

Many recent improvements to promote and protect the rights of LGBTIQ persons have happened in the ASEAN region. New laws and policies respecting and promoting rights of LGBTIQ persons were passed in member states such as Thailand, Vietnam, Philippines, and Cambodia. The Vietnamese government removed the prohibition on same-sex marriage (which allows marriage ceremonies for same-sex couples, but still does not give legal recognition to their unions), while Thailand, Timor Leste, and Philippines have issued laws with varying ranges of influence that help protect LGBTIQs from discrimination in spaces such as the workplace and schools.

However, challenges remain and direct threats continue to compromise security of LGBTIQ persons. Laws that criminalize homosexuality still exist in many ASEAN states, with punishments ranging from imprisonment to even death. Media censorship are prevalent in homophobic governments, which limit the freedom of expression of LGBTIQs and human rights defenders. Aside from the media, political restrictions are also placed on activists due to growing extremism and weakening of democratic institutions. There is also an absence of redress mechanisms for victims of human rights violations in many ASEAN countries.

ASEAN SOGIE Caucus aims to inform activists and allies about the human rights situation of LGBTIQ persons in Southeast Asia. We hope that this pamphlet will help you to gain an initial glimpse of the key issues we face, our struggle for equality and human rights, and the successes we have achieved.

CRIMINALIZATION OF SOGIE

LAWS THAT CRIMINALIZE CONSENSUAL SAME-SEX RELATIONS OR CARNAL INTERCOURSE BETWEEN CONSENTING ADULTS:

SEC. 377 OF THE PENAL CODE

Malaysia, Myanmar, and Brunei Darussalam have Section 377 of their respective penal codes that criminalizes carnal intercourse against the order of nature between consenting adults regardless the gender. This pertains to anal and oral intercourse, which can be used to criminalize intercourse between same-sex couples



Singapore has Section 377A of their Penal Code which derives from the original 377 law, but instead focuses on criminalizing male-to-male sexual intercourse.

In Malaysia, Singapore, and Myanmar, carnal acts against the "order of nature" are punished with imprisonment. In Brunei Darussalam, the Syariah Law can elevate the punishment to death penalty.

SYARIAH LAW

Aside from Sec. 377, Malaysia, Indonesia (in the Aceh Province), and Brunei Darussalam have the Syariah Law which further criminalizes liwat (sexual intercourse between men) and musahaqah (sexual intercourse between women).

LAWS AGAINST TRANSGENDER PERSONS:

Malaysia and Brunei Darussalam: impose laws that prohibit trans and gender non-conforming or gender diverse people from expressing their gender identity and gender expression through their attire, among others. The Penal Code of Brunei imposes one year imprisonment while Malaysia fines and imprisonment vary according to states.



PROTECTION FROM DISCRIMINATION

ANTI-DISCRIMINATION LAWS:



Southeast Asian countries have enacted some laws that protect against discrimination on the basis of SOGIE. However, these laws do not provide FULL protection to LGBTIQs in their respective states.

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THAILAND

Gender Equality Act in 2015 bans discriminatory acts

TIMOR LESTE

Article 52: Timorese Penal Code bans hate crimes motivated by discrimination

CAMBODIA

The Cambodian Ministry of Education has collaborated with local activists in raising awareness against LGBTIQ child bullying in schools.

PHILIPPINES

Local cities have enacted ordinances that protect LGBTIQs from discrimination in schools, workplaces, and other institutions.

The Anti-Bullying Law of 2013 also protects children from bullying on the basis of SOGIE.

MARRIAGE EQUALITY

As of 2016, Marriage Equality remains to be ABSENT in all laws in the ASEAN region. However, in 2013 Vietnam has passed a law removing the prohibition against same-sex marriage. This is due to the Revised Law on Family and Marriage that neither criminalized nor recognized same-sex marriage, thus leaving the legitimization of LGBTIQ unions open for civil interpretation.



PUBLIC INFORMATION ON LGBTIQ RIGHTS

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SOGIE IN SCHOOL CURRICULUM

There are currently ZERO laws in the region that require schools from primary to university level to incorporate SOGIE in their curriculum.



Vietnam: In 2015, Vietnam banned local publishers and distributors from releasing gay romance novels which were shipped in from mainland China. Publishers should only publish content that are "suitable to Vietnamese habits and customs".

MEDIA REGULATION AND CENSORSHIP



INDONESIA

The Indonesian Broadcasting Company released a policy in 2016 banning "effeminate" or "cross-dressing male performers/actors/broadcasters" from appearing in their programs. They also have an Anti-Pornography law which perceives homosexuality (both gays and lesbians) as "deviant acts".

SINGAPORE

Singapore's Media Development Authority (MDA) has a firm control on what kind of content can be released by producers, publishers, and performance artists, as well as social media/internet bloggers. The Singaporean government has also been known to threaten bloggers with litigation when they speak against existing laws such as the 377A through internet platforms.

MALAYSIA:

Malaysia's Film Censorship Board issued a ban on LGBTIQ-oriented scenes that have a "positive" message in 2010. According to the censorship board, they will only show films where LGBTIQ characters "die or repent" at the end, in order to portray a message of "good triumphing over evil".

HUMAN RIGHTS MECHANISMS

COMPLAINTS MECHANISM

PHILIPPINES

The Commission on Human Rights has an office to deal with gender issues. The 2013 Anti-Bullying Law and DepED Child Protection Policy also mandates that all schools have child protection committees that would protect against SOGIE-based bullying.

THAILAND

The 2015 Gender Equality Act provides a complaints mechanism for persons discriminated against on the basis of gender identity and expression.

INDONESIA

On June 1st, the Commission on Human Rights in Indonesia launched the initial report about the situation of minority rights in Indonesia, which also includes people with SOGIE diversity.

The ASEAN Intergovernmental Commission on Human Rights (AICHR) and the ASEAN Commission on the Rights of Women and Children (ACWC) are regional HR mechanisms that have the responsibility to protect and promote the rights of LGBTIQ persons.



NATIONAL HUMAN RIGHTS INSTITUTIONS (NHRIS)

exist in 5 ASEAN countries: Indonesia, Malaysia, Myanmar, Philippines, and Timor Leste.