**Written Submission in response to the Joint Questionnaire by the UN Special Rapporteurs**

**by**

**Asia Pacific Transgender Network (APTN)**

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**Introduction:**

This written submission has been compiled by the Asia Pacific Transgender Network (APTN)[[1]](#footnote-1) in response to the joint questionnaire shared by the UN Special Rapporteurs. The submission presents situational analysis in 6 countries[[2]](#footnote-2) in the Asia Pacific region where APTN is currently working with national and local trans-led, trans-inclusive civil society organisations. The submission is divided into two sections: **first section** provides an overview of the impact of COVID-19 related policy measures on human rights of trans communities in 6 countries as well as a regional overview, while the **second and final section** presents recommendations for human rights-based COVID-19 response to address the specific needs of trans communities.

Our submission is a compilation of information received through our country partners, our regional COVID-19 assessment surveys, and our national COVID-19 assessment survey conducted in Thailand.

1. **Impact on Human Rights and Access to Health, Shelter and Food**
	1. **Regional Overview**

The pandemic has exposed the alarming fragility and gaps in public health infrastructure across Asia Pacific. In most countries in the region, hospitals were already facing chronic shortage of equipment, facilities, and human resources to adequately meet the health needs of local populations. With the onset of the pandemic, the shortages are expected to increase manifolds as the number of patients needing critical healthcare increases by the hour. The crippled public health system can be attributed to decades of state neglect, prioritisation of defence budgets over social welfare budgets,[[3]](#footnote-3) and an ever-increasing privatisation of health.[[4]](#footnote-4),[[5]](#footnote-5) The impact of a weak public health system which is gravely ill-equipped to provide essential healthcare services are deeply entrenched, and it is feared that in many countries in the region, public health systems will collapse with the onset of the epidemic. To make matters worse, many governments in the region did not respond swiftly and adequately to mitigate the risks of the epidemic.

The impacts of poor public healthcare programmes affect marginalised populations more severely, including trans and gender diverse people. Already, these populations are not able to access routine medical health care due to discrimination, lack of legal identification documents, violations of patients’ rights in healthcare settings, lack of sensitised medical staff, and high out-of-pocket healthcare expenditures.[[6]](#footnote-6) In the contexts where most state-run outreach, testing, and treatment services require legal identification documents, the health needs of trans and gender diverse people could be easily overlooked and they could experience increased accessibility issues. Further, healthcare provider’s discriminatory attitudes could deter trans and gender diverse people from seeking timely COVID-19 treatment and care, compounding their health risks.

With the majority of countries in the region under lockdown, deeply entrenched social and economic inequalities and oppression are more visible than ever. Many trans and gender diverse people are ostracised by their families and are unable to access formal employment due to their gender identity and/or expression and hence experience homelessness or live in communal spaces which are often cramped.[[7]](#footnote-7) Further, in sub-regions like South Asia and the Pacific, trans and gender diverse people often live in communal spaces due to the social ostracisation and discrimination from landlords.[[8]](#footnote-8) They do not have access to safe shelters and adequate sanitation facilities during the lockdowns, as evident from country specific data. Many trans and gender diverse people in the region earn their income through streetwork and ritual work, or are employed in informal sectors such as entertainment and sex work. They are bearing the brunt of long-lasting financial impacts of the lockdowns, with no or limited access to social protection.[[9]](#footnote-9),[[10]](#footnote-10),[[11]](#footnote-11) While several public and private entities have issued support services and aid packages to provide relief to financially vulnerable individuals, it is feared that these interventions may not reach trans and gender diverse people, especially in countries where diverse gender identities are not socially accepted and remain highly stigmatised. The discriminatory treatment of trans and gender diverse people during humanitarian relief outreach has been well documented in the cases of the 2004 Indian Ocean Tsunami, 2010 floods in Pakistan, 2015 earthquake in Nepal, 2015 Typhoon Haiyan/Yolanda in the Philippines, and the 2016 Tropical Cyclone Winston in Fiji[[12]](#footnote-12), and is already being experienced by the *hijra* community in Pakistan[[13]](#footnote-13) and the trans communities in India.[[14]](#footnote-14) Loss of income could also place trans and gender diverse individuals in a precarious position when they have to return to their hostile families and communities where they have to relive experiences of harassment, abuse and violence.

Trans and gender diverse populations in many countries in the region experience **higher rates of illiteracy due to their financial and social marginalisation** whichcould impede their access to important health and safety information. ‘*Wash your hands frequently*’ is a global health messaging aimed to prevent further spread of COVID-19 - however, access to adequate and trans-friendly sanitation facilities is still not a reality in many countries in the region, especially in rural areas.[[15]](#footnote-15) Lack of adequate sanitation facilities at home, school, or in healthcare settings will make preventative measures difficult. In some cases, without the necessary sanitation facilities, these settings themselves may become a locus for the spread of the disease. Similarly, the **rural and urban disparities** in terms of access to timely access to safety information and access to public health facilities have heightened in the wake of COVID-19. Further, trans and gender diverse people who are seeking asylum or have refugee or migrant status face life-threatening risks due to displacement and lack of access to safe shelter spaces and basic sanitation and hygiene facilities.[[16]](#footnote-16),[[17]](#footnote-17)

Due to overburdened healthcare facilities, healthcare needs of trans and gender diverse people, including gender-affirming care, are being neglected and postponed indefinitely.[[18]](#footnote-18),[[19]](#footnote-19) Trans and gender diverse people living with HIV with underlying health conditions and low immunity (e.g. low CD4 count) could be more vulnerable to COVID-19 related morbidities and could experience higher mortality risk.[[20]](#footnote-20) Despite the scale-up of HIV treatment in recent years, 15 million people across the globe who are living with HIV do not have access to antiretroviral therapy, which may compromise their immune systems.[[21]](#footnote-21) Further, access to antiretroviral therapy (ART) may become more challenging due to restrictions on mobility and lack of confidentiality in healthcare settings. Many people living with HIV in Wuhan, China, for example, could not visit the hospital to get new supply of medications, and were reluctant to seek help from community officials due to fear of lack of confidentiality.[[22]](#footnote-22)

Another concerning element is the new wave of transphobic and homophobic remarks by religious and community leaders in the light of the pandemic which could lead to increased prejudice, stigma, verbal abuse, and even physical violence against trans and gender diverse people.[[23]](#footnote-23),[[24]](#footnote-24) A study conducted by the Fiji Rainbow Pride Foundation and Oxfam Australia documented the experiences of Fijian people of diverse SOGIESC during the Tropical Cyclone Winston in 2016, when several community and religious leaders blamed them for bringing the cyclone as God’s punishment, leading to verbal abuse, feelings of alienation and social isolation, and exclusion from critical networks.[[25]](#footnote-25) Additionally, in some countries like Nepal, the identities of suspected vectors of COVID-19 were made public[[26]](#footnote-26) which is a direct violation of the right to privacy and also puts their safety at risk. For members of marginalised and socially stigmatised communities, safety risks in these situations will be higher.

The multiple and intersecting discrimination and the consequent vulnerabilities experienced by trans and gender diverse populations places them at higher risk of experiencing mental health issues, anxiety and depression. The grave economic and health impacts and increased transphobia as a result of the pandemic could aggravate the situation.

Finally, a concerning element is the political push to get troubling laws passed in some countries notably Philippines and Nepal. Nepal's upper parliament convened a session amid the COVID-19 pandemic and passed the Special Service Bill that risks giving the national intelligence agency unlimited surveillance and search authorities without judicial oversight.[[27]](#footnote-27) Similarly, the Philippines has proposed the Anti-Terror Bill which would give sweeping powers to the president to silence any dissent.[[28]](#footnote-28)

* 1. **Country-specific Data**

**India:**

In order to contain the spread of COVID-19, the Central Government of India issued executive orders on 24 March 2020 prescribing lockdown for three week in the country under the Disaster Management Act 2005 (the DM Act)[[29]](#footnote-29) without a prior notice to allow citizens to prepare.[[30]](#footnote-30) The order included blanket closing of state borders as well as shutting down of the public transportation system. The order led to a catastrophic impact on the livelihoods of daily wage workers, migrant workers, and transgender people employed in informal sectors such as entertainment, sex work and street work, and forced them to return to their hometowns and villages. With no access to transportation services, thousands of migrant workers walked hundreds of kilometers to their villages on foot, many losing their lives on the way due to malnourishment, fatigue, and road accidents.[[31]](#footnote-31)

Police brutality and excessive use of force by the police to enforce lockdown measures has been widely witnessed even in cases where citizens went out for lawful matters e.g. to buy groceries and food.[[32]](#footnote-32) At least one death has been reported as a result of police brutality.

The Central government has issued several relief packages, however, access to Aadhaar card is a prerequisite to receive the relief support and food rations. Many transgender people do not have legal identity documents and Aadhaar card, and therefore, are not able to access the public relief support.[[33]](#footnote-33) Even in normal circumstances, lack of access to Aadhaar cards serves as a huge barrier to access basic services including health.[[34]](#footnote-34)

The National Institute of Social Defense (NISD) has issued a relief package for the marginalised community, including transgender people. They are giving trans people an amount of 1500 rupees a month (approximately 20 USD).[[35]](#footnote-35) NISD has been mailing trans-led, trans-inclusive organisations asking them to inform members of their community to send their bank details and unique biometric data information. [[36]](#footnote-36) This has been highly advised against by the local trans movement as the biometric data provided to them might be used against the trans community in the long run, especially against doubly marginalised groups among trans persons who are refugees, dalit, muslim, etc.[[37]](#footnote-37)

State and central governments have not taken any meaningful measures to ensure trans people are able to access separate healthcare and quarantine units in cases when they are infected and need to self-isolate and/or seek medical help. Many trans people feel that lack of protective measures for them makes them increasingly vulnerable to double discrimination due to their gender identity and COVID-19 infection status.[[38]](#footnote-38)

**Indonesia:**

Indonesia released two regulations, a government regulation and a Health Ministry regulation, to pave the way for large-scale social restrictions (*Pembatasan Sosial Berskala Besar* or PSBB) under Law No. 6 of 2018 on Medical Quarantines, prescribing partial lockdown to contain the spread of COVID-19.[[39]](#footnote-39) The scope of the lockdown and social distancing measures varied for different provinces. In greater Jakarta, schools, entertainment places, and other public places were ordered to shut down. Restaurants were allowed take-away and public transportation was allowed to run on 50% capacity to ensure social distancing. Most businesses were ordered to shut down except factories and businesses serving essential services. The closure of entertainment places and shops resulted in a huge blow to livelihoods of trans people who relied on street work and sex work. In Jakarta alone, a rapid assessment by Sanggar SWARA as part of the civil society led Crisis Response Mechanism (CRM) Coalition, a coalition focusing on crisis management for the LGBTQI community in Indonesia, found that 640 transgender women had already lost their jobs, with those previously working as street singers and sex workers especially vulnerable, and that 90 per cent of transgender women surveyed were at high risk of contracting COVID-19 due to their living conditions in slums and cramped areas, and their work involving high degrees of interaction with other people. They furthermore noted that many transgender women were unable to access basic food aid due to stigma, discrimination, and lack of gender-affirming legal identification.[[40]](#footnote-40),[[41]](#footnote-41) The relief packages issued by the federal government have not provided specific measures to address the vulnerabilities and needs of trans communities. Further, voices of dissent and those criticising the government's failing leadership during the crisis are being harassed by the law enforcement authorities, leaving little or no room for dialogue with the authorities for meaningful relief and support for the most marginalised.[[42]](#footnote-42)

**Nepal:**

A nation-wide lockdown was imposed on 24 March which required businesses, public transportation, public spaces (including restaurants, bars, and entertainment places) to shut down which had a devastating impact on the livelihoods of trans communities as the majority of them worked in informal sectors.[[43]](#footnote-43) The government has been highly criticised for a lack of effective response to manage the pandemic and surge in infection cases and its impact on the people's livelihoods and businesses.[[44]](#footnote-44) Experiences of discrimination and marginalisation during distribution of relief packages have been shared by several transgender people who lack legal identity documents,[[45]](#footnote-45) and many fear that the government institutions will repeat the failings of 2015 earthquake response[[46]](#footnote-46) and transgender community will be left behind due to intersecting vulnerabilities and marginalisations.[[47]](#footnote-47) Significant disruption in the supply of ART for people living with HIV and hormones for transgender people has been another consequence of lockdowns and travel restrictions. Most community-based organisations (CBOs) have shut down due to the lockdown and it has led to a lack of access to hormones, esp. testosterone which is not available in the majority of the hospitals and could only be accessed from CBOs and private clinics.[[48]](#footnote-48) Nepal announced the federal budget for fiscal year 2020-21,[[49]](#footnote-49) which failed to address the specific needs of transgender people in relation to healthcare and employment.[[50]](#footnote-50)

**Pakistan:**

The provincial governments of Pakistan started implementing province-level lockdowns in late March with Sindh and Punjab provinces announcing complete lockdown of businesses, shopping malls, shops, markets, and other public places including shrines.[[51]](#footnote-51) The provincial governments also requested support from the military for administrative support to enforce the lockdown. A significant majority of transgender community in Pakistan relied on street work and entertainment work at the weddings for their livelihoods, and are experiencing a huge blow to their financial capacities due to the COVID-19 related travel and social distancing restrictions.[[52]](#footnote-52) Many transgender people experience homelessness and/or live in crowded community homes where social distancing is not practically possible.[[53]](#footnote-53) While the government has issued relief support packages in the form of cash handouts that can be accessed through banks, majority of the transgender people cannot have access to it due to requirements around legal identity documents. Due to heightened stigma and social marginalisations, transgender people could experience discrimination from the officials as they seek access to relief packages. Further, there is a lack of awareness about existing relief programmes and general information about preventive measures issued by the government,[[54]](#footnote-54) and outreach interventions are needed to ensure the support is available to the most vulnerable. Finally, transgender people living with HIV are facing challenges while accessing essential medicines including ART due to travel restrictions and closure of hospital units to make additional space for COVID-19 patients.[[55]](#footnote-55) The community is relying on relief efforts and medical aid currently being provided by community-based organisations and private charities only.[[56]](#footnote-56)

**Philippines:**

The Philippines announced a public health emergency on 8 March 2020 under the Republic Act 11332, and all public health facilities were alerted to prepare for the necessary measures to mitigate the health emergency.[[57]](#footnote-57) By mid-March, Metro Manila was put under quarantine and travels to and from Manila were banned, schools were shut down, businesses were asked to allow flexible working hours, and large gatherings were banned. [[58]](#footnote-58) The economic impact of COVID-19 is quite pronounced and has affected LGBTI communities disproportionately. While the government has announced relief packages to provide financial support to poor households, many LGBTI people fall through the cracks and are not able to access the support due to narrow definitions of families and households.[[59]](#footnote-59) Excessive use of force and police brutality has become increasingly common to enforce curfew and lockdown measures. Humiliating tactics are being used to punish people who stepped out of the house to buy basic necessities such as groceries. In one instance, law enforcement volunteers in the village of Pandacaqui, in Pampanga province detained three individuals who identify as LGBT for stepping outside after curfew. The LGBT individuals were singled out and were accused of looking for illicit sex by an official and, as punishment, they were publicly humiliated by ordering them to kiss, dance, and do push-ups on live video broadcast on social media.[[60]](#footnote-60) They were identified by name and the videos of their punishment were shared on social media without their consent.

**Thailand:**

Thailand was one of the first countries in the region that reported COVID-19 infections cases after China. In early April, Thai government issued a public health emergency and ordered curfew that required malls, shopping centers, sporting areas, gyms, public pools and saunas, massage parlours, restaurants and bars to shut down. Most private businesses continued work but were allowed to have flexible operating hours. Further, inter-province travel was restricted. APTN and UNDP Thailand collaborated to conduct a survey to assess the impact of COVID-19 on the LGBT people in Thailand. The survey was responded by 55 individuals from across the country and provided a glimpse of the grimp impact of lockdowns and travel restrictions on people's livelihoods and well-being. Majority of respondents experienced/anticipated COVID-19 impact: **loss of income/job** (47%), **no** **access to PPE supplies** (38%), and **unsafe living situations** (36%). People are most affected by the **lockdown and travel and movement restrictions** (85%) and some voiced that the restrictions of movement and social distancing measures led to increased stress and depression. While around 40% of respondents have benefited from the government’s COVID-19 assistance such as free COVID-19 testing and financial assistance, an overwhelming amount of respondents (60%) indicated that they have not received any assistance from the government. Most respondents stated that they are affected by the isolation, **inability to socialize** and do activities outside, and working from home for an extended period of time. These led to **loneliness**, increased **stress and depression**.Around 14% of respondents also indicated they experience increased intimate, family, or gender-based violence or economic violence.

**Recommendations:**

**To National and Local Governments:**

* Governments should ensure that all healthcare services related to COVID-19 are provided without stigma and discrimination of any kind, including on the grounds of sexual orientation, gender identity and expression. Governments need to take steps to ensure everyone has affordable and accessible medical care and treatment options. Affirmative action (such as establishment of dedicated health facilities and sensitisation of medical workers and healthcare providers) should be taken by the government to ensure trans and gender diverse people have equal access to COVID-19 prevention, testing and care services in a safe environment.
* Recognising the particular social and economic vulnerabilities of trans and gender diverse individuals, governments should implement affirmative measures to ensure that adequate relief aid (both financial and basic survival resources including food/water rations and sanitation products) reaches these populations while upholding their human rights, safety, and overall well-being.
* Governments should ensure that the information they provide to the public regarding COVID-19 is accurate, unbiased, timely, and consistent with human rights principles.
* Governments should ensure that all information about COVID-19 is accessible and available in multiple local languages, including for those with low or no literacy, or people with visual and hearing disabilities.
* Health data is particularly sensitive in the context of COVID-19, and the publication of information can pose a significant risk to affected persons and in particular people who are already marginalised. Human rights-based legal protections should guide the appropriate use, disaggregation, and management of personal health data.
* Governments should ensure that HIV testing and treatment services are not affected by lockdowns or any other COVID-19 related measure, and people living with HIV are able to access the necessary medical care without any interruptions. Governments should ensure that trans and gender diverse individuals, especially those that are older and/or disabled, have equal access to emergency health services.
* Governments should use a human-rights based approach in the implementation of any response to and protective measures against COVID-19, including broad lockdowns. Encourage law enforcement officers to focus on increasing safety rather than arrests, violence, surveillance, or other coercive measures.
* Governments should take swift action to protect individuals and communities who may be targeted as bearing responsibility for COVID-19, establishing mechanisms to monitor, document and thoroughly investigate all reported incidents, and hold perpetrators accountable.
* Governments should provide safe shelters to trans and gender diverse people who are experiencing homelessness or are living in unsafe living conditions.
* Governments should allocate adequate resources to strengthen the public health system and to minimise out-of-pocket expenditures.
* Governments should take all necessary legal, policy and programmatic measures to ensure legal gender recognition and inclusion of trans and gender diverse people in all social programmes including public health.
* Governments should enact national tax reforms that ensure a progressive tax system with real redistributive capacity and affirmative action measures, such as subsidies, social protection or tax exemptions, that preserve, and progressively increase, the income of poorer households and to assist the most disadvantaged and marginalised individuals and groups including trans and gender diverse people.
* Governments should invest in research, documentation of lived experiences of trans and gender diverse communities to inform future humanitarian response and relevant policies and programmes, to ensure it addresses the unique needs and vulnerabilities of trans and gender diverse communities.

**To the National Human Rights Institutions (NHRIs):**

* National Human Rights Institutions (NHRIs) should ensure that states take all necessary measures to ensure healthcare services and relief services are provided to all on the basis of non-discrimination and equality.
* National Human Rights Institutions (NHRIs) should ensure that state restrictions to curb the spread of COVID-19 are lawful, necessary and proportionate, are not discriminatory, and are fully respectful of human dignity. NHRIs and UN human rights bodies should continuously monitor the situation and provide guidance to states to ensure compliance to international human rights standards.

**To Local, Regional and Global Human Rights Movements:**

* Local, regional and global human rights movements should support and collaborate with trans-led and trans-inclusive organisations in collecting and sharing relevant information and resources. In solidarity, human rights movements should join hands with groups and organisations working for marginalised populations to amplify their calls to decision-makers in the government.

**To Donors/Funding Agencies:**

* Donors should allow trans-led and trans-inclusive organisations to reprioritise their programmes to address the most urgent needs of trans and gender diverse communities, including food and shelter, as well as the safety and well-being of their staff and volunteers in the context of the COVID-19 pandemic.
* Donors should not retract any existing funding but should maintain or increase organisational support to resource-constraint trans-led and and trans-inclusive organisations in responding to the COVID-19 pandemic.
* Donors should increase investment in research and advocacy programmes on healthcare needs of trans and gender diverse populations and inclusion of trans and gender diverse people as key populations in public health policies and programmes.
1. Asia Pacific Transgender Network (APTN) is a regional network based in Thauland. APTN advocates for the human rights of transgender people and is currently working in more than 12 countries in the region. [↑](#footnote-ref-1)
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