emergency powers to deal with the pandemic, while in others, public health and epidemic-related legislations were applied. Asian governments’ responses to the pandemic were varied, with some imposing partial or complete lockdowns for extended periods of time and some imposing emergencies, while others enacted softer measures like urging citizens to stay at home and take precautions. In light of this, NHRI responses also varied according to the specific context. It must be noted that the functioning capacities of NHRIs were greatly reduced, owing to factors like reduced staff presence, restrictions on travel, and lockdowns.

Prior to the adoption of the Law on Pandemic Preparedness and Response<sup>[ix]</sup> to prevent, fight and mitigate the socio-economic impact of the COVID-19 pandemic in April 2020, the National Human Rights Commission of Mongolia (NHRCM) submitted a proposal to the Mongolian Parliament Speaker on respecting the rights and freedoms of all; complying with international human rights norms and procedures; and promoting social inclusion even in a state of emergency. It annexed Mongolian translations of the OHCHR’s COVID-19 Guidance and Advice of the Subcommittee to States parties and national preventive mechanisms relating to the coronavirus disease (COVID-19) pandemic<sup>[x]</sup>.

**“ In Asia, some countries classified the pandemic as a ‘national/public health emergency’ ”**

The National Human Rights Commission, Nepal (NHRCN) held a consultation with the representatives of the Government of Nepal, Ministry of Home Affairs and Ministry of Health with regard to the preparation made by the Government of Nepal to combat the global COVID-19 pandemic, and to safeguard the right to life<sup>[xi]</sup>.

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However, some NHRIs also highlighted harsh punishments meted out by authorities on ‘violators’ of quarantine rules. For example, the Commission on Human Rights of the Philippines (CHRP) highlighted the arrest of eight student protestors from the UP Cebu as a harsh response for an alleged violation of the government’s quarantine rules[xii], condemned the case of a quarantine violator in Manila who was harassed by a councillor[xiii], and also monitored 55 extrajudicial killings during the lockdown period[xiv]. Indonesia’s National Human Rights Commission – Komisi Nasional Hak Asasi Manusia (Komnas HAM) – also urged the police to not detain, rather engage in community service, persons holding mass gatherings during the lockdown period[xv].

In Myanmar, the Myanmar National Human Rights Commission (MNHRC) continued to overlook human rights violations by the military during the pandemic[xvi], issuing no statement on its offenses[xvii] and violence against civilians[xviii] in conflict areas.

The violations against human rights defenders (HRDs), and their protection during the pandemic, remained largely ignored[xix] by NHRIs. While a remarkable increase in violations against HRDs was found during the COVID-19 pandemic, accounting for more than a third of all violations documented between April and July[xx], it was observed that the pandemic has seen even lesser focus on HRDs by NHRIs, barring a few. FORUM-ASIA has been documenting pandemic-related violations against HRDs since February 2020[xxi] (*this report used data from February – October 2020*), while UN Women has documented some women human rights defenders (WHRD)-related interventions by NHRIs in the Asia Pacific region[xxii].



**FORUM-ASIA has been documenting  
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human rights defenders since  
February 2020**

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## Testing, Quarantining, and Contact Tracing

An aspect common to most of the NHRIs listed was their statements and actions concerning medical testing on COVID-19 – either calling on governments to regularly test citizens, or to initiate action where medical facilities to patients were not adequately provided.

Most NHRIs, in statements aligned with the WHO's COVID-19 protocols, urged citizens of their respective countries to practice, and urged governments and allied institutions to enforce measures on social distancing during the pandemic. Some examples were: **Nepal's** NHRCN urged the Government to not only ensure effective COVID-19 testing<sup>[xxiii]</sup>, but also to conduct it for free<sup>[xxiv]</sup>, for patients of the disease; the National Human Rights Commission of **Thailand** (NHRCT), which supported social distancing measures to curb the spread of the virus<sup>[xxv]</sup>; and **Indonesia's** Komnas HAM, which supported and provided recommendations for, from a human rights perspective, the application of large-scale social distancing in Jakarta<sup>[xxvi]</sup>, and in West Java and Banten<sup>[xxvii]</sup>.

Several references were made by the NHRIs to quarantining as a measure to be followed during the pandemic. In **Mongolia**, the Chief Commissioner delivered two official requests to the Deputy Prime Minister and to the Head Rapid Response Operation Headquarters in charge of all quarantine spaces, to ensure all works complied with international human rights norms, in parallel with national legislation<sup>[xxviii]</sup>.

In the Maldives, the Human Rights Commission of the Maldives (HRCM) made an assessment of renovated quarantine facilities<sup>[xxix]</sup>. It also compiled a series of questionnaires to collect information on the availability of fundamental rights following the pandemic and according to the findings, relevant recommendations were issued to the State<sup>[xxx]</sup>. However, it was not evident what kind of recommendations were made, and what human rights issues were highlighted.

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Other NHRIs, like the National Human Rights Commission of Korea (NHRCK), expressed concern on the discussions over the adoption of a wristband as a COVID-19 protective measure, which tracked the location of suspected COVID-19 patients under self-quarantine in real time<sup>[xxxix]</sup>. While being mindful of the need to take stringent measures to control the spread of the virus, the NHRCK expressed that caution should be exercised by authorities to not disclose excessive personal data of patients<sup>[xxxix]</sup>. Unlike **Thailand's** NHRCT's similar statement on remedial measures<sup>[xxxix]</sup> during the pandemic, the NHRCK addressed the human rights perspective alongside the medical response.

Beyond testing and quarantining for COVID-19, in some countries, such as Sri Lanka and India, the NHRIs also made mentions of delays in last rites of patients<sup>[xxxix]</sup>, or respecting religious sensitivities while burying or cremating patients of COVID-19<sup>[xxxix]</sup>.



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## Mental and Physical Healthcare

Along with interventions on testing, quarantining, and contact-tracing, NHRIs also addressed the effects of the pandemic on mental and physical health, issuing statements that called on governments to pay heed to these concerns, and to provide healthcare services to all citizens, especially vulnerable and marginalised groups, thereby ensuring their right to access healthcare.

On **mental health**, NHRIs in the Philippines and India issued statements and advisories that covered various aspects on this matter. The National Human Rights Commission, India (NHRCI) sought a response from the Union Home Ministry on reports of the alleged human rights violations of persons with mental ailments on the streets, during the lockdown period<sup>[xxxvi]</sup>, and asked the Ministry to issue necessary directions to all the States and Union Territories (UTs) on this matter. The NHRCI also issued an advisory on the Right to Mental Health in light of the COVID-19 pandemic<sup>[xxxvii]</sup>.

In **the Philippines**, the CHRP called for a greater investment in mental health, to allow everyone access to psychosocial support and services, irrespective of their location and socio-economic situation, and addressed the stigma around, discrimination and violence being committed against, individuals associated with COVID-19<sup>[xxxviii]</sup>, in a statement on National Mental Health Week<sup>[xxxix]</sup>. It also issued a press release on other health-related issues of indigenous peoples, advocating for an intercultural approach that would take into consideration traditional health practices and training for local health caretakers in their own languages about containment measures<sup>[xli]</sup>.

In **Indonesia**, Komnas HAM urged the central government to evaluate its COVID-19 handling, by placing utmost importance on basic rights principles, given how the prioritising of economic recovery over public health in the handling of the disease was resulting in a further outbreak of the virus and very strained healthcare systems<sup>[xli]</sup>.

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## Media, Information, and Surveillance

During the pandemic and subsequent lockdowns, when most interactions and jobs had to move to the online sphere, some NHRIs released statements relating to the use and misuse of social media; people's access to various forms of media; concerns on surveillance; and the rights and freedoms of journalists. Media workers were also the most affected group of HRDs during this period<sup>[xlii]</sup>; however, they did not receive due recognition from most NHRIs.

In **the Philippines**, the CHRP's social media cards on various rights-based issues during the pandemic included one on the freedom of expression and access to information<sup>[xliii]</sup> <sup>[xliv]</sup>. The CHRP Chairperson also issued a statement on the Philippine National Police's decision to scan social media and identify quarantine violators, highlighting the issue of privacy, and the need to subject surveillance measures to standards of necessity, legitimacy, and proportionality<sup>[xlv]</sup>, to ensure no infringement on people's rights.

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Similarly, in Sri Lanka, the Human Rights Commission of Sri Lanka (HRCSL) issued a letter to the Acting Inspector General of Police on the spate of arrests of people who had criticised public sector officials and policies on social media in relation to the spread of COVID-19<sup>[xlvi]</sup>.

In a one-day conference organised by **South Korea's** NHRCK, it addressed strategies to counter discrimination and hate on social media, and the extent to which laws and policies can prevent hate speech and discrimination<sup>[xlvii]</sup>. The NHRCK also released a hate speech guidance for the education sector in cooperation with 17 education offices<sup>[xlviii]</sup>.

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In Nepal, media workers reporting on COVID-19 faced the highest number of attacks as compared to any other Asian country [xlix]. The NHRCN in **Nepal** partnered with civil society and professional organisations, including the Federation of Nepali Journalists, to monitor the human rights situation across the country during the lockdown for controlling the outbreak of COVID-19[i]. The NHRCN also issued a statement on the situation of journalists during the pandemic, urging the Government to act on cases of intimidation, threats and misbehaviour against journalists; to guarantee a smooth flow of information; and to ensure that journalists received timely payments for their work[li].

One of the recommendations by the NHRCT in **Thailand** to support the monitoring, prevention and control of COVID-19, included urging the government to prepare a response plan in case of the pandemic, in a manner where proper and rapid information could be communicated to peoples and those with physical limitations, and called for misinformation and disinformation to be timely corrected to prevent social panic[liv]. However, as highlighted in this report on human rights in Southeast Asia during the pandemic[liv], measures such as these were misused for purposes of surveillance, and the implementing of movement restrictions by military and police forces, under the pretext of tackling the spread of COVID-19.

## **Business and Human Rights**

There were several challenges[liv] and human rights and environmental violations in various countries in Asia during the pandemic, particularly in the garment[lv][lvi] and mining[lvii][lviii] sectors. The role of businesses during the pandemic, especially with regard to labour, employment, and upholding human rights, received little attention from NHRIs.

**India's** NHRCI was the only NHRI to issue an advisory[lix] on business and human rights, which mentioned the need for responsible business practices for protecting informal workers during the pandemic, as well as a reference to the prevention of human trafficking in supply chains.

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**The Philippines'** CHRP highlighted the vulnerabilities of indigenous peoples on National Indigenous Peoples Day on 9 August 2020. One of their major challenges of the community – apart from their immediate difficulties and discrimination in accessing relevant information, healthcare, and access to safe water and sanitation during the pandemic – has been the encroachment of their lands by external settlers, private firms, and industries, who have taken undue advantage of the pandemic<sup>[ix]</sup>. The CHRP called on the government to intensify protection measures for the community, in order to prevent further human rights violations against them.

In **Indonesia**, Komnas HAM urged the President to revoke the omnibus bill on job creation, citing its potential to violate workers' rights and environmental protections<sup>[ixi]</sup>. The bill (which was subsequently passed as a law in October 2020<sup>[xii]</sup>), was widely criticised for reducing the existing standards of labour and environmental protections, giving way to the high potential for exploitation of labour, as well as environmental exploitation and destruction<sup>[xiii]</sup>.



# VULNERABLE GROUPS DURING COVID-19: CONCERNS AND INTERVENTIONS

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In their responses to the COVID-19 pandemic, NHRIs in Asia identified groups that were particularly vulnerable, through the physical exposure to the virus, and who were facing the consequences of the pandemic on their rights, owing to their already-marginalised status in various countries. While several of the responses and interventions from NHRIs mention vulnerable groups and the damaging effects of the pandemic on local communities – especially exacerbated due to their geographical disadvantage, lack of access to information and medical assistance, among other challenges – were not extensively highlighted by all NHRIs mentioned in this brief.

## **Prisoners and Prison Personnel**

Several of the NHRIs made references to ‘prisons’, ‘detention centres’, ‘prisoners’, ‘prison inmates’, ‘prison personnel’, ‘persons deprived of liberty (PDLs)’, and ‘amnesty’ in their statements during the COVID-19 pandemic. Most of them spoke about releasing minor offenders and/or prisoners who were especially vulnerable – like children, women, elderly persons, persons with disabilities, seriously/terminally ill persons, and those who had contacted the coronavirus in jails.

Statements issued also addressed the phenomenon of overcrowding in prisons and detention centres; the risk to prison and police personnel; deaths due to the coronavirus in jails and prisons; and proper medical care and maintenance of safety protocols within these spaces. However, it is to be noted that there is little to no mention of NHRIs advocating the release of HRDs/WHRDs deprived of their rights. For some HRDs, the calls from civil society demanding proper medical care and humane treatment for them and their release from prisons, as in the case of Akhil Gogoi<sup>[lxiv]</sup> and Fr. Stan Swamy<sup>[lxv]</sup> from India, and Senator Leila de Lima<sup>[lxvi]</sup> from the Philippines, were not actively followed-up by NHRIs.

NHRIs like the Afghanistan Independent Human Rights Commission (AIHRC) in Afghanistan, NHRCN in **Nepal**<sup>[lxvii]</sup> and the MNHRC in **Myanmar** undertook advocacy and monitoring measures by visiting prisons<sup>[lxviii]</sup> and spreading awareness amongst prisoners and prison staff on ways to deal with the spread of COVID-19<sup>[lix]</sup>. However, the MNHRC did not advocate for the release of political prisoners during the mass Presidential Pardon of prisoners<sup>[lxx]</sup>, which was condemned by several rights groups along with the Asian NGO Network on National Human Rights Institutions (ANNI)<sup>[lxxi]</sup>, in May.

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In **Mongolia**, the Chief Commissioner of the NHRCM met periodically with various stakeholders, including the Deputy Prime Minister, Head of the Rapid Response Operational Headquarter, the Ulaanbaatar Police Department and the General Prosecutor's Office regarding detention and PDLs<sup>[lxxii]</sup>.

The CHRP in **the Philippines** expressed concern on the plight of PDLs during the pandemic, sending a team to the New Bilibid Prison (NBP) in June to inquire on the list and number of deceased PDLs; the status of COVID-19 testing in the prison; the welfare of female PDLs; and the release of PDLs following the Supreme Court's circular on reduced bail, among other concerns<sup>[lxxiii]</sup>.

In **Sri Lanka**, the HRCSL published two letters concerning the protection of prison populations during the pandemic: the first, to the Commissioner General of Prisons, with recommendations on this matter<sup>[lxxiv]</sup>; and the second, to His Excellency the President of Sri Lanka, requesting urgent action on the same issue<sup>[lxxv]</sup>. These letters covered various concerns, such as safeguarding health of prisoners; protecting the rights of those who have been deprived of liberty; and concerns on criminal justice.

**Indonesia's** Komnas HAM, in a Position Paper and Policy Recommendations on Human Rights Dimensions on the Management of COVID-19 Response to the President of the Republic of Indonesia, called for reducing the number of people in prisons and detention centres through temporary transfers<sup>[lxxvi]</sup>. In a press conference and a press release, Komnas HAM observed that a follow-up policy would be required to reduce the crowds in prison and detention centres<sup>[lxxvii]</sup>.

The Human Rights Commission of Malaysia – Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM) – raised concerns that the conditions in police lock-ups potentially posed a danger to the health of detainees, as well as police personnel and other front-liners involved in the arrest and detention process<sup>[lxxviii]</sup>, and gave three recommendations for agencies that have been tasked to carry out the Movement Control Order (MCO) on those being held under remanded custody and being charged.

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NHRIs have issued statements requesting governments to release vulnerable prisoners during the pandemic, and older/elderly persons have featured in several of them, evidently as a vulnerable group during the pandemic.

## **Domestic and Migrant Workers**

The pandemic witnessed migrant workers and labourers in various countries in Asia undergo severe duress, owing to the imposition of sudden lockdowns; because of uncertainty in travel conditions for those working in countries abroad, and because of loss of jobs and wages, among other reasons. Many NHRIs monitored and highlighted the issues faced by these groups.

In the Maldives, migrant workers faced several abuses from their employers during the pandemic<sup>[lxxix]</sup>. Following the death of a migrant construction worker due to dangerous living conditions, the police arrested seven persons from a protest in Thilafushi in June<sup>[lxxx]</sup>, from whom one was reportedly injured in police custody, according to Human Rights Watch. It was also reported that the HRCM in **the Maldives** had begun a review of the case, but could not pursue the investigation further, as the worker had been deported.

In **India**, the NHRCI issued statements on the plight of labourers, many of whom were forced to walk back home from metropolitan cities to their villages when a national lockdown was imposed with only four hours' notice. The NHRCI's interventions covered filing a *suo motu* writ petition in the Supreme Court on the plight of the migrant labourers<sup>[lxxxi]</sup>, as well as issuing notices to State governments, the Railway Board, and the Union Home Secretary on the hardships<sup>[lxxxii]</sup> and deaths of migrant labourers trying to reach home<sup>[lxxxiii]</sup><sup>[lxxxiv]</sup> <sup>[lxxxv]</sup>. The lack of food, water, and basic facilities led to sickness and deaths of labourers aboard special trains<sup>[lxxxvi]</sup>. Most recently, the Commission also issued an advisory specific to the protection of human rights of informal workers during the COVID-19 pandemic<sup>[lxxxvii]</sup>, listing guidelines for among others – single women (workers), waste workers, sex workers, and workers in bonded labour.

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In **Malaysia**, SUHAKAM urged authorities to stop the arrests of undocumented migrant workers<sup>[lxxxviii]</sup> during the COVID-19 crisis, and also conducted a two-week long needs-assessment study<sup>[lxxxix]</sup> on vulnerable communities' status during the pandemic, which included recommendations on issues concerning the plight of migrant and undocumented workers<sup>[xc]</sup>. However, SUHAKAM did not issue a formal statement or take up the high-profile case of Md. Rayhan Kabir, a Bangladeshi migrant worker targeted for speaking to media outlet, Al Jazeera on the alleged mistreatment of migrant workers by immigration officers<sup>[xci]</sup>. The Commissioner was quoted as calling his arrest a hasty act, and said that the police should have been allowed to conduct its investigation<sup>[xcii]</sup>.

In **Nepal**, the NHRCN raised the issue of a Nepali labourer stranded on Nepal's international border during the lockdown<sup>[xciii]</sup><sup>[xciv]</sup>, reminding the government of its responsibility to protect its citizens and respect their human rights amidst lockdown. The Commission launched a report on the impact of the crisis on Nepali workers<sup>[xcv]</sup>, and also called for the need for gender-disaggregated data collection by the government, and improved coordination and collaboration with various agencies responsible for their welfare.

The National Human Rights Commission, Bangladesh (NHRCB) raised concerns about the flouting of social distancing norms by garment owners and workers , and urged garment owners to take appropriate and necessary action to address the health risk of workers and employees returning to work after the holidays announced by the government<sup>[xcvi]</sup>.

In **the Philippines**, the CHRP called for access to justice for Filipino migrants working abroad and members of their families in the Philippines, amid the COVID-19 pandemic<sup>[xcvii]</sup>. It stressed upon measures to respond to various grievances, which could be taken at two levels - at the country of destination, and at the country of origin.

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In **Indonesia**, Komnas HAM conveyed the results of a quick assessment in the position paper (*mentioned previously on page 14*) on the management of the COVID-19 response, addressed to the President of the Republic of Indonesia<sup>[xcviii]</sup>. Among its recommendations, especially with regard to migrant workers and labourers, it urged the President to ensure: (a) policies for Indonesian citizens abroad, especially migrant workers residing abroad; and (b) protection for labourers and workers.

## Women and Girls

The NHRIs mentioned in this brief, recognised women and girls as vulnerable groups in several of their statements. These included pregnant women, women facing domestic abuse, adolescent girls, and women workers. A report by the Asia Pacific Forum of National Human Rights Institutions (APF) also listed several challenges faced by women and girls, as documented by Asian NHRIs, in this report<sup>[xcix]</sup>.

The NHRCN in **Nepal** found instances of several people from different marginalised groups, including women, children, and pregnant women, walking back home, given that they had been deprived for relief in places where they had been staying in self-quarantine for weeks<sup>[c]</sup>. In another statement, it also urged the Government to not curtail social security allowance for vulnerable groups, especially blue card-holding single women below the age of 60 years, as this amount helped them access medical care<sup>[ci]</sup>, and without which they would be even more vulnerable to COVID-19.

In a statement on hospitals refusing treatment, **Bangladesh's** NHRCB mentioned the steps being taken by it over the increasing violence against women and children during the coronavirus situation<sup>[cii]</sup>.

In **Malaysia**, SUHAKAM published a matrix on issues and recommendations on COVID-19 and women<sup>[ciii]</sup>, where it listed several challenges being faced by women during the pandemic, and provided recommendations on each.

The NHRCI in **India** issued an advisory on the Rights of Women<sup>[civ]</sup> during the pandemic, which covered guidelines on gender-based violence (GBV); sexual and reproductive health and rights (SRHR) of women; and women belonging to the Scheduled Castes (SC), Scheduled Tribes (ST), and minority communities, among others.

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In its statement on the second wave of COVID-19, the MNHRC in **Myanmar** mentioned that women and girls have particular needs during COVID-19. As an example, it stated that job losses in the garment sector have significant financial impact on women and girls while confinement and lockdowns may increase the burdens on them<sup>[cv]</sup>, and therefore this is another group that needs responses tailored to their needs.

## **LGBTQI+ Community**

On the matter of the protection of the rights of the LGBTQI+ community, interventions were seen from only three NHRIs – the NHRCK in **South Korea**, Komnas HAM in **Indonesia**, and the NHRCI in **India**.

On the occasion of International Day Against Homophobia, Transphobia and Biphobia on 17 May 2020, the Chairperson of **South Korea's** NHRCK, as well as **Indonesia's** Komnas HAM, issued statements<sup>[cvi]</sup><sup>[cvii]</sup>.

In **South Korea**, the NHRCK Chairperson's statement addressed anonymous COVID-19 testing; limiting of public disclosure of LGBTQI+ persons' personal movements to minimise the exposure of private information by health authorities and local governments; and about the role of the emergency task force on protection of LGBTQI+ rights during the COVID-19 crisis.

Conversely, Komnas HAM in **Indonesia** issued a statement condemning two cases of persecution that received a very muted reception in light of the COVID-19 outbreak – the first, the murder of Mira, a transwoman by a mob in Cilincing, North Jakarta; and the second, a prank by YouTuber Ferdian Paleka, who delivered “care packages” full of garbage to transwomen in Bandung, West Java. The Commission also spoke about how the COVID-19 pandemic has obliterated many people's incomes, and that the transgender community faced an even greater struggle for survival, with many losing their jobs in this period.

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In **India**, the NHRCI issued a specific Human Rights Advisory for Protection of the Rights of LGBTQI+ community in context of COVID-19 pandemic to the concerned Union Ministry and Chief Secretaries of all the States/UTs[cviii], which covered issues like their access to health services; social security, relief measures, and welfare schemes; protection from domestic violence and abuse; a separate 24\*7 toll-free helpline; financial support; protection from eviction; and the protection of transgender and intersex persons in prison.

## Health and Humanitarian Workers

NHRIs included healthcare and humanitarian workers in some of their interventions, as this group was essential to countries' overall response to COVID-19. During the initial months of the pandemic, NHRIs issued statements and undertook actions linked to health workers and humanitarian actors, which covered issues like access to adequate and appropriate medical equipment; conducive environments for carrying out their duties; and urging for more funds for health and humanitarian workers to carry out humanitarian assistance during the pandemic.

With regard to **frontline and healthcare workers**, the AIHRC in **Afghanistan** requested the Taliban to allow health workers access to military-controlled areas of the country to spread awareness on the COVID-19 pandemic[cix]; Komnas HAM urged the Indonesian government to pay heed to the strain on medical workers[cx]; while the CHRP advocated that Muslim frontline-workers and humanitarian actors risking their health and safety[cxi] be provided with protective clothing and equipment, sufficient support, and due compensation.

The NHRCI in **India** took *suo motu*[cxii] cognisance of a media report on medical workers – persons at maximum risk of contracting COVID-19 infection during the pandemic – who were facing refusals/demands for high premiums to buy group Mediclaim policies[cxiii].



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On 15 September this year, **the Philippines'** CHRP observed the Philippine Medicine Day, recognising the immense contribution of the Philippines' health workers during the pandemic, and with the passing of the Bayanihan to Recover as One Act or Bayanihan 2, it welcomed provisions that were beneficial to the healthcare workers[cxiv], including the expansion of government hospital capacity and adequate supply of protective equipment.

In **Thailand**, the NHRCT made some recommendations to all parties on the surveillance, prevention and control of COVID-19, including remedial measures[cxv]. Among these recommendations, it urged the government to resolve the issue of the shortage of essential personal protective equipment (PPE).

Lastly, on **humanitarian workers and humanitarian assistance**, NHRIs like **Malaysia's** SUHAKAM, **Nepal's** NHRCN, and **the Philippines'** CHRP issued statements, especially concerning vulnerable groups. SUHAKAM issued a statement urging the Malaysian Government to allocate funds in order to provide for the basic needs of refugees and asylum seekers[cxvi], urging for humanitarian aid services to be classified as an essential service during the MCO.

In **Nepal**, the NHRCN headed a high-level monitoring committee during the initial period of the pandemic, and expressed serious concern on the difficult humanitarian situation of workers and patients during the national lockdown imposed by the government[cxvii]. It urged authorities to collect data from each person and family residing at the local level, as well as distribute relief and other essentials in a fair and justifiable manner.

**The Philippines'** CHRP, on the occasion of World Humanitarian Day on 19 August, issued a statement on the commendable work of humanitarian workers, especially in light of the pandemic this year[cxviii], and also issued a statement on the double-threat posed to internally displaced persons (IDPs) in the wake of Typhoon Ambo/Vongfong in May 2020, while in the midst of the COVID-19 outbreak. It called on concerned government authorities to ensure that the IDP response was included in the risk reduction and response strategies of the national government, and urged it to scale up humanitarian assistance for this vulnerable group of persons[cxix].



# OTHER VULNERABLE GROUPS

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## Students and Teachers

Some NHRIs took into account the challenges faced by students, teachers, and schools in the wake of the pandemic, and issued statements on various facets of this situation.

Some of the concerns raised by NHRIs included:

- Testing, quarantining, and contact tracing of students in schools[cxx];
- Children's/students' right to healthcare services during the pandemic and lockdown measures[cxxi];
- The challenges faced by teachers[cxxii] in adapting to the new landscape of education; and
- Measures taken by local governments to help students and teachers transition to blended learning, by providing gadgets and other allied services[cxxiii].

## Elderly Persons

Concerning the status of the elderly during the pandemic, most of the NHRIs in this brief issued statements on the elderly population in their countries. From the statements and press releases analysed, two kinds of interventions were found: (a) statements solely concerning the rights of the elderly, and support for older people during the pandemic; and (b) statements linked to the requests of NHRIs to governments, urging them to release vulnerable prisoners during the pandemic, some of whom happened to be older persons (*previously mentioned in the section '**Prisoners and Prison Personnel**' in this brief*).

On statements concerning support for the elderly/older persons and their human rights during the pandemic, a few NHRIs urged governments to respect the rights of the elderly population, and to provide them with medical care during the pandemic[cxxiv], given their heightened vulnerability[cxxv] in this difficult period[cxxvi]. Some statements also raised concerns about the movement of elderly persons during the lockdown and quarantine measures[cxxvii], and policies on the same[cxxviii].

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## **Persons with Disabilities**

A majority of the NHRIs in this brief issued statements and recommendations concerning persons with disabilities.

These ranged from:

- The listing of healthcare[cxxix], testing, and quarantining measures[cxxx];
- Raising concerns on the rights of persons with sensory disabilities to access audio-visual information[cxxxi] and COVID-19-related news coverage, including through sign language[cxxxii][cxxxiii]; and
- Calling for a special management/response for them, and a policy to ensure their protection[cxxxiv], on the one hand, to addressing their vulnerabilities in prisons – including calling for their healthcare[cxxxv] and protection[cxxxvi] in prisons, as well as their release during the pandemic[cxxxvii], on the other.

# CONCERNS AND RECOMMENDATIONS

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## Concerns

From the data collected for this brief on the NHRIs' responses to the COVID-19 pandemic in this period, it was found that:

- (a) Most NHRIs were not consulted by their respective governments when coming up with responses to COVID-19;
- (b) Of the NHRIs' statements/press releases that were analysed, many of these were focused on awareness-raising, and were reactive advocacy measures – rather than being proactive and holding their governments accountable for their responses (or lack of) to the pandemic;
- (c) Statements/press releases and interventions by many of the NHRIs were more in number at the start of the pandemic, and then gradually reduced over time;
- (d) There had been a very low rate of follow-up measures by most of the NHRIs to their own interventions, despite their progressive and affirmative statements on a range of issues;
- (e) Not many NHRIs highlighted the restriction on civic space and W/HRDs, including those who had advocated for a human rights-based approach to the pandemic;
- (f) NHRIs, particularly in South Asia, did not adequately address several cases of police excesses and violence against civilians during the pandemic;
- (g) NHRIs faced several hurdles during the pandemic, which included a reduction in their functioning capacities, largely due to reduced staff presence, restrictions on travel, lockdowns, and challenging political contexts; and
- (h) Recommendations by NHRIs were mostly only noted, but not implemented by governments.

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## Recommendations

ANNI's recommendations to the NHRIs listed in this brief, would include:

- (a) Regular follow-ups on interventions, especially when there are human rights concerns or violations that are time-sensitive;
- (b) Along with awareness-raising, advocacy, and recommendatory functions, NHRIs should regularly exercise and undertake other functions in their mandates, such as:
  - Carrying out investigations;
  - Conducting fact-finding missions;
  - Monitoring and research; and
  - Other legal interventions on human rights violations specifically linked to the consequences and aftermath of the COVID-19 pandemic, especially on vulnerable sections of society.
- (c) Actively pursue cases linked to violations against HRDs; to ensure their protection, and their safety from repeated attacks arising from the sensitive nature of their work;
- (d) Urge governments to fulfil their roles and obligations to their citizens as the pandemic continues, by consulting for concrete measures on both, the medical and human-rights fronts; and
- (e) Urge governments to involve NHRIs in the COVID-19 response and the recovery planning. NHRIs should proactively initiate discussions with their governments to provide their recommendations and assessment.

# WAY FORWARD

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This brief, while taking into account Asian NHRIs' response to COVID-19 albeit for a limited period (nine months), is an effort to highlight the various interventions taken by them in specific countries and for specific interest groups. ANNI will continue to monitor their work in the coming months as well.

NHRIs, by virtue of being institutional human rights defenders, have the obligation and mandate to protect and promote human rights, especially for the vulnerable and marginalised sections of society. As the effects of more immediate measures by governments in the wake of the COVID-19 pandemic wear off over time – such as lockdowns and other governmental orders – the after-effects of the pandemic will continue to be felt, especially by vulnerable persons and groups, for months, or even years, to come.

With millions of people adversely affected in a direct manner by the pandemic, as well as with tremendous and glaring inequalities in societies across the region, NHRIs in Asia should play a leading role in continuing with interventions related to COVID-19, and by supporting those who have felt its impact the worst.

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# ACRONYMS

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- AIHRC** – Afghanistan Independent Human Rights Commission
- ANNI** – Asian NGO Network on National Human Rights Institutions
- APF** – Asia Pacific Forum of National Human Rights Institutions
- CHR/ CHRP** – Commission on Human Rights of the Philippines
- COVID-19** – Coronavirus disease 2019
- FORUM-ASIA** – Asian Forum for Human Rights and Development
- GANHRI** – Global Alliance on National Human Rights Institutions
- GBV** – Gender-based violence
- HRCM** – Human Rights Commission of the Maldives
- HRCSL** – Human Rights Commission of Sri Lanka
- HRD(s)** – Human rights defender(s)
- IDP** – Internally displaced person
- Komnas HAM** – National Commission of Human Rights, Indonesia (Indonesian: *Komisi Nasional Hak Asasi Manusia*)
- LGBTQI+** – Lesbian, gay, bisexual, transgender, questioning/queer, intersex plus other sexual identities
- MCO** – Movement Control Order
- MNHRC** – Myanmar National Human Rights Commission
- NBP** – New Bilibid Prison
- NHRC** – National Human Rights Commission
- NHRCB** – National Human Rights Commission, Bangladesh
- NHRCI** – National Human Rights Commission, India
- NHRCK** – National Human Rights Commission of Korea
- NHRCM** – National Human Rights Commission of Mongolia
- NHRCN** – National Human Rights Commission, Nepal
- NHRCT** – National Human Rights Commission of Thailand
- NHRI** – National Human Rights Institution
- OHCHR** – Office of the United Nations High Commissioner for Human Rights
- PDL(s)** – Person(s) deprived of liberty
- PPE** – Personal protective equipment
- SC** – Scheduled Caste(s)
- SRHR** – Sexual and reproductive health and rights
- ST** – Scheduled Tribe(s)
- SUHAKAM** – National Human Rights Commission of Malaysia (Malay: *Suruhanjaya Hak Asasi Manusia Malaysia*)
- UN Women** – United Nations Entity for Gender Equality and the Empowerment of Women

# ACRONYMS

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**UT** – Union Territory

**WHO** – World Health Organization

**WHRD(s)** – Women human rights defender(s)

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