**Submission for the thematic report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity**

**for the October 2020 session of the UN General Assembly.**

**Introduction**

This short submission was prepared by ASEAN SOGIE Caucus (ASC), with the assistance of our members and partner organizations, to provide information and insight pertaining to the impact of COVID-19 on the human rights of LGBT persons, communities, and/or populations. This is to respond to the call by the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (IESOGI) for their thematic report to the UN General Assembly on October 2020.

1. **How did the State evaluate the situation of LGBT persons vis-à-vis the pandemic and potential specific vulnerabilities?**

ASEAN governments have made no such evaluations at the national or federal level. Unfortunately, conditions are as they were when we reported in 2017 that “Within ASEAN member-states, LGBTIQ people have been stigmatized as dangers to national security and threats to the moral fabric of society”, and their fundamental freedoms routinely denied whether in explicit anti-LGBTIQ laws and policies, or through cultural norms that motivate state and non-state actors to bar participation of LGBTIQ people.[[1]](#footnote-1) Conditions of state accountability and openness to adopting inclusive measures have changed little since 2017, and in some ASEAN member-states (e..g. Indonesia[[2]](#footnote-2), Malaysia[[3]](#footnote-3)) circumstances have become worse. There area also scattered anecdotes of harassment and intimidation by police forces on the premise of movement control during quarantine, with persons who are perceived as gay/bisexual, transgender, or gender non-conforming being vulnerable to having their phones checked for LGBTIQ-specific apps such as Grindr. These occur in conjunction with the experiences of abuse faced by other human rights advocates, also on the premise of enforcing so-called quarantine measures. There are exceptions, as enumerated in Question 3, but these are isolated initiatives within smaller jurisdictions and do not represent general circumstances. Other attempts by governments to reference LGBTIQ people are insubstantial and can only be read as tokenism as a means of garnering political support (e.g. Philippines[[4]](#footnote-4)).

There have been unique government efforts in providing assistance to LGBTIQ persons, particularly in Malaysia, but great care is needed as these are grounded on potentially dangerous state-led anti-LGBTIQ projects. Government assistance was provided through the local religious departments to “ex-LGBTIQ” persons and LGBTIQ people living in poverty. One example is the support provided to Pertubuhan Hijrah Republique (en. Hijra Republique Network), an organization working towards bringing LGBT people towards “the right path” through religious education and other activities.[[5]](#footnote-5) Justice For Sisters, one of our members based in Malaysia, explains that the government position is that LGBTIQ people should be “rehabilitated”, and financial aids are used as incentives to support this.[[6]](#footnote-6) Outside Kuala Lumpur, it was reported that some trans women activists were approached by the Islamic Department to help facilitate disbursement of the funds, but that this assistance required them to provide sensitive personal data, including information about one's SOGI. Community organizers have rightfully raised serious concerns about this serious breach of right to privacy and how the information will be used in future crackdowns.

1. **What measures were adopted by the State to ensure that LGBT persons would not be subjected to discrimination in the implementation of COVID-19 related interventions?**

Same as above.

1. **Did LGBT civil society participate in the design of measures taken to respond to the pandemic? If no, why not?**

At the national level, the answer is generally no. LGBTIQ people are often excluded from the planning and designing of measures taken at this level, and the public health crisis is no different. If there have been such attempts by any in LGBTIQ civil society, it has either gone unreported or has proved ineffectual to the overwhelming majority of LGBTIQ people in their respective communities.

Smaller jurisdictions present hopeful, albeit very limited, alternatives. In the Philippines, some local government units (LGUs) have included LGBTIQ people in their COVID-19 measures. To our knowledge, only three LGUs have done so: the inclusion of same-sex partners with children in the social amelioration program (SAP) for families of Pasig City (National Capital Region)[[7]](#footnote-7); the inclusion of LGBTIQ people as recipients of cash aid if ineligible for SAP because they do not have spouses or children in Iloilo City (Western Visayas‎, Region VI)[[8]](#footnote-8); and the reopening of the Protection Center facilities of the Quezon City General Hospital to respond to the rise of cases of domestic violence and abuses experienced by women, children, and LGBTIQ people in Quezon City (National Capital Region)[[9]](#footnote-9). Similarly limited efforts of other public institutions with some level of autonomy have integrated LGBTIQ concerns to some degree, as with the University of the Philippines Resilience Institute developing a multilingual AI chatbot to answer questions regarding COVID-19 that can also speak in Filipino “LGBT slang” or “*Beki*” language.[[10]](#footnote-10)

1. **What is the information available to the State as to the impact of the COVID-19 pandemic on the general situation of LGBT persons and their access to education, housing, health and employment and on their living conditions?**

No ASEAN government has conducted any study on the impact of COVID-19 on LGBT persons and access to the public services and emergency assistance, for the same reasons stated above. Currently, the only available information is the ones being shared by larger LGBTIQ organizations[[11]](#footnote-11), and the research done pre-pandemic on the economic issues facing LGBTIQ people in Southeast Asia and elsewhere[[12]](#footnote-12). Some published data on said economic issues is available for Cambodia[[13]](#footnote-13), Vietnam[[14]](#footnote-14), and Philippines[[15]](#footnote-15). However, there is no indication that these issues have been adequately addressed. There is similarly no indication that ASEAN governments at the national level have used this information to address the pandemic’s disproportionate impact on LGBTIQ people.

The rapid assessment conducted by ASEAN SOGIE Caucus in April 2020 on the pandemic’s impact provides information that mirror more or less the same issues found in other recently published reports. This was submitted to the IESOGI last May 2020. Our more statement public statement addressed to donors and other funders in Southeast Asia[[16]](#footnote-16) summarizes the general situation based on our interviews, which we expound on below:

* *Limited and restrictive funding grants. –* The resource capacities of local LGBTIQ organizations reliant on short-term, restricted, or project-based funding have been seriously affected due to the cancellation of activities. There is also difficulty in reallocating said funding to directly address the crisis, due to the various restrictions on these grants. However, it must be noted that these were already problems prior to the pandemic, and that the inadequate capacities of local LGBTIQ organizations, such as in emergency response and organizational development, are in large part due to the reliance on such forms of funding. Local organizations reliant on donor support have not been given adequate opportunities and resources that would have otherwise allowed them to prepare for emergency situations. It is also a very worrying sign of the present unsustainability on which much local LGBTIQ advocacy is done.
* *Long-term loss of income and livelihood. –* LGBTIQ persons and activists continue to face difficulties due to the prolonged loss of personal income, as many have no permanent employment, are engaged in the informal sector, or work on a daily-wage (e.g. beauty parlors) or per-project (e.g. events planners) basis. This is coupled with the loss of income of other members of the household, which they must now compensate for. Unfortunately, this loss or severely reduced livelihood is expected to continue even as states begin shifting to post-pandemic arrangements, due to fears regarding physical contact and the adoption of online or home-service platforms which many cannot access. The aforementioned present unsustainability naturally extends to socioeconomic concerns, because local and national LGBTIQ advocacy have not adequately responded. The same can also be said for funding patterns, which has left LGBTIQ activists and organizations struggling to respond to the needs of their communities. As captured in the latest Global Resources Report for 2015-2016, only 26% of funding given go to general operations and upkeep, 5% to capacity-building for things such as organizational development, and economic issues such housing and homelessness receive under 1% of all program funding.[[17]](#footnote-17)
* *Health consequences of the crisis situation.* – LGBTIQ persons and activists must also deal with the broad physical and psychological consequences of the pandemic, for which none were really prepared. These include experiences of social isolation as a result of separation from their groups and communities due to restrictions on social gatherings, uneven access to communication technologies, and the other maladaptive psychological responses to crisis situations such as increased negative health behaviors (e.g. smoking)[[18]](#footnote-18) and persistent negatively-valenced feelings (e.g. sadness, emotional detachment) that keep people from reaching out or seeking support. Also included is increased exposure to domestic violence because of prolonged interactions with abusive members of the household, whose violent behaviors are also exacerbated by chronically heightened levels of stress caused by the pandemic, and whose usual solutions (e.g. keeping distance from the abuser) are unavailable due to the present quarantine restrictions. Sayoni, one of our members based in Singapore, conducted a survey whose results highlight these issues.[[19]](#footnote-19) In it, almost half reported that they “live in family environments that are hostile towards their sexual orientation and/or gender identity”; more than half reported experiencing “challenges to their mental health” because of the heightened and chronic anxieties concerning their SOGI with their unsupportive families; and almost half reported “struggles with social isolation and inability to access support mechanisms”.
* *Access to critical medical services. –* LGBTIQ persons must also deal with the loss of access to critical medical and psychosocial services, particularly LGBTIQ persons who are persons with disability (PWDs), persons living with HIV (PLHIVs), are undergoing gender-affirming treatments or procedures, and others. In relation to loss of livelihood, many are also now less able to seek such services not only due to mobility restrictions and reduced capacities of hospitals and clinics, but also due to the worsened inaccessibility of services as many are now less able to afford them. This is resulting in a dangerous cycle where sickness is making LGBTIQ persons who are in need of such services less able to access them, and the lack of timely and sufficient access is making them sicker.

Also highlighted in our assessment were the needs of specific groups whose intersectional vulnerabilities are exacerbated by this crisis. Unfortunately, information is very limited, but partners and members have shared the following concerns:

* *Indigenous and stateless LGBTIQ persons.* – For example, in Northern Thailand, some communities where indigenous or stateless persons live are under lockdown and have restricted the ability of other groups to provide support. In Malaysia, some trans women who are stateless cannot access aids as they are required to provide legal documents for verification. And due to stigma and discrimination, some had also expressed fear and hesitation assistance by non-LGBTIQ civil society groups.
* *Migrant LGBTIQ workers.* – In the case of Thailand, the economic relief packages provided by the government does not include migrant workers. There are also migrant workers who have lost their jobs but cannot go home due to border closures. Add to this the continued assaults of ASEAN governments on their migrant workers on the basis of quarantine restrictions, as seen in Malaysia and Singapore.
* *LGBTIQ students.* – In Myanmar, there are LGBTIQ students who work, earn a living to support themselves and their studies. Some students share room with their friends and thus need income to pay rent and other daily needs. Some have started to sell their personal items to earn income. Elsewhere, LGBTIQ students have also suffered from social isolation, with others experiencing increased domestic violence on the basis of their SOGI as a result of being quarantined with family members.
* *Sex workers.* – In many ASEAN countries, sex work is considered illegal, and various quarantine measures have made made it extremely difficult for sex workers to earn income for basic need. It has already been reported in Malaysia, for example, that the prolonging of movement restrictions has already put many sex workers “in dire need of food supplies”.[[20]](#footnote-20)
* *LGBTIQ persons doing freelance work or daily-income earners.* – Some examples shared in our interviews were make-up artists, event planners, and entertainers. In Cambodia, weddings are affected by the government’s ban on public events, resulting in lost income.
* *LGBTIQ persons engaged in the agricultural sector.*
* *LGBTIQ persons engaged in domestic work.*
* *LGBTIQ persons living in areas affected by disasters.* – In many ASEAN countries, there are LGBTIQ persons who live in government relocation sites where there is limited access to jobs and essential goods, and are provided spaces not conducive for public health instructions on social distancing.
* *Elderly LGBTIQ persons.* – Elderly persons are considered a high-risk population due to generally weaker immune systems and likelihood of having pre-existing medical conditions linked to aging which can make them more vulnerable to developing more severe symptoms of COVID-19 infection. There are elderly LGBTIQ persons who cannot access social protection programs of governments because of restrictions to mobility, the general inadequacy of government efforts and resource distribution, hesitation to access government services due to fears of discrimination, and the likelihood that elderly LGBTIQ live alone and cannot delegate others to access these programs for them.
1. **Can you identify good practices in the State interventions in relation to COVID-19 and LGBT persons? Can you identify good practices stemming from civil society actions? Have lessons been learned from the pandemic on how not to leave LGBT persons behind in emergency situations?**

Above-mentioned initiatives are good examples of including LGBTIQ persons in state response. These are attributable to three interrelated factors: the long-term effort of LGBTIQ groups to engage local administration; political will (e.g. of mayors) to ensure better governance through inclusion; and the building and maintaining of personal relationships between groups and their localities over time, which allowed for better coordination and more rapid action. Where these three were lacking, you see the exclusion of LGBTIQ people from state response; ignorance of or outright neglect of government leaders of LGBT issues; and a heightened vulnerability due to a lack of recourse for grievances that results in persistent abuses motivated by culturally-ingrained prejudices against LGBTIQ people.[[21]](#footnote-21) It is obvious that crisis situations amplify pre-existing inequalities, and that marginalized groups are disproportionately affected as a consequence of inadequacies which were amplified, not created, by the pandemic. States must address these without delay, and must include LGBTIQ civil society organizations to inform their actions.

Partnerships between both LGBTIQ and non-LGBTIQ civil society organizations have also been crucial in addressing the very serious inadequacies of state response to the pandemic. Some have tried to leverage on public support to provide relief goods and services, such as the “Relief and Resilience Fund for LGBTQ+ Persons” by Sayoni and Brave Spaces in Singapore[[22]](#footnote-22); and the “Trans Solidarity Fund by Justice for Sisters” and the SEED Foundation in Malaysia[[23]](#footnote-23) which also received support from other initiatives such as #MakanKongsi campaign launched by Bersih 2.0 (“En. The Coalition for Clean and Fair Elections”).[[24]](#footnote-24)However, as noted earlier, cultural prejudices also discourage LGBTIQ people from seeking support from non-LGBTIQ groups. It is helpful to be explicit, when reaching out to marginalized groups, that it is safe to reach out to them.

Other LGBTIQ civil society organizations such as ASEAN SOGIE Caucus have also taken steps to ensure that support is both provided and is grounded in principles of doing no further harm. This includes negotiating with donor partners to allow realignments towards crisis response, to the extent possible; allowing expenditures by local partners involved in other programs to cover specific costs related to the organization’s sustainability amidst the pandemic, such as payment of rent and utilities and purchase of essential goods such as disinfectants and PPEs; reducing information requirements to the very essentials where application for funding for COVID-19 response is still needed to ensure accountability; and doing targeted assessments of organizations in need rather than publicizing availability of potential support in order to not unnecessarily set expectations and take up time local groups can ill-afford.

Regarding lessons learned, LGBTIQ organizations and their partners must take seriously whether the current LGBTIQ advocacy spaces fosters the long-term sustainability necessary for activism, and whether current practices for resource mobilization are directed towards building such resilience. Noting the expressed reliance on project-based funding, the restrictions of most advocacy funding in general, and the expressions of many LBTIQ advocates concerning livelihood and access to essential services, we must ask whether LGBTIQ activists and their partners and donors have somehow neglected to invest in critical socioeconomic issues which we now see being amplified by the pandemic.

***ASEAN SOGIE Caucus*** *is a regional organization of human rights defenders from various countries in Southeast Asia. We advocate for the promotion, protection and fulfillment of the rights of all persons regardless of their sexual orientation, gender identity and expression, and sex characteristics (SOGIESC). The organization supports the capacities of local advocates to engage with domestic, regional and international human rights mechanisms.*

For clarifications, please get in touch with us at:

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1. See Section 2.3 of ASEAN SOGIE Caucus (2017). The Rainbow in Context: An Overview of the Situation of Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer (LGBTIQ) Persons in Southeast Asia. Retrieved from <https://aseansogiecaucus.org/images/2017/ASC_Rainbow_in_Context_LGBTIQ_Persons_in_SEA.pdf>. [↑](#footnote-ref-1)
2. Some examples of recent events in Indonesia reported here: <https://www.thejakartapost.com/news/2018/11/12/anti-lgbt-sentiment-rises-ahead-of-elections.html> / <https://www.thejakartapost.com/news/2020/01/11/depok-mayor-calls-for-more-anti-lgbt-raids-in-wake-of-reynhard-sinaga-case.html> / <https://www.newmandala.org/scientific-homophobia-indonesia/> / <https://www.abc.net.au/news/2019-08-05/indonesia-lgbt-community-targeted-by-police-military/11383616>. [↑](#footnote-ref-2)
3. Some examples of recent events in Malaysia reported here: <https://thediplomat.com/2019/07/malaysias-new-sex-scandal-look-beyond-the-politics/> / <https://www.scmp.com/week-asia/politics/article/3014162/malaysian-minister-implicated-gay-sex-video-prompting> / <https://www.independent.co.uk/news/world/asia/malaysia-lesbians-caning-illegal-sex-car-homosexuality-law-sharia-court-lashes-a8520751.html#gsc.tab=0> / <https://www.nst.com.my/news/nation/2019/03/467792/uproar-malaysia-over-lgbt-groups-womens-day-march>. [↑](#footnote-ref-3)
4. In reference to Davao City Mayor Sara Duterte thanking LGBT people in her municipality for helping distributing rice: <https://news.mb.com.ph/2020/05/29/mayor-sara-lauds-lgbt-community-for-distributing-4315-sacks-of-rice-in-davao-city/> / <https://www.sunstar.com.ph/article/1855788>. [↑](#footnote-ref-4)
5. Malaysia Dateline (26 March 2020). “Menteri Agama sumbang bantuan untuk LGBT”. Retrieved from: <https://malaysiadateline.com/menteri-agama-sumbang-bantuan-untuk-lgbt/>. [↑](#footnote-ref-5)
6. Such state-sponsored anti-LGBT programs have been recorded such as in the Universal Periodic Review of Malaysia in 2019. This has been widely reported: <http://www.europe-solidaire.org/spip.php?article45639> / <https://www.malaysiakini.com/letters/472951> / <https://www.queerlapis.com/evidence-of-state-sponsored-violence-and-discrimination-against-lgbt-persons-in-malaysia/>. [↑](#footnote-ref-6)
7. Reported widely in at least 4 major local news outlets: <https://www.cnnphilippines.com/news/2020/5/5/lgbtq-cash-aid-pasig.html> / <https://news.abs-cbn.com/news/05/08/20/pasig-makes-lgbt-partners-with-kids-eligible-for-city-financial-aid> / <https://www.interaksyon.com/politics-issues/2020/05/06/167853/lahat-kwalipikado-vico-sottos-covid-19-financial-aid-for-pasig-residents-include-lgbtq-couples/> / <https://news.mb.com.ph/2020/05/08/pasig-includes-lgbtq-families-in-citys-sap/>. [↑](#footnote-ref-7)
8. Reported widely in at least 4 major and local news outlets: <https://www.rappler.com/nation/260607-iloilo-government-financial-aid-lgbt-citizens-lockdown> / <https://news.abs-cbn.com/news/05/13/20/iloilo-city-may-p2000-ayuda-sa-mga-miyembro-ng-lgbt-community> / <https://tribune.net.ph/index.php/2020/05/18/iloilo-city-aids-lgbtq-residents/> / <https://www.pna.gov.ph/articles/1102495>. [↑](#footnote-ref-8)
9. Reported in at least 5 major and local news outlets: <https://news.abs-cbn.com/news/05/25/20/qc-reopens-facility-responding-to-gender-based-violence-as-cases-spike-during-lockdown> / <https://www.philstar.com/pilipino-star-ngayon/metro/2020/05/27/2016738/protection-center-muling-bubuksan-ng-quezon-city-vs-domestic-violence> / <https://tribune.net.ph/index.php/2020/05/26/qc-protection-center-reopens/> / <https://manilastandard.net/mobile/article/324512> / <https://newsinfo.inquirer.net/1280746/qc-reopens-shelter-for-abuse-victims-as-cases-rise>. [↑](#footnote-ref-9)
10. Access update about the COVID-19 AI chatbot here: <https://www.up.edu.ph/yani-the-endcovbot-learns-lgbt-slang/>. The chatbot can be engaged via Facebook Messenger at: m.me/YaniEndCovBot. [↑](#footnote-ref-10)
11. See for example: OutRight International (2020). Vulnerability Amplified: The Impact of the COVID-19 Pandemic on LGBTIQ people. Retrieved from: <https://outrightinternational.org/content/vulnerability-amplified-impact-covid-19-pandemic-lgbtiq-people>. [↑](#footnote-ref-11)
12. See for example: Stonewall (2020). Out of the Margins: LBT+ exclusion through the lens of the SDGs (2020). Retrieved from <https://outofthemargins.org.uk/wp-content/uploads/2020/05/Out-of-the-Margins-report-2020.pdf>. [↑](#footnote-ref-12)
13. See for example: Micro Rainbow International (2016). Poverty of LGBT in Cambodia. Retrieved from <https://mrifoundation.global/wp-content/uploads/2017/12/CambodiaReportEN.pdf>. [↑](#footnote-ref-13)
14. See for example: Save the Children and Institute of Social and Medical Studies (2015). Being LGBT Young People in Vietnam: Life on the Streets and the Light through the Crack. Retrieved from <https://resourcecentre.savethechildren.net/node/9663/pdf/lgbt_young_people_in_vietnam_-_save_the_childrens_report.pdf>. [↑](#footnote-ref-14)
15. See for example: GALANG Philippines (2020). Making It Work: Lesbian, bisexual and transgender women’s economic empowerment in the Philippines. Retrieved from <https://www.ph.undp.org/content/dam/philippines/docs/undp-ph-making-it-work.pdf>. [↑](#footnote-ref-15)
16. The full statement can be accessed here: <https://aseansogiecaucus.org/news/asc-news/143-call-to-donors-and-funders-operating-in-southeast-asia-mobilize-rainbow-resilience>. [↑](#footnote-ref-16)
17. Funders for LGBTIQ Issues & Global Philanthropy Project (2018). Global Resources Report Government and Philanthropic Support for Lesbian, Gay, Bisexual, Transgender, and Intersex Communities. Retrieved from: https://globalphilanthropyproject.org/2018/04/17/grr15-16/. [↑](#footnote-ref-17)
18. Please refer to cited studies in “Submission for the thematic report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity for the 41st session of the Human Rights Council”, submitted to the IESOGI on 15 March 2019. [↑](#footnote-ref-18)
19. Sayoni published infographics summarizing these on their Facebook page: [https://www.fb.com/fbSAYONI/posts/10158568092643169](https://www.facebook.com/fbSAYONI/posts/10158568092643169). [↑](#footnote-ref-19)
20. Hassandarvish, M. (27 April 2020). Malaysian expert: Prolonged MCO leaves sex workers, youth vulnerable to HIV infection due to lack of access to condoms. Retrieved from:

 <https://www.malaymail.com/news/life/2020/04/27/malaysian-expert-prolonged-mco-leaves-sex-workers-youth-vulnerable-to-hiv-i/1860544>. [↑](#footnote-ref-20)
21. For example, see the case of LGBTIQ people being forced by local officials to do lewd and humiliating actions due to violating quarantine measures municipality of Mexico in Pampanga (Central Luzon, Region III). Reported widely in at least 3 major local news outlets: <https://www.rappler.com/nation/257292-barangay-captain-lgbtq-quarantine-violators-lewd-acts-punishment> / <https://news.mb.com.ph/2020/04/09/gabriela-to-dilg-punish-abusive-barangay-officials/> / <https://www.interaksyon.com/trends-spotlights/2020/04/08/166041/urgent-probe-sought-into-barangay-captains-sexy-dance-punishment-for-curfew-violators/>. [↑](#footnote-ref-21)
22. Announcements were published on the social media platform of Sayoni: <https://www.facebook.com/fbSAYONI/posts/10158618790498169>. The link to the application can be accessed here: bit.ly/lgbtq\_relief. [↑](#footnote-ref-22)
23. Announcement of the trans solidarity fund published on 7 April 2020 in the Justice For Sisters website: <https://justiceforsisters.wordpress.com/2020/04/07/d/>. [↑](#footnote-ref-23)
24. For more information on #MakanKongsi, see: <https://www.bersih.org/makankongsi/>. [↑](#footnote-ref-24)