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General situation of LGBTI people

Southeast Asia is a region with major differences in development and income levels between countries, between rural and urban areas and between different population groups. That is the case also for lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, where legislation and climate for civil society organisations and for same sex relationships vary a lot.

Several countries in the region still criminalise same-sex relations, but it is every day discrimination and violence that might be the most urgent problems for LGBTI persons. Discrimination and harassment in workplaces, being denied stable employment or housing, not obtaining identity cards that indicate their chosen gender are some of the issues facing the LGBTI community. The cultural pressures and importance of family life in Asian society is however the greatest obstacle. *“The family unit is arguably the greatest influence on the lives of LGBTI people, yet acceptance by families is limited by strong cultural pressures.”* (Dédé Oetomo, Chair of the Asia Pacific Coalition on Male Sexual Health). ILGA reports that those who challenge sexual or gender norms often confront violence in the “private” sphere of the family. The threat of family or community rejection or recrimination often prompts people to lead double lives, making them vulnerable to police blackmail and extortion. Queer and transgender persons and other gender non-conforming people and communities face hostility, discrimination and abuse in most places.

It is difficult to evaluate the degree of oppression that LGBTI persons face in various countries in the region as there is a lack of reliable data. In Cambodia, homophobic attacks and abuse are reported in public places such as markets and clubs and in community settings. This contrasts with some reports of acceptance of same-sex couples at the village level.

In Laos, it is very difficult to assess the current situation of LGBTI citizens, as the government does not allow those who are not associated with the government to conduct surveys on human rights.

Thailand is one of only seven Asian signatories of the UN’s declaration of LGBTI rights. It could also become the first Asian country to introduce a same-sex-partnership law. Yet it wasn’t until 2002 that the Thai government declassified homosexuality as an illness. It took four more years before openly LGBTI persons were not excluded from military service.

Since 2012, the landscape has shifted to the better for the LGBTI community in Viet Nam. There has been an increase in positive media exposure, as well as support from the public and government. Activism and community organising has been growing. There is still widespread stigma and discrimination that is not protected by anti-discrimination legislation.

Indonesia, with the 4th largest population in the world could be considered as one of the emerging progressive LGBTI states in South East Asia. The LGBT movement, which has been active since 1969, is growing and vibrant with around 120 groups in the country. The largest threat is the growing religious and conservative anti-LGBT movement that uses religion as a political tool. There is anti-discrimination legislation, but not specifically mentioning LGBT people.

Regional integration and cooperation has traditionally been weak in Southeast Asia, but there has been a trend towards greater integration within ASEAN (Association of Southeast Asian Nations) in the past few years. This has also been seen in the area of LGBTI, where regional cooperation and networking is increasing. Local and national LGBTI movements are however rather weak and in need of substantial support and capacity development.

Legislation and policy

Same-sex sexual acts Legal	Same-sex sexual acts Illegal
Cambodia, East Timor (1975), Indonesia (most areas), Laos, Philippines, Thailand (1957), Viet Nam	Brunei, Indonesia (in some areas), Malaysia, Myanmar/Burma, Singapore

There are several countries in the region that still criminalise same-sex relations. The similarity of the penal codes of Brunei, Malaysia, Myanmar and Singapore (section 377) are remnants from their history as British colonies.

In the spring of 2014 there was a lot of coverage in international media when the Sultan of Brunei was said to plan to impose a Sharia law that would mean possible stoning for those convicted of having same sex sexual relations. This was later changed to prison sentence and/or fine.

East Timor is the only country in the region that, since 2009, has a hate crime legislation, where hate crime because of sexual orientation is considered an aggravating circumstance. In several of the countries where same-sex activities are not a criminal offence, there is no anti-discrimination legislation or sanctions for those who violate the rights of LGBTI people, or reference to inheritance, tax or family rights issues for LGBTI people.

In some countries, like Indonesia, there is general anti-discrimination legislation (that does not specifically mention LGBTI persons), but could be used for the protection and inclusion of LGBTI persons.

Regional or international human rights instruments

There was an attempt to include writings of LGBTI rights in the *ASEAN Human Right's declaration (2012)*, a joint declaration by the Governments of the Member States of the Association of Southeast Asian Nations ("ASEAN"). The text passed the draft stage, but was removed in the final version. The ASEAN principles of cooperation are marked by non-interference and consensus decision-making. Reluctant states can thus have great influence of the final result.

At the time of the drafting, the online campaign 'We Are #ASEANtoo' encouraged LGBTI persons and allies to post photographs of themselves stating their inclusion in ASEAN. The campaign received support from high levels, including the deputy head of the Office of the High Commissioner for Human Rights (OHCHR)'s Southeast Asian office and the Indonesian representatives to the ASEAN Intergovernmental Commission on Human Rights and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children.

The *ASEAN Intergovernmental Commission on Human Rights (AICHR)* was formed in 2009 as a consultative body. Its mandate is to promote and protect human rights in the member states and to facilitate regional co-operation on human rights. The commission has been criticised for being weak and to avoid consultations with civil society. It has yet to engage in protection of LGBTI persons human rights.

Sexual and Reproductive Health and Rights, HIV/AIDS and Gender Based Violence

The countries of the Asia Pacific region have the second highest number of AIDS-related deaths in the world, as well as the second highest HIV prevalence and the second highest number of new infections.

Transmissions are concentrated to most at risk groups, including MSM and transgender sex workers engaging in unsafe behaviour, resulting in high prevalence in these groups, whereas the general population usually has a prevalence of less than 1 percent.

Criminal laws, stigma and discrimination severely impact the ability of MSM to access services and to participate openly in processes that govern support to HIV-prevention.

Overall, HIV prevalence in countries such as Malaysia, Myanmar, Cambodia, and Thailand, has declined or remained steady over the last ten years, while the Philippines have seen growing prevalence, but across the region the prevalence among MSM and transgender persons has seen steady increase, especially in urban settings.

Violence against LGBTI persons is often based on non-conforming gender identity or sexuality. Lesbians with masculine expression and transgender persons are at risk of being raped. Health care workers and police who are supposed to help are both ignorant about and biased against non-conforming sexuality or gender identity, often subjecting victims to additional harassment.

Civil society organisations and institutions

To promote meaningful participation and empowerment of LGBTI persons, the LGBTI community generally needs

- legitimacy, e.g. by participation in public dialogues, lobbying and sensitisation advocacy work with states and religious groups without fear of persecution, ability to articulate and address immediate rights violations of LGBTI people,
- ability to monitor government in terms of development and implementation of legislation and policy,
- capacity development of organisations, and
- systems to speedily and efficiently mount defence, protection and emergency responses for human rights defenders who defend the human rights of LGBTI people.

However, the needs and strategies of the LGBTI movement differ from country to country. All support should be provided in full cooperation and agreement with local activists.

Some of the organisations that work with LGBTI - issues regionally are:

The ASEAN SOGI Caucus is a network of diverse human rights activists in Southeast Asia that aims for the inclusion of SOGI (sexual orientation, gender identity and expression) in the ASEAN Human Rights

Mechanisms in order to promote and protect the human rights of people regardless of SOGI in the Southeast Asian region.

<http://aseansogie.wordpress.com/>

The Asia-Pacific Transgender Network

http://www.transgenderasia.org/aptn_info.htm

ILGA Asia <http://ilga.org/network/ilga-asia/>

CARAM Asia, Coordination of Action Research on AIDS and Mobility <http://www.caramasia.org/>

Working with empowering migrants' health rights including sexual and reproductive health rights

Asia Pacific Rainbow (APRainbow) is a network of lesbian, gay, bisexual, transgender and queer individuals and organisations from the Asia Pacific Region. <http://aprainbow.wordpress.com/>

Asia Pacific Coalition on Male Sexual Health (APCOM) founded in 2007, is a coalition of members – governments, UN partners, non-profits and community based organisations – from Asia and the Pacific working together to advocate on, highlight and prioritise HIV issues that affect the lives of men who have sex with men (MSM) and transgender people, including rights, health and well-being www.apcom.org

What Sweden can do at the regional level – questions to discuss

Within the framework of the Swedish regional strategy, with focus on democracy, human rights and gender equality, there are great opportunities to include LGBTI issues. It is highlighted in the strategy that “given Swedish comparative advantages, women and discriminated groups (such as people affected by HIV/AIDS, LGBTI persons, people with disabilities and ethnic minorities) shall be given special priority”.

When addressing LGBTI in a non-supportive government context, such as some of the countries in the region, it is very important to consult LGBTI organisations in the country to make sure not to overrule their agenda. Questions to discuss:

- Could Sweden do more to keep updated on the legal and security situation and the judgements

and priorities of the LGBTI movements in the region? Offer protection to activists and organisations at risk?

- Could Sweden do more to systematically influence regional mechanisms that have the potential to engage with sexual orientation and gender identity issues (SOGI)? E.g. by raising LGBTI rights in dialogue with regional human rights organisations and institutions and supporting the capacity development of the National Human Rights Institutions (NRHI) to enhance their understanding and work to protect and promote the human rights of LGBTI people.
- Could Sweden do more to enhance the capacity of regional LGBTI actors and activists by supporting regional networking and capacity development of Human Rights and LGBT organisations and to encourage synergies and experience exchange?
- Could Sweden do more to support embassies and consulates in the region to develop their capacity and interest to address LGBTI rights within country level strategies and portfolios?
- Could Sweden do more to include LGBTI organisations in social, cultural and professional events and encourage embassies and consulates to do the same?
- Could Sweden do more to include SOGI issues and LGBTI rights in on-going regional level

programmes and in negotiations of new programmes (e.g. in cultural, legal/judiciary capacity building, anti-corruption, police training/correctional services and human rights programmes)?

- Could Sweden do more to bring up anti-discrimination, codes of conduct and labour legislation, with the aim of reducing discrimination against people based on sexual orientation or gender identity in the private sector?
- Could Sweden do more to promote inclusion of LGBTI persons in SRHR, HIV/AIDS and GBV initiatives? Especially gender non-conforming transgender and intersex persons?

Some countries in the region are more progressive and have taken steps globally to work for the human rights of LGBTI persons.

- Could Sweden do more to facilitate regional networking, and support LGBTI reporting in Universal Periodic Reviews (UPR), shadow reports and other UN instruments?

For further advice on dialogue regarding LGBTI issues, download the [Sida 'Human Rights of Lesbian, Gay, Bisexual and Transgender persons - Conducting a Dialogue](#) and the Ministry of Foreign Affairs [Dialogue brief](#). Also refer to the [EU tools](#) and guidelines in the reference list.

Tool kits

EU news, tools and guidelines: http://eeas.europa.eu/human_rights/lgbt/index_en.htm

The EU Guidelines (2013): [Guidelines for supporting LGBTI persons' human rights](#).

ILGA-Europe's Toolkit for training police officers on tackling LGBTI-phobic crime is the result of a consultation process organised by ILGA-Europe together with member organisations and police forces that have already worked in partnership with LGBTI associations:

http://www.ilga-europe.org/home/publications/reports_and_other_materials/training_toolkit_police_2011

Together for HIV and AIDS prevention, UNAIDS:

http://www.olympic.org/Documents/Reports/EN/en_report_1039.pdf

References

#We are ASEAN too, <http://aseantoo.tumblr.com>

UNAIDS: *HIV in Asia and the Pacific: UNAIDS report 2013*

http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2013/2013_HIV-Asia-Pacific_en.pdf

UNDP: *Being LGBTI in Asia: Country Reports*

<http://asia-pacific.undp.org/content/rbap/en/home/operations/projects/overview/being-lgbt-in-asia/>

UNDP: In depth: Challenges in Asia Pacific

http://www.asia-pacific.undp.org/content/rbap/en/home/ourwork/hiv_aids/in_depth.html

APCOM *The state of investment in HIV prevention for MSM in Asia and the Pacific*

<http://www.apcom.org/printpdf/28982>

RFSL, 2008, LGBTI in development - a handbook on LGBTI perspectives in development cooperation:

<http://www.rfsl.se/?p=4357>

Sida 'Human Rights of Lesbian, Gay, Bisexual and Transgender persons - Conducting a Dialogue' and the Ministry of Foreign Affairs [Dialogue brief](#)

The human rights of LGBTI persons have been a Swedish government priority since 2009. As a service to staff, guidance notes have been prepared to provide basic information about the situation of this (often forgotten) group and inspire discussions on what Sweden could do to better include LGBTI rights in diplomacy and programming.