

UNDRR ASIA PACIFIC
COVID-19 BRIEF

THE HUMAN RIGHTS DIMENSIONS OF THE COVID-19 PANDEMIC

19 JUNE 2020



#PreventionSavesLives

The COVID-19 pandemic is presenting unique challenges to the protection of human rights around the world, including the Asia-Pacific region. This brief covers key human rights issues that have been long-standing areas of concern in the region and that have been exacerbated by the onset of the COVID-19 crisis. Other equally important human rights dimensions, notably in relation to economic and social rights that have been severely impacted by the COVID-19 pandemic have been covered in previous webinars and briefs in the series.

This brief was developed by the UN Office for Disaster Risk Reduction (UNDRR), Regional Office for Asia and the Pacific, in collaboration with the Office of the United Nations High Commissioner for Human Rights (OHCHR), Regional Office for South-East Asia. In addition to highlighting the challenges, this brief provides policy advice and recommendations to ensure a rights-based approach is adopted in response to all disasters, including the COVID-19 pandemic.

The brief reflects interventions and feedback from the UNDRR Asia-Pacific webinar on 14 May 2020, titled 'The Human Rights Dimensions of the COVID-19 Pandemic,' which was co-organized with OHCHR.

OVERVIEW

The COVID-19 pandemic is a global public health emergency on a scale not seen for a century. In responding to the crisis, countries have imposed emergency and security measures to control the spread of the disease. Human rights law recognizes that national emergencies may require limits to be placed on the exercise of certain human rights. However, these measures must be enacted in a proportional and non-discriminatory manner, and should be in place for a limited duration of time in order to effectively respond to the public health emergency. Emergency measures can contain vaguely worded provisions and have the potential to restrict the rights to information, privacy, freedoms of movement, expression, association and peaceful assembly.

The crisis has also exposed social fissures that have given rise to hate speech and xenophobia, often directed at minorities, migrants, and refugees. Such hateful rhetoric infringes on human rights and compounds the vulnerabilities of these groups which are already more susceptible to the pandemic and its impacts.

States have a responsibility to minimize the harmful effects of any emergency measures and to ensure that everyone is protected, including those in prison or who are undocumented.

A human-right based approach to the management of the crisis puts people in the centre of response and recovery efforts. States that guide their efforts based on human right principles are better able to calibrate effective responses to contain the disease while minimizing negative consequences. Moreover, adopting a transparent and rights-based approach will help states build trust and thus gain the public's cooperation and compliance.

The COVID-19 pandemic is a public health crisis that has become an economic and social crisis as



"Human rights cannot be an afterthought in times of crisis – and we now face the biggest international crisis in generations."

UN Secretary-General António Guterres

well as a protection and human rights crisis. This brief highlights some of the most critical and longstanding human rights challenges that have been exacerbated by the onset of the crisis and offers countries advice and recommendations to address them to ensure that dignity and resilience is afforded to all.

RECOMMENDED ACTIONS

- 1. Ensure full transparency, accountability and proportionality of the government emergency measures.**
- 2. Strengthen democratic governance to address racism, xenophobia and hate speech.**
- 3. Implement inclusive responses and protect the rights of migrants, asylum-seekers and refugees.**
- 4. Consider alternatives to detention for those who are incarcerated and pursue justice and prison system reforms.**

RESPONSE CHALLENGES

The COVID-19 pandemic presents unique challenges to the protection of human rights around the world, including the Asia-Pacific region. Civil and political¹ rights are being pushed aside and, in some cases, racism, xenophobia, hate speech are being allowed to flourish. These trends need to be countered with robust efforts to promote fundamental freedoms of expression and association, while providing targeted support to the most vulnerable groups. Specifically, some of the challenges identified are:

1. Civic space and freedom of expression are being constrained

The scale of the COVID-19 crisis has required countries to adopt extraordinary emergency measures to contain the spread of the disease. In the midst of this, disproportionate use of executive power has been reported in many countries while the role of democratic institutions has been shrinking.² Moreover, in the context of rising ethno-centred nationalism, populism, authoritarianism, the pandemic can provide some governments with a pretext for repressive measures unrelated to COVID-19 to silence critics and restrict political rights.³

The less transparent authorities are in decision-making, the more likely they are to use censorship and repression. As highlighted in a recent report by Amnesty International, blanket prohibitions on the dissemination of information based on vague and ambiguous concepts, such as “false news” or “spreading misinformation” are sometimes not reasonable or proportionate to protect public health.

Indeed, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, has expressed concern over hundreds of accounts of official retaliation against journalists under the guise of spreading disinformation.⁴ This practice is especially prevalent in the Asia-Pacific region according to the International Press Institute which has been tracking pandemic-related violations of press freedoms.⁵ These punitive

measures have also been used to silence any criticism from health workers, whistle-blowers and the general public. Internet restrictions, cyber-policing and worrisome surveillance practices have also been reported across the region.^{6 7 8 9}



Cartoonist Ahmed Kabir Kishore is one of 12 journalists and bloggers who have been charged under Bangladesh's 2018 Digital Security Act since the start of May (Source: Reporters Without Borders)

2. Hate speech, racism, xenophobia are increasing in the region

Discriminatory rhetoric against marginalized populations such as minorities, refugees and migrants has surged in the context of COVID-19. False stories accusing these vulnerable groups of being responsible for the transmission of the virus have resulted in a rise of discrimination and in some cases violence against the targeted group. While some of the rhetoric has been fueled by disinformation that spreads on social media and mobile messaging apps, such as WhatsApp, some populist politicians and ethno-nationalist groups have also exploited public fears to push their exclusionary agendas.

There has been a rise in anti-Muslim sentiment in Sri Lanka and in India, where social media has been flooded by allegations that Muslims were conspiring to spread the virus. which resulted in acts of violence.¹⁰ Thailand has witnessed a rise in xenophobia, including anti-Chinese rhetoric online, while in New Zealand, the Human Rights Commission received 311 allegations of racism and harassment towards Chinese and Asian people between January and May of this year.

There have also been concerns that the pandemic amplifies the vulnerabilities of lesbian, gay, bisexual, transgender, intersex and questioning (LGBTIQ+) groups, which are already discriminated against in many countries. The pandemics also risks creating a context conducive to increased persecution.¹¹

The rise in hate and racism in the region is rooted in structural failures to address inequalities and the erosion of democratic values and systems and it serves to further undermine social cohesion. Failure to hold accountable those who propagate hate speech can create a sense of impunity among their followers and allow racism and abuses against victims to become normalized.

In addition to creating an environment of fear, such hateful rhetoric risks compromising the effectiveness of public health measures as targeted communities might feel discouraged from seeking testing or treatment voluntarily.



A sign banning Chinese visitors is written in Chinese and placed on the door of a popular restaurant among tourists in Jeju, South Korea (Source: NEWS1)

3. Human rights of migrants are being denied

Migrants have been hit particularly hard by the travel restrictions and economic decline sparked by the COVID-19 crisis. Furthermore, migrants face unique challenges which include limited access to health care, exclusion from social protection systems and many are vulnerable to being subjected to arrest and administrative detention¹². Even if healthcare access and testing are provided to migrants, undocumented migrants may not seek those services for fear being detained or deported.



Malaysian authorities round up people during an immigration raid in Selayang, north of Kuala Lumpur, on 11 May (Source: Hasnoor Hussain/TNH)

In India, following the announcement of the lockdown to limit the spread of COVID-19, millions of impoverished migrants were left without any income. Such migrant workers are at the highest risk of being forced into debt and predatory interest rates even to provide for their daily subsistence. This can trigger decades of inter-generational bondage, including the enslavement of hundreds of thousands of children.¹³

In addition, migrants are falling victim to rising xenophobia and discrimination which has resulted in crackdowns in the region. The UN Special Rapporteur on the human rights of migrants, Felipe González Morales, recently raised his concerns over raids by Malaysian authorities to detain migrants in locked-down areas. These raids resulted in the detention of more than 350 migrants in overcrowded immigration detention facilities. In addition to the risk of infection in such overcrowded facilities, it remains unclear whether the migrants have access to lawyers and can challenge their detention and deportation.¹⁴

Another vulnerable group which has been impacted by the wave of border closures are refugees and asylum seekers who are often fleeing conflict, disasters or persecution. UNHCR, the UN Refugee Agency, says that out of 167 countries that have fully or partially closed their borders, at least 57 countries are not making exceptions for people seeking asylum, which is a denial of their rights as persons in need of international protection.¹⁵

UNCHR has called on countries in the Asia-Pacific region to do more to aid boats full of refugees and asylum seekers in the Bay of Bengal and the Andaman Sea that have been unable to come ashore. The agency has reminded countries that “rescue at sea and allowing the persecuted to seek asylum are fundamental tenets of customary international law, by which all states are bound.”¹⁶

4. Persons deprived of liberty are vulnerable to infection

Prisoners, detainees and persons deprived of their liberty are vulnerable to COVID-19 infection due to prolonged confinement in often overcrowded and under-resourced detention facilities. According to the Institute for Crime and Justice Policy Research, prisons in Indonesia, Cambodia, and



Photo of a crowded prison in the Philippines. Overpopulation is a problem in many prisons in Asia-Pacific. (Photo: ICRC)

Bangladesh are at over 200 percent capacity, while the Philippines has a 464 percent overcapacity rate, making it the second most overcrowded prison system in the world.¹⁷

The large percentage of pretrial detainees is a major factor in the overcrowding in Asia-Pacific. In the Philippines, for instance, 75 percent of detainees have not been convicted of any crime. In Bangladesh, pretrial detainees make up approximately 80 percent of detainees, while in India, the number is approximately 67 percent.¹⁸

In response to the pandemic, some countries have suspended visits to prisoners, restricted movement inside prisons or cancelled temporary release schemes. These actions have led to riots and aggravated the physical and psychological conditions of detainees.¹⁹

Early releases, short-term amnesties, non-custodial sentences and other measures to improve conditions in some prisons in Indonesia, the Philippines, Myanmar, Thailand and Afghanistan are noted as positive trends to reduce overcrowding. However, the scale of those measures has been deemed insufficient to counter structural issues with prisons of Asia-Pacific which have been exacerbated by the COVID-19 crisis.

The COVID-19 pandemic presents unique challenges to the protection of human rights around the world, including the Asia-Pacific region. Civil and political²⁰ rights are being pushed aside and, in some cases, racism, xenophobia, hate speech are being allowed to flourish. These trends need to be countered with robust efforts to promote fundamental freedoms of expression and association, while providing targeted support to the most vulnerable groups. Specifically, some of the challenges identified to date are:

1. Ensure transparency, accountability and proportionality of the government emergency measures

Protecting free speech and civic spaces in response and recovery are essential for governments to be accountable to the people they seek to protect. Specifically, in the context of COVID-19, the free flow of timely, accurate information and disaggregated data is essential to allow civil society and the public to scrutinize the effectiveness of government actions.²¹

Attempts to criminalize critiques may create distrust in institutional information and dissuade the public from following government guidelines. To avoid these effects, governments should refrain from censorship and, along with media and social media companies should instead address misinformation while offering transparent and reliable information.

Moreover, journalism serves a crucial function in a public health emergency, particularly in relation to risk communication. Governments should robustly implement their freedom of information laws to ensure that all individuals, especially journalists, have access to information.²² Any restriction on the rights to access information should meet the criteria of legality, necessity and proportionality.

Parliaments have an important role to play in this regard by providing oversight on executive-led measures associated with state emergency declarations and ensuring that human rights are being protected and laws are upheld.



“A public health threat strengthens the arguments for open government...only by knowing the full scope of the threat posed by disease that individuals and their communities can make appropriate personal choices and public health decisions”

David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

In New Zealand, the parliament established an epidemic response committee composed of ruling and opposition parliamentarians to provide oversight to government actions²³. While in Timor Leste, several sessions of parliament have debated lockdown measures and examined decisions by government officials.²⁴

2. Strengthen democratic governance to address racism, xenophobia and hate speech

Governments should seek to prevent hate speech and act swiftly in response to any rise in rhetoric which could threaten the human rights of vulnerable groups. Political and religious leaders can play an influential role in speaking out and taking action against racism, xenophobia and violence. Governments should empower national and local human rights commissions and listen to their concerns on hate speech, which is an early warning of a potential escalation towards violence and civil unrest.

In addition, governments should proactively promote tolerance through educational efforts that celebrate the benefits of diverse societies and take affirmative actions towards promoting diversity and inclusion in institutions. In line with this, the International Convention on the Elimination of All Forms of Racial Discrimination has recommended that governments adopt national plans against racial discrimination.²⁵

Media organizations and social media tech companies also have a responsibility in countering hate speech by monitoring their platforms and taking down harmful content, while working with and promoting the voices of marginalized groups. Global social media companies can be valuable partners as they have recently shown a keen interest and willingness to ensure that their platforms are safe spaces for all users.^{26 27}



A number of social media companies have recently revamped their guidelines for the removal of hateful content. The image is from YouTube's guidelines, which were updated on 5 June.

Moreover, implementing a whole-of-society approach to disaster risk reduction requires that governments address governance issues. Current disaster prevention and response governance structures follow a siloed approach where coordination among relevant ministries and agencies may be limited, thus weakening the ability of any of one agency to tackle the multi-dimensional aspects of disasters, including human rights implications. Governance reforms include the development of a coordination mechanism between disaster management agencies, public health authorities, and national human rights institutions, and enhancing the participation of civil society organizations and the private sector in the planning and implementation of policies to build resilient societies.

3. Implement inclusive responses and protect the rights of migrants, asylum-seekers and refugees

Migrants are more exposed to the health risks associated with the pandemic and are more vulnerable to the social and economic impacts of lockdowns. To address those challenges, measures should be taken to address the immediate consequences of the pandemic and implement inclusive policies that to address structural inequalities, such as offering enhanced social protection for all, as recommended in the global compact for migration.²⁸

The United Nations Network on Migration called on countries in the midst of the COVID-19 pandemic to place a moratorium on the arrest of migrants, release those in detention centres, and to implement alternative administrative detention measures.²⁹

Moreover, in order to protect the health of migrants and communities in all countries, forced returns should be suspended, and voluntary returns should be properly supported to ensure human rights are respected.

In addition, maritime search and rescue operations of asylum-seekers and refugee boats should be maintained, especially in the Bay of Bengal and the Andaman Sea. To support countries in the region, UN agencies have dedicated capacities that can be mobilized to assist authorities to prevent the spread of COVID-19.³⁰

Lastly, border closures should be non-discriminatory and proportionate to achieving public health goals and should maintain facilities to allow refugees and asylum seekers access to safe asylum. All border governance measures should be guided by human-rights considerations to ensure migrants do not experience arbitrary decision-making and discrimination and are protected from unlawful profiling, torture, abuses and sexual and gender-based violence, dangerous interception practices, and prolonged or arbitrary detention.³¹



Bangladesh, on April 15, rescued 382 Rohingya refugees who were at sea for two months (source: Dhaka Tribune)

4. Consider alternatives to detention for those who are incarcerated and pursue justice and prison system reforms

Persons deprived of their liberty comprise a particularly vulnerable group due to the restrictions which are already placed upon them and their limited capacity to take precautionary measures. The UN Subcommittee on the Prevention of Torture has called on governments to “reduce prison populations and other detention populations wherever possible.”

This includes reviewing all cases of pre-trial detention in order to determine whether detention



“Now, more than ever, governments should release every person detained without sufficient legal basis, including political prisoners and others detained simply for expressing critical or dissenting views.”

Michelle Bachelet, the UN High Commissioner for Human Rights

is strictly necessary in the light of the prevailing public health emergency and to extend the use of bail for all but the most serious of cases.³²

Countries should seek to reduce overcrowding by considering non-custodial alternatives (e.g. community service, open regime measures), alternatives to detention for the most vulnerable inmates, and the release of minor and non-violent offenders (e.g. drug abusers and misdemeanour offenders) and those detained without sufficient legal grounds.

For those who must remain incarcerated, authorities should improve hygiene conditions, access to health services and risk communication in prisons, pre-trial detention centres and other holding facilities.

Moreover, countries should take advantage of opportunities in their COVID-19 recovery for the design and implementation of evidence-based reforms of the criminal justice and prison systems. This includes considering the decriminalization of certain non-violent acts such as drug use and promoting restorative justice and alternatives to incarceration, such as community services, probation, and treatment. These alternatives would promote rehabilitation of the offender, reduce prison populations, decrease public expenditure and prevent re-offence.³³

Acknowledgement

The UNDRR Regional Office for Asia and the Pacific acknowledges the partnership of OHCHR in the organization of the development of this brief and organization of the webinar "[The Human Rights Dimensions of the COVID-19 Pandemic](#)." Interventions by the speakers, comments, and questions from the 840 participants in the webinar, formed substantive inputs into the document.

UNDRR would like to acknowledge the financial contribution made by the Australian Government, Department of Foreign Affairs and Trade, as part of the Partnership Framework with UNDRR on "Supporting Implementation of the Sendai Framework."

Copyright

©United Nations Office for Disaster Risk Reduction 2020. All rights reserved.

Contact

UN Office for Disaster Risk Reduction, Regional Office for Asia and the Pacific

Email undrr-ap@un.org or visit www.undrr.org

 [@UNDRR_AsiaPac](https://twitter.com/UNDRR_AsiaPac)

Additional Resources

- COVID-19 and United Nations: Human Rights: We are all in this together
<https://www.un.org/en/un-coronavirus-communications-team/we-are-all-together-human-rights-and-covid-19-response-and>
- WHO, Preparedness, prevention and control of COVID-19 in prisons and other places of detention
<https://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/publications/2020/preparedness-prevention-and-control-of-covid-19-in-prisons-and-other-places-of-detention,-15-march-2020>
- IASC guidelines - COVID-19: focus on persons deprived of their liberty (OHCHR and WHO)
<https://interagencystandingcommittee.org/other/iasc-interim-guidance-covid-19-focus-persons-deprived-their-liberty-developed-ohchr-and-who>
- IOM, Migrants and the COVID-19 pandemic: An initial analysis
<https://publications.iom.int/system/files/pdf/mrs-60.pdf>
- Secretary General's Policy Brief: COVID-19 and People on the Move: <https://unsdg.un.org/resources/policy-brief-covid-19-and-people-move>
- OHCHR Guidance: Emergency Measures and COVID-19
https://www.ohchr.org/Documents/Events/EmergencyMeasures_COVID19.pdf
- UN Guidance Note on Addressing and Countering COVID-19 related Hate Speech:
<https://www.ohchr.org/Documents/Issues/HateSpeech/UNGuidanceHate.pdf>
- Thailand Institute of Justice (TIJ) report on the COVID-19 situation in prisons and policy recommendations for Thailand. Available at: <https://knowledge.tijthailand.org/uploads/publication/file/20200422/en-bdgklnpsuw36.pdf>
- IPU, Country compilation of parliamentary responses to the pandemic
<https://www.ipu.org/country-compilation-parliamentary-responses-pandemic>
- COVID-19 AND PERSONS DEPRIVED OF LIBERTY INFORMATION HUB
<https://datastudio.google.com/u/0/reporting/c686bea7-3152-4dd2-b483-fce072f3ddbfb/page/UkoKB>
- OHCHR COVID-19 and human rights guidance and resources:
<https://www.ohchr.org/EN/NewsEvents/Pages/COVID19Guidance.aspx>

References

- ¹ Issues related to economic and social rights have been covered in other issues briefs in the series. See also the UN Policy Brief on Human Rights and COVID-19
- ² <https://www.economist.com/leaders/2020/04/23/autocrats-see-opportunity-in-disaster>
- ³ <https://www.un.org/en/un-coronavirus-communications-team/we-are-all-together-human-rights-and-covid-19-response-and>
- ⁴ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25856&LangID=E>
- ⁵ <https://ipi.media/ipi-covid-19-media-resource-toolbox/>
- ⁶ <https://ifex.org/covid-19-and-censorship-plague-asia-pacific/>
- ⁷ <https://www.civicus.org/index.php/media-resources/news/4413-bangladesh-stifling-expression-using-digital-security-act-must-not-be-the-norm-to-address-covid-19-pandemic>
- ⁸ <http://www.humanrights.asia/news/ahrc-news/AHRC-JST-002-2020/>
- ⁹ <https://www.amnesty.org/en/latest/news/2020/04/thailand-authorities-using-repressive-laws-to-intensify-crackdown-on-online-critics/>
- ¹⁰ <https://www.dw.com/en/indian-muslims-face-renewed-stigma-amid-covid-19-crisis/a-53436462>
- ¹¹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25884&LangID=E>
- ¹² <https://publications.iom.int/system/files/pdf/mrs-60.pdf>
- ¹³ <https://www.business-humanrights.org/en/india-covid-19-may-lead-to-rise-in-bonded-labour-and-human-trafficking>
- ¹⁴ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25900&LangID=E>
- ¹⁵ <https://www.unhcr.org/news/press/2020/4/5ea035ba4/beware-long-term-damage-human-rights-refugee-rights-coronavirus-pandemic.html>
- ¹⁶ <https://www.unhcr.org/news/press/2020/4/5ea13da74/news-comment-maritime-movements-refugees-asylum-seekers-unhcr-regional.html>
- ¹⁷ https://www.prisonstudies.org/highest-to-lowest/occupancy-level?field_region_taxonomy_tid=All
- ¹⁸ <https://www.hrw.org/news/2020/04/06/asia-reduce-prison-populations-facing-covid-19>
- ¹⁹ <https://www.theguardian.com/global-development/2020/apr/29/fear-and-illness-stalk-indonesias-packed-jails-as-prisoners-hope-for-early-release-coronavirus>
- ²⁰ Issues related to economic and social rights have been covered in other issues briefs in the series. See also the UN Policy Brief on Human Rights and COVID-19
- ²¹ https://www.un.org/sites/un2.un.org/files/un_policy_brief_on_human_rights_and_covid_23_april_2020.pdf
- ²² <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25729&LangID=E>
- ²³ <https://www.ipu.org/human-rights-and-covid-19-guidance-note-parliaments>
- ²⁴ <http://timor-leste.gov.tl/?p=24135&lang=en&n=1>
- ²⁵ <https://www.ohchr.org/Documents/Issues/Racism/NAPARD.pdf>
- ²⁶ <https://www.aljazeera.com/news/2020/05/sri-lanka-facebook-apologises-role-2018-anti-muslim-riots-200513101243101.html>
- ²⁷ <https://about.fb.com/news/2020/05/human-rights-work-in-asia/>
- ²⁸ https://refugeesmigrants.un.org/sites/default/files/180713_agreed_outcome_global_compact_for_migration.pdf
- ²⁹ https://migrationnetwork.un.org/sites/default/files/docs/un_network_on_migration_wg_atd_policy_brief_covid-19_and_immigration_detention_0.pdf
- ³⁰ <https://www.unhcr.org/news/press/2020/5/5eb15b804/joint-statement-unhcr-iom-unodc-protection-sea-bay-bengal-andaman-sea.html>
- ³¹ <https://www.ohchr.org/EN/Issues/Migration/Pages/InternationalBorders.aspx>
- ³² <https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf>
- ³³ <https://famm.org/wp-content/uploads/FS-Alternatives-in-a-Nutshell.pdf>