

Strategic steps towards an Inclusive ASEAN Region
A Regional Statement of LGBTIQ+ Advocates from Southeast Asia¹
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We, the undersigned individual activists and organizations in Southeast Asia, are pushing for strategic steps towards an inclusive ASEAN region.

The advancement of the human rights of lesbian, gay, bisexual, transgender, intersex, queer, and other sexual and gender diverse (LGBTIQ+) persons in the Southeast Asia remains an challenging endeavour. ASEAN, having the mandate to protect and promote human rights for all persons as enshrined in its ASEAN Charter and the ASEAN Human Rights Declaration, have so far taken unremarkable steps to address our issues. As an institution, ASEAN restricts its very limited spaces for meaningful interaction and dialogue and alienating issues, advocacies, and identities which they perceive as sensitive or as not reflective of consensus among its member states.

Meanwhile, confronting the growing advocacies for inclusion and equality led by LGBTIQ+ activists is the perpetuation of harmful and hateful discourses by state and non-state actors. There is the view that the rights of LGBTIQ+ persons reflect a “Western agenda”, and that our identities and lived experiences do not reflect local values or cultural contexts. The stigmatization of our identities as “immoral”, as inconsistent with state-led interpretations of religion, as threats to local cultures and traditions, or worse, as threats to society in general, is reflected in many speeches and actions of government officials and faith leaders. This prejudiced view towards our communities are then used as scapegoating tactics by government officials or politicians to evade public accountability, such as their disastrous mismanagement of the COVID-19 pandemic.

LGBTIQ+ persons within the ASEAN region face serious human rights issues. Among these issues are as follows:

Criminalization of LGBTIQ+ persons

In Indonesia, there are attempts to pathologize LGBTIQ+ persons by legalizing harmful efforts to change a person’s sexual orientation and gender identity and expression (SOGIE) through proposed bills at the provincial and national levels on “Anti-LGBT Propaganda”, the “treatment and prevention of sexual orientation and gender identity disorder”, and “family resilience”. Those bills include a rehabilitation center for conversion therapy or sexual orientation change efforts funded by the government. In fact, the Cianjur district in West Java passed a local law on treatment and prevention of “SOGI disorder” last year.

Similarly in Malaysia, LGBTIQ+ persons are criminalised explicitly under national laws such as Section 377 of the Penal Code, local syariah laws against “crossdressing” target mostly Muslim transgender women, and others. LGBTIQ+ people face fines, imprisonment, and caning for having consensual sexual relation or for identifying as a transgender or gender-

¹ This document is a joint statement prepared by Southeast Asian LGBTIQ+ activists after the series of meetings with the diplomatic communities and human rights bodies as part of the ASEAN Advocacy Week (AAW) program organized by ASEAN SOGIE Caucus in July 2021.

diverse person. Policies to “curb LGBT behaviour” are fully enforced and funded. This includes state-sponsored conversion therapy camps (*Mukkhayam*), raids conducted by religious authorities, and police operations to spy on and arrest LGBTIQ+ persons for expressing themselves.

Absence of domestic laws and policies to protect LGBTIQ persons from all forms of discrimination and violence

There are no criminal laws targeting LGBTIQ+ persons in Cambodia, Lao PDR, the Philippines, Thailand, Timor Leste, and Viet Nam. However, there are no comprehensive laws and policies that protect them from SOGIESC-based violence, discrimination, and persecution either.

In the Philippines, two decades of efforts in pushing for the SOGIE Equality Bill and years of lobbying for a comprehensive anti-discrimination bill has not yielded good results, with conservative lawmakers actively blocking progress in both the Senate and the Congress while conservative religious groups spread disinformation about the legislative measure. The Gender Equality Act in Thailand has also left out LGBTIQ+ persons and any mention of transgender persons.

In Timor Leste, the 2002 Constitution has a special part that guarantees human rights for all but does not explicitly mention SOGIE. Despite efforts being made to ensure the legal protections and political commitment to the cause of non-discrimination on the basis of SOGIE, there is a scarcity of information on LGBTIQ+ people’s lives in Timor Leste in general. More seriously, support mechanisms are scarce for LGBTIQ+ people who face violence and discrimination. This is especially true for LBQ women and transgender persons who continue to hide in the absence of support, and who have difficulty opening up about their issues and needs because of the conservative nature of Timorese society. The lack of strong community-based organisations (CBOs) for LBQ women and transgender persons make it all the more challenging for them to access basic services such as jobs, healthcare, counselling, and protection from physical and psychological violence.

In Malaysia, Islamic laws against crossdressing directly target the community, particularly transgender persons. The police use existing laws to implicate the community such as the use of laws against soliciting (Penal Code Section 372B) to entrap transgender sex workers by disguising themselves as their clients. This continued harassment by state forces triggers online bashing and spreading of false information about the community. Many healthcare workers have discriminated against LGBTIQ+ people in the community even in social media, blaming them for the spread of HIV/AIDS. While there are efforts to educate healthcare workers through workshops on SOGIE, change is slow because the topic is considered inappropriate or sensitive.

The Philippine government's militaristic approach to curbing the COVID-19 pandemic has left many marginalized communities, including LGBTIQ+ communities, vulnerable to harassment by the state. Local officials, police, and the military have used cruel or inhumane treatment or punishment, including public humiliation, bodily violence, and sexual harassment, towards LGBTIQ+ persons who violated curfews or quarantine restrictions.

Across the region, there is evidence of an alarming number of cases of violence against transgender persons at all levels.² This situation is aggravated by the absence of protective laws, including anti-hate crime laws to justly account for crimes committed on the basis of SOGIE. Furthermore, the absence of gender recognition reinforces prejudice and social stigma everytime transgender persons come into contact with the justice system.

Barriers to access and enjoyment of social services amidst the COVID-19 pandemic

Transgender communities face difficulties in accessing the COVID-19 relief, aid, and support from the state due to not having national ID cards. Obtaining a national ID card is especially difficult for transgender persons who are forced to separate from their families, and who have to endure social stigma by government officials. In some cases, those who have obtained national ID cards lose them when they are forced out of their homes by their parents. The absence of national ID cards affect not only the livelihood of transgender persons but also their access to education, housing and healthcare, including access to COVID-19 vaccinations. Furthermore, this absence of legal documents makes them more vulnerable to arrests and intimidation by law enforcers, which in turn makes COVID-19 aid more inaccessible.

In both the Philippines and Timor-Leste, families with LGBTIQ+ persons as heads of households are denied access to COVID-19 aid as they are not deemed "legitimate families" by state officials. This pushes LGBTIQ+ headed households, particularly those living in poverty situations, further into the margins.

Shrinking democratic spaces and its consequences to LGBTIQ activism

Across the region, activists have been targeted with violence, harassment, and arrests. In the Philippines, the continued lockdowns and the Anti-Terror Law have limited the movement of people as well as venues to seek redress from the government. Notable was the arrest of 20 Pride Marchers last June 2020 despite peacefully following pandemic protocols. The continued red tagging of LGBTIQ+ activists poses a threat to their lives. The most recent victim to this is the rape and murder of a lesbian youth activist of the Lumad-Manobo tribe by Philippine military personnel.

In Myanmar, LGBTIQ+ individuals and activists are also targeted by the junta. Data recorded by Myanmar National Unity Government (NUG) revealed that at least 12 LGBTIQ+ people were shot to death, and hundreds more were detained, arrested, tortured and jailed and hiding to avoid military arbitrary arrest.³

In Malaysia, activists have been targeted online and been brought for police investigations for attending demonstrations. There is an intensive campaign to seize only spaces by putting hateful and harmful information or other resources online, i.e state-funded conversion therapy.

² Transrespect Versus Transphobia, [Trans Murder Monitoring \[1 January 2008 to 30 September 2020\]](#).

³ Ministry of Human Rights and Ministry of Women, Youths and Children Affairs, National Unity Government of Myanmar, 2021, ["Situation Report of the LGBTIQs after the Military Coup in Myanmar"](#).

Shrinking democratic spaces not only affects people's right to participate effectively in governance but also causes serious mental health among activists. Living under this constant threat also causes or exacerbates existing mental health issues such as anxiety and depression.

LGBTIQ+ persons and forced displacement

The ASEAN is home to a number of LGBTIQ+ displaced persons who are escaping multiple threats, including religious and political persecution, adverse climatic events, domestic violence, and aggravated by economic hardships. They are especially marginalised and disadvantaged in countries that do not recognise refugees and asylum seekers. During COVID-19, these communities have been disproportionately impacted with no access to prevention and treatment for the disease. In certain countries they have also been detained in conditions where they are at risk of infection.

Echoing the growing calls for inclusion and equality by numerous LGBTIQ+ activists from our countries or communities, we urge key stakeholders in ASEAN to go beyond "baby steps" and instead have the courage to take "strategic steps" as our lives and rights are at stake.

We hereby convey our recommendations.

Recommendations to ASEAN Human Rights Bodies such as the ASEAN Intergovernmental Commission on Human Rights (AICHR)

1. Promote and ensure meaningful participation of marginalised groups, including women, the disabled, ethnic minorities, religious minorities, nonbelievers and LGBTIQ+ persons in the development, design and evaluation of national development frameworks and programs of action.
2. Support the generation of LGBTIQ+ specific data that will be used for designing inclusive development programs and to assess/evaluate reach of existing programs, whether they are being enjoyed by LGBTIQ+ persons; this should be done in a manner that respects right to privacy, content and ensures security of LGBTIQ+ persons from reprisal.
3. Constantly engage with NHRIs of the country(s) represented so there will be a two-way communication besides the activists or the community on the ground.

Recommendations to National Human Rights Institutions

1. Protect individuals from all forms of gender-based violences, including homophobic or transphobic violence.
2. Develop measures that aim to make school and education environments safe from all forms of violence and respect diverse identities of students.
3. Monitor the government and parliament attempts in criminalizing, or weakening the existing human rights protections for LGBTIQ+ persons.
4. Strengthen coordination with ASEAN and UN human rights mechanisms, including through sharing of information, cases of violations, and good practices in human rights protection.

5. Undertake research and impact studies of various issues and how they affect LGBTIQ+ persons, including the impact of COVID-19.

Recommendations to Permanent Missions to ASEAN and other Diplomatic Missions with the Southeast Asian Region

1. Sustain political dialogues within bilateral or multilateral fora to share good practices, frameworks, and approaches to raise critical human rights issues affecting LGBTIQ+ persons, and to encourage governments in improving domestic policies and programmes.
2. Invest in economic empowerment programs for LGBTIQ+ persons, especially those from most marginalised sub-groups. These programs may include access to technical education, access to resources for livelihood, guaranteeing equal employment opportunities, support for creation of cooperatives, access to finance to support women, the disabled, ethnic and religious minorities and LGBTIQ+ entrepreneurs.
3. Provide core funding to LGBTIQ+ organizations to enable them to sustainably carry out their work. Fund research and impact studies of various issues and how they affect LGBTIQ+ persons, including the impact of COVID-19.
4. Leverage public diplomacy measures to promote inclusive views, values and practices among local publics.
5. Continue raising SOGIESC-related recommendations during the Universal Periodic Review (UPR) of ASEAN countries.
6. Create spaces for Southeast Asian LGBTIQ+ advocates to meaningfully contribute to multilateral platforms or mechanisms to promote and protect human rights, e.g. the Equal Rights Coalition (ERC).

Signatories

CAMBODIA

1. Saophorn Phoeng, activist

INDONESIA

2. Rere Agistya, Arus Pelangi
3. Cornelius Damar Hanung, human rights activist
4. Dali Ramona, Panggung Minoritas

MALAYSIA

1. Gavin Chow, PLUHO
2. Minisha Deepu, SEED Malaysia
3. Kaiser Ho, activist
4. Ryan Ong, ILGA Asia / PLUHO Malaysia
5. Lainie Yeoh, RRAAM Malaysia

MYANMAR

1. Ye Linn Htet, LGBTIQ Rights advocate, Rainbow Alliance Myanmar
2. Htike Htike, LGBTIQ activist

SINGAPORE

7. Tan Xuan Yun, activist
8. Elijah Tay, My Queer Story SG, Queers of LH, MehMeh Singapore

THAILAND

9. Nada Chaiyajit, Manushya Foundation and RSAT

TIMOR LESTE

10. Joker Da Silva, Arcoiris Timor-Leste
11. Gress Monteiro Soares, Arcoiris Timor-Leste

VIET NAM

12. Chu Thanh Ha, IT'S T TIME
13. Phong Vuong, iSEE (Viet Nam),

PHILIPPINES

1. Nicky H. Castillo, Metro Manila Pride
2. Irish Inoceto, Iloilo Pride Team
3. Jihad Mambuay, Metro Manila Pride
4. Metro Manila Pride
5. Ryan Pesigan Reyes,
6. Visayas LBTQ Network

REGIONAL

14. Lini Zurlia, ASEAN SOGIE Caucus (Regional/Indonesia),
15. Ryan Silverio, ASEAN SOGIE Caucus (Regional/Philippines),
16. Ryan Joseph Figueiredo, Equal Asia Foundation (Regional/Thailand)
17. Jan Castañeda, ASEAN SOGIE Caucus (Regional/Philippines)
18. Yen Nguyen, ASEAN SOGIE Caucus (Regional/Viet Nam),
19. ILGA ASIA,
20. ASEAN Feminist LBQ Network.



ASEAN SOGIE Caucus Secretariat

Unit 15-N, Tower 1,
Suntrust Asmara, E. Rodriguez Sr. Avenue
Barangay Damayang Lagi
Quezon City, Metro Manila, Philippines 1112

www.aseansogiecaucus.org

email: info@aseansogiecaucus.org

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