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Human Rights Derogations in Southeast Asian Countries during the Covid-19 Pandemic

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EXECUTIVE SUMMARY

- The ASEAN Inter-Governmental Commission on the Promotion and Protection of Human Rights has issued a statement of concern and has reminded governments to continue observing human rights during the pandemic, and that even if some rights have to be restricted, this should not be done disproportionately.
- All members of the Association of Southeast Asian Nations (ASEAN) have pre-existing forms of restriction on the freedom of expression and press freedom as well as censorship, which intensified in this pandemic.
- It is challenging to contain Covid-19 infections while ensuring that human rights are not derogated. However, the lockdown measures imposed in some countries in Southeast Asia during the containment period became opportunities to intimidate, detain and arrest opposition party members, activists and journalists.
- Countries have also taken a strict stance on fake news and disinformation, leading to many arrests across countries. Increased surveillance was also used to track threats to authority figures and the government, alongside gaining evidence on criminal activities such as drug-trafficking and money laundering.
- Certain communities were overlooked in government policies and assistance especially in terms of food and supply, economic aid and information sharing. Prisons and detention centres are overcrowded, leading to more outbreaks of Covid-19 infections.
- Countries have national, regional and international obligations and responsibilities that they have agreed to and breaches of these state obligations need to be addressed, especially when the actions taken cannot be justified even as emergency measures.
- Covid-19 will not be the last crisis, and governments can use lessons learnt from Covid-19 to improve their responses for the next crisis and take counter-measures that also adhere to human rights principles.

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Introduction

Covid-19 crossed the borders of Wuhan, China where it originated and hit the ten member countries² of the Association of Southeast Asian Nations (ASEAN) as early as January 2020. This virus is non-discriminatory, highly contagious, survives up to 72 hours on surfaces and transmits easily in close contact.

Since many ASEAN countries have close business ties with China, are geographically close to China and receive many Chinese tourists, it was not surprising that ASEAN countries were among the first countries affected by Covid-19. Luckily, many Southeast and East Asian countries had also dealt with the Severe Acute Respiratory Syndrome (SARS) in 2004 and have been able to rely on experiences and lessons learnt from it in this pandemic. Vietnam, for example, was the fastest among the ASEAN nations to engage in a masterful containment of Covid-19 infections.

When the World Health Organisation (WHO) declared Covid-19 a global pandemic on January 30, the ten ASEAN countries implemented a slew of containment measures at various stages.³ These included educating the public about the virus; imposing nation-wide lockdowns and urging people to “Stay at Home” and to work from home; halting the operations of non-essential businesses; sealing off national borders as well as stopping public transport and logistics services. These measures were enforced with the help of the police and an army or volunteers, and punishments were meted out to those in breach of lockdown rules.

Meanwhile, healthcare measures such as Covid-19 testing for at-risk and vulnerable groups, imposing quarantines, isolating and treating those who had tested positive, ensuring adequate supplies of personal protection equipment (PPE) for healthcare workers as well as increasing the supply and accessibility of masks and sanitisers for the public were also introduced. As these measures were put in place, the governments also offered financial assistance, economic-stimulus and revival packages for businesses and the lower-income group. Overall, these measures reflect a patchwork of successes and struggles as a result of the volatile and unpredictable nature of Covid-19. There were also some hits and misses in some countries as they grappled harder in announcing or changing the precautionary measures, as and when advised by WHO.

A lockdown, by prison standards, means confining inmates to their own cells for a period of time. But in a pandemic, a lockdown (or however governments chose to label it) means asking people to stay at home and reduce unnecessary social interactions. The lockdown measures imposed by governments caused disruptions in people’s lifestyles on an unprecedented level. These include restrictions on people’s freedom of movement, their right to go to work, to school, to food, to access information as well as infringements of privacy. Failure to comply could lead to arrests, detention and heavy fines. Drastic changes took place even in countries where people’s freedom was already restricted before this pandemic.

This Monograph documents **how governments may have abused their power when disproportionate actions were taken, encroaching upon people’s rights beyond what was necessary to contain the pandemic.** In other instances, the rights of people were not uniformly applied and the needs of certain communities were ignored, even to the detriment of their health. This study describes lockdown actions taken by the ten ASEAN member countries to showcase core areas where measures were applied illiberally and, in other instances, ignored the needs of certain communities. It concludes with suggestions on how governments can do better in protecting human rights as well as more effective ways of managing future crisis situations.

² See Appendix I for an update on Covid-19 statistics among the countries in the region.

³ See Appendix I

In this discussion of human rights issues, the study also takes into account the statistical profiles of the ten countries.⁴ For the most part, these governments were elected through democratic processes. However, it is also clear that democratic ideals are being eroded in many countries as governments assert more control on their people in an effort to contain the pandemic. Certain governments have used this opportunity to diminish the influences of journalists, activists, political opponents as well as communities who are seen to be in conflict with their interests.

Human Rights

The rights of individuals are spelt out in the Universal Declaration of Human Rights (UDHR) document adopted by the United Nations Organisation in 1948, which states that “Every human being is born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”. This spirit of mindfulness for each other, or as the document calls it, “brotherhood”, also means limitations on the rights of an individual as it pertains to the recognition and respect of the rights and freedoms of others. Therefore, human rights function not just at the individual level but also as a mutualism or a communitarianism with others. It is about learning to be part of an ecosystem and finding common grounds of understanding and respect for each other.

While there may be different interpretations and understanding which manifest in a variety of approaches, most governments agree on some form of fundamental human rights. The constitutions of most countries stipulate the rights and privileges of their citizens. Governments of ASEAN countries have also ratified various UN conventions which seek to protect and promote human rights as part of their state obligations.⁵ In its continued interest in preserving human rights, the UN introduced the 2030 Sustainable Development Goals (SDGs) which sets 169 targets for countries to meet. These targets are based on the 17 SDGs premised on a rights-based framework, aim to improve the living conditions of people, and conserve the environment for future generations (Sustainable Development Report, 2019). The ten countries have also agreed to follow a code of rules as given in the ASEAN Charter (established in 2008), accepted the ASEAN Human Rights Declaration (AHRD, established in 2012) and instituted the ASEAN Intergovernmental Commission on the Promotion and Protection of Human Rights (AICHR, established in 2009). These governments have made a public commitment to ensure that human rights are not sidelined but form the bedrock in framing inclusive policies, structures, institutions and laws and have pledged to improve the economic conditions for sustainable livelihoods, to preserve the environment and to leave no one behind.

In a move to forfend any possible intent by governments in this time of crisis to impose undemocratic laws, the AICHR issued a statement urging governments to continue their efforts to protect the rights of their people, saying: “While many human rights can be restricted in the pursuit of a legitimate aim, such as public health, this is always subject to the principles of necessity and proportionality” (ASEAN, 2020). This statement echoes the sentiments expressed by the UN Office of the High Commission on Human Rights (OHCHR), which warned against disproportionality in restricting people’s rights especially in terms of their civil and political rights of freedom of expression. In the context of this pandemic, the restrictions that can be temporarily, appropriately and fairly applied on rights are, for example, restrictions on personal freedom of movement, livelihood and social interactions.

⁴ See Appendix II for the countries’ statistical profiles.

⁵ The UN Office of the High Commissioner further denotes state obligations to be as follows: Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that states must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires states to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights. At the individual level, while we are entitled our human rights, we should also respect the human rights of others (Source: <https://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx#:~:text=The%20obligation%20to%20fulfil%20means,the%20human%20rights%20of%20others>)

Governments need to take care that in securing public health, the rights and processes that do not pertain to this health crisis are not compromised or obliterated in the balancing act of public health and securitisation of the people in the country. Beyond the normal procedures of lockdown orders, governments cannot use this opportunity to heighten scrutiny on their citizens. However, since the advent of Covid-19, there has been a worrying increase in government measures that might be too harsh and indicative of human rights infringements.

The next part of this monograph will discuss some thematic areas where restrictions, especially on people's civil and political rights have been imposed, and often disproportionately so. The section will also look into instances where states have foregone their obligations to protect their people's health and safety and have instead acted against the interests of the people.

Civic Freedom Under Lockdown

All ten of the ASEAN member countries imposed some form of lockdown – be it through [new laws](#), curfews, movement restrictions or economic shutdown – and set up taskforce committees, some of which were inter-ministerial, to deal with the pandemic.

Lockdowns that went into effect included the following: On March 29, Laos introduced the Reinforcement of Measures for the Containment, Prevention, and Full Response to the Covid-19 Pandemic; on March 18, Malaysia introduced the Movement Control Order backed by the Prevention and Control of Infectious Diseases Act 1988 and the Police Act 1967 to address the outbreak; Myanmar on April 18 declared a lockdown on Yangon supported by the Ministry of Health and Sport's Prevention and Control of Communicable Diseases Law; Singapore passed the Covid-19 (Temporary Measures) Act in Parliament on April 7; Indonesia, on March 31, passed a Presidential Decree stipulating Covid-19 to be a public health emergency and imposed restrictions on large-scale social interactions through its 2018 Law on Health Quarantine (Djalante et al., 2020).

Violators of lockdown orders were fined, imprisoned or both. Law enforcement and punitive measures were put in place to make sure that people complied with the stay at home orders so as to contain the rate of infections. However, such containment efforts have also become an avenue through which governments exercise stricter police surveillance, detain violators without trial, control access to information as well as reduce the space for dialogue on matters that concern the community. Emergency laws also complemented other existing laws relating to 'fake' news, censorship, immigration, imprisonment and assembling as a group.

While emergency laws and processes put in place for the purpose of containment are necessary, the militarised nature of these efforts has been criticised for augmenting the fears of the public as enforcements are carried out by imposing authority figures such as the police and the army. Even when enforcement officers carried gentler titles such as "safe distancing ambassadors" as in Singapore, the function remained the same (Ong, 2020). The fear-mongering has also prompted the public to turn against each other and become informants on fellow citizens who have not been compliant (Sun, 2020). This form of "outsourced" enforcement to the public runs counter to building a socially cohesive and harmonious society, and instead breeds distrust, resentment and alienation within communities (Teo, 2020).

In a statement released on March 16, a team of Special Rapporteurs of the UN Human Rights Council (UNHRC) urged countries to "avoid overreach of security measures" in their efforts to address public health concerns and ensure that emergency powers are not used to quash dissent (2020).

Cambodia

The single-party government approved and passed the State of Emergency Law Act on April 10 based on a constitutional provision that a state of emergency can be declared when the nation is facing danger. This act allows the government to engage in non-transparent practices, enhance government authority over its people, enforce digital surveillance on social media, monitor and control the press, restrict mass gatherings, seize personal property as well as enforce quarantines. What is more worrying is that some articles in the act also imply that these restrictions might still be applicable even after this health crisis has ended (Civil Rights Defenders, 2020).

The Philippines

The Philippines government introduced the Bayanihan to Heal as One Act on March 25 which covers three core areas: it grants special temporary powers to the President by the Congress; it sanctions a lockdown on the entire island of Luzon, and; it empowers the military and the police to enforce the President's lockdown orders. Offenders of the President's orders not only face imprisonment or fines between PHP10,000 (USD196) and PHP1 mil (approximately USD19,642) but also risk being shot dead by police officers who have been given the mandate to kill (CBS News, 2020).

Multiple international organisations such as the Human Rights Watch (2020a), the UN (2020) and the International Observatory of Human Rights (2020) condemned the Philippines government for this unnecessary display of violence. News sites such as CNN also reported several cases of police officers shooting civilians who had defied quarantine orders, detaining them in close proximity to each other for eight to ten hours without food or water and even locking some of them in cages (CNN Philippines, 2020a). The UN condemned this as “a toxic lockdown culture” which sees the police and other security forces using excessive and sometimes deadly force to arrest and detain thousands of people for violating confinement measures.

The Philippines came out on top as the country with the most arrests with 120,000 people apprehended for curfew violations in just 30 days (Channel News Asia, 2020a). This is counter-productive to the containment of Covid-19 as detainees were and still are placed in crowded detention and prison facilities. For example, in Bacolod City in the Negros province, 728 persons who violated the curfew between March 15 and March 21 were detained in an overcrowded facility with no safe distancing measures to prevent Covid-19 infections.

Thailand

On March 26, a state of emergency was declared and imposed on April 3 in Thailand. This constituted a countrywide curfew from 10 pm to 4 am with provincial lockdowns, closure of land borders, limitation of civilian mobility, closure of businesses and prohibited the hoarding of goods.

But this law also empowers officials to initiate criminal proceedings against those spreading false information under the Emergency Decree or Computer Crime Act. Criminal proceedings have begun against at least 25 activists (Bloomberg, 2020).

Political Ramifications of Covid-19

The plethora of emergency laws during lockdown also resulted in many restrictions, especially on people's freedom to voice out political dissent. The UNHRC, having anticipated that certain governments might use this as an excuse to anchor power by hardwiring laws and political systems, had advised that emergency declarations ought to be as non-intrusive as possible and governments must take care that the laws are not used to target particular groups,

minorities or individuals (UN News, 2020). Nevertheless, abuses of power did and continue to happen during this pandemic, and emergency laws were used to target opponents and political dissenters to deepen government control.

Cambodia

Government crackdown in Cambodia on dissidents and journalists increased under the Emergency law and 12 political opponents linked to the banned Cambodia National Rescue Party (CNRP), which was forced to dissolve in 2017, were arrested (Cambodian Centre for Human Rights, 2020). Hun Sen, the Prime Minister of Cambodia since 1985, has virtually no opposition and has secured his son, Hun Manet, as his successor (Louis, 2020a).

Thailand

On June 5, Wanchalearm, a prominent pro-democracy Thai activist living in exile in Cambodia, was abducted by a group of armed men who piled him into a car as he was buying food on the street. Fellow activists in Thailand are running virtual campaigns and webinars to seek information about his arrest and whereabouts but neither the Cambodian nor Thai government authorities have responded to media inquiries about his abduction. Wanchalearm, who fled to Cambodia after the May 2014 military coup in Thailand, is affiliated with the “Red Shirts” (also known as the United Front for Democracy Against Dictatorship [UDD]) and has been known for criticising Thailand’s Prime Minister General Prayuth Chan-ocha. He was wanted by Thai authorities for violating the Computer-Related Crime Act in operating a Facebook page critical of the Thai government from Phnom Penh.

This is not the first instance a political detractor has been persecuted by the country in which he had sought refuge; the Thai government has repeatedly urged Laos, Vietnam and Cambodia to hand over exiled Thai activists as a show of trans-border cooperation. Wanchalearm is the 8th Thai activist to have disappeared while in exile in the region (Human Rights Watch, 2019). In the past six years, in violation of international law, Cambodia and Thailand have collaboratively harassed, arbitrarily arrested and forcibly returned exiled dissidents (Human Rights Watch, 2018).

Myanmar

Myanmar has seen an increase in internal conflicts in this pandemic period. Calls have been made by the UN Secretary-General Antonio Guterres to all warring parties across the world to lay down their weapons and focus on the bigger challenge of Covid-19 (UN, 2020), resulting, for example, in a ceasefire situation in war-torn Yemen (Vepa, 2020). However, even as the civil wars continued in the country, Myanmar’s Human Rights Commission (MHRC) (which has seen the replacement of 11 commissioners in January itself) remained silent and raised no objections.

Furthermore, MHRC did not respond to requests made by more than 20 rights-based⁶ non-governmental organisations (NGOs) to document reports and file complaints of violations by military troops in the states of Rakhine, Kachin and Shan. The reported violations include soldiers shooting civilians involved in Covid-19 screening activities, the military burning agricultural land and soldiers threatening villagers protesting against construction work on some parts of their land. There have also been reports of soldiers killing a forest ranger as well as a 56-year-old man returning from a shopping trip. (Hoelzl & Diamond, 2020).

According to figures from a Malaysia-based monitoring group, Arakan Information Centre, there have been stark increases in civilian casualties from crossfires, landmines, shelling and airstrikes in Myanmar. In March, there were 42 deaths, 126 injuries, 36 arrests and 32 disappearances; while in February, the month before, 18 civilians were killed and 71 were injured (Long, 2020). The Myanmar government has imposed an Internet blackout in nine townships in Rakhine, the world’s longest-running shutdown, restricting the outflow of information.

⁶ Among the 20 NGOs are: Equality Myanmar, the Kachin Women’s Association Thailand, the Karen human rights group, Karenni human rights groups, the Assistance Association for Political Prisoners (Burma) and the Ta’ang Women’s Organisation.

The UN High Commission on Refugees (UNHCR) issued a statement of concern over the increasing number of displaced persons – 61,000 people as of March 16. Of these, 10,000 have had to be sheltered across 133 sites and another 4,800 people from the Chin state were scattered across 34 sites. According to the latest figure collected by the UNHCR pre-pandemic (2020), more than 312,000 people across Myanmar have been displaced, most of them from Rakhine, Kachin and the northern Shan states as well as the South-East region.

In order to safeguard its multi-billion-dollar China-Myanmar Economic Corridor project, the government has been applying military pressure on ethnic communities including the Rohingyas to quell dissent. This corridor will connect the landlocked Yunnan province with the Indian Ocean seaboard in Rakhine state via Mandalay as well as the Northern Shan states. While the project promises better infrastructure, capital investments, plantation projects and commercial property development for the region, local resistance has arisen against communities being scattered by it (Lo, 2019).

The Philippines

The Philippines House of Representatives passed the Anti-Terrorism Act 2020 on June 3, during lockdown when street protests and group assemblies were prohibited, leading to the repeal of the Human Security Act of 2007. The new act, which still needs the President's acceptance, provides an overly broad definition of terrorism, allows detention of up to 24 days without a warrant, expands forms of surveillance and tracking, offers no compensation for wrongful detentions and authorises the detention of any suspected terrorist without court intervention.

The National Union of People's Lawyers (NUPL) and a host of NGOs which have been vying to scrap the Bill after the Senate passed it last year, ramped up efforts to stop the bill and have submitted an appeal. Many also feared that peacebuilding efforts could be derailed as the legislation was not conflict-sensitive, making civilians vulnerable under the unrestrained counter-terrorism law (Nonato, 2020).

However, the President signed on the Anti-Terrorism Act on July 15. Much resistance still remains against this Act (IFJ, 2020).

Singapore

The general election in Singapore took place on July 10, 2020 with safety measures in place. While the election went smoothly, its initial tentative announcement by the Singapore government caused much discomfort and worry among the public, especially since the migrant worker community in Singapore was suffering from the virus outbreak.

When a bill was passed on May 4 to facilitate voting during the Covid-19 pandemic, many were alarmed and concerned over health and safety issues (Chew & Phua, 2020). Some people, including the opposition party, also questioned if the hastiness in which the election was being held was truly necessary or if it was an opportunistic decision made in the interest of the government. After all, the latest date by which to hold the parliamentary election was set to be April 14, 2021, almost a year ahead.

The Singaporean government's decision to hold the elections during a pandemic was controversial; and risked infringing on citizens' right to a free and fair election, what with political rallies, meet-and-greet sessions and other election campaign processes were disrupted.

Malaysia

On top of the Covid-19 outbreak, Malaysians have had to weather through a political upheaval which saw the formation of a new government. Fortunately, in-fighting among political parties was limited and the government was able to focus on containing the pandemic. That is not to say that political intrigue and conflict were absent; during the lockdown, chief ministers of three Malaysian states were replaced by members of the new government.

While many Malaysians have been unsettled by the sudden change in government and were mistrustful of it, the pandemic served as a distraction. The public had to focus on adapting their lifestyle to new changes, staying safe and healthy and navigating the new emergency laws. Furthermore, under lockdown orders, people could no longer meet to discuss politics and most communications were done over mobile phones and the Internet. Protests were muted. In times as uncertain as this, many have no choice but to accept the new government until the pandemic is controlled and more democratic processes such as elections can be carried out.

Communication, Information-Sharing and Transparency in Governments

Countries that have dealt with the SARS outbreak should in theory have realised the importance of effective communication and information-sharing in such crises. Suppressing information leads only to further speculation and a rise in unverified reports. Indeed, Vietnam, Malaysia and Singapore wasted no time setting up organisational structures such as multi-ministry task forces with a whole-of-society approach and sharing information in various languages as well as using infographics to reach all of society.

The global spread of Covid-19 allows us to compare the responses of leaders and governments around the world. Apart from clear, open and effective communication, the language and vocabulary used are also important aspects to consider. Media writers have lauded the leaders of New Zealand, South Korea, Taiwan and Germany for their exemplary communicative styles. For instance, New Zealand's Prime Minister Jacinda Ardern held daily televised briefings and regular Facebook live sessions to address key questions and issues in a confident and calm manner. She explained the measures that would take place during the lockdown and engaged the public with empathy while appealing to the public to be part of the collective effort (Wilson, 2020).

On the other hand, the militaristic language used by some leaders such as the heads of the United States and Brazil, added to public anxiety (Dutta, 2020). In Oxford English Dictionary's blogpost (2020), a writer recorded words leaders used to describe the pandemic between January and March and noted the repeated use of words such as "control", "enemy", "battle", "raids", "detention", "punished", "enforce", "battle", "attack", "enemy" and "war". Psychologists have also weighed in on how any show of humanity and compassion had been buried under a string of military jargon and obscured by the warlike enforcement of lockdowns and emergency laws, leading to anxiety, social isolation, mental distress and loneliness (O'Hagan, 2020). For example, some were unable to visit loved ones in hospital while others were unable to attend funerals to pay their last respects.

It is clear that effective communication is a delicate balancing act as it needs to fully convey the severity of the situation with facts, rates of incidences and preventive measures while still being reassuring to the fearful public. On that score, ASEAN countries exhibited various levels of expertise.

Malaysia

Director-General of Health Tan Sri Dato' Sri Dr. Noor Hisham Abdullah gained global recognition for his gentle, humane, open and calm style of communication which had been a source of comfort for many Malaysians. However, not all governments were as effective and transparent in their dissemination of public information.

Indonesia

The government was beset with bureaucratic hurdles, a lack of data, and decentralised information-sharing which led to misinformation about the nature of the pandemic and to subversion of facts. For example, when a Harvard epidemiologist attributed Indonesia's zero-case status in early February to undetected Covid-19 cases, the government saw it as an affront to its capabilities and denied that it was true (Cahya, 2020). However, when several other ASEAN leaders raised the same concern, it finally acknowledged that there was a possibility of undetected cases and that more Covid-19 tests were needed. In downplaying the severity of Covid-19, Indonesia lost several weeks that could have been used to get a head start against the virus with more preventive and tougher measures.

The Philippines

Similarly, the Philippine government lacked transparency in the handling of government funds and how cost-cutting measures were impacting the people during the pandemic (CNN Philippines, 2020b).

Singapore

The government offered its people four stimulus packages amounting to SGD92 bil (USD66 bil) but refused to divulge information on the country's total reserves when asked by the opposition leader in parliament (Yong, 2020).

Cambodia

The Prime Minister sought to diminish the gravity of the health crisis by visiting Wuhan, the epicentre of the pandemic and showed magnanimity by allowing passengers of the cruise ship "Westerdam" to disembark in the country (Thul, 2020). These events were widely covered in the state-controlled media, giving the public signals of normalcy which were contradictory to the emergency laws that had been passed to contain the pandemic.

Fake News, Disinformation, Misinformation and Freedom of Expression

Internet-use was at an all-time high during the lockdowns, so much so that some have called the onslaught of information-sharing an "infodemic".

All ten ASEAN member states practice some form of restriction on the freedom of expression of individuals especially online and on social media platforms. Most countries have pre-existing laws to regulate the spread of information and the use of multimedia communications, whether for the purposes of protecting its citizens from fake news and disinformation, curbing dangerous and radicalising rhetoric or prohibiting seditious speech. However, such laws have also made it convenient for governments to charge and incriminate protestors and political rivals under the crime of sharing misinformation and disinformation. As it is, what constitutes "fake" news is sometimes a challenge to determine, especially when the government is non-transparent and information is not readily accessible. Thus, it is often under the banner of "fake news" that individuals are arrested for criticising their leaders, showing support to protestors or raising concerns unfavourable to the government. The punishment meted out for violating such laws are also frequently disproportionate to the crime.

The UN OHCHR (2020b) has issued a statement of concern that several countries (including Cambodia, Indonesia, Malaysia, Myanmar, the Philippines, Thailand and Vietnam) were further tightening censorship, resulting in arbitrary arrests and detention of people critical of their governments' response or for simply sharing information or views about the pandemic. It is also harder to garner physical support such as through street protests due to safe distancing measures and lockdown orders. The UN office advised against using laws to rein in medical professionals, journalists, human rights defenders and the general public from expressing their views on topics such as the

governments' handling of this health and socio-economic crisis, as well as the distribution of relief items. Michelle Bachelet, the UN's Human Rights High Commissioner said: "This crisis should not be used to restrict dissent or the free flow of information and debate...This debate is crucial for countries to build back better after the crisis." She also added that while it is necessary to restrain the spread of misinformation in a volatile and sensitive context, it should also be done in proportionality to the act and employ the "least intrusive" approach (OHCHR, 2020b).

Most Southeast Asian countries score lowly on press freedom and freedom of expression scales.⁷ The pandemic has heightened governments' scrutiny over online posts and comments as well as journalistic reports. Journalists, activists, dissidents and political opponents are often targeted for producing and disseminating "false information" and "fake news". However, not all of these so-called "fake news" are falsehoods – some governments use them to legitimise control over media and information by denouncing authentic press stories which might not fit the narrative that the government wishes to present.

The Philippines

The government passed an emergency law which would enable it to prosecute people for sharing fake news that promote "chaos, panic, anarchy, fear or confusion". Under the law, offenders can be jailed or fined up to PHP1 mil (USD44,200).

The law has resulted in the arrest of journalists for unfavourable coverage of the government's handling of the Covid-19 situation, which was deemed to be fake news. In less than a month since the introduction of the law, 60 people were charged with sedition, among them a teacher, Julieta Espinosa and an editor of a campus newsletter, Joshua Molo (Conde, 2020). Both were arrested for sharing their personal disappointment over the government's inadequate response against Covid-19 (Philippine Center for Investigative Journalism, 2020). An artist in Cebu was also arrested for commenting online about the prevalence of infection in one location (OHCHR, 2020b). On June 15, Maria Ressa, the CEO of an independent news website, Rappler, as well as a former researcher-writer, Reyanldo Santos, were convicted of "cyber libel" or defamation for respectively condemning President Duterte's policies and speeches as well as writing an article on corrupt practices. Furthermore, on May 5, 2020, President Duterte ordered the shutdown of ABS-CBN, the country's largest TV and radio network, for libel because of its disparaging reporting on the "war on drugs" (Crispin, 2020).

Cambodia

Between January and April, the government detained at least 30 individuals including six women, a 14-year-old girl and 12 CNRP members; 14 of them remain in detention. All individuals were charged with spreading fake news related to Covid-19 in the press and on social media (Human Rights Watch, 2020b). On April 7, 2020, Sovann Rithy, a director of the online TVFB news site, quoted an excerpt from Hun Sen's speech on his personal Facebook page: "If motorbike-taxi drivers go bankrupt, sell your motorbikes for spending money. The government does not have the ability to help." The police claimed that Hun Sen's words were meant to be a joke and arrested Rithy, charging him with a felony and placing him in jail while TVFB had its license revoked (Human Rights Watch, 2020c; Radio Free Asia, 2020a).

Singapore

The government, which already restricts freedom of expression, assembly and information, also invoked an anti-fake news law during the pandemic – the 2019 Protection from Online Falsehood and Manipulation Act (POFMA) (Singapore Legal Advice, 2020). On March 2, the police investigated Jolovan Wham for protesting without a permit in December 2018. Jolovan Wham had held up a poster with a smiley face as an act of support for two other protesters who were being investigated for urging the government to be a part of the climate change agenda in their

⁷ Please refer to Appendix III for press freedom indices among Southeast Asian Countries.

solo protests without permit (Goh, 2019). Wham and a Facebook user, Donald Liew were also asked to apologise to the Minister of Manpower for accusing her and her husband of improper and corrupt practices. They apologised and paid a fine of SGD1,000 each, which the Minister donated to funds for migrant workers (Kok, 2020).

Vietnam

Vietnam passed a new decree on fake news in April 2020, replacing its 2013 law. In order to curb the spread of fake news, criminal charges which carry jail terms were also introduced.

Since the pandemic broke out in late January, authorities have slapped fines of up to VND15 mil (USD644) on hundreds of individuals for posting fake news (Linh, 2020). Two individuals were arrested and investigated for their past crimes of posting fake news on social media. One of them speculated that the government was hiding Covid-19 related deaths from the people while another falsely claimed that there were three infections in his district. Meanwhile, a woman who had posted on Facebook about Covid-19 infection in her province faces criminal charges under the new decree and the Cybersecurity Law. Over 600 Facebook users had been summoned for online posts about the virus outbreak, and many of them received administrative sanctions and had had to delete their posts, pay fines as well as apologise publicly (Radio Free Asia, 2020b). To date, at least two Facebook users were handed criminal sentences for posting news deemed to be fake about Covid-19, and received up to nine months of detention and fines over USD1,000 (OHCHR, 2020b). In July, the courts sentenced activist Nguyen Duc Quoc Vuong to eight years in prison and a three-year probation, for online criticisms of the government, which were seen as dissent, a violation under the law. (Bangkok Post, 2020).

Indonesia

The Criminal Code can be used to charge individuals for insulting the President and other top officials in relation to Covid-19. The Indonesian government has placed at least 51 people under investigation for criminal libel for spreading fake news about the pandemic. This includes three men who claimed on social media that an area in northern Jakarta had Covid-19 cases after disinfection and sanitisation procedures by the government (OHCHR, 2020b). There are also reports of the police blocking several social media accounts.

Malaysia

The government began investigation on a report by Tashny Sukumaran, a correspondent at the Hong Kong-based South China Morning Post, on the detention of undocumented migrants. Sukumaran was accused of intentional insult with the purpose of breaching the peace (Lim, 2020). According to official estimates, the Malaysian Communications and Multimedia Commission (MCMC) has opened at least 265 investigations in connection with the dissemination of fake news on Covid-19, with 29 individuals reportedly charged in court (Daim, 2020).

Myanmar

On April 3, three artists in the Kachin state were charged over a Covid-19 wall mural that was seen as insulting to Buddhism. The editor of the Dae Pyaw News Agency was also arrested on charges of “inciting public fear or a mutiny”, tried and sentenced to two years in prison for claiming that one person from the Kayin state had been infected.

Furthermore, the editor-in chief of the Voice of Myanmar was arrested under Myanmar’s terrorism law and could suffer life imprisonment for publishing an interview about the Arakan Army, a rebel group that is seen as a terrorist group by the government, demanding greater autonomy for the state’s ethnic Rakhine people who were being attacked by the military even in the midst of the pandemic. The paper’s website and other media outlets that had been covering the ongoing fights in the Rakhine state, where about 730,000 Rohingya Muslims fled a military crackdown in 2017, had been blocked. Access Now, a digital rights activist group which tracks internet shutdowns

worldwide, reported that the internet blackout that was imposed on eight townships in Myanmar's Rakhine and Chin states on June 21, 2019 is one of the longest blackouts on record (Ratcliffe, 2020).

In response to NGOs and diplomats, the military clarified that the Internet ban was imposed to contain the propagation of "military secrets, hate speech and extreme nationalist postings" and to help the army preserve order in areas torn by fighting between the army and the separatist Arakan Army (Radio Free Asia, 2020c). Myanmar has no specific law against the freedom of expression but censors it by blocking websites and limiting the use of the Internet with its Telecommunications Act.

Thailand

The Ministry of Digital Economy and Society has set up an Anti-Fake News Centre with the Crime Suppression Division of the Royal Thai Police in a joint operation to address social media content considered as "disinformation" in the Covid-19 context. The emergency decree also requires the media to amend reports which were deemed to be "incorrect" by the government.

Under this operation, those raising genuine concerns about Covid-19 are also targeted, causing many to avoid speaking out, out of fear of persecution. A Thai artist, Danai Usama, was arrested on April 23 for questioning the apparent lack of screening measures in Suvarnabhumi airport (Glahan, 2020). Usama was charged under the Computer Crime Act for publishing "false information", indicted and released on bail.

Additionally, whistle-blowers in the public health sector and online journalists have faced retaliatory lawsuits and intimidation from authorities after they criticised the government's response to the outbreak and reported on the alleged corruption related to the hoarding of surgical masks and other supplies for black-market profiteering. Thai authorities also threatened medical staff who spoke out about the severe shortage of essential supplies in hospitals across the country with disciplinary actions such as the termination of employment contracts and revocation of their licenses (Human Rights Watch, 2020d).

Laos

Information obtained from official sources in Laos are known to be heavily sanitised and manipulated to fit its strict media censorship laws. In 2014, a decree was introduced by the Lao People's Revolutionary Party to limit the spread of information and penalises Internet users found to have criticised the government (Radio Free Asia, 2020d). Civil society remains weak in Laos.

Brunei

Brunei has pre-existing laws which limit the freedom of speech and freedom of expression of its citizens, who routinely practice self-censorship in order to avoid prosecution.

None of the government has specifically responded to any statement or concern raised by civil society. Arrests continue over unrelated Covid-19 matters on charges of misinformation, disinformation and fake news. These laws are applied rigorously in the lockdown and it is harder to garner support as any supporter would be violating the safe distancing policy or orders to stay-at-home or work-from-home. The number of arrests have been high in countries such as Vietnam, Thailand, Cambodia, Indonesia and The Philippines, while others were called in for investigations.

Surveillance/Contact Tracing

Most countries have increased surveillance in some form in this pandemic such as the deployment of drones over highly affected areas and the use of contact tracing applications. Unfortunately, oftentimes this enhanced surveillance is done without collaboration or information-sharing with the public, thus increasing wariness beyond just the fear caused by Covid-19.

Contact tracing, which is the process of identifying, assessing and managing people who have been exposed to Covid-19 to prevent further transmission, is part of the containment measures adopted by many countries and has resulted in higher levels of surveillance. Authorities would generally track the movements of an infected person to identify others who might have come into contact with him or her and once such contacts are found, they would be tested, quarantined, and if found to be positive for Covid-19, treated.

While contact tracing has proven to be an effective method, there is danger of governments using contact tracing technology such as contact tracing apps for mass surveillance. Many countries in Southeast Asia have almost a “culture of surveillance”, which is strengthened by the digitising of surveillance, especially during the pandemic, as a large amount of personal information is documented and kept by the authorities until at least after the incubation period of the virus is over (Searight, 2020; Dickson, 2020). Despite assurances that information will be kept confidential and destroyed once it is no longer needed, scepticism and concern remain high.

Singapore

The highly digitised population of Singapore (with an Internet penetration of 84.5% whose users are on the Internet an average of 6.5 hours daily) makes it easy for the government to contact trace through an application called TraceTogether (Statista, 2020).

The application is able to determine the distance and duration of an encounter between two users, thus making it easier for authorities to identify individuals who have come into contact with an infected person (Yeo, 2020). TraceTogether was launched on April 10 and the government has made it an open source software for other countries. However, only 1.4 million of Singapore’s population downloaded this application, citing concerns over the security of the app and technological limitations posed by the mobile phone (Sim & Lim, 2020). On June 5, to address the concerns of the public, the government launched an improved contact tracing application, TraceTogether Token, which unlike TraceTogether, does not require the use of the Internet or Global Positioning System (GPS) to operate (Channel News Asia, 2020b). Instead, it relies on Bluetooth technology to encrypt data of other TraceTogether Token users in the proximity of an infected person. Though the data will be destroyed within 25 days, people continue to voice concerns over the technology’s impact on their data privacy, with 48,566 signatories on a petition against its use (Change.org, 2020).

Clearly, the lack of trust is a core issue – and for good reason too. Singapore is listed as number 11 among the top 20 most-surveilled cities in the world with roughly 86,000 cameras in place (Bischoff, 2019). Many who oppose this high level of surveillance feel that the pandemic is just another excuse for the government to increase control and watchfulness over the public, especially with valuable data collected from contact tracing applications.

The Philippines

The Philippines has been monitoring public compliance to quarantine and lockdown orders with drones equipped with 360-degree cameras. Termed Project LUPAD (Liloan UAV Patrol Augmentation Division), the drones serve three purposes – deterrence, monitoring and response – by patrolling the streets and far-flung areas of Liloan in Cebu which has a higher number of Covid-19 cases. Drones are surveillance tools which function remotely, thereby

shortening response time to disperse illegal gatherings or enforce social distancing habits quickly and with fewer officers (Manila Times, 2020).

Malaysia

The Malaysian police too rely on drones for surveillance of seven villages which have been classified as “red zone” areas under the enhanced movement control order (Mokhtar, 2020). The deployment of drones have helped the Malaysian police bust drug-trafficking syndicates and seize large quantities of drugs (Malay Mail, 2020).

Detentions and Imprisonments

It is common for prisons and immigration detention centres in Southeast Asia to be over-crowded with bad sanitisation and hygiene levels, leaving prisoners and detainees more vulnerable to being infected with Covid-19. Many civil society organisations (CSOs) have raised concerns over arresting violators of lockdown orders as it had led to a ballooning of the prison population and might trigger a rise in infections of Covid-19 (Talha, 2020). Yet, in many countries the practice of jailing offenders of lockdown orders prevails in spite of pressures by CSOs to treat it as a public health concern.

The UNHRC has encouraged the release of prisoners, saying imprisonment ought to be a last resort, especially in the midst of this health crisis (Talha, 2020). WHO, along with other UN agencies, also issued an advisory on imprisonment, public health and the rights of prisoners, urging governments to offer early release options for those with minor, non-violent offences (2020). Countries around the world have reduced their prison population for public health security – Iran released 85,000, France 10,000 and Italy 6,000 (France 24, 2020)

The Philippines

Cebu City Jail has recorded over 200 cases of Covid-19 among its prisoners to date, and even that remains a low estimate. The country’s rate of testing is low⁸ however, and there could be many more unreported cases in the crowded jails (Aspinwall, 2020). The abnormally high prison population of the Philippines is in part a direct result of President Duterte’s “War on Drugs” which led to the imprisonment of 215,000 people in prison facilities that were only meant to accommodate around 41,000 occupants (Santos, 2020).

Myanmar

At least 500 people, including children, have been sentenced to between one month and one year in prison for violating curfews, quarantines and other movement control orders since late March 2020. Myanmar’s approximately 100 prisons and labour camps are overcrowded to three times its intended capacity (Human Rights Watch, 2020e).

International organisations such as Human Rights Watch have made calls for prisoners to be released during this pandemic. In response to concerns for an infection outbreak among the prison population, the Burmese government released more than 25,000 prisoners in Myanmar including drug users arrested for drug-possession and individuals who broke the law for not reporting at drug treatment services as a containment measure (UN Aids, 2020).

Thailand

According to the Thai Department of Corrections, there were about 380,000 prisoners across the country, and prison visits were suspended from March 18 to March 31. Furthermore, 8,000 prisoners with minor offences had their sentences reduced, which could mean an early release (The Phuket News, 2020; Human Rights Watch, 2020f).

⁸ Please refer to Appendix I for the number of Covid-19 tests performed.

Nonetheless, infection rates have increased such as in Pathum Thani in northern Bangkok, where 458 individuals imprisoned for violating the emergency decree between April 5 and April 12 tested positive for Covid-19. These individuals were consequently confined to individual quarantine cells (The Phuket News, 2020; Human Rights Watch, 2020f).

Singapore

Singapore has no issue with prison capacity the way the rest of the ASEAN countries do; however, it has drawn flak nationally and internationally for sentencing a drug-trafficker to death via a Zoom-session during lockdown. The move was seen as callous by human rights groups and raised questions over the urgency for the decision to be carried out (Ratcliffe and agencies, 2020).

Malaysia

More than 15,000 individuals had contravened lockdown orders. These individuals were initially sent to jail before on-the-spot fines were introduced to reduce overcrowding.

The Malaysian government's containment strategy also led to raids in areas with a dense population of foreigners, at the same time flushing out many who were undocumented, stateless or refugees. These latter were sent to 13 overcrowded immigration detention centres in April, where safe-distancing was impossible to practice (Mathiapparanam, 2020a). This contradiction is pointed out by Beatrice Lau, the Head of Mission for Doctors Without Borders (Medicines Sans Frontiers, or MSF), who stated at a press conference that, "These raids under the pretext of stopping the spread of Covid-19 have only served to further spread the virus" (Fishbein & Hkawng, 2020). Her views were also shared by the Malaysian Health Coalition, Malaysian Trades Union Congress and Beyond Borders Malaysia, along with nine other NGOs, which urged authorities to improve the living conditions of migrant workers and also the conditions in detention centres.

On May 30, Malaysian authorities reported that after testing 4,807 detainees at immigration depots across a few locations on the outskirts of Kuala Lumpur, 384 undocumented migrants were found to be positive for Covid-19 (Nortajuddin, 2020).

Indonesia

As of March 31, prison facilities in Indonesia are housing 270,386 prisoners, more than twice the official prison capacity, leading authorities scrambling to find solutions to lower the risk of infections in prisons (Widianto, 2020; Gorbiano et al., 2020). The struggle is further amplified by fear among the prisoners, many of whom share a crammed cell, leading to violent riot outbreaks in the prisons (Firdaus, 2020). As a result, a total of 22,158 prisoners have been released, most of whom had already served two-thirds of their sentences (Widadio & Permana, 2020).

However, political prisoners, including six Papuan prisoners who had staged a peaceful protest outside the State Palace in Jakarta on August 28, 2019 remain detained.⁹ Their continued incarceration drew protests from Indonesians and West Papuans who are now asking for the release of these community leaders.

⁹ Indonesia arrested six activists who were protesting for the independence of Papua from Indonesia and charged them with treason. (Source: <https://www.reuters.com/article/us-indonesia-papua/six-charged-with-treason-in-indonesia-after-papua-protest-idUSKBN1YN1TA>)

Racism, Xenophobia and Conflicts

Fear has exacerbated some inherent prejudices against marginalised communities such as minorities and foreigners. While discrimination and racism are not unfamiliar concepts, Covid-19 has deepened the divide between people, leading to a heightened “us vs. them” mind set.

Discrimination during this pandemic often centre on viewing others as carriers of the virus. Even doctors and nurses who are front liners risking their lives to save others were not spared from being ostracised; in Myanmar they were evicted by landlords who feared being exposed to the virus. However, divisiveness, segregation and rejection work against the cohesiveness of a society, especially in a crisis. It also breaks trust between the government and the people when the leadership does not help opposing parties bridge their differences.

For any discrimination that has taken place during this pandemic, much of it is already part of the social fabric, unchecked or even instigated by governments. In this section, we will explore such instances of “othering”, discrimination and xenophobia among the ASEAN nations.

Cambodia

The pandemic has led to increased discrimination against the minority Khmer Muslims in Cambodia especially after the government made references to the religious affiliation of the 11 individuals who had tested positive after returning from a religious event in Malaysia (Human Rights Watch, 2020g).

Authorities have also made inflammatory comments by openly blaming the spread of Covid-19 on certain ethnic communities, thus increasing the hostility and divide between social groups. Furthermore, there have been reports of local shops denying entry or service to foreigners, mainly visitors from China (Louis, 2020b).

Myanmar

Despite the Burmese government’s denial of such attitudes, there have been long-standing prejudices against the Karen, Kachin, Mon, Arakanese (most notably the Rohingyas), Karenni, Chin and Shan communities. The intensified military conflicts and tension caused by China-Myanmar development plans have resulted in an even higher number of refugees fleeing from the unrest in Myanmar as well as Bangladesh.

Under the AHRD, Myanmar and the rest of the ASEAN countries have an obligation to protect and uphold the rights of those who are seeking asylum from persecution. To this end, in February 2020, a commitment was made by Malaysia, Indonesia, Thailand and Bangladesh to work on implementation plans based on the Bali Process Declaration on People Smuggling, Trafficking in Persons and Related Transnational Crime, formed to combat the abuse and exploitation of migrants and refugees by smugglers and human traffickers (The Bali Process, n.d.; Septiari, 2020a). While Bangladesh has protested against accepting more refugees as it is burdened by caring for its own people as well as the 1.1 million refugees it has already taken in during this pandemic, the UNHCR managed to persuade the country to allow hundreds more to dock at its port following a wave of anti-refugee sentiments from Malaysia (BBC, 2020; Mathiapparanam, 2020b).

Laos

Victims of Covid-19 in Laos have been stigmatised and shunned by society as “disease spreaders”. The pandemic has also made it harder for the lower strata of society such as immigrants, the poor and the disabled to seek healthcare services, get access to information and earn livelihoods (J&C Group, 2020).

The Philippines

Every country in Southeast Asia, with the exception of Thailand, has laws that actively oppress or deny the recognition of individuals with different gender identities or sexual orientations. Discrimination against the LGBTQ (lesbians, gays, bisexuals, transgenders and queers) community not only remains unabated but has even intensified in some instances.

A case in point was in Pampanga in The Philippines, where three transgender persons who had been running errands at night were subjected to a series of cruel disciplinary actions by the barangay (ward) captain for breaking curfew. They were forced to dance provocatively and kiss each other on the lips while the captain live-streamed the video on his Facebook account (Gilbert, 2020). To date, no action has been taken against the captain, signifying a lack of concern and disregard for the wellbeing of the LGBTQ community.

Singapore

Comments and posts on Singaporean social media platforms and forums show the resentment of the locals for migrant workers, who were seen as unclean and blamed for the loss of Singapore's "gold star" status in containing the virus.

The government has also revoked the work permits of 24 migrant workers for flouting lockdown orders after they were caught eating, drinking and gathering in groups in their dormitory (Channel News Asia, 2020c). NGOs questioned if the harsh sentence is appropriate as many had debts and relied on wages to keep them and their families alive. Foreigners on expatriate passes who broke the provisions of the Covid-19 (Temporary Measures) (Control Order) Regulations 2020, which limits social and business activities to curb the spread of Covid-19, were also fined. At the same time, six of them had their work passes revoked (South China Morning Post, 2020a).

The Economic and Social Impact on Marginalised Communities

Covid-19 has been instrumental in highlighting inequality and the differences in privilege among members of society. Most Covid-19 measures instituted by governments neglected and overlooked the realities and needs of vulnerable communities such as indigenous peoples, informal workers, the rural population, migrant workers, refugees, homeless and the poor. The lockdown orders and stay-at-home orders have caused many of them to lose their livelihoods. To make matters worse, financial assistance schemes and economic recovery policies by the government do not always accurately address the plights of people like street vendors, waste pickers and construction workers (Homenet SEA, 2020). In Vietnam, for example, its policies only covered formal workers, thus excluding people such as garment workers and street vendors who have also been affected in the pandemic. Sex workers whose livelihoods have been threatened by the closure of massage parlours, bars and KTV businesses were also disregarded in assistance programmes. Moreover, the delivery of financial assistance is often staggered, leaving the poor who live hand to mouth more desperate for food, cash and aid.

Despite lockdown and stay at home orders, some businesses have carried on with their operations, putting their employees' health and safety at stake. In Myanmar, illegal logging continued until April 9, even after its first Covid-19 case. The country's Forest Department announced that authorities had seized over 840 tons of illegal timber in the course of a single week (ASEAN Today, 2020). The illicit drug trafficking and consumption markets in Asia-Pacific continued to expand and diversify, with an increase in online sales during the lockdown. In the Philippines, in sharp contrast to the government's devotion to surveillance and its arrest of journalists and activists, the smuggling of tobacco products through the southern province of Mindanao continued with no stoppages or

enforcements. Furthermore in The Philippines, private hospitals have taken to giving preferential treatment to Chinese nationals suspected of being Covid-19 positive over thousands of Filipinos as they are much wealthier than the average Filipino (South China Morning Post, 2020b).

While the pandemic has been difficult on everyone, it has even wider repercussions on women, especially those in lockdown. The Ministry of Women, Family and Community Development in Malaysia faced public backlash for posting a series of posters aimed at improving family relations during the lockdown period. The poster advised women to talk sweetly to their husbands and to not nag as ways of preserving harmony in the household. The minister has since apologised for the sexist and gender-insensitive remarks.

But more importantly, this incident has accentuated how most governments still fall short when it comes to dealing with domestic violence and educating the public about issues that women face. Those working in support services such as social workers, counsellors and lawyers (deemed non-essential in ASEAN countries) were overwhelmed by the sharp increase in domestic violence cases which rose by almost a third during lockdown. There is also a lack of clear standard operating procedures to rescue a victim from an abusive household and many domestic issues were instead left to families to sort out for themselves. Staff and volunteers have had to develop instant operating procedures to work with those in need.

Indonesia

The Indonesian government offered assistance schemes¹⁰ for those who hold benefit cards that include relaxed loan terms for one year and increased the limit for cash transfers for six months. While the assistance scheme is also provided for informal workers, those who do not hold benefit cards were excluded and have had to rely on selling homemade food online as well as producing face masks and other PPE for medical personnel to survive. Craftsmen and farmers, on the other hand, have been using their offices to render help to the community.

Thailand

The Thai government's schemes excluded informal workers who were not in the household registration records from receiving cash benefits, universal health insurance, loan rebates and even PPE which were distributed by the local and provincial governments. As a result, such communities became self-reliant, making and manufacturing their own goods. They also established a rice bank and raised livestock to ensure their food supply (The Star, 2020).

The economic and social setbacks experienced during this pandemic have far reaching consequences; the mental health of many have been affected. In Thailand, at least 38 suicide attempts had been made during the lockdown (Chen, 2020).

At the Thai-Myanmar border, refugees, stateless people and undocumented migrant workers face visa security and unemployment issues on top of the threat of Covid-19. In the face of these challenges, many Burmese migrant workers have chosen to cross the border to return home but not all have that option and the resources to do so. Even though the Thai government has relaxed rules for migrant workers so that they can continue to work beyond the expiry date of their work permits, they are often neglected in any government aid and handout (Quadrini, 2020).

Cambodia

Covid-19 dealt a massive blow to the economy, leading to major lay-offs in its two largest industries – textile and tourism. The garment and shoe industries saw lay-offs of approximately 100,000 workers, a number which is only expected to rise as orders are cancelled worldwide (Chheng, 2020). The Khmer Times reported that workers have been laid off without notice and that factory management had failed to pay workers the wages owed them (Radio

¹⁰ Please see Appendix IV for assistance schemes offered by the government.

Free Asia, 2020a). This comes against a background of garment factory owners being accused of terminating employments to cull the voices of union representatives. The Coalition of Cambodian Apparel Workers' Democratic Union (CCAWDU) highlighted two factories which had recently fired between 30 to 40 union leaders and activists (Sovuthy, 2020).

At the same time, women in the tourism industry have been disproportionately affected as a lack of tourists meant a drop in the adult entertainment industry. Due to the fact that this line of work is not officially recognised by the government, the workers were exempt from any government assistance or compensation for losing their jobs (Ros, 2020). Even laid-off workers who are technically eligible for financial assistance have not received the promised aid, in part due to Cambodia's struggling economy and also because of the bureaucratic slowdown caused by the country's lockdown measures (Sarath, 2020).

In addition, many Cambodians on micro-loans are struggling to make repayments and risk losing their land. Calls have been made by NGOs and opposition politicians living in exile that the Cambodian government and the National Bank of Cambodia ought to suspend debt collection and interest accruals. There are approximately 2.6 million microloan borrowers in Cambodia, whose average microloan size is the highest in the world at USD 3,804 (RFA, 2020h).

Laos

Many workers in Laos, especially those working in Chinese-owned businesses and companies whose owners have returned to China in the midst of the pandemic, have not been receiving their pay. They were essentially abandoned without support, assistance or guidance. These include those on the Laos-China Railway who claimed that they had gone without pay for months, and nearly 300 unpaid workers at a Chinese garment factory who were so desperate that they resorted to organising a strike – something virtually unheard of in Laos (Radio Free Asia, 2020e; 2020f).

In both cases, the government failed to respond to the complaints and have done nothing to hold the offending companies responsible. Meanwhile, unscrupulous companies took advantage of the Covid-19 situation by charging unusually high rates for power usage, disregarding the growing levels of unemployment and economic difficulties. Citizens report paying as much as twice their usual electricity bills; business owners also lament having to pay bills despite their business closing to prevent the spread of the virus. Government officials have rejected the notion of fraud, and instead cite the hotter weather during these warmer months for the higher electricity bills (Radio Free Asia, 2020g).

Malaysia

The economic stimulus plan introduced by the Malaysian government does not provide for documented and undocumented migrant workers, asylum seekers and refugees even though they have also been deeply impacted by the pandemic.

The economic and social hardships of these people, aside from being raided and detained, must have been very distressing and indeed, between late May and June, eight refugees from Myanmar committed suicide, prompting the Burmese government to seek Malaysia's cooperation in repatriating illegal workers (Free Malaysia Today, 2020).

Singapore

The Covid-19 outbreak among Singapore's migrant worker population who had been living in overcrowded and unsanitary accommodation facilities served as a cautionary tale to countries around the world. This incident revealed the unethical practices of companies running the dormitories who have reaped large profits from migrant

workers' wages; their meagre salaries were often deducted to pay for subpar catered food and inadequate accommodations.

The pandemic has highlighted the poor living conditions that migrant workers endure on a daily basis, hopefully leading governments to re-assess deficiencies in their policies, laws and governance. Human rights issues among refugees and migrant workers have always existed. The Singapore and Malaysian governments have a history of disregarding these communities and have established punitive measures against those without documentation.

Human smugglers and human traffickers are especially rampant in Southeast Asia, rendering the migrant situation even more deplorable. In this pandemic, both governments – Malaysia and Singapore – picked up the initial bills for Covid-19 testing but are asking employers to pay for subsequent Covid-19 tests.

Meanwhile, in the governments' haste to shut down national borders, both countries have also overlooked the 450,000 Malaysian workers commuting daily to Singapore on work passes (The Straits Times, 2020). When the Malaysian government announced the lockdown order, immigration checkpoints into Singapore were inundated with people scrambling to cross the border before it closed, putting many at risk of contracting Covid-19. Employers in Singapore and the government scrambled, in a short time to secure temporary accommodations for these daily commuters. Some were not successful, others found rentals in Singapore too costly and so some Malaysians resorted to sleeping in public areas. Nevertheless, in a show of neighbourly kindness, local communities in Singapore stepped in to help, as employers of smaller companies were also hard-pushed to take responsibility for their employees' welfare.

Regional Human Rights Mechanisms

Overall, Southeast Asian countries have mostly fared well in their response to the Covid-19 threat; some have even managed to eke out various forms of stimulus packages and economic relief aid in spite of the economic recession. Appendix V is a collation¹¹ of the assistance schemes offered between and among ASEAN countries. Singapore, Vietnam, Malaysia, Thailand and Indonesia have also committed a sum of money to the ASEAN Covid-19 Response Fund as a strengthening of “public health cooperation measures to contain the pandemic and protect the people”. The fund aims to ensure that regional reserves for medical supplies and other public health emergencies is sufficient (Septiari, 2020b).

The above-mentioned instances aside, ASEAN countries have generally taken an internal and localised focus on their policies, resources and assistances. The urgency of the Covid-19 situation pushed many countries to implement measures in haste without first consulting and collaborating with their neighbours; a clear example being the closure of the Malaysia-Singapore border. Humanitarian efforts have also been fragmented and contradictory in application. ASEAN leaders have earlier agreed to provide assistance to migrant workers based on a consensus to protect the rights of migrant workers (ASEAN, 2018). Yet, much of the governmental responses in handling migrant workers have been reactive and lean towards criminalising and deporting undocumented migrants. Even the few countries that have agreed to accept refugees – Indonesia, Malaysia and Thailand – have rejected the boatloads of Rohingyas seeking asylum during this pandemic. To date, ASEAN has not responded as a region to the military actions and internal conflicts in Myanmar which had escalated in the pandemic.

Unlike in the European Union where regional mechanisms are more centralised and cohesive and despite past regional humanitarian-focused collaborations in the face of natural disasters, ASEAN nations still struggle with the

¹¹ This is a comprehensive collation, but is also not exhaustive.

implementation and enforcement of regional human rights systems. This is somewhat circumvented with the appointment of duty holders, for example the ASEAN Emergency Operations Centre (EOC) Network for Public Health Emergencies, led by Malaysia; the ASEAN BioDiaspora Virtual Centre (ABVC), led by the Philippines; the Regional Public Health Laboratories Network to meet the ASEAN Post-2015 health development agenda goals, led by Thailand; the ASEAN Risk Assessment and Risk Communication Centre; ASEAN Center for Humanitarian Assistance on Disaster Management (AHA Center); as well as a rice stockpile co-organised with China, Japan and South Korea. Once Indonesia ratifies the agreement, the ASEAN Coordinating Centre on Animal Health and Zoonoses will oversee the prevention, control and eradication of trans-boundary animal and zoonotic diseases in the region, an initiative especially relevant and welcomed in these times (Seah, 2020).

The crucial ASEAN Summit was held via video conference on April 14 to confer on public health and the economy. However, there was no discussion on the preservation and upholding of human rights in the context of this pandemic. If anything, the Covid-19 pandemic has called to attention the importance of having work plans and action points that can be speedily acted on, especially in the event of a future crisis.

In the virtual ASEAN Summit held on June 25, ASEAN leaders discussed key matters that included: connectivity on work plans of the different sectors working on Covid-19; the crippling Covid-19 costs; the ailing economies; the impacted industries especially manufacturing, tourism and export of goods; ASEAN Covid-19 response funds; regional comprehensive post-pandemic recovery plans; reserves of medical supplies to meet urgent needs; and building up comprehensive ASEAN standard procedures of epidemic response. There was also a discourse on the rising influence of China in Southeast Asia and on the contested claims over South China Sea by China, Vietnam, The Philippines, Malaysia and Taiwan. The ongoing conflict in Myanmar was discussed primarily as a humanitarian disaster though it was stressed that the “safety and security for all communities in Rakhine State and facilitating (the) voluntary return of displaced persons in a safe, secure and dignified manner” was crucial, and that continued support will be given to Myanmar to bring about peace in the country (ASEAN Vietnam, 2020).

That said, the collaboration and teamwork in matters such as the movement of people, food supply chains, commodities as well as medical and essential supplies among ASEAN and the East Asian countries of South Korea, China and Japan have been much more encouraging and fruitful. Furthermore, the United States and China continue to show their interest in the countries of ASEAN, including Timor Leste, as both countries have investments, trade deals and economic interest with all ASEAN countries.¹² China, especially, has been very helpful and generous to countries in Southeast Asia and the rest of the world, perhaps, due to the fact that it has many development projects in various countries around the world especially in Southeast Asia. Its “mask diplomacy” has also been viewed as a branding exercise in China’s move to establish itself as a global player (Wong, 2020).

Such regional and international collaboration should continue and be augmented in preparation for the next crisis, be it a natural disaster or another pandemic. Countries should achieve this by using mechanisms as given in the terms of the AHRD, fulfilling the SDG targets and focusing on building a sustainable, cohesive and resilient society as well as committing to protecting the rights of the people.

Conclusion

This paper examines various actions taken by different countries in Southeast Asia during the pandemic and highlights certain questionable measures and laws adopted by governments ostensibly to contain the virus. However, it is clear that some of these efforts were motivated by the self-interest of political parties to enhance control, reduce

¹² See Appendix V for international aid.

dissent and weaken opposition parties instead. There has been an overall tighter restriction on the rights of the public, which though necessary, might not have been appropriately applied. Human rights have been derogated and state violence sanctioned and beyond the threat of Covid-19, many are at risk of unemployment, starvation and deportation.

Government-imposed lockdowns and security measures show a diverse range of standards in healthcare, communication strategies, information sharing and administrative acumen. Flaws in these systems resulted in social, economic and digital exclusion and allowed for the perpetuation of unequal treatment, discrimination and abuse.

Fake news and misinformation, especially rampant during the Covid-19 pandemic, has also become a tool for governments to control information shared and disseminated to the public. The rate of incarceration has therefore increased during the pandemic, contrary to the rationale of social distancing.

As we move forward to build a society that is more liberal, democratic and equal, governments should work with civil society, activists, the media and the private sector to review the restrictions placed on civil rights. For example, to aid ASEAN in fulfilling its commitment to the protection of human rights, the AICHR provides that governments and other ASEAN bodies integrate human rights and principles of non-discrimination, participation and inclusion of all persons including migrant workers and vulnerable and marginalised groups into their policies and political framework (Pangestika, 2020). Concerning the recent rise in government suppression of speech and censorship, the AICHR emphasised articles 8 and 23 of the AHRD as core to promoting and protecting freedom of expression as well as the right to seek, receive and impart information (ASEAN, 2012). The AICHR body also offered its services to governments to help distinguish and combat misinformation and fake news.

This pandemic provides a good opportunity for the ten countries to reassess their state obligations to human rights, their progress towards SDGs as well as their pledge to agreements that support values such as equality, dignity and respect for people and the environment. This appears the right time to rectify ineffective and antiquated approaches and take on a more whole-of-society approach which focuses on what is necessary without violating the rights of the people when dealing with crises. In regard to this, much can be learnt from New Zealand, Germany and Taiwan, which have also imposed lockdowns but without unnecessary surveillance, internal conflicts and arrests.

The pandemic is an important point of reflection for the government and the people. And as we all collectively heal from the ravages of this crisis, whether physically, psychologically or financially, we should head in a direction towards a more inclusive and sustainable world for future generations, with greater connectivity and respect for each other and the environment.

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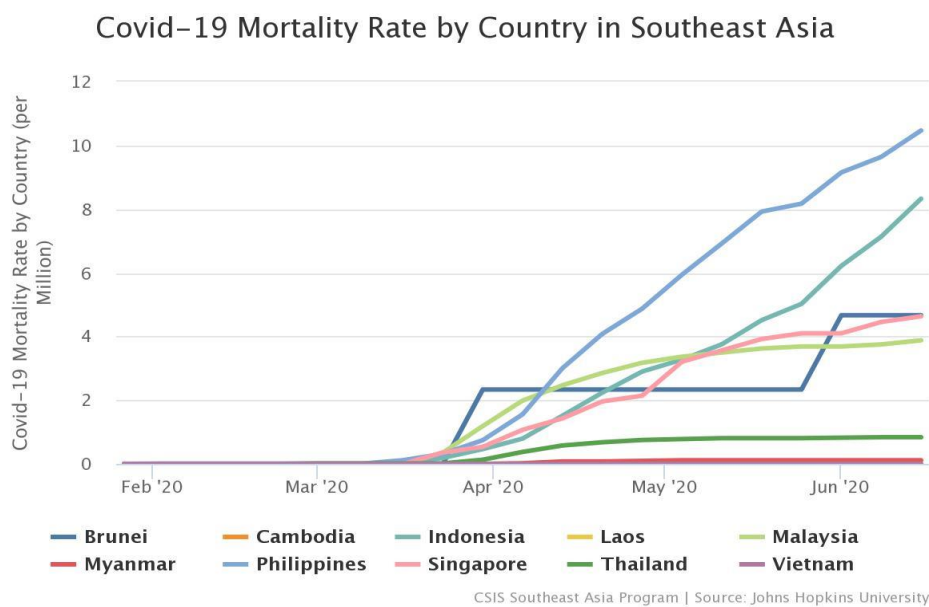
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APPENDICES

Appendix I - Statistics of Covid-19 cases

Countries	Cases	Deaths	Recovered	Cases per million people	Population	Total Covid-19 tests performed
Brunei	141	3	138	322	437,413	27,802
Cambodia	130	-	127	8	16.7 mil	33,812
Indonesia	51,427	2,683	21,333	188	273.5 mil	708,962
Laos	19	-	19	3	7.3 mil	14,161
Malaysia	8,606	121	8,294	266	32.3 mil	716,178
Myanmar	248	6	165	5	53.71 mil	68,404
Philippines	34,073	1,224	9,182	311	109.6 mil	647,804
Singapore	42,955	26	36,604	7,343	5.8 mil	684,359
Thailand	3,162	58	3,040	45	69.7 mil	468,175
Vietnam	352	-	329	4	97.3 mil	275,000

Source: <https://www.worldometers.info/coronavirus/>; Access Date: 26 June 2020



Source: <https://www.csis.org/programs/southeast-asia-program/southeast-asia-covid-19-tracker-0>; Access Date: 16 June 2020

Appendix II - Statistical Profiles of ASEAN Nations

Countries	Population	Population Density (per km square)	GDP (USD)	GDP per capita (USD)	SDG Ranking ¹	SDG Score ²
Brunei	428,962	83	13.57 bil	31,628.33	N/A	N/A
Cambodia	16.25 mil	95	24.54 bil	1,510.32	#112	61.8
Indonesia	267.7 mil	140.08	1.042 tril	3,893.60	#102	64.2
Laos	7.062 mil	32	17.95 bil	2,542.49	#111	62.0
Malaysia	31,53 mil	95.96	358.6 bil	11,373.23	#68	69.6
Myanmar	53,71 mil	83	71.21 bil	1,325.95	#110	62.2
Philippines	106.7 mil	363	330.9 bil	3,102.71	#97	64.9
Singapore	5.639 mil	8358	364.2 bil	64,581.94	#66	69.6
Thailand	69.43 mil	136	505 bil	7,273.56	#40	73.0
Vietnam	95.54 mil	308	245.2 bil	2,566.60	#54	71.1

Sources: <https://www.cia.gov/library/publications/the-world-factbook/>; <https://sdsna.github.io/2019GlobalIndex/2019GlobalIndexRankings.pdf>; Access Date: 11 June 2020

Appendix III - Press Freedom Indices among Southeast Asian Countries

Countries	Reporters Without Borders		Freedom House	
	Press Freedom Index	World Ranking	Global Freedom Status Ranking	Internet Freedom Status Ranking
Brunei	49.65	152	28/100	N/A
Cambodia	45.46	144	25/100	43/100
Indonesia	36.82	119	61/100	51/100
Laos	64.28	172	14/100	N/A
Malaysia	33.12	101	52/100	57/100
Myanmar	44.77	139	30/100	36/100
Philippines	42.54	136	59/100	66/100
Singapore	55.23	158	50/100	56/100
Thailand	44.94	140	32/100	35/100
Vietnam	74.71	175	20/100	24/100

Sources: <https://rsf.org/en> & <https://freedomhouse.org/>; Access Date: 11 June 2020

Appendix IV¹³ – Assistance Packages in ASEAN Countries

National Stimulus Packages provided by the governments of ASEAN countries:

Countries	National Stimulus Packages (in USD)
Brunei³	178.9 mil
Cambodia⁴	30 for each factory worker whose job was suspended
Indonesia⁵	Approx. 24.5 bil
Laos⁶	N/A
Malaysia⁷	Approx. 5 bil
Myanmar⁸	Approx. 700 mil
Philippines⁹	3.93 bil
Singapore¹⁰	100 bil
Thailand¹¹	64.76 bil
Vietnam¹²	Approx. 12 bil

¹³ This is a comprehensive compilation but note that it is by no means exhaustive

Appendix V – Non-Governmental and Foreign Aid:

Countries	Private Sector / Intergovernmental Organisation Aid		Foreign Aid	
	Institutions	Amount (in USD) / Material aid given	Countries	Amount (in USD) / Material aid given
Brunei	N/A		Singapore	<ul style="list-style-type: none"> • 3,000 diagnostic tests • 1 polymerase chain reaction (PCR) machine¹³
Cambodia	World Bank	20 mil ¹⁴	US	Approx. 1.5 mil ¹⁵
			Vietnam	<ul style="list-style-type: none"> • Specialised protective clothing • Medical masks • Testing systems • Test kits worth USD 304,000¹⁶
Indonesia	Bank Indonesia	Injection of rupiah and foreign currency liquidity ¹⁷	China	Approx. 9 mil ¹⁸
	Asian Development Bank (ADB)	1.5 bil ¹⁹	Taiwan	Surgical masks ²⁰
	World Bank	700 mil ²¹	Singapore	<ul style="list-style-type: none"> • 30,000 diagnostic tests • 5 PCR machines • 1,050 sets of PPE • 100 viral transport media • 4 thermal scanners²²
	Asian Infrastructure Investment Bank	250 mil ²³		
Laos	World Bank	18 mil ²⁴	US	<ul style="list-style-type: none"> • Approx. 2 mil²⁵ • 340,000 face masks²⁶
	Three Gorges China Hydropower	Medical supplies and virus-prevention materials ²⁷		
	PLAN International	100,000 face masks ²⁸		
Malaysia	Government-Linked Companies (GLC)	22.24 mil ²⁹	US	234,082 ³⁰
	China Communications Construction	Medical supplies and virus-prevention	Taiwan	Face masks ³²

	Company	materials ³¹		
Myanmar	World Bank	50 mil ³³	Taiwan	Face masks ³⁴
Philippines	Airbnb	Housing for 100,000 healthcare and relief workers ³⁵	US	Approx. 4 mil ³⁶
			Japan	Approx. 18.6 mil ³⁷
			Singapore	<ul style="list-style-type: none"> • 43,000 coronavirus testing kits • 1 PCR machine³⁸
			China	<ul style="list-style-type: none"> • 100,000 testing kits • 100,000 surgical masks • 40,000 N95 masks • 50,000 PPEs • 5,000 face³⁹
	ADB	1.5 bil ⁴⁰	Taiwan	<ul style="list-style-type: none"> • 15,000 face masks and shields • 30 ventilators
			Brunei	20 test kits ⁴¹
			South Korea	25,000 test kits ⁴²
			United Arab Emirates	7 tonnes worth of medical supplies ⁴³
			Taiwan	Face masks ⁴⁴
Singapore	Enterprise Singapore (ESG)	0.72 mil to each support fund set up by trade associations and chambers ⁴⁵	Taiwan	Face masks ⁴⁶
Thailand	UNICEF ⁴⁷	<ul style="list-style-type: none"> • 30,000 hand sanitisers • 120,000 bars of soap 	US	Approx. 2 mil ⁴⁸
Vietnam	N/A		USAID: 4.5 million to implementing partners in the country for technical support, training and supplies ⁴⁹	

¹ The SDG ranking shows the position a country holds in terms of its SDG score against other countries.

² The SDG score measures a country's total progress towards achieving all 17 SDGs developed by the UN.

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