Special Brief:

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LGBTI Rights
in East and Southeast Asia

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LGBTI Rights in East and Southeast Asia

BRUNEI

Criminal law: The Malay, Muslim, Sultanate of Brunei retains a British colonial era anti-homosexual criminal law. Cases reported in the local press all involved sex with underage males – no other prosecutions.

Sharia law: New Sharia (Islamic) criminal code provisions, first announced in 2013, came into force in 2019. They impose the death penalty for rape, adultery and sodomy. Muslims and non-Muslims alike are threatened with death by stoning and other 'hudud' punishments. This prompted renewed international calls for a boycott of the luxury hotels in the US, UK and Italy owned by the oil-rich Sultanate. In response, the Sultan has pledged that there will be no enforcement of the death penalty.
A de facto moratorium on the death penalty was already in place.

CAMBODIA

Criminal law: No prohibition of same-sex acts.

Anti-Discrimination: No anti-discrimination law. Prime Minister Hun Sen has called on Cambodians not to discriminate against gays and lesbians.
He is reconciled with his adopted lesbian daughter.

Public Venues: There are gay bars and guesthouses in the capital Phnom Penh and the tourist destination of Siem Reap.

LGBTI NGOs: There is one main organization, Rainbow of Cambodia Kampuchea. There has been support from a more general human rights NGO, that has published four or five reports in cooperation with RoCK.

Public Events: There are public events and LGBTI organizations.
The Asian branch of the International Lesbian and Gay Association (ILGA Asia) held an Asian regional conference in Phnom Penh in 2017.

Out Figures: The present king is unmarried, a former ballet dancer.
Relationship Recognition: Revered King Father Norodom Sihanouk , father of the current king, publicly supported opening marriage in Cambodia, after watching television coverage of the marriages authorized (illegally, as it turned out) by Mayor Gavin Newsom in San Francisco.

CHINA

Criminal Law: No prohibition of same-sex acts. "Hooliganism" which had been used against gay men cruising in parks was repealed in 1997.

Judicial Review: Over the last few years there have been five or six reported cases challenging (a) conversion therapy, (b) employment discrimination against trans, (c) exclusion from marriage, (d) media exclusion and (e) textbook biases. Some have been successful.

Document Change: Change is possible by court order. Genital surgery may be a requirement.

Public venues: There are some gay or gay friendly bars and restaurants. Eddy's Bar in Shanghai has functioned for maybe 20 years. There are some gay saunas and massage parlors. A large gay bar with drag shows is located in Nanning, near the border with Vietnam.

LGBTI NGOs: New strict controls on foreign funding for NGOs seems to have crippled established LGBTI NGOs.

Public Events: No parades. Sometimes there are indoor events and film showings.

Out Figures: Jin Xing is a very famous dancer and popular TV chat-show host –often called China's Oprah. She had surgery in China, had document change and legally married a resident German businessman.

HONG KONG

Criminal Law: The British colonial era criminal law against same-sex acts was repealed by the legislature before reversion to China in 1997.

Judicial Review: Post-reversion HK courts have supported LGBTI rights in a half dozen important decisions. They have ruled that criminal laws in relation to sexual activity must not discriminate between heterosexual and homosexual acts. There must be the same 'age of consent' and the same specifications in relation to 'public places.'
Also see 'Relationship Recognition' below.

Anti-Discrimination: Seeking an anti- discrimination law has been the major demand of LGBTI groups over the last decade.
Document Change: The courts have ordered document change in a case involving genital surgery. There has been no legislative agreement on reform after the decision.

Public Venues: There are gay bars and saunas. Small book stores may have survived, selling publications from Taiwan, plus condoms etc.

LGBTI NGOs: A number of NGOs are active. They put together a "Pink Season" each fall with numerous events.

Public Events: There is an annual pride parade plus a 'Pink Dot'.

Out Figures: There is one elected gay man in the Legislative Council.
Relationship Recognition: The Court of Final Appeal recognized a UK registered partnership for immigration purposes, allowing the same-sex partner of a woman with a work permit to also seek employment. It has recognized a NZ legal same-sex marriage for purposes of spousal benefits for the foreign partner of a HK civil servant. One or two other cases seek relationship recognition.

Opposition: There is strong, active evangelical Christian opposition to LGBTI rights.

INDONESIA

Criminal Law: There is no prohibition of same-sex acts.
The Anti-Pornography Act has been used to get convictions of individuals caught in police raids on saunas and house parties.

Sharia Law: The province of Aceh in north Sumatra, uniquely in Indonesia, has authority to enact Sharia criminal law. Same sex acts are prohibited.
Public canings have taken place in punishment.

Third Sex Grouping: There is a visible third sex category – waria.
Many waria run beauty parlors. At times social welfare programs have been directed to them (as an economically marginal grouping).

Document Change: Document change can occur by court order.
Criteria and procedure are difficult, so the process is rarely used.

Public Venues: One large, elegant, upmarket gay bar, with elaborate shows, has functioning in Jakarta. A second large sleezy disco, Moonlight, has operated in a down market area for many years. Are they still in operation?

LGBTI NGOs: LGBTI organizations seem inactive since 2016.
Out Figures: One famous trans television hostess, Dorce Gamalama, often called Indonesia's Oprah.

Opposition: In early 2016, cabinet ministers, politicians, officials, educators began denouncing homosexuality and calling for compulsory treatment and/or criminalization. There is active conservative Islamic opposition to LGBTI rights.
The regional conference of ILGA Asia was blocked from proceeding in Surabaya by active Islamic opposition (Islamic Defenders Front and other groupings). The city police chief guaranteed safe passage of conference delegates out of the country.

JAPAN

Criminal Law: There is no prohibition of same-sex acts.
Judicial Review: Limited.

Anti-Discrimination: No anti-discrimination law. Discrimination by Tokyo City Government against a gay grouping for use of a residential conference center was ruled against (about twenty years ago).

Document Change: The Supreme Court has supported document change, but upheld the restrictions imposed on the process (genital surgery, divorce, no minor children).

Public Venues: There are many gay bars. They follow a Japanese pattern of being quite small and each with a loyal customer base. They are not easy for outsiders to access. There are lots of gay publications.

LGBTI NGOs: These do not appear to be strong.

Public Events: There are pride parades in major cities.

Out Figures: One elected gay man in the national parliament, plus out elected individuals in local governments, including, recently, in the Hokkaido prefectural legislature.

Relationship Recognition: Three coordinated court cases have been filed seeking marriage. They have not yet gone to trial. Many local governments allow same-sex couples to register.

REPUBLIC OF KOREA

Criminal Law: There is no general criminal law prohibition of same-sex acts. There is a criminal prohibition of male-male sex in the military.
There is compulsory two year military service for all males.
The Constitutional Court has upheld the military prohibition on two occasions.

Judicial Review: Limited.

Document Change: There is a gender identity law (following a constitutional court decision). Very restrictive conditions are in place for document change.

Public Venues: There are numerous gay bars in Seoul, and gay saunas.

LGBTI NGOs: There have been organizations for quite a number of years. They hosted the biennial ILGA Asia conference in 2019.

Public Events: There are large public pride parades (and organized protests against them).

Out Figures: The famous trans singer and actress, Harisu, is known by everyone. She has had her documents changed from male to female and is in a legal marriage with a man.

Relationship Recognition: There is a major court case on marriage, brought by a famous Korean movie director and his partner. They lost at trial and at the first appeal. There has been no decision as whether to proceed further, either to the Supreme Court or the Constitutional Court.

Opposition: There is strong, active evangelical Christian opposition.

LAOS

Criminal Law: There is no criminal prohibition of same-sex acts.

Public Venues: There are a couple of gay bars in Vientiane.

LGBTI NGOs: Only in relation to health and HIV prevention.

Public Events: Pride events were held within the US Embassy compound at least twice in the past. No other public events have been possible.

MACAU

Criminal Law: There is no criminal prohibition of same-sex acts.

Anti-Discrimination: A law bans sexual orientation discrimination in employment.

Public Venues: There are one or two gay bars.

LGBT NGOs: There is at least one LGBTI rights organization.

Public Events: Some public events are held.

MALAYSIA

Criminal Law: Malaysia has both the 'carnal intercourse' and 'gross indecency' laws from the British colonial era. The law applies to lesbian acts as well as male-male activity. Prosecutions are extremely rare.

Sharia Law: While 'criminal law' is for the national government, laws on religion (that is on Islam) are for the individual state governments. As a result, each state has Sharia laws and Sharia courts for Muslims, dealing both with civil matters (largely family law) and criminal matters (for which only very limited punishments are possible). Individual state level Sharia criminal laws prohibit male-male homosexual acts but prosecutions only seem to occur under the national level criminal law. State level Sharia criminal laws prohibit lesbian acts, and two women were caned in Kelantin in 2018. Sharia criminal laws prohibit cross-dressing, and there are prosecutions. A constitutional challenge to state-level Sharia cross-dressing prohibitions was unsuccessful.

Third-Sex Grouping: A third sex grouping, mak nyah, is reasonably well known and visible. At times there have been social welfare programs directed to them.

Document Change: Document change is not possible.

Public Venues: Perhaps Blue Boy bar still functions in Kuala Lumpur. Saunas have been active, at least in the past.

LGBTI NGOs: The only visible NGO is PT Foundation, legitimated by its work on HIV/AIDS.

Opposition: Malaysia has a long history of anti-LGBTI rhetoric coming from the highest levels in the government. Condemnation from PM Mahathir came every week in his first long spell in office, and again now in his return as PM. PM Najib was equally explicit and hostile. Only PM Badawi did not target LGBTI in speeches. No politicians or parties are supportive of LGBTI rights.

MONGOLIA

Criminal Law: Soviet Union inspired prohibitions of same-sex acts were gone in the criminal codes of 1961 and 2002.
Anti-Discrimination: There is a criminal prohibition of discrimination on LGBT grounds.

Document Change: Document change is possible.

Public Venues: One gay bar functioned in the capital.

LGBTI NGOs: An international campaign led to the legal registration of the LGBT Center organization after three years of dealing with government officials. It continues to be active.

MYANMAR

Criminal Law: The British colonial era criminal prohibition of 'carnal intercourse' survives in the penal code. The NLD government has never suggested specific repeal, but has referred in general to outdated laws that need to be reviewed. Prosecutions have occurred under vagrancy laws and have been aimed at trans individuals appearing in public at night.

Public Venues: There used to be two gay discos in Yangon, then there was one. There is an expat organized big gay party once a month.

LGBTI NGOs: Colors Rainbow organization has paid staff and offices.

Public Events: Pride events were held in hotel premises for a few years, but now there is an annual public pride event, with film showings and activities in a central park area.

Out Figures: In parallel to Buddhism, there is widespread devotion to Nat spirits. Nat Spirit mediums are frequently gay males, and the very large annual Taungbyone Nat Pwe Festival outside Mandalay draws large numbers of gay and trans participants.

Opposition: The nationalist, anti-Muslim Buddhist movement has not indicated opposition to LGBTI (whose visibility is low in the country).

PHILIPPINES

Criminal Law: There is no prohibition of same-sex acts.

Judicial Review: The Supreme Court (a) rejected document change for trans, (b) upheld the right of the LGBTI Ang Ladlad Party to participate in elections under special constitutional provisions, and (c) is presently hearing a case arguing for the opening of marriage.

Anti-Discrimination: For perhaps 15 years LGBTI groups have lobbied for a national anti-discrimination law. It has been passed in the lower house, but not the senate. There are now many local anti-discrimination laws, with a lead role having been taken by Quezon City in Metro Manila.

Third Sex Grouping: There is a visible third sex category – bakla. They frequently run beauty parlors. There have been some social welfare programs for bakla.

Document Change: Rejected by the Supreme Court.

Public Venues: There are 'macho dancer' gay bars, often appealing to female customers, in Metro Manila and some other urban areas. There are gay saunas. The gay Malate area of restaurants and bars flourished for a decade, but is now gone.

LGBTI NGOs: There are a number of activist NGOs, none it seems with offices and paid staff.

Public Events: The first Pride Parade in Asia was held in Manila in 1994, marking the 25th Anniversary of the Stonewall Riots. Pride parades have been held annually since then. Many demonstrations have been held in support of an anti-discrimination law.

Relationship recognition: For many years Father Mickley, an American Catholic Priest (later a missionary for the Metropolitan Community Church, a gay denomination), conducted marriage ceremonies.
Marriage or blessing ceremonies also feature in a newer gay/lesbian friendly protestant denomination. There is a marriage case presently before the Supreme Court. This led President Duterte to say that the Philippines was not ready for same-sex marriage, but perhaps there could be civil unions. There is currently a bill in congress to establish civil unions. The congress in May, 2019, opened an online survey of opinion on civil unions.

Opposition: Opposition is most often cited as coming from the Catholic Church.

SINGAPORE

Criminal Law: In 2007 section 377 (carnal intercourse against the order of nature) was repealed because it could apply to those heterosexuals who enjoyed anal intercourse. However, 377A, prohibiting gross indecency between males, remains in place from the British colonial era. Debates on whether to repeal the provision failed in 2007, and the government has repeatedly said that, given public attitudes, the offence would stay on the books, but would not be "proactively enforced". Governing party solidarity on the issue was broken when esteemed senior figure Tommy Koh called for repeal. His call seems to have been ignored by the government. The weak opposition political party does not publicly support repeal or support other LGBTI rights initiatives. A new opposition party has been formed.

Judicial Review: A judicial challenge to 377A failed. The Singapore Courts do not invalidate laws on human rights grounds (so far). A new judicial challenge has been mounted, but has not yet gone to trial.

Document Change: Documents can be changed after genital surgery (as a result of legislation not judicial activism).

Public Venues: There are gay bars and saunas. The big Nation gay circuit parties flourished for a few years, before being banned (and moving to Thailand).

LGBTI NGOs: Singapore refuses to register any NGOs concerned with LGBTI issues, with the result that they cannot operate legally. Some (notably the women's group Sayoni and Ready4Repeal) have found ways to function. IndigNation holds cultural events.

Public Events: Pride parades are not possible. Pink Dot is an annual gathering in a park (the one place where 'free speech' is allowed). Pink Dot has developed into a very large event with entertainment and speeches. The event has to avoid any reference to issues of race or religion (seen by the government as issues potentially threatening peace and prosperity in the city state). Foreigners are barred from either attending Pink Dot or being sponsors of the event.

Out Figures: One out candidate for the opposition Workers Party campaigned a few years ago, but was not elected.

Opposition: Conservative Christian groups are organized and active in opposition to LGBTI rights. They have called for criminal prohibition of lesbian acts.

TAIWAN

Criminal Law: There is no prohibition of same-sex acts. Police do not harass gay bars or saunas.

Judicial Review: In 2017 the Constitutional Court ruled that the exclusion of same-sex couples from legal marriage was a denial of constitutional rights.
Anti-Discrimination: Discrimination on LGBTI grounds is prohibited in education and employment.

Document Change: Document change is available without a medical diagnosis and without the requirement of surgery or hormonal treatment.

Public Venues: There are a variety of public venues, including bars, discos and saunas.

LGBTI NGOs: There are a number of active NGOs, including the pioneer organization, the Tongzhi Hotline Association.

Public Events: Taiwan has the largest annual pride parades in Asia, now with over 100,000 participants. The largest of the demonstrations in favor of same-sex marriage brought 500,000 people onto the streets. Taiwan hosted one of the ILGA Asia regional conferences. An Aboriginal LGBTI Festival was held for the first time in 2018.

Out Figures: The out figures are the lead activists in the campaign for equal marriage. No out elected politicians have been publicly identified.
There is currently a non-binary cabinet minister

Relationship Recognition: In 2017, the Constitutional Court ruled that same-sex couples were entitled to equal rights to those available to heterosexual married couples. It gave the legislature two years to implement a system of recognition. After two years of controversy and competing referendums, legislation using the word "marriage" (but outside the Civil Code) was enacted. Same-sex marriages took place for the first time on 24 May, 2019. There are two limitations on the rights involved. Same-sex couples cannot jointly adopt a child. Second parent adoption is possible (where the child is the biological child of one of the partners).
As well, a Taiwanese cannot legally marry a partner who is the national of a country that does not recognize same-sex marriage. This was probably introduced to minimize conflicts with mainland China.

Opposition: Opposition comes from conservative Christians who are well-funded, active and organized. Christians are approximately 15% of the population.

THAILAND

Criminal Law: There is no law against same-sex acts. Police do not harass gay bars or saunas.

Judicial Review: Courts have enforced human rights in specific cases. For LGBTI they have ruled against (a) the exclusion of trans women (kathoey) from government organized parades and festivals, (b) employment discrimination in cases involving trans women.

Anti-Discrimination: The Gender Equality Act prohibits discrimination on grounds of sex and gender identity – and perhaps sexual orientation as well.

Third Sex Grouping: There is a well known third gender category – kathoey. But there are also transwomen, cabaret performers, beauty queens and drag queens. Trans women and 'tom' lesbians are quite visible.

Document Change: No document change is possible for trans individuals, even those who have undergone genital surgery and are living in the desired sex. Discussions are currently underway for a gender recognition law.

Public Venues: There is a wide range of gay venues – restaurants, bars, 'host' bars, cabaret & drag shows, circuit parties, massage parlors, saunas. Occasionally there are venues or events for lesbians.

LGBTI NGOs: There are a number of NGOs. The only ones with offices and regular paid staff are organizations whose core programs have been related to HIV/AIDS. The lead health (and rights) organization is Rainbow Sky Association of Thailand, which organizes and hosts many programs and events. It was the main organizer for three ILGA conferences in Thailand, including the ILGA World conference in 2017. M-Plus operates in Chiang Mai. Asian regional organizations are also based in Bangkok with offices and paid staff – ILGA Asia, Asia Pacific Transgender Alliance, APCOM (Asia Pacific Coalition on Male Sexual Health).

Public Events: In 2019, there has been only one pride parade, held in Chiang Mai. In the past there have been parades in Bangkok, Pattaya and Phuket. The International Day against Homophobia and Transphobia is annually celebrated with an event at the Bangkok Art and Culture Centre. A show on LGBTI activism in Thailand was mounted by the Museum of Siam, and a show on contemporary Asian LGBTI/Queer art will be presented at the Bangkok Art and Culture Centre in November, 2019.

Out Figures: Four 'out' politicians were elected in the March, 2019, national election. They are members of the new Future Forward Party, which gained the third highest number of seats. It is not a part of the governing coalition. In the election Mahachon Party nominated transwoman Pauline Ngarmpring for PM.

Relationship Recognition: A Life Partnership bill was given preliminary approval by the cabinet on December 25, 2019. It then went for consideration by the Council of State (a process not yet completed). It has not yet been given any legislative consideration. It follows the model of the French 'civil solidarity pacs' law which focused on financial issues, with no provisions for adoption.

Opposition: Some representatives of Muslim and Christian groupings have indicated acceptance of the proposed partnership law, while opposing the opening of marriage. Muslim and Christian groupings are small minorities, perhaps 5% and 1.4%. Buddhist figures have not indicated opposition.

TIMOR LESTE

Criminal Law: There is no criminal prohibition of same-sex acts.

Public Venues: There are a couple of gay-friendly bars.

LGBTI NGOs: There is a functioning gay center located in a centrally located house (HIVOS funding).

Public Events: The second pride parade in the capital Dili was held in 2019.

Opposition: There is support from the equivalent of a national human rights commission.

VIETNAM

Criminal Law: There is no prohibition of same-sex acts.

Document Change: A law on document change has been passed, but implementing regulations on requirements seem not yet in place.

Public Venues: There are some gay friendly venues. GC bar may still be functioning in Hanoi.

LGBTI NGOs: There are active LGBTI organizations, with offices and paid staff. There are chapters of PFLAG (Parents and Friends of Lesbians and Gays).

Public Events: There are public events in Hanoi and Ho Chi Minh City (a bicycle rally in Hanoi and a gay walk in HCM).
Hanoi Pride has been held in the Goethe Center for perhaps five years.

Relationship Recognition: A government proposal for recognition of same-sex cohabitation for purposes of resolving disputes over property and children was rejected by the national legislature. The government had earlier banned anyone from holding an event and calling it a same-sex marriage.
That ban was lifted, leading many outsiders to think that some recognition of same-sex marriage had occurred. There is no legal recognition.

Pink Dot related event in Singapore

Anti-LGBT demonstrations in 2016 in Yogyakarta, Indonesia
(Photo: Ulet Ifansasti/Getty)

We are united in advocating for issues around HIV and those that advance the rights, health and well being of people of diverse sexual orientation, gender identity, gender expression and sex characteristics.

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